



Meeting: **PLANNING COMMITTEE**  
Date: **WEDNESDAY 14 JUNE 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 R Packham.**

## 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. Time of Meetings**

To agree the start time of the Planning Committee meetings for 2017/18.

- 4. Chair's Address to the Planning Committee**
- 5. 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.

## **6. Minutes**

To confirm as a correct record the minutes of the Planning Committee meeting held on 10 May 2017 (pages 1 to 6 attached).

## **7. Planning Applications Received**

- 7.1 2016/1345/OUTM - Land at Field Lane, Thorpe Willoughby, Selby (pages 8 to 49 attached)
- 7.2 2016/1256/OUTM - Land at Hodgsons Lane, Sherburn In Elmet (pages 50 to 88 attached)
- 7.3 2015/0969/OUT - Manor Garth, Kellington (pages 89 to 113 attached)
- 7.4 2016/1409/OUTM - Land at Hodgsons Lane, Sherburn In Elmet (pages 114 to 162 attached)
- 7.5 2016/1456/EIA - Kingspan Insulation Ltd, Enterprise Way, Sherburn In Elmet (pages 163 to 186 attached)
- 7.6 2016/1514/OUT - Land North of York Road, North Duffield, Selby (pages 187 to 204 attached)
- 7.7 2016/1339/FULM - Bottle Decoration Solutions Ltd, Riccall Airfield, Market Weighton Road, Barlby (pages 205 to 217 attached)
- 7.8 2016/1337/OUTM - School Road, Hemingbrough, Selby (pages 218 to 247 attached)
- 7.9 2016/1314/FULM - Turnhead Farm, York Road, Barlby (pages 248 to 277 attached)

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

<b>Dates of next meetings</b>
Wednesday 12 July 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.

## Minutes

### Planning Committee

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Venue:	Council Chamber
Date:	Wednesday 10 May 2017
Time:	2.00pm
Present:	Councillors J Cattanach (Chair), D Peart (Vice-Chair), D Buckle (acting as substitute for I Reynolds), Mrs E Casling, I Chilvers, Mrs D White (acting as substitute for J Deans), B Marshall, C Pearson and P Welch.
Apologies:	Councillors J Deans and I Reynolds.
Officers present:	Kelly Dawson, Senior Solicitor; Jonathan Carr, Interim Lead Officer Planning; Yvonne Naylor, Principal Planning Officer; Diane Wilson, Planning Officer; Keith Thompson, Senior Planning Officer; and Janine Jenkinson, Democratic Services Officer.
Public:	21
Press:	1

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#### **68. DISCLOSURES OF INTEREST**

Councillors J Cattanach and B Marshall declared that they had received representations in relation to application 2016/1081/COU – Land off Pasture Way, Wistow.

#### **69. CHAIR'S ADDRESS TO THE PLANNING COMMITTEE**

The Chair reported that on the 6 April 2017 the Council had received the Inspectors decision for the application relating to the proposed change of use of land to create a holiday park consisting of the siting of 10 log cabins and use of an existing cabin as manager's accommodation at Brickyard Farm, Camblesforth. The Chair explained that on 1st March 2016 the applicant had lodged an appeal for non-determination of the application and at the Planning Committee meeting on 11th May 2016 members had been asked for a

mindful decision, to which members resolved that the proposal would result in a material increase in the use of the existing field access onto the fast flowing and heavily trafficked A1041 which was subject to the national maximum speed limit and would be to the detriment of highway safety contrary to Policy T1 (1) of the Selby District Local Plan.

The Chair explained that the Planning Inspector had dismissed the appeal on the fact that the level of traffic generated and the intensification of use of the access and egress from the appeal site could be achieved without an unacceptable impact on highway safety. As a consequence, the proposals would not accord with saved Policy T2 (1) of the Selby District Local Plan 2005.

## **70. SUSPENSION OF COUNCIL PROCEDURE RULES**

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

### **RESOLVED:**

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

## **71. MINUTES**

The Committee considered the minutes of the Planning Sub-Committee meetings held on 20 March 2017 and 20 April 2017, the Extraordinary Planning Committee held on 29 March 2017 and the Planning Committee held on 12 April 2017.

### **RESOLVED:**

**To approve the minutes of the Planning Sub-Committee meetings held on 20 March 2017 and 20 April 2017, the Extraordinary Planning Committee held on 29 March 2017 and the Planning Committee held on 12 April 2017, for signature by the Chair.**

## **72. PLANNING APPLICATIONS RECEIVED**

The Senior Solicitor reported that the Supreme Court judgement in the cases of Suffolk Coastal District Council v Hopkins Homes Ltd & Richborough Estates Partnership LLP v Cheshire East Borough Council had been handed down on 10 May 2017. The Senior Solicitor explained that the decision was an important judgement which had implications regarding the application of the policies in the National Planning Policy Framework (NPPF) and the absence of a five year land supply. The Senior Solicitor informed the Committee that legal were considering the implications of the judgment and pending this consideration were recommending that the following items be deferred: 6.2 – 2016/1514/OUT – Land North of York Road, North Duffield, 6.5 – 2016/1314/FUL – Turnhead Farm, York Road, Barlby, 6.6 –

2016/1345/OUT – Land at Field Lane, Thorpe Willoughby, and 6.7  
2017/0118/FUL – Low Farm, Low farm Road, Bolton Percy.

It was proposed and seconded that the applications set out above be deferred.

**RESOLVED:**

**To defer agenda items 6.2, 6.5, 6.6 and 6.7 to allow the applications to be re-considered in light of the Supreme Court judgement.**

The Committee considered the following planning applications:

**72.4 Application: 2016/1424/COU**

**Location: Tythe House, Rawfield Lane, Fairburn**

**Proposal: Proposed change of use from C3 dwelling to C2 residential care home**

The Senior Planning Officer introduced the application and explained that the application had been brought before the Planning Committee due to the application having received more than 10 objections contrary to the Senior Planning Officer's recommendation to approve the proposal.

The Senior Planning Officer advised the Committee that the proposed site was located within the defined Development Limits of Fairburn and given the nature of the application, it was considered that there was nothing within the NPPF to identify this type of development as being unsuitable or anything to preclude development of this type within the location.

Mr Rhodes, a local resident, spoke in objection to the application.

Mr G Binns, the applicant, spoke in support of the application.

Some concerns were raised regarding provision of adequate car parking spaces, lack of suitable highway access, noise, and detrimental impact on neighbouring residents.

It was proposed and seconded that the application be approved.

An amendment to refuse the application on the grounds of noise, additional traffic generation and detrimental impact on neighbouring residents was moved and seconded.

Following advice from the Senior Solicitor it was proposed that the application be deferred for members to consider reasons for refusal. The proposal was not supported and fell accordingly.

A proposal to defer the application in order to undertake a site visit was moved and seconded. The proposal was not supported by the Committee and fell accordingly.

The amendment to refuse the application was put to the vote. The amendment was not supported by the Committee and fell accordingly.

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

**RESOLVED:**

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

**72.3 Application: 2016/1081/COU**

**Location: Land off Pasture Way, Wistow**

**Proposal: Proposed change of use of land from reserved sports field to a village cemetery**

The Planning Officer introduced the application and referred the Committee to the additional information provided in the Update Note. The Update Note outlined a late representation made by a neighbour, in objection to the application.

Members were informed that the application had been brought before the Planning Committee due to more than 11 representations contrary to the officer's recommendation having been received.

The Planning Officer reported that the proposal would be located within the defined development limits of a Secondary Village and the principle of the proposed development was considered to be acceptable having had regard to SP1 of the Core Strategy Local Plan. Members were advised that proposals for the change of use on the site should be considered in the context of the presumption in favour of sustainable development and paragraph 74 of the NPPF.

The Committee was informed that having assessed the proposal against the relevant policies, and taken into account the comments and objections received, it was considered that the proposed change of use was acceptable and therefore the scheme was recommended for approval, subject to suitable conditions being applied.

Mary Ratcliffe, Vice Chair of Wistow Parish Council, spoke in support of the application.

It was proposed and seconded that the application be approved.

**RESOLVED:**

**To APPROVE the planning application, subject to the condition set out in section 2.15 of the report.**

**72.1 Application: 2016/0481/MLA**  
**Location: Field Lane Thorpe Willoughby**  
**Proposal: Application to modify a section 106 planning obligation under section 106BA following approval of 2013/1041/OUT for outline application with all matters reserved for a residential development following the demolition of the existing buildings within the site.**

The Principal Planning Officer introduced the application and referred the Committee to the additional information provided in the Update Note. The Update Note stated that the application lay in the Hambleton Parish Council area and not Thorpe Willoughby as listed in the report.

Members were informed that the application had been brought before the Planning Committee for consideration, due to the applicant seeking a lower affordable housing contribution than that which had been secured via an appeal decision on the original outline consent planning reference: 2013/1041/OUT which was a 40% on-site affordable housing contribution.

The Principal Planning Officer reported that under Section 106BA of the Planning Act 1990 developers may seek to modify their obligations that had been agreed with local planning authorities. Members were informed that the applicant sought to modify the agreement so that they could provide less affordable housing on site. The applicant had now offered a contribution of 22% on-site affordable housing in light of negotiations with the Council; members were advised that this was in-line with the position supported by the District Valuer.

Members were informed that in light of the advice received from the District Valuer, and with the utilising of 20% developer profit on both the private units and the affordable units a contribution of 22% on-site affordable housing was considered to be appropriate and would ensure the development was delivered.

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

**RESOLVED:**

**To APPROVE the planning application, subject to delegation being given to officers to complete a Deed of Variation to the original Section 106 Agreement to reduce the on-site affordable housing contribution to 22% and make an associated variation to the S106 to remove any reference to unit numbers (page 4 – definition of Development) given the consent was an Outline Permission. The variation shall be time limited for a period of 3 years from the date of the decision.**



The meeting closed at 2.50 pm.

Items for Planning Committee  
14 June 2017

Ref	Site Address	Description	Officer	Page
2016/1345/OUTM	Land At Field Lane Thorpe Willoughby Selby	Outline application for residential development including access (all other matters reserved)	JILO	8-49
2016/1256/OUTM	Land at Hodgsons Lane Sherburn In Elmet	Outline application for residential development comprising up to 60 dwellings, areas of open space, landscaping and associated infrastructure with all matters reserved except access.	TOWE	50-88
2015/0969/OUT	Manor Garth Kellington	Outline application with all matters reserved for residential development.	JETY	89-113
2016/1409/OUTM	Land at Hodgsons Lane Sherburn In Elmet	Outline application for residential development with all matters reserved.	LOMI	114-162
2016/1456/EIA	Kingspan Insulation Ltd Enterprise Way Sherburn In Elmet	Proposed Installation of a Refused Derived Fuel (RDF) fired Combined Heat and Power (CHP) plant with 8000m2 Factory Extension and Associated Infrastructure.	FIEL	163-186
2016/1514/OUT	Land North Of York Road North Duffield Selby	Outline application for erection of 1 No dwelling (all matters reserved).	DIWI	187-204
2016/1339/FULM	Bottle Decoration Solutions Ltd, Riccall Airfield, Market Weighton Road Barlby.	Three phase extension to an existing warehouse facility with eventual demolition of the existing warehouse.	KETH	205-217
2016/1337/OUTM	School Road, Hemingbrough, Selby, Yorkshire	Outline application for residential development of up to 21 dwellings (with all matters reserved)	CARO	218-247
2016/1314/FULM	Turnhead Farm York Road Barlby	Proposed residential development (partial re-plan of approval 2013/0478/FUL), associated infrastructure, play areas and incidental open space.	JILO	248-277



# APPLICATION SITE

**Item No:** 2016/1345/OUTM

**Address:** Field Lane, Thorpe Willoughby

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Sports Centre

Existing hedgerow retained.  
No new tree planting within  
water main easements.

2m wide footway to site frontage

Recreation  
Open Space

Existing  
hedgerow  
retained

Existing woodland belt

2.4 x 59m visibility splay

Proposed dropped crossings  
and tactile paving

2.4 x 59m visibility splay


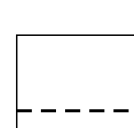
Proposed dropped crossings  
and tactile paving

Possible route  
of diverted public  
water mains

Existing  
hedgerow  
retained

A63

**Key**

-  Water Main
-  6.5m easement to Main

**AMENDED  
DRAWING**

Land at Field Lane, Thorpe Willoughby  
Indicative Layout

RECEIVED
15.03.2017
BUSINESS SUPPORT

Dwg No. 2444.201C  
November 2016  
Scale 1:500 @ A0

**DWP**  
Dryden Wilkinson Partnership

Norwood Barn  
Lower Norwood Road  
Norwood  
Leeds LS21 2RA  
01943 466 249



**Report Reference Number 2016/1345/OUTM**

**Agenda Item No: 7.1**

**To: Planning Committee**  
**Date: 14<sup>th</sup> June 2017**  
**Author: Jill Low (Principal Planning Officer)**  
**Lead Officer: Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2016/1345/OUTM	PARISH:	Gateforth Parish Council
APPLICANT:	Sherwood Brothers Ltd	VALID DATE:	22nd November 2016
		EXPIRY DATE:	21st February 2017
PROPOSAL:	Outline application for residential development including access (all other matters reserved) on land		
LOCATION:	Land At Field Lane Thorpe Willoughby Selby North Yorkshire		

This application has been brought before Planning Committee due to the proposals being contrary to Policy SP2 of the Core Strategy. However, planning officers consider that although the proposal is contrary to the provisions of the Development Plan there are material considerations which would justify approval of the application. There have also been more than 10 representations received which have raised material planning considerations.

**Summary:**

The proposed scheme is an outline application for residential development on land at Field Lane Thorpe Willoughby. An indicative layout has been submitted which shows the site developed for 108 dwellings with an area of on-site open space at the western end. The application site is outside of the development limits for Thorpe Willoughby and is therefore contrary to Policy SP2A(c) of the Core Strategy and a departure from the development plan and should be refused unless material considerations indicate otherwise. One such material consideration is the NPPF.

This report was originally written for consideration at the May 10<sup>th</sup> Planning Committee, but the report was deferred to enable consideration of the Supreme Court Judgement regarding Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another

(Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant) which was made on the 10<sup>th</sup> May 2017. Following the Judgement the Council has reviewed its approach to decision making on planning applications and the approach in this case is as follows.

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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.

Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:

- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
- (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood, green belt, countryside gaps and heritage assets).

In this case, the “tilted balance” in paragraph 14 applies.

The proposal is considered to be acceptable in respect of matters of acknowledged importance such as highway safety, residential amenity, climate change, protected species, archaeology and affordable housing. The site is located on an area of open land between the A63 by-pass and Field Lane. Although outside of the Development Limits it is adjacent to the development limit boundary which runs along Field Lane.

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 benefits as it would contribute to the local economy providing additional funds through CIL which would contribute to the maintenance/improvement of local services and facilities as well as providing employment during the construction period.

The proposals would achieve a social role in that Thorpe Willoughby is a Designated Service Village which has some scope for additional residential development to support rural sustainability. It has a range of accessible local services including a pub, post office, local shop, village hall, hairdressers, pharmacy, sports and recreation facilities, a primary school and a church. The village is also served by a regular bus service. The new development will help to support these existing facilities.

In terms of impact on the environment, the principle of the development of the site is considered acceptable although the indicative layout is not agreed as it is considered over-intensive, bearing in mind the proximity of the Selby by-pass and the presence of a water main and aquifer which both traverse the site. The site could, however, be developed with a smaller number of units to take account of these constraints. Should members be minded to grant permission the applicant should be advised in an informative to seek early pre-application advice from the Planning Authority on this issue.

The highway authority has raised no objections to the principle of the development. The proposals are also considered to be acceptable in terms of climate change, protected species, affordable housing and archaeology. Comments are still awaited regarding contaminated land, but subject to there being no objections from consultees, and having regard to the above, it is considered that the proposal would be acceptable when assessed against current Development Plan policies and policies in the NPPF.

Having had regard to all of the above, 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, in particular Paragraph 14, the Selby District Local Plan and the Core Strategy. In this case the “tilted balance” in paragraph 14 applies. It is on this basis that permission is recommended to be granted subject to the conditions and Section 106 agreement.

## **Recommendation**

**This planning application is recommended to be APPROVED subject to delegation being given to Officers to complete the Section 106 agreement to secure 40% on-site affordable housing provision, on-site Recreational Open Space and a waste and recycling contribution and subject to the conditions detailed in Paragraph 4 of the Report.**

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

#### **1.1 The Site**

1.1.1 The application site is located to the south of Field Lane at the southern edge of Thorpe Willoughby village. Access into the site would be taken from Field Lane. It lies outside of, but adjacent to, the development limits of Thorpe Willoughby and is contained to the south by the existing A63 (Selby by-pass).

1.1.2 The site currently comprises agricultural fields divided by hedgerows and is a triangular shaped piece of land with limited views to the south due to the by-pass being raised at a higher level with planting and tree screening alongside it. To the east the site is bounded by a public right of way with established trees and a hedgerow along its length, which is intended to remain. There is also a hedgerow to the site frontage with Field Lane and this is also intended to remain.

#### **1.2 The proposal**

1.2.1 This is an outline application for residential development including access, with all other matters reserved. The proposals include an indicative layout for 108 dwellings with an area of on-site recreational open space at the western end. The indicative plan shows two vehicular accesses into the site from Field Lane. The plan also shows the location of the water main which crosses the site and a 3metre easement either side of it. A variety of different house-types are shown on the indicative plan, together with a footpath which would run across the open space from west to east and link into footpaths within the housing development which would in turn link into the public right of way to the east.

### 1.3 Planning History

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

2011/0828/COU (PER - 08.06.2012) Change of use of land to create a holiday park comprising of the siting of 16 No. log cabins

2016/0879/TEL (A1PER - 19.09.2016) Prior notification of proposed 4G (fourth generation) upgrade to existing equipment

2016/1067/FUL (PER - 09.12.2016) Proposed erection of replacement of former stable

2017/0002/SCN (PCO -) Screening opinion request for an outline application for the erection of approximately 68 new dwellings on 1.7ha of land

### 1.4 Consultations

1.4.1 Parish Council - Thorpe Willoughby Parish Council has concerns over the cumulative effect of traffic levels using Field Lane generated from this proposed site and from the new Brayton pig breeding centre sites, all using the only road at this side of the village.

1.4.2 Yorkshire Water – Yorkshire Water have recently traced the exact line of the mains on site so the agent know where they are in the ground. YW refer to an updated site plan to which there are no objections to the proposed site layout (as submitted on drawing no.2444/201C, drawing dated November 2016, prepared by DWP). The drawing shows the building layout in relation to the water mains with required stand-off distances. The water mains are shown sited in a new road layout and or open green space. With the above in consideration, if planning permission is to be granted, conditions should be attached in order to protect the local aquatic environment and YW infrastructure.

#### Water Mains

EXISTING INFRASTRUCTURE - Company records indicate 2 x 24" diameter live public water mains, and a 800mm live diameter water main crossing through the red line site boundary. Additionally, Yorkshire Water has the benefit of legal document (deeds no. 35824 & 6056) which protect the structural integrity of these pipes from such development.

IMPORTANT NOTE - Strongly recommend protection measures are discussed in advance of any construction on site i.e. loading over water mains from heavy machinery etc. This is a critical water supply to the area and any accidental damage will cause much disruption to public water supply. Any costs will be charged back to the developer.

#### Drainage

FLOOD RISK ASSESSMENT - The Flood Risk and Surface Water Assessment report (prepared by AAH - Report 69449 dated November 2016) does not outline a specific surface water strategy.

SURFACE WATER - The public sewer network does not have the capacity to accept any discharge of surface water from the development. The developer is advised to contact the relevant drainage authorities with a view to establishing a suitable watercourse for the disposal of surface water. Restrictions on surface water



disposal from the site may be imposed by other parties. The public sewer network is for domestic sewage purposes. Land and highway drainage have no right of connection to the public sewer network.

#### Groundwater Protection

The site overlies the Triassic Sherwood Sandstone aquifer from which YWS abstract groundwater for public water supply. The site lies within the total catchment groundwater source protection zone (SPZ III) for the Public Water Supply boreholes of the Selby Wellfield. The nearest abstractions are located within 800m to the northeast at Brayton North. YWS therefore have concerns with regard to groundwater protection and potential pollution risks arising from the proposed activities. The main period of risk is the construction phase, during periods of ground disturbance and increased risk of hydrocarbon pollution from plant vehicles on site. Post-construction, pollution risks from site arise mainly from drainage issues including run-off from roadways and parking area, and foul and surface water drainage. At this time, no information has been provided regarding ground conditions at the site but it is likely that the Sherwood Sandstone aquifer is at shallow depth below the site. Any overlying drift deposits of sand and gravel will provide little protection to the underlying aquifer. Therefore, site investigations may show that foundations into the Sherwood Sandstone would be required. Foul and surface water drainage proposals must take into account the proximity of the public water supply abstraction boreholes and the sensitive nature of the Sherwood Sandstone aquifer.

1.4.3 NYCC Archaeology - The details have been checked against the Historic Environment Record. There are no known archaeological sites in the area indicated or within the immediate vicinity. In addition, the records indicate that archaeological monitoring took place during construction of the adjacent section of the A63 and that no finds or features of interest were noted. Therefore there are no objections to the proposal.

1.4.4 NYCC Education - Based on the proposed 108 x 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 £367,092. A developer contribution would not be sought for secondary school facilities at this time.

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.

*NB: The Community Infrastructure Levy (CIL) is a source of funding from new development which will help support the delivery of local infrastructure. The council has adopted a CIL to fund infrastructure that will support the development of the area and to ensure that future housing and employment growth envisaged in its Local Plan can be accommodated sustainably. Funding raised through the levy can be used to pay for improvements such as parks, playspaces, education, health facilities and the transport network.*

1.4.5 Environmental Health - Make the following comments:

1. Several dwellings in the proposed development are adjacent to the A63 and may be subject to traffic noise. Therefore request that the following information is sought:

The applicant should 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 works provided as part of the approved 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. All works which form part of the scheme shall be completed before any part of the development is occupied.

2. The proposed development will include significant new car parking of more than 100 spaces outside an Air Quality Management Area, and also introduce new exposure close to existing sources of air pollutants (i.e. road traffic). Therefore request that the following information is sought:

The applicant should arrange for an appropriate air quality assessment and report to be undertaken by a suitably qualified person. Irrespective of any results that ensue, attention is drawn to Section 6.20 I: Mitigation Measures in the EPUK/IAQM Land Use Planning & Development Control Planning for Air Quality which states in bold that "Even where the effect is judged to be insignificant, consideration should be given to the application of good design and good practice measures, as outlined in Chapter 5." Good design includes the provision of Electric Vehicle (EV) charging points especially where the properties include a garage and it is requested that the applicant considers this or the provision of other mitigation measures for air quality.

3. The site is located close to existing residential properties and construction work will have a detrimental effect on amenity during redevelopment of the site. In order to minimise disturbance it is vital to agree schemes with contractors and developers prior to the work commencing. Therefore request that the following information is sought:

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 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.

1.4.6 North Yorkshire Bat Group – No response received.

1.4.7 Yorkshire Wildlife Trust - Welcome the recommendations set out in the Ecological Appraisal document to make a positive contribution to biodiversity. It is suggested that the recommendations to maintain the mature trees, hedgerows and young tree planting which border the site are secured under BS:5837:2012. The future management of the hedgerows and tree planting including 'stratification and sowing [of] a suitable shade tolerant ground layer' (p.19) should be ensured through a landscape and ecological management plans condition, as outlined in BS:42020:2013. This should include proposals to increase wildlife connectivity to

the nearby Brayton Barff SINC with native tree and hedgerow planting. Such a plan should identify who will carry out the management and how this will be funded in line with the Technical Guidance to the NPPF (paragraph 44-51).

It is suggested that the installation of bat and bird boxes to provide new habitat should be secured with an appropriately worded condition. Although the autumn bat survey showed bat activity to be very low on the site, activity is likely to increase over the summer months and therefore unnecessary light pollution should be avoided by following best practice.

It is likely that an increase of 108 dwellings at Thorpe Willoughby will increase footfall and dog exercising activities at Brayton Barff LWS and therefore it is suggested that implementation of dog/litter bins and signposting is conditioned. A CIL payment or S106 agreement could go towards mitigation for increased pressure on the SINC.

1.4.8 Police Architectural Liaison Officer - No response received.

1.4.9 Vale Of York CCG – No response received.

1.4.10 NYCC Rights Of Way Officer - No works are to be undertaken which will create an obstruction, either permanent or temporary, to the Public Right of Way adjacent to the proposed development. Applicants are advised to contact the County Council's Access and Public Rights of team to obtain up-to-date information regarding the line of the route of the way. The applicant should discuss with the Highway Authority any proposals for altering the route.

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

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

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

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

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

1.4.12 NYCC Flood Risk Management - Recommend a planning condition is attached to any approval granted.

- 1.4.13 The Environment Agency (Liaison Officer) – As the proposal does not meet the criteria for the Environment Agency to be consulted, the EA would not have any comments to make.
- 1.4.14 NYCC Highways – No objections subject to conditions attached to any permission granted.
- 1.4.15 Council's Contaminated Land Consultant - WPA are now satisfied that a risk assessment including a risk classification matrix has been provided. WPA agree with the recommendation that site investigation works should be carried out, which should be carried out according to BS10175:2011 and BS5930:2015 guidance. WPA therefore recommend that the amended Phase 1 report is now sufficient to discharge the contaminated land condition relating to a desk study, however the further contaminated land conditions may not be discharged until a site investigation report and any necessary remedial works have been completed and submitted for review.
- 1.4.16 The Council's Landscape Consultants Comments (summary)

#### Views and Relationship with Surroundings

The area of Thorpe Willoughby within the Landscape Assessment of Selby District (1999) falls within the Hambleton Sandstone Ridge Character Area characterised by a low but distinctive ridge with two wooded hills; and gently undulating farmland. The Landscape Appraisal 2011 splits the village into two main character areas with a north/ south divide running along Fox Lane and the development area falls within sector A defined as being of low sensitivity to development. The existing site is an area of flat agricultural land with features limited to mature boundary planting and internal hedgerows defining field boundaries.

The proposed residential area should integrate with the existing residential area to the north of Field Lane. The indicative layout is of a similar character to the existing neighbouring housing layout but appears to be of a more dense scale. Recommend that housing densities are not further intensified to ensure that the proposed residential is in keeping with the residential character of the adjacent area. Would be interested to understand the design and quality of the architecture and how it compares to the surrounding residential. Proposals of housing fronting onto Field Lane, yet set back somewhat from the road, are sensible to help the new development integrate with the existing and improve the experience for pedestrians on Field Lane.

Welcome the proposed retention of existing planting where possible to help screen and buffer the development and reduce its impact on the surroundings. From the A63 it seems that views will be limited by the existing mature hedgerow and trees to the south of the site. Any views from the A63 will be against a backdrop of the existing residential development. Would encourage increased screening to the east of the site to buffer and green views from Brayton Barff, a covered reservoir at a higher level to surroundings, and Site of Interest for Nature Conservation (SINC).

#### Open Space and Ecology

Support the retention of the existing planting structure where possible and proposals should adhere to the guidelines in British Standard BS 5837: 2012 Trees in relation to design, demolition and construction with regards to protecting hedgerows and trees on the site. The indicative layout includes what appears to be internal tree planting within the site which we support to green the site, provide a human scale to development and visual interest. Would be interested to understand the proposals for the boundary treatment to the plots and whether hedging/ fencing etc. will be proposed.

The scheme includes provision for a recreational open space to the west of the site. This is shown to be heavily screened by existing planting and is not overlooked by residential. We have concerns over the perceived safety of this space and the layout should be reviewed to ensure the park is welcoming, overlooked and helps to deter crime and anti-social behaviour. An important aspect of this is ensuring the space remains well maintained.

The open space should provide amenity offer for both the existing and future residents. There is no mention to play space within the application. The green spaces adjacent to the public footpath could incorporate small playable items, such as natural play elements. We would urge the applicant to consider the benefits of home zones to keep traffic speeds low, encourage social interaction, safe places for children to play and promote a sense of community.

Support the recommendation made in the Ecological Appraisal to make a positive contribution to biodiversity, including provision of bat boxes, as well as bird boxes.

#### Access and Movement

Recommend an additional pedestrian crossing across Field Lane connecting Fox Lane to the public footpath to help integrate the residential areas. Consideration should be made to wayfinding with the introduction of new signage, as well as appropriate lighting.

## 1.5 Publicity

1.5.1 The application was advertised by site notice, neighbour notification letter and advertisement in the local newspaper resulting in 51 letters of representation being received, 33 objecting and 18 in support. The application was advertised as a departure. The issues raised are summarised below:

### Objections:

#### *Contrary to Plan Policies/Objections to Principle*

- Contrary to Core Strategy Policy SP18.
- This village extension on an agricultural greenfield site would not be in conformance with policy SP2 and the NPPF framework.
- While the site has previously been identified as a potential development site in the Strategic Housing Land Availability Assessment (SHLAA), the Core Strategy Appendix C para B16 makes it clear that the SHLAA indicates what could be developed, and not what should be developed.

- There are available brown field sites without destroying more greenfield sites. Overdevelopment of the local area. Thorpe Willoughby is full up.
- The "presumption in favour of sustainable development" should be set against previous and ongoing large scale development in Thorpe Willoughby.
- Thorpe Willoughby is one of 18 Designated Service Villages (DSV) identified as being suitable for further development. Policy SP5 requires these 18 DSVs between them to provide a total of 2000 new dwellings during the 16 year period between 2011 and 2027. According to ONS data, in 2011 the population of Thorpe Willoughby parish was 2730 and there were 1195 dwellings. Since that time 149 dwellings have been built on land adjacent to Leeds Road [application 2012/0852/FUL] and construction of a further 276 dwellings has commenced on land near to the railway crossing [applications 2014/1028/OUT and 2016/0197/REM]. These two projects alone will provide an additional 425 dwellings, representing a 36% increase in the village's housing stock. Approval has also been granted, after appeal, for a further development at the former pig breeding centre on Field Lane, which will add 50 to 60 dwellings [13/1041/OUT].
- These 475 dwellings in Thorpe Willoughby alone constitute 24% of the required housing allocations for all Designated Service Villages in the period 2011-2027, which is disproportionate. Demand for new housing in Thorpe Willoughby will become satiated.
- Building on any spare land, without any due consideration for current residents and the new residents.
- Before the new Local Plan is finalized and announced, I object against any major planning decisions in Thorpe Willoughby, because it is impossible to evaluate whether or not these specific decisions would be in agreement with the SDLP and/or in the public interest.
- Before every available space in and around the village is filled with housing, a community plan needs to be drawn up to ensure that future development contributes to establishing a village identity with particular attention being given to the area around the village green; this would provide a focus and ensure that future development meets residents' needs.

#### *Traffic/Congestion/Highways issues*

- Field lane is crossed by a large number of pedestrians wishing to access Brayton Barff, increased traffic volume in an area where visibility is already be poor would surely lead to more accidents.
- Field Lane is already an incredibly busy area, especially when events are on at the sports club and to add more traffic would only increase congestion and cause conflict amongst residents when parking becomes an issue, which it will. The proposed individual access to the new properties direct from Field Lane would cause many issues for the existing properties on Field Lane, together with the Sports Field events.

- Field Lane was "through route" to Hambleton prior to the opening of the Selby Bypass. It is now a giant cul de sac, still finding drivers returning from the turn round finding an alternative route. Add to that the number of additional vehicle movements from the new developments on Barff Lane at Brayton, the road (and particularly Fox Lane) will see an increased amount of commuter traffic and summary congestion at Fox Lane shops, in both directions.
- The village roads and Barff lane are not wide enough to cope with the extra traffic Barff Lane is unlit and in poor repair and since the bypass work is now used as a short cut increasing noise, pollution and dangerous driving/speeding- and will only increase with this development.
- The traffic in the village is far from bearable, and the prospect of adding even more cars moving in and out of the proposed development would make the situation unsustainable.
- Car Chaos seems to reign on newer estates due to Planning Policy "overlooking the 2 parent 2 offspring with cars on a one car driveway. So on the basis of increased traffic on Fox/Field Lane I object.
- Transport Assessment is out of date regarding availability of bus services.
- In contrast to the theoretical traffic predictions, based largely on statistical data from 'comparable' areas, these cannot be validated by local experience with congestion and traffic flows at either end of Fox Lane being somewhat greater than predicted, especially at peak times. Besides traffic that services the residential areas, there is significant through traffic between Leeds Road and Brayton, all of it using the Fox Lane/Field Lane junction. There is also significant traffic to the sports centre at the western end of Field Lane, which increases when sports events are taking place. Field Lane is also on a bus route and is popular with cycling groups and horse riders.
- The junction of Field Lane and Fox Lane is an important factor in assessing the likely impact of additional traffic from new housing development in this part of Thorpe Willoughby. To the 108 houses, which are the subject of the current proposal, should be added the up to 60 houses planned for the former pig breeding centre.
- The Transport Assessment quoted traffic calming measures in Fox Lane, but these were removed some years ago. These would need to be reinstated, as well as new ones installed on Field Lane either side of the junction.
- If the access road is near to Willow Rise then you will see this used as a "rat run" rather than Fox Lane being used. The access road must be near Fox Lane if the plans are approved.
- Without access to the by-pass from Thorpe Willoughby traffic will be very heavy as people use Willow Rise/Fox Lane to get to the Fox Pub junction. Without traffic control at this junction the ability to leave and enter the junction will become lengthy and dangerous. This will be also impacted by the Houses being built in Brayton as people wishing to use the bypass are likely to drive through Thorpe Willoughby.

- It is illustrative to look at the travel patterns of people within the village, as these are likely to be representative of new residents. Of the 2038 people identified in ONS 2011 census data as being between the ages of 16 and 74, 685 were not in employment (probably reflecting the age profile of the local population). Of the remaining 1353, 1020 drove a car to work and 74 were passengers. This behavioural pattern should be taken into account when assessing the sustainability. About 60% of people in work commute to Leeds and York.

#### *Capacity of Schools/Doctors/Local Amenities*

- No additional amenities have been provisioned to support the large number of developments which have been given the green light.
- No capacity in local schools. Local village children being denied local village school places. The doctors are virtually impossible to get an appointment with or have to travel to South Milford for an appointment. There are 3 ongoing developments in the vicinity of the village with no plans to support or improve any infrastructure or services in the village.
- The development of the village since the 1970s has gone on piecemeal, with little regard for a community level plan. As such, there is no definable village centre to act as a focus. The nearest thing that can be described as such is the area around the school, village hall, village green and play area, and the pub.
- The main issue to be resolved is whether there is adequate space to expand the school on its existing site, or whether new land will be required and, if so, where. Due to the layout of the school entrance in relation to nearby streets, there is a severe problem with car parking and access, with parents setting down and picking up children. This will only get worse if more children are to be accommodated on site.
- The school will have to be enlarged at some point to deal with the extra children. However the school stands in limited grounds and who will be responsible for the cost of extending the school. Our children's education must not be threatened by overcrowded facilities.

#### *Noise and Traffic Pollution*

- More noise, traffic pollution and congestion. Some of the new build houses would be in close proximity to the Selby bypass and, as such, would be subject to noise and air pollution. This would have a detrimental effect on the health and wellbeing of its residents.

#### *Wildlife/Rural Setting*

- This area is the only remaining wildlife area within the village and provides a green corridor into the village. If development is allowed it will be to the ruin of the aesthetics of the village. Currently there are no houses on that side of Field Lane from Brayton to Hambleton. At the moment the area is made up of fields and trees that separate the village from the bypass. This would be ruined by housing.



- Provides a rural setting for Brayton Barff. It is one of only two hills in the Vale of York, standing out from the low-lying land around it. The proposed development is inappropriate and unsympathetic to the appearance and character of the local environment.

#### *Footpaths*

- The proposed development site borders a well-used access path to Brayton Barff, which is protected as a Right of Way. This currently benefits from all-round open views which would be marred by the close proximity of buildings and their associated hedges, fences and outbuildings
- The plan overlaps the public footpath.
- There is a permissive path running along the southern edge of the plot, close to the woodland belt marked on the plan. This path is accessed from the right of way by a stile in the south-eastern corner of the field and runs all the way to the western end of the plot near the sports centre. This path is well used and much appreciated, providing access to Brayton Barff and the Selby Horseshoe Walk from the western end of the village. It would be desirable to maintain this path, in line with the Green Infrastructure component of Core Strategy SP18: point 4. This would also link up with new woodland established on the opposite side of the bypass. Simply providing access via the new estate roads would not be appreciated by either users or residents.

#### *Drains and Water pipes*

- It was assured that as Yorkshire Water pipes ran under those fields following the Brayton to Scammonden drought in the 1990's there would be no development thereon. How has this been addressed? At some point they will require intense maintenance and digging up the street (the ONLY OPTION) will not be welcome for those inhabiting and unaware of the situation.
- The village already has sewage/flooding problems.

#### *Affordable Housing*

- Most of the houses will be 4 bed detached properties with less than 30% being affordable housing.
- The proposal suggests that 40% of the proposed housing would be affordable. Outline planning permission was granted, after appeal [APP/N2739/A/14/2216522], for the development of the former pig breeding centre with the proviso that 40% of the dwellings would be affordable. Subsequently, the developer stated that the provision of 40% affordable homes was not financially viable and sought to vary the planning condition. How can we be assured that the same thing would not occur of any new development in the locality.

#### *Others*

- People who live on Field Lane currently have a beautiful view which will be totally destroyed by a housing development.
- Precedent for further applications.
- Residents at 12 Field Lane were not consulted.
- The agricultural land is classified as Grade 3, which is classed as good to moderate and is far from poor quality.
- While the proposed development site and its neighbouring field to the east are separated by hedgerow, footpath and fence, they are effectively managed as a single field. In the event that planning permission is granted, the viability of the remaining field must be brought into question together with its future use. Since this borders directly onto Brayton Barff, this could have a detrimental effect on amenity and biodiversity.
- Suggested modifications  
The proposed development has two access roads with several houses having private driveways leading directly onto Field Lane. Given the existing problems at the junction of Field Lane and Fox Lane, we believe it is not sensible to locate an access road and driveways so close to the junction, especially if the new houses encourage additional on-street parking. As has been suggested by other respondents, a better approach would be to relocate the access road much further away from the Fox Lane junction and to make the new properties accessible from within the development site.
- In the event that permission is granted, we would request that the Authority places conditions on the Developer to minimise disturbance to existing residents, and to take measures to actively avoid traffic congestion during the construction
- The proposed construction would have a direct negative effect on the privacy of my property, with the windows of the proposed new houses looking directly into the windows of my house. The plan should be redesigned so that the new houses are not accessible directly from Field Lane, but from a new local road inside the proposed development site, and separated from Field Lane by the existing hedge and gardens.
- The exit through the planned access road, which is exactly in front of my house, would have an adverse effect on the access to my property, especially from the point of view of road safety. The plan should be redesigned so that the new access roads face the existing roads of Willow Rise and Acorn Way directly.

### Comments in Support

18 signatures on a pro-forma letter in support have been received. The letter states:

“I believe that Thorpe Willoughby is well able to support further housing, with excellent transport links, schools, shops and public leisure/play areas.

There is a desperate shortage of housing in the Selby area and this particular site is very well located to provide some of the shortfall in the District.”

## **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
- SP8 - Housing Mix
- SP9 - Affordable Housing
- SP15 - Sustainable Development and Climate Change
- SP16 - Improving Resource Efficiency
- SP18 - Protecting and Enhancing the Environment
- SP19 - Design Quality

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

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

The relevant Selby District Local Plan Policies are:

- ENV1 - Control of Development
- ENV2 - Environmental Pollution and Contaminated Land
- ENV 15 – Locally Important Landscape Areas
- T1 - Development in Relation to Highway
- T2 - Access to Roads
- RT2 - Open Space Requirements
- CS6 - Development Contributions-Infrastructure

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

The National Planning Policy Framework introduces, in paragraph 14, a presumption in favour of sustainable development. It 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".

This 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 arising from the development in terms of:
  - Impact upon the Character and Form of the Locality, including Brayton Barff
  - Flood risk, drainage and climate change
  - Highway issues
  - Impact upon nature conservation and protected species
  - Affordable Housing
  - Recreational Open Space
  - Education, Healthcare, Waste and Re-cycling
  - Contaminated Land and ground conditions
  - Residential Amenity
  - Archaeology
  - Noise and Air Pollution
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 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 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 Thorpe Willoughby 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 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 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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.

2.7.7 Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:

(i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or

(ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood risk, green belt, countryside gaps and heritage assets).

In this case, the “tilted balance” in paragraph 14 applies.

#### Sustainability of the Development

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

The village contains a public house, a village hall, a church, a general store, a post office, a hairdressers, a pharmacy and sport and recreation facilities which include playing fields. It also benefits from bus services to Selby and Leeds. In terms of access to facilities and a choice of mode of transport, despite the site being located outside the defined development limits of the settlement, the site can be considered as being in a sustainable location.

2.7.9 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 contribute to the local economy providing additional funds through CIL which would contribute to local services and facilities as well as providing employment during the construction period.

#### Social

The proposal would support the existing local facilities in the village, such as the church, shop and public house, etc, helping to maintain their viability.

#### Environmental

The proposal would not have an adverse effect upon nature conservation and the scheme can be conditioned to mitigate against climate change. There are other environmental factors which will be considered in detail below.

The above factors weigh in favour of the development.

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

2.7.10 Core Strategy Policy SP4 does not set a minimum dwelling target for individual service villages. As a guide, Policy Officers have confirmed that the Council consulted on various growth options for the Designated Service Villages as part of the development of PLAN Selby in July/August 2015 and at this point the research indicated minimum growth options of between 61-83 dwellings. The level of growth in the settlement will achieve significantly more than the stated potential growth options, there being 424 dwellings currently permitted or under construction. This is a significant level of growth already and the addition of a further 108 dwellings is likely to impact upon the local community. However, the impact upon the level of service provision can be mitigated by CIL payments which would be collected in respect of the new dwellings.

2.7.11 It is acknowledged that there could be an impact upon the local community if all of these dwellings are under construction at once, although the Highway Authority are satisfied that the local highway network can cope with the increased traffic arising from these new developments. A refusal of permission on these grounds would therefore be difficult to substantiate, particularly in the light of recent appeal decisions in the locality where planning permission has been granted.

2.7.12 With regard to paragraph 14 of the NPPF, in this case the "tilted balance" referred to in paragraph 2.7.7 applies. On consideration of the above information, it is considered that the proposal is acceptable with regard to the appropriateness of the

location of the application site for residential development in respect of current housing policy and guidance on sustainability from both local and national policies, subject to compliance with flood risk policies within the NPPF. The impacts of the proposal are considered in the next section of the report.

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

2.9.1 Relevant policies in respect to design and impact on the character and appearance of the area include 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 requires an appropriate housing mix to be achieved. Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF. Relevant policies within the NPPF which relate to design include paragraphs 56, 60, 61, 65 and 200.

2.9.2 Policy ENV 15 relates to Locally Important Landscape Areas, of which there are two in the District and Brayton Barff is one of these. The policy states that priority will be given to the conservation and enhancement of the character and quality of the landscape and that particular attention should be paid to the design, layout, landscaping and materials of any new development to minimise impact and enhance the traditional character of buildings and landscape in the area.

2.9.3 The application is in outline, with an indicative plan showing 108 dwellings served by an adopted highway with access from Field Lane. The plan shows a mixture of different size properties although details of the overall mix are not provided. This could be controlled by condition to accord with Policy SP8 of the Core Strategy regarding housing mix.

2.9.4 Indicative Layout - The shape of the site tapers at the western end and is quite narrow, which restricts possibilities with regard to the layout. The applicant has indicated that this area would be used for on-site recreational open space. The provision of dwellings at this end of the site would bring them into closer contact with the roads on both sides – the Selby by-pass and Field Lane, which would not be ideal from the point of view of noise or air pollution. Notwithstanding this, it would be preferable if a greater area of open space was provided at the eastern end of the site to give a greater distance between the developed area and the existing public footpath which is very rural in character.

2.9.5 The indicative layout shows the dwellings to be carefully arranged so as not to interfere with drains which cross the site. The drainage constraints, proximity to the by-pass and the need to retain the setting of existing footpaths and the landscaped setting of the Barff, means that whilst the principle of development on the site may be acceptable, the indicative layout is not accepted and the level of development is likely to need to be scaled down.

- 2.9.6 The Landscape Assessment of Selby District 1999 and Landscape Appraisal 2011 provide the evidence base to consider the landscape impacts of proposals within and adjacent to Thorpe Willoughby. The Landscape Assessment was expanded upon in the 2011 Landscape Appraisal, which was undertaken to support the adopted Core Strategy 2013. The Landscape Appraisal 2011 splits Thorpe Willoughby into two main character areas, A and B with a north / south divide running along Fox Lane in the centre of the village.
- 2.9.7 The site area is located within Sector A. Sector A is defined as being of Low sensitivity to development. The assessment concludes that “The immediate landscape, within the area contained by the A63 bypass, is fairly well screened and is unlikely to be intrusive within the landscape. Where development would be visible it would be viewed against the backdrop of existing development and occupy an area already allocated for development which has few areas of intrinsic value”.
- 2.9.8 Sector B includes Brayton Barf which is a Site of Interest for Nature Conservation which is located to the east of the application site and is separated from it by an intervening field. This field is also included in sector B and it is considered that this would provide a sufficient separation buffer from the application site, should it be developed.
- 2.9.9 The site is generally well screened by the Selby by-pass from the south and by trees and hedges to the east so that the impact upon the wider landscape would not be significant. If anything, the site has become more suitable for development due to the creation of the new by-pass and arguably the line of the new road could be said to be the logical edge to the development of the settlement. The impact of the scheme could be further mitigated by additional landscaping and tree planting. Whilst there would inevitably be some loss of hedgerows within the site, the hedges and trees to the boundaries can be conditioned to be retained.
- 2.9.10 To conclude, it is considered that some development could be accommodated on this site without unduly impacting upon the wider character of the area or the surrounding landscape, although not such intensive development as that indicated on the indicative plan. The applicant would need to submit further details at Reserved Matters stage and engage in early pre-application advice to ensure that the constraints of the site are adequately dealt with. It will be expected that any scheme submitted at reserved matters stage will make a significant contribution towards improving the landscape setting of the site and the Barff, including the provision of new and the maintenance of existing footpaths. Subject to this development of the site would accord with Policies ENV1 and ENV15 of the Selby District Local Plan, and Policy SP19 of the Core Strategy.

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

- 2.10.1 Relevant policies in respect of 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 The application site is located within Flood Zone 1 which is at the lowest risk of flooding and the sequential test is therefore not required in this case. There is however, a water main and an aquifer which traverse the site. Yorkshire Water have



traced the line of the water main on the site and an amended plan has been submitted which shows the line together with a 3m easement either side. The Environment Agency have been consulted in respect of the aquifer, but did not wish to comment. The Lead Flood Authority have not objected, subject to conditions. Yorkshire Water have clarified the position on this as follows –

“The main issues are with regard to appropriate foul and surface water drainage, to ensure that these do not inadvertently introduce pollution into the Sherwood Sandstone aquifer. However if foul drainage plans are approved by YW to go to mains sewer this shouldn't be a problem. Surface water drainage from roadways/parking areas to soakaway or infiltration SUDS may be an issue, however this could be mitigated by the use of interceptors or a stage-filter design. Additionally there are risks during the site construction works and the digging of foundations.”

2.10.3 Yorkshire Water go onto state that a condition requiring a Construction Environmental Management Plan should be required and that this must demonstrate that the applicants have considered the potential adverse impacts on groundwater and what mitigation would be put in place and demonstrate that they are working to environmental best practice guidelines.

2.10.3 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. 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.

2.10.4 Having taken the above into account, and subject to the submission of an appropriate drainage strategy by the applicants, the proposed scheme can adequately address flood risk and 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.

## **2.11 Highways Issues**

2.11.1 Policy in respect of highway safety and capacity is provided by Policies ENV1 (2), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF.

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 The application is accompanied by a Transport Assessment which examines the existing highway provision, traffic flows, accident levels and sets out the trip generation and traffic flows anticipated as a result of the proposed scheme. The report concludes that the proposed development could be accommodated on the existing highway network, without any significant negative impacts. The report

concludes that there are no highway capacity reasons why the development should not be granted planning permission.

2.11.4 On the indicative plan the application site is proposed to be served by two vehicle access points from Field Lane. The County Highway Authority have raised no objections to the principle of the development subject to a number of conditions.

2.11.5 Local residents have raised concerns about the additional traffic that would be generated from the development on already busy roads, through the village. However, in the absence of any objections from the highway authority a refusal of permission on these grounds would be difficult to substantiate.

2.11.6 It is therefore considered that the scheme would accord with policies ENV1 (2), T1 and T2 of the Local Plan, Policy SP19 of the Core Strategy and Paragraph 39 of the NPPF with respect to the impacts on the highway network, subject to conditions.

## **2.12 Impact upon Nature Conservation and Protected Species**

2.12.1 Relevant policies in respect of nature conservation include Policies ENV1(5) of the Selby District Local Plan and Policy SP18 "Protecting and Enhancing the Environment" of the Core Strategy. Policy ENV1 should be afforded substantial weight as it is broadly consistent with the aims of the NPPF.

2.12.2 Protected Species are protected under the Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of a protected species is a material planning consideration. The application site is not a formal or informal designated protected site and nor is it in close proximity to any site supporting protected species or any other species of conservation interest.

2.12.3 In respect of the requirements of the Habitats Regulations 2010, it is noted that as a competent authority the local planning authority should have regard to the requirements of the Directive so far as they might be affected by those functions. The Directive allows "derogation" from the requirements of the Directive where there are reasons of "overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment" and provided that there is "no satisfactory alternative" and the proposal would not be "detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range."

2.12.4 The NPPF recognises the need for the planning system to contribute to and enhance the natural and local environment by recognising the wider benefits of ecosystem services and minimising impacts on biodiversity and providing net gains in biodiversity where possible. Paragraph 118 of the NPPF states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity and if significant harm results from a development that cannot be avoided (through locating on an alternative site with less harmful impacts), be adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

2.12.5 The application is accompanied by an Ecological Appraisal. The report concludes that the site represents a typical agricultural plot, where mature standard trees, and

to a lesser extent hedgerows, represent the only habitats of merit ecologically. All other habitats are considered to be of low ecological value.

2.12.6 The appraisal goes on to state that Hedgerows, although species-poor, will meet the criteria for classification as a 'habitat of principle importance' under the NERC Act 2006, whilst mature native trees are considered to have a high intrinsic ecological value - given the time taken for saplings to reach this stature. As such, every effort should be taken at the design stage to retain these features on Site. Any loss of these habitats would require a suitable compensatory planting scheme to be produced. With regards to hedgerows, the scheme should aspire to achieve a 'no net loss' in the cover of this habitat. The appraisal notes that this appears achievable, with opportunities for new hedgerow planting along the eastern boundary and within the POS to the west.

2.12.7 It is also noted in the appraisal that at present, tree planting along the southern boundary is young and easily replaceable; however, given time and appropriate management, this could develop into a valuable linear habitat feature. The report recommends that this feature be retained and enhanced for local wildlife post development.

2.12.8 In order for the development to make a positive contribution to biodiversity, the following recommendations are made in the report:

- Installation of bird and bat boxes within retained mature trees and suitable new builds.
- Retained hedgerows and young tree planting entered into formal management, with the aim of enhancing their value to local wildlife.
- Management of tree planting could include stratification and sowing a suitable shade tolerant ground layer.
- New species-rich hedgerows or lines of native trees could be planted along the eastern boundary to enhance connectivity.

2.12.9 Both the Yorkshire Wildlife Trust and the North Yorkshire Bat Group have been consulted on the proposals. The former has not raised any objections and the latter has not provided comments. The Yorkshire Wildlife Trust welcome the proposed enhancements to biodiversity indicated in the ecological appraisal. And suggest a number of conditions to cover this. They also suggest that a management plan should be agreed for future maintenance and that unnecessary light pollution should be avoided by following best practice. They further suggest that the development will increase footfall and dog exercising activities at Brayton Barff LWS and therefore it is suggested that implementation of dog/litter bins and signposting is conditioned and that a CIL payment or S106 agreement could go towards mitigation for increased pressure on the SINC.

2.12.10 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 conditions that the proposals be carried out in accordance with the recommendations set out in the Ecological Appraisal and as advised by the Yorkshire Wildlife Trust with regard to light pollution.

## **2.13 Affordable Housing**

2.13.1 Policy SP9 states that the Council will seek to achieve 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. The policy goes on to state that the actual amount of affordable housing to be provided is a matter for negotiation at the time of a planning application, having regard to any abnormal costs, economic viability and other requirements associated with the development.

2.13.2 This application is an outline application where the applicants have indicated that 40% affordable housing would be provided. This can be covered by a Section 106 Agreement and subject to this, the application would accord with Policy SP9 of the Core Strategy.

## **2.14 Recreational Open Space**

2.14.1 Policy in respect of the provision of recreational open space is provided by Policy RT2 of the Local Plan which should be afforded limited weight given it conflicts, in part, with the Council's Community Infrastructure Levy Charging Rates, the Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and paragraphs 70 and 73 of the NPPF.

2.14.2 The applicants have confirmed in their Planning Statement that Recreational Open Space would be provided on site in accordance with policy requirements although the detailed position and type of provision to be provided would be established in detail at reserved matters stage. 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.

2.16.3 It is therefore considered that subject to a Section 106 agreement to secure the on-site provision of Recreational Open Space, the proposals are appropriate and accord with Policies RT2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

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

2.15.1 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.

2.15.2 North Yorkshire County Council Education team were consulted on this application and have responded that a contribution of £367,092 would be required. However, since the adoption of the Community Infrastructure Levy (CIL) a sum would be collected by this means which can be spent towards education provision in this area.

2.15.3 No response has been received from the Healthcare Service in relation to healthcare contributions, however, the adoption of CIL means that a sum will be collected which could contribute towards healthcare provision if required.

2.15.4 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.

## **2.16 Contaminated Land and Ground Conditions**

2.16.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. The application is accompanied by a Preliminary Investigation Report prepared by Dunelm Geotechnical and Environmental, which concludes that there is no made-up ground within the site but in respect of contamination a further intrusive study would be required.

2.16.2 The Council's Contaminated Land Consultant has been consulted and have not raised any objections subject to appropriate conditions being applied for further investigations to be carried out following the Phase 1 survey. This would accord with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

## **2.17 Residential Amenity and Neighbour Concerns**

2.17.1 Policy in respect to impacts on residential amenity and securing a good standard of residential amenity are provided by Policies ENV1 (1) and ENV2 of the Local Plan and Paragraph 200 of the NPPF.

2.17.2 A significant number of residents have objected to the principle of the new development on the basis that the site is located outside of the development limits, that it should be preserved from development and that there are already a large number of new dwellings which already have planning permission or are under construction. These concerns are understood. However, the proposals have to be considered in the context of the current lack of a 5 year housing land supply and recent appeal decisions where planning permission has been granted for new housing, notwithstanding that there are already developments both with planning permission and under construction, as outlined in section 2.7 above.

2.17.3 Residents have also expressed concerns about additional traffic and congestion in the village. However this has been considered in detail by the Highway Authority who have not objected to the scheme subject to conditions attached to any permission granted.

2.17.4 The proposed development is close to existing residential properties to the north and some residents have concerns regarding overlooking of their properties and loss of privacy. However, the submitted layout is indicative only and the detailed layout would need to be the subject of further review and public consultation.

2.17.5 Local residents have raised concerns about noise and pollution arising from the development. In particular they are concerned about the impact upon new residents living in close proximity to the by-pass. Environmental Health Officers have recommended that conditions be attached to any permission granted to take account of these issues. This would also be a matter to consider at reserved matters stage in terms of the overall layout.

- 2.17.6 Another major concern is the impact of the additional development upon existing facilities such as the school and local doctor's surgery. Whilst these concerns are appreciated, the applicants will have to pay a CIL contribution which should go towards enhancing these facilities.
- 2.17.7 Although there is local concern about the loss of the site to development and the impact upon wildlife and footpaths, an ecological report has been submitted with the application which indicates that the site has low ecological value apart from the existing trees and hedges and these can be conditioned to be retained. A condition can also be imposed to require the retention of a footpath link through the site from west to east. Although the site is well used by residents for recreational purposes, the site could still maintain connections to Brayton Barff, which is also used for recreational purposes.
- 2.17.8 Having taken into account the matters discussed above it is considered that the site could be developed in such a way that it would not cause a significant detrimental impact on the residential amenities of either existing or future occupants in accordance with Policy ENV1 of the Local Plan and the NPPF.

## **2.18 Impact on Heritage Assets**

- 2.18.1 Relevant policies in respect to the impact on the historic environment and archaeology include Policies SP18 of the Selby District Core Strategy Local Plan and Policy ENV28 of the Selby District Local Plan. Policy ENV28 should be afforded significant weight as it is broadly compliant with the NPPF. Section 12 of the NPPF requires Local Planning Authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal taking account of available evidence and any necessary expertise.
- 2.18.2 The County Archaeologist has been consulted regarding this application and has stated that there are no known archaeological deposits within the development area or its immediate vicinity and no objections to the development are raised. As the potential for archaeological remains on the site is low, it is considered that a condition for an archaeological watching brief would, in this instance, be unnecessary. The proposal therefore complies with relevant Development Plan policies.
- 2.18.3 The Grade 2 listed building of Barff Farm House is located approx. 310m to the east of the site. However, given the distance from the site and segregation of Field Lane, that it is already adjacent to suburban housing and the mature planting buffer around the area, it is not considered that the proposed development would undermine its value.
- 2.18.4 Having regard to the above, the proposal is considered to comply with relevant Development Plan policies.

## **2.19 Noise and Air Pollution**

- 2.19.1 Relevant policies in respect to noise and air pollution are Policy ENV1 of the Selby District Local Plan and Policies SP18 and SP19 of the Core Strategy, which seek to protect new developments from all types of pollution.

- 2.19.2 Environmental Health Officers have considered the details in respect of this application and have requested conditions regarding a noise survey and an air quality assessment to be submitted as part of any Reserved Matters application. This will ensure that the layout at reserved matters stage takes account of these important factors. They have also requested a condition regarding a construction management plan, to ensure that the amenity of nearby residents is protected during the construction period.
- 2.19.3 Subject to the above conditions, it is considered that the proposed development would accord with Development Plan policies.

**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.**

- 3.1 In assessing the proposal, the development would bring economic, social and environmental benefits to Thorpe Willoughby. Matters of acknowledged importance such as effect upon the character of the area, landscaping, boundary treatments, impact on trees and hedges, drainage and climate change, impact on highway safety, residential amenity, nature conservation and protected species, affordable housing, recreational open space and impact on heritage assets are considered to be acceptable. However, the indicative layout submitted with the application is not approved as it is likely to be over intensive bearing in mind the constraints on the site in respect of proximity to the Selby by-pass and the water main and aquifer which traverse the site. The applicant needs to be aware that whilst the principle of residential development on the site is considered acceptable, the number of units proposed is not. It is recommended that an informative be added to the decision notice to highlight this issue and suggest that early pre-application advice be sought in respect of any reserved matters application.
- 3.2 Aside from the number of units proposed, it is considered that there are no other 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. With regard to paragraph 14 of the NPPF, in this case the “tilted balance” referred to in paragraph 2.7.7 applies.
- 3.3 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.

**3.4 Conclusion**

- 3.4.1 Notwithstanding that the indicative layout is not agreed, as it would be too intensive, it is considered that the principle of residential development on this site is acceptable and that a suitably designed and landscaped scheme would not significantly detract from highway safety or residential amenity. The proposals are considered to be acceptable in respect of the impact on flooding, climate change, archaeology, affordable housing and protected species. It is therefore considered that the proposal would be acceptable, subject to conditions, when assessed

against the policies in the NPPF, the Selby District Local Plan and the Core Strategy.

#### 4. Recommendation

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

04. Prior to commencement of work on site, 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 plan shall also include mitigation measures with respect to the protection of groundwater and the hours of operation during construction work. 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 Core Strategy Policy SP19.

05. At the same time as application is made for the approval of reserved matters in respect of the layout and appearance of the development, the applicant shall also submit an appropriate noise survey and report, which has been 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. Any works provided as part of a noise mitigation 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. All works which form part of the scheme shall be completed before any part of the development is occupied.

Reason:

To protect the residential amenity of the development from noise in accordance with Selby District Council's Policy SP19, the National Planning Policy Framework (NPPF) paragraph 123, the National Planning Practice Guidance (NPPG) in relation to noise and the policy aims of the Noise Policy Statement for England (NPSE) and to ensure appropriate protection to ground water, in accordance with Policy ENV1 of the Selby District Local Plan and Policies SP15 "Sustainable Development and Climate Change."

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

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

Reason:

To prevent the increased risk of flooding; to ensure the future maintenance of the sustainable drainage system, to improve and protect water quality and improve habitat and amenity, in accordance with Policy ENV1 of the Selby

District Local Plan and Policies SP15 “Sustainable Development and Climate Change.

07. No building or other obstruction including landscape features shall be located over or within 6.5 (six point five) metres either side of the centre line of the large diameter live water mains i.e. a protected strip width of (13) metres, that transverse the site. If the required stand-off distance is to be achieved via diversion or closure of the water main(s), 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.

08. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, for surface water have been completed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason:

To ensure that the site is properly drained in accordance with Policy ENV1 of the Selby District Local Plan and Policies SP15 “Sustainable Development and Climate Change.”

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

Reason:

In the interest of satisfactory and sustainable drainage in accordance with Policy ENV1 of the Selby District Local Plan and Policies SP15 “Sustainable Development and Climate Change.”

10. No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

Reason:

In the interests of both visual and residential amenity and to accord with Policy ENV1 of the Selby District Local Plan and Policy SP19 of the Core Strategy.

11. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- I. the parking of vehicles of site operatives and visitors;
- II. loading and unloading of plant and materials;
- III. storage of plant and materials used in constructing the development;

- IV. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- V. wheel washing facilities;
- VI. measures to control the emission of dust and dirt during construction

Reason:

In the interests of both visual and residential amenity and to accord with Policy ENV1 of the Selby District Local Plan and Policy SP19 of the Core Strategy.

12. The details of the landscaping of the site, required to be submitted at reserved matters stage shall include details of the laying out of an area of amenity space of a size not less than 60sq m per new dwelling on the site. The submitted details shall also include details of maintenance arrangements for the amenity area. The area shall be laid out as amenity land and thereafter shall not be used for any other purpose than as an amenity area.

Reason:

In the interests of the amenity of future residents of the site and to accord with Policies ENV1 and RT2 of the Selby Local Plan and Policy SP19 of the Core Strategy.

13. At the same time as an application is made for reserved matters in respect of the layout and appearance of the site, a detailed plan of all existing trees and hedges on the site shall be submitted. No trees and hedges shall be removed until such time as the following details have been submitted to and approved in writing by the Planning Authority:

I. a plan showing the position of every tree on the site and on land adjacent to the site (including street trees) that could influence or be affected by the development, indicating which trees, if any, are to be removed;

II. a schedule in relation to every tree identified listing:

- o information as specified in paragraph 4.4.2.5 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced); and,
- o any proposed pruning, felling or other work;

III. in relation to every existing tree identified to be retained on the plan referred to in i) above, details of:

- o any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area; and,
- o all appropriate tree protection measures required before and during the course of development (in accordance with paragraph 5.5 of British Standard BS 5837) (or in an equivalent British Standard if replaced);

IV. areas of existing landscaping to be protected from construction operations and the method of protection.

Reason:

To allow the Local Planning Authority to control the development in detail in order to ensure that the proposals are in keeping with the character and

appearance of the area to comply with Policy ENV1 of the Selby District Local Plan and SP19 of the Selby District Core Strategy Local Plan.

14. Prior to commencement of work above foundation level, a detailed scheme and management plan for implementation of the recommendations detailed below, as outlined in the Ecological Report prepared by Brooks Ecological, submitted with this outline application, shall be submitted to and approved in writing by the Planning Authority and thereafter implemented in accordance with the approved details.
  - Installation of bird and bat boxes within retained mature trees and suitable new builds.
  - Retained hedgerows and young tree planting entered into formal management, with the aim of enhancing their value to local wildlife.
  - Management of tree planting to include stratification and sowing a suitable shade tolerant ground layer.
  - New species-rich hedgerows or lines of native trees to be planted along the eastern boundary to enhance connectivity.

Reason:

In the interests of nature conservation and to comply with Policy SP18 of the Core Strategy and Policy ENV 15 of the Selby District Local Plan.

15. At the same time as the reserved matters in respect of layout and appearance are submitted, an appropriate air quality assessment and report undertaken by a suitably qualified person shall be submitted and appropriate measures to deal with any ensuing impacts from air pollution shall be incorporated into the design of the development, to the satisfaction of the Planning Authority.

Informative

Irrespective of any results that ensue, attention is drawn to Section 6.20 I: Mitigation Measures in the EPUK/IAQM Land Use Planning & Development Control Planning for Air Quality which states in bold that "Even where the effect is judged to be insignificant, consideration should be given to the application of good design and good practice measures, as outlined in Chapter 5." Good design includes the provision of Electric Vehicle (EV) charging points especially where the properties include a garage and it is requested that the applicant considers this or the provision of other mitigation measures for air quality.

Reason:

In order to adequately address the provision of significant new car parking outside an Air Quality Management Area, as well as new exposure close to existing sources of air pollutants (i.e. road traffic), and to accord with Policies SP18 and 19 of the Core Strategy and ENV1 of the Selby District Local Plan.

16. The landscaping proposed for the site shall be submitted at the same time as the reserved matters for the detailed layout of the houses and shall include the provision of a landscaped footpath through the site from west to east to link up with the existing public right of way to the east together with appropriate dog litter bins and sign-posting. The proposals shall include

details of how the existing green infrastructure is to be maintained and enhanced with additional green open space.

Reason:

The position of the recreational open space on the indicative plan submitted is poorly related to the rest of the development and it is expected that the layout will provide enhanced areas of green space to complement the setting of the nearby SINC at the Barff. The site also contains a number of permissive paths which are used by local residents and at least one footpath must be provided in the interests of residential amenity and to comply with Policies ENV1 of the Selby Local Plan and SP19 of the Core Strategy.

17. The submitted layout plan is indicative only and is not approved as part of this planning application. The reserved matters application shall not provide for more than 108 dwellings.

Reason: The indicative layout is not accepted as an approved plan and the amount and disposition of the recreational open space needs to be increased to reflect the position of the site close to an important landscape area containing the Barff, in accordance with Policy ENV 15 of the Selby Local Plan. The site is also constrained by the Selby by-pass and the position of dwellings in relation to this and noise and air pollution issues in particular, will need to be given careful consideration at reserved matters stage.

18. . 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:

o human health,

o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

o adjoining land,

o groundwaters and surface waters,

o ecological systems,

o archaeological sites and ancient monuments;

o 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.

19. Prior to development, a detailed remediation scheme, including a pre-demolition asbestos survey, 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.

20. 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.

21. 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.

22. 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 following drawings and details have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:

(1) Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:

- (a) the proposed highway layout including the highway boundary
- (b) dimensions of any carriageway, cycleway, footway, and verges
- (c) visibility splays
- (d) the proposed buildings and site layout, including levels
- (e) accesses and driveways
- (f) drainage and sewerage system
- (g) lining and signing
- (h) traffic calming measures
- (i) all types of surfacing (including tactiles), kerbing and edging.

(2) Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:

- (a) the existing ground level
- (b) the proposed road channel and centre line levels
- (c) full details of surface water drainage proposals.

(3) Full highway construction details including:

- (a) typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
- (b) when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
- (c) kerb and edging construction details
- (d) typical drainage construction details.

(4) Details of the method and means of surface water disposal.

(5) Details of all proposed street lighting.

(6) Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.

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

(8) A programme for completing the works.

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

Reason:

In accordance with policy number T1 of the Selby District Local Plan and to secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of highway users.

23. 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 base course macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation. The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority in consultation with the Highway Authority before the first dwelling of the development is occupied.

Reason:

In accordance with policy number T1 of the Selby District 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.

24. There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme.

Reason: In accordance with policy number T1 of the Selby District Local Plan and in the interests of highway safety.

25. 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 in consultation with the Highway 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 accordance with policy T1 of the Selby District Local Plan and in the interests of both vehicle and pedestrian safety and the visual amenity of the area.



26. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 59 metres measured along both channel lines of the major road (Field Lane) from a point measured 2.4 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with policy T1 of the Selby District Local Plan and in the interests of road safety.

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

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

(ii) An independent Stage 2 Safety Audit has been carried out in accordance with HD19/03 -Road Safety Audit or any superseding regulations.

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

The required highway improvements shall include:

a. Provision of a 2m footway on the southern side of Field Lane across the entire frontage of the development site, including any necessary street lighting.

b. Highway works to facilitate pedestrian crossing points over Field Lane at two locations in the vicinity of the proposed site accesses. The pedestrian crossing points to incorporate dropped kerbs with tactile paving.

c. Upgrades to the nearest bus stop on Field Lane, to include bus shelter with seating and timetable information.

Reason:

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

28. Unless otherwise approved in writing by the Local Planning Authority in consultation with the Highway Authority, the development shall not be brought into use until the following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority under condition 27:

- a. Provision of a 2m footway on the southern side of Field Lane across the entire frontage of the development site, including any necessary street lighting.
- b. Highway works to facilitate pedestrian crossing points over Field Lane at two locations in the vicinity of the proposed site accesses. The pedestrian crossing points to incorporate dropped kerbs with tactile paving.
- c. Upgrades to the nearest bus stop on Field Lane, to include bus shelter with seating and timetable information.

Reason: In accordance with policy T1 of the Selby District Local Plan and in the interests of the safety and convenience of highway users.

29. No dwelling shall be occupied until the related parking facilities have been constructed in accordance with the approved drawing. Once created these parking areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In accordance with policy T1 of the Selby District Local Plan and to provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interests of safety and the general amenity of the development.

30. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 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 policy T1 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.

31. 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 Field Lane 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 policy T1 of the Selby District Local Plan and in the interests of highway safety and the general amenity of the area.

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

Reason: In accordance with policy T1 of the Selby District Local Plan and to protect pedestrians and other highway users.

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

- 1) Details of the routes to be used by HCV construction traffic.
- 2) Traffic Management Plan
- 3) Management and control of HCV construction traffic
- 4) Measures to prevent mud/dirt being deposited on the highway.
- 5) Parking / Storage areas

Reason: In accordance with policy T1 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.

34. Prior to the commencement of the development a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority and thereafter the development shall be carried out and operated in accordance with the Travel Plan.

Reason: In accordance with policy T1 of the Selby District Local Plan and to establish measures to encourage more sustainable non-car modes of transport.

35. The development hereby permitted shall be carried out in accordance with the following approved plans:

(To be inserted into the Decision Notice).

### **3.1 Legal Issues**

#### **3.1.1 Planning Acts**

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

#### **3.1.2 Human Rights Act 1998**

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

#### **3.1.3 Equality Act 2010**

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

### **3.2 Financial Issues**

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

**4. Conclusion**

4.1 As stated in the main body of the report.

**5. Background Documents**

5.1 Planning Application file reference 2016/1345/OUTM and associated documents.

**Contact Officer:** Mrs Jill Low, Principal Planning Officer Consultant

**Appendices:** None



# APPLICATION SITE

**Item No:** 2016/1256/OUTM

**Address:** Pinfold Garth, Sherburn in Elmet

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<b>BUSINESS SUPPORT</b>

Project  
 Land off Hodgsons  
 Sherburn In Elmet  
 Drawing Title

Indicative Masterplan

Date	Scale	Drawn by	Check by
30.06.15	N.T.S.	MW	LT

Project No	Drawing No	Revision
24466	psd01- aerial	A

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**To:** Planning Committee  
**Date:** 14<sup>th</sup> June 2017  
**Author:** Tom Webster (Principal Planner)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	8/58/1049A/PA 2016/1256/OUTM	PARISH:	Sherburn in Elmet Parish
APPLICANT:	Mr John Harrison, Mr David Harrison and Mr Bernard Harrison	VALID DATE:	20 October 2016
		EXPIRY DATE:	13 April 2017
PROPOSAL:	Outline application for residential development comprising up to 60 dwellings, areas of open space, landscaping and associated infrastructure with all matters reserved except access on land to north.		
LOCATION:	Land at Hodgsons Lane Sherburn In Elmet		

This application had a Committee resolution to grant Approval subject to completion of the Section 106 Agreement. Since this resolution, there has been a further material consideration which Members need to consider. This is the Supreme Court Ruling relating Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East Borough Council, where a judgement has been passed on what comprises a policy for the supply of housing, and the approach to be taken in assessing applications against Paragraphs 14 and 49 of the NPPF.

The application remains unchanged in all other respects.

**Summary:**

The application proposes outline planning consent for the erection of up to 60 dwellings with associated vehicular access (all other matters are reserved).

The site is located in an area of open countryside immediately adjacent to the defined development limits of Sherburn and is on an area of land designated as safeguarded land. Just over half of the site lies in Flood Zone 2.

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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.

Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:

- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
- (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood, green belt, countryside gaps and heritage assets).

In relation to this application the presumption in paragraph 14 and Policy SP1 is displaced by specific policies concerning flooding in the NPPF and safeguarded land in the Local Plan therefore the application is to be determined under the normal planning balance.

The scheme, if approved, will see the development of safeguarded land that has long-been identified as being suitable for much needed housing (including a significant amount of affordable properties) at a time when the Council does not have a 5-year land supply. It will also make provision for open space.

The site is very well placed for access to shops, restaurants, entertainment and leisure facilities. Public transport links are many and easily reached (bus stops are within 5 minutes walking distance and the train station, with links to York, Hull and Sheffield, is within a 10 minute walking distance). The site is well-placed for redevelopment – it is a sustainable and accessible site that has been safeguarded for future development and is close to Sherburn town centre.

Developing this parcel of land for housing is important because new houses, in sustainable locations such as this, can support local town centres like Sherburn; they add to the vitality of town centres.

The benefits, which weigh in its favour are that the applicants have demonstrated that appropriate flood mitigation measures can be delivered, the land has already been safeguarded for development, the Council does not currently have a 5 year land supply and it is a sustainable location that has excellent access to regular public transport, employment, education and health facilities as well as shops and other every day amenities.

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 contribution of £20,000 towards traffic lights in the village centre, a Travel Plan and a £5,000 monitoring fee, and a waste and recycling contribution and subject to the conditions detailed below:**

### **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 whole of the application site is designated as safeguarded land within the Selby District Local Plan (2005).

1.1.2 The site is designated as agricultural use, although is currently been left unattended. The boundaries of the site are existing residential properties to the south and west, mature hedging to the north and Hodgson's Lane to the east. The surrounding residential properties are predominantly two storey, although a small number of them have loft conversions. A public right of way runs along the site's western boundary.

1.1.3 The site straddles Flood Zones 1 and 2, as contained in the Environment Agency's Flood Risk mapping.

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

1.2.1 The application is for outline consent and the indicative scheme submitted with the application shows 60 dwellings.

1.2.2 The development would be accessed via a gap between 57 and 59 Pinfold Garth.

1.2.3 The submitted indicative layout shows a mixture of dwellings including detached, semi-detached and terraced units framing a long, central road, and 5 side roads. It also demonstrates how recreational open space could be provided on the south east part of the site.

#### **1.3 Planning History**

1.3.2 An application (2015/0848/OUT) seeking outline consent for up to 60 dwellings was refused on the 30<sup>th</sup> June 2015.

1.3.3 Also relevant to this application are the following proposal:

1.3.4 An application (2015/0544/OUT) seeking outline consent for up to 270 dwellings on Land at Hodgson's Gate, East of Hodgson's Lane, Sherburn was refused in June 2015. However, following an appeal by the applicant, it was granted planning permission by the Planning Inspector on the 6<sup>th</sup> December 2016. This land sits to the east of this site, and is physically separated by Hodgson's Lane.

1.3.4 An application (2016/1409/OUTM) for Outline Consent for 150 dwellings on Hodgson's Lane , which immediately abuts the northern boundary of this site, was approved at planning committee on the 29<sup>th</sup> March 2017, subject to a satisfactory s106 agreement being agreed.

## 1.4 Consultations

### 1.4.1 Sherburn in Elmet Parish Council

- The Parish Council has raised concerns in regards to traffic impacts, including serious concerns regards to the transport information which accompanies this application.
- Concerns that a full analysis of its impact on the traffic signals in the village centre had been carried out. No details of that analysis have ever been published on the Planning Portal or anywhere else on the public record. Furthermore the LHA advised the PC in May 2016 that following a traffic survey on Pinfold Avenue the PM rush hour trip rates were found to be some 57% lower than those which had previously been used for housing developments in Sherburn in Elmet.
- The Parish Council have just carried out two surveys of traffic entering and exiting the modern 94 home development on Pasture View and Copperfield Close during the PM rush hour. The first survey on Tuesday 15<sup>th</sup> November 2016 showed a total of 74 vehicles in the PM rush hour. A survey the following day showed 88 vehicles during the PM rush hour. The average of these two surveys is 81 vehicles. So we have an 94 home development producing 81 vehicle movements during the PM rush hour, which equates to a trip rate of 0.86.
- The Transport Statement supplied by the applicant shows a total of 42 vehicles entering and exiting the proposed development site during the PM rush hour.
- Concern that Pinfold Garth is not suitable for use as an access road. It is a narrow road with a lot of on-street parking, which will present particular difficulties for access by HGVs during the construction phase.
- It should also be noted that the junction of Pinfold Garth with Pinfold Avenue has particularly poor visibility.
- Raised concerns in regards to flooding as the majority of the site is within Flood Zone 2. The Flood Risk Assessment states that no intrusive soils investigation has been carried out, but nevertheless concludes that the risk of flooding from groundwater is low. It is the PC's understanding that similar unsafe assumptions were made in respect of the Strata site.
- It is known that the lacustrine clays locally contain sandy layers which hold or transmit significant quantities of water. The deeper geology includes magnesian limestone strata, an aquifer which can produce significant volumes of water under artesian pressure.
- The PC does not consider the Sequential Test has been passed.
- Concerns in regards to piling and consider that pile driving may be required for this site and if permission is granted then it must include suitable conditions regarding pile driving.
- The site is contaminated with Japanese Knotweed and the Parish Council has previously notified the District Council of this. If planning permission is granted then a condition will be required to ensure that Japanese Knotweed has been eradicated before any construction work commences.

- The Parish Council does not consider that a lack of 5 year house land supply should mean that all planning applications for housing should all be approved. It is the PC's view that both cases in paragraph 17 of the NPPF applies.
- Parish Council considers that further development in Sherburn will be sustainable in the absence of significant improvements in services, facilities and infrastructure.
- Taking into account the nearby Hodgson's Lane sites approved for 270 and 150 homes, the increase in the number of houses in Sherburn between 2012 and 2027 will be over 1100 houses, without taking account of windfall sites such as that recently approved for 20 houses on Moor Lane. 1100 houses would represent a percentage increase in the total number of houses in the village of about 40% and an increase of over 30% on the level of growth the Inspector considered appropriate "in the absence of key services". It is also relevant that, once existing commitments are completed the village will have expanded by about 80% between 1981 and 2021 with little improvement in services and facilities.
- The current application represents piecemeal and unplanned development and will result in pressure on existing services, facilities and infrastructure and shows a lack of coordinated, plan-led land use planning and would prejudice the plan making process.
- The nearest household waste recycling centre is at Tadcaster, as is the sports hall and swimming pool. (about 6.4 miles ). A larger HWRC and further leisure facilities are at Selby (9 miles).
- The only sports hall (an old gymnasium where there are the usual climbing bars and previously cricket nets) is at the High School. The only other "hall" of any size is the main room at Eversley Park Centre.
- In the village centre there are no banks (previously 2).
- The capacity of schools and the doctors' surgery are already a concern.
- There is no fire station, despite the big and expanding industrial estate. Tadcaster has a fire station.
- Despite the growth of Sherburn over the years the village is essentially served by roads that have the characteristic of country lanes. The other main settlements in the district are all served by A roads.
- Both railway stations lack anything like adequate parking
- The village centre lacks car parking.
- Concerns that allowing the proposals would result in:
  1. the prevention of a plan led coordinated and comprehensive land use approach to the planning of the town, including the investigation of the scope for the town centre to be remodelled or extended
  2. the lack of community involvement which empowers local people to shape their surroundings and the failure of the Council to fulfil its commitment to the community that decisions on the release of safeguarded land would be made through the Local Plan process.
- The Parish Council also consider that it is relevant that this site is safeguarded land, part of some 45 hectares in Sherburn. This land was taken out of the Green Belt to provide a long term supply of development land. There is, therefore no justification to give planning permission for the development of any safeguarded land in an ad hoc way at this stage. Releasing any safeguarded land would set a precedent for the release of other land which would prejudice the outcome of the

local plan process. This could lead to very large scale development in Sherburn without proper consideration of the need for improved facilities and infrastructure.

1.4.2 i) Lead Officer – Policy (October 2015)

To be provided on the update note

1.4.3 North Yorkshire County Council Highways

The Highways Authority has raised no objections, although they have requested £20,000 towards the village centre traffic lights and recommended conditions be imposed.

1.4.4 Environment Agency

The Environmental Agency have stated that the applicant should carry out a Sequential Test and, in the event that there is 'reasonably available' lower risk sites to which the development could be steered, the scheme should be refused.

In the event of an approval, the Environmental Agency has recommended that a condition be imposed that requires the following mitigation measure.

- The finished floor levels of properties within flood zone 2 are set no lower than 8.5m above Ordnance Datum (AOD), which is 600mm above the modelled 1% annual probability flood accommodating for climate change.

1.4.6 North Yorkshire County Council – Flood Risk Management

Previously, the SuDS and Development Control officer confirmed that, having initially objected to the proposal, they were satisfied that flood risk can be managed at the site with the detailed design of proposals, which will need to be secured by **condition**.

1.4.7 Selby Area Internal Drainage Board

No objections raised, but have recommended conditions, including that the rate of water runoff is restricted to 1.4litres per second per hectare.

1.4.8 Environmental Health – Lead Officer

The proposed development is of a fairly large scale and, as such, will entail an extended construction phase. Accordingly, the Environmental Health officer recommends that **conditions** relating to construction management and noise control (through maximum noise levels and hours of construction) be imposed.

1.4.9 Northern Gas Network

Committee will be updated on the response at the meeting

1.4.10 NYCC Heritage

NYCC Heritage advise that they "would advise that a scheme of archaeological mitigation is recording is undertaken in response to the ground disturbing works associated with the development proposals". This should comprise an archaeological strip, map and record to be undertaken in advance of development. Including site preparation works, top soil stripping, to be following by appropriate analyses, reporting and active preparation. NYCC Heritage notes that in order to secure this a **condition** should be placed on any consent.

1.4.11 Natural England

No comments received.

1.4.12 Yorkshire Wildlife Trust

The Yorkshire Wildlife Trust have raised no objection because the Ecological Management and Enhancement Plan (prepared by Wold Ecology) addresses the issues that they had raised previously. However, it is recommended that stringent conditions are imposed to ensure that the ecological management measures are in compliance with the Ecological Management and Enhancement Plan.

1.4.13 North Yorkshire Bat Group

No response received.

1.4.14 North Yorkshire Education

Based on the proposed 60 2+ bedroom properties a developer contribution of £203,940 would be sought for primary education facilities at Hungate Community Primary School as a result of this development. A developer contribution would not be sought for secondary school facilities at this time. Should the density of the site change we would be required to recalculate this based on pupil numbers available at the time of recalculation.

*Officer comment:* The Community Infrastructure Levy (CIL) is a source of funding from new development which will help support the delivery of local infrastructure. The council has adopted a CIL to fund infrastructure that will support the development of the area and to ensure that future housing and employment growth envisaged in its Local Plan can be accommodated sustainably. Funding raised through the levy can be used to pay for improvements such as parks, playspaces, education, health facilities and the transport network.

1.4.15 North Yorkshire Police

No response received on the application within the statutory time period.

1.4.16 North Yorkshire and York Primary Care Trust

The Sherburn Group Practice anticipates that 60 dwellings will equate to 144 new patients using their practice, and a cost of £19,200 towards a new consulting room would be appropriate to help absorb additional patients.

*Officer comment:* The Community Infrastructure Levy (CIL) is a source of funding from new development which will help support the delivery of local infrastructure. The council has adopted a CIL to fund infrastructure that will support the development of the area and to ensure that future housing and employment growth envisaged in its Local Plan can be accommodated sustainably. Funding raised through the levy can be used to pay for improvements such as parks, playspaces, education, health facilities and the transport network.

1.4.17 North Yorkshire Fire and Rescue Service

No response received.

1.4.18 North Yorkshire Public Rights of Way

Request informative on consent to note that the existing public right of way should be protected until a new route can be agreed.

1.4.19 Contaminated Land Consultant (WPA)

No objections raised subject to conditions attached to any permission granted.

## **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 in comments from 16 objections. The issues raised can be summarised as follows:

### Principle of Development

- Question the need for the housing
- Understand that Housing applications should be considered in the context of the presumption in favour of sustainable development; however I do not believe that this particular planning application is sustainable and acceptable, bearing in mind that Sherburn In Elmet already has approved housing development of an estimated 1,000 houses, which are currently undergoing development.

### Highways

- Inward and outward access to this proposed housing development is unsafe due to the high volume of traffic already on the roads around Springfield Road, North Drive and Moor Road on to Moor Lane.
- There is very little off street parking already around the area and the proposed access is on a bend and very near a blind bend on Springfield Road.
- Access should be off the bypass
- Safe and sensible option would be to use one or both of two existing access points from the bypass or modify Hodgson's Lane as part of the Hodgson's Gate development (which is even more houses) to give access into the proposed sites.
- Concerns over the lack of an emergency access.

### Ecology

- It has been identified that there are bats within the site area, that use the field area for roosting and feeding. (The Wildlife and Countryside Act 1981 (WCA) protects bats and their roosts in England, Scotland and Wales).
- The Bishop Dyke that runs to the East of the site is also the habitat of water voles (fully protected under Schedule 5 of the Wildlife and Countryside Act 1981 and is a priority conservation species).
- This greenbelt safeguarded land is the habitat of much flora and fauna and this should be considered when making the planning decision.
- Wildlife lives in the perimeter hedges
- The Ecology reports carried out have not been made at dusk to support this and needs to be carried out before hibernation.

### Flood Risk and Drainage

- Would like reassurance that the effect of this development on the water table in the area has been thoroughly investigated. The field on which these houses are to be built already has standing water that takes a very long time to drain away when we have a lot of rain.
- The site floods -surface water moves at high velocity in this area.

### Infrastructure

- How will the village infrastructure be developed to support the extra people who will live in these houses?
- Schools have no capacity to take extra children.
- An example given of a child having to go to South Milford Primary School because of the lack of capacity at the two Sherburn schools.
- Doctors has no capacity
- The infrastructure is not here in Sherburn in Elmet to support the volume of additional homes that are being proposed.
- Overloaded pumping station on Moor Lane.

### Other Matters

- It is assumed that the land in question for the proposed access on to Springfiled Road is owned by Selby District Council and was previously allocated for local housing association houses.
- Areas with Japanese Knotweed, which can be found in and around the boundary hedges.
- Parking in the centre of Sherburn is chock a block.
- With access off the bypass building materials as well as plant and machinery can be easily delivered to the site without having to negotiate existing road networks which are not suitable and dangerous.

## **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 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.

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**

The National Planning Policy Framework introduces, in paragraph 14, a presumption in favour of sustainable development. It 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".

This 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 and the decision making process**



2.6 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) Safeguarded Land
  - ii) Flood Risk
3. Identifying the potential impacts of the proposal:
  1. Design and impact on the character of the area
  2. Flood risk, 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. Education, healthcare, waste and recycling
  12. Other issues
- 4) Benefits of the Proposal

**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 Sherburn which is a Local Service Centre. 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 Council has conceded in appeal APP/N2739/W/16/3144900 of October 2016 that it does not have a 5 year land supply and proposals for housing should be considered in the context of the presumption in favour of sustainable development and paragraphs 14 and 40 of the NPPF and SP1 of the Core Strategy. Having regard to paragraphs 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.
- 2.7.6 Given that the Council cannot demonstrate a 5-year housing land supply, the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:
- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
  - (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood risk zones, Green Belt, countryside gaps and heritage assets).
- 2.7.7 In relation to this application the presumption in paragraph 14 and Policy SP1 is displaced by specific policies concerning green belt and flooding in the NPPF and safeguarded land in the Local Plan therefore the application is to be determined under the normal planning balance.
- 2.7.8 The Council’s Guidance Note “Five Year Supply Guidance Note for Applicants May 2017 describes how proposals will be assessed. 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. In considering the weight to be afforded to development plan policies the Council will consider the extent of housing supply shortfall, the measures in place to remedy the shortfall and the particular purpose of the policy. As such each application will be judged on its own merits and take into account factors such as :
- Visual impact on the character and form of the area
  - Flood risk, Drainage and climate change
  - Impact on highways and capacity of public transport
  - Residential amenity
  - Nature conservation and protected species
  - Affordable housing
  - Recreational open space
  - Education, healthcare, waste and recycling
  - Contamination

- Impact on heritage assets
- Impact on the Green Belt
- The deliverability of the scheme and its likelihood of adding to the 5 year supply of housing.

2.7.9 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 Hodgsons Gate to the east of the application site.

2.7.10 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.

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

#### 2.7.12 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.

#### 2.7.13 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.

#### 2.7.14 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.

2.7.16 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.

## **2.8 Specific policies of the NPPF which indicate development should be restricted.**

### 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 north of the application site for further residential development of 150 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.

### Flood Risk

- 2.8.3 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design.
- 2.8.4 The application site is located partly within Flood Zone 2 and partly in Flood Zone 1. With regards to category Flood Zone 2, the NPPF considers this to be an area of medium probability to flooding and defines it as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding, or a 1 in 200 and 1 in 1,1000 annual probability of flooding from the sea.
- 2.8.5 The PPG identifies dwelling houses as falling within the “more vulnerable” category and as such the proposals would need to pass the sequential test. In addition all applications in Flood Zones 2 and 3 must be accompanied by a Flood Risk Assessment. These are discussed in turn below.

### Sequential Test

- 2.8.6 The purpose of carrying out a Sequential Test is made clear in Paragraph 101 of the NPP, which states that:

*“The aim of the Sequential Test is to steer new development to areas with the lowest possibility of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. ....”*

- 2.8.7 There is an exception to this, which is that, according to Paragraph 104 of the NPPF *“individual developments on sites allocated in development plans through the Sequential Test, applicants need not apply the Sequential Test”*. However, in this particular instance, this piece of land, which has been safeguarded through the Local Plan.

- 2.8.8 Therefore, in accordance with the NPPF, the applicants have to carry out a Sequential Test and demonstrate that there are no alternative sites in the District, available for housing development, and not within Flood Zones 2 and 3. Furthermore the PPG states that:

*“For individual planning applications where there has been no sequential testing of the allocations in the development plan, or where the use of the site being proposed is not in accordance with the development plan, the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed.”*

- 2.8.9 The Council has discussed the scope of the Sequential Test for this application site with the Environment Agency and it was agreed that a pragmatic approach should be taken in defining the area of search, when applying the Sequential Test. It is considered that, as the site is designated “Safeguarded Land” within the Local Plan, has strong sustainability credentials (as listed in paragraph 2.7.9 of the report) and is located on the edge of a town identified in the Core Strategy as a Local Service Centre with scope for additional residential growth, the list of alternative sites should be limited to Sherburn Urban Area.

- 2.8.10 The applicants have submitted a Sequential Test as part of their submission documents which make the case that there are no available sites within the

Sherburn Urban Area that are able to accommodate the proposed development. Looking at the sites available, officers are of the view that is a fair assessment. It is on this basis that the applicant's proposal passes the Sequential Test and is in accordance with Policy SP15 of the SDCS and paragraph 101 of the NPPF.

### Flood Risk Assessment

- 2.8.11 The applicants have submitted a Flood Risk and Surface Water Assessment (FRA) and a separate Sequential Test Report (STR). The FRA assesses the site characteristics, flood sources, considers the flood classification, and details mitigation measures. The proposed mitigation includes acknowledgement that floor levels to properties will need to be set above surrounding flood plain levels. That above ground surface water management methods will be required and that such surface water management features would need to be managed.
- 2.8.12 Residents have raised concerns that a large part of the application site is within Flood Zone 2 and that the drainage needs to be considered.
- 2.8.13 NYCC Flood Risk Management Team has been consulted on the proposals and they have recommended that a condition is attached if planning permission is given. The Environment Agency has been consulted and they have raised no objections, however have requested that a condition be imposed regarding progression in accordance with the submitted FRA and site levels.
- 2.8.14 With respect to surface water run-off this should be managed using sustainable drainage techniques to ensure that flood risk is not increased either on-site or elsewhere and the Internal Drainage Board would need to agree any discharge rates. Having consulted the Internal Drainage Board they have raised no objections to the scheme.
- 2.8.15 Yorkshire Water have confirmed that they have no objections in principle to the proposals subject to conditions and the discharge of all surface water to watercourses.
- 2.8.16 Having taken the above into account it is considered that the proposed scheme can adequately address flood risk and drainage subject to appropriate conditions in accordance with Policies SP15, SP16 and SP19 of the Core Strategy and the NPPF.

## **2.9 Identifying the potential impacts of the proposal**

- 2.9.1 This section will look at the potential impacts arising from the proposals

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

- 2.10.1 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. In addition Policy SP8 of the Core Strategy requires an appropriate housing mix to be achieved.
- 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.

- 2.10.3 Relevant policies within the NPPF, which relate to design include paragraphs 56, 60, 61, 65 and 200.
- 2.10.4 The application proposes outline consent with all matters reserved. An indicative illustrative masterplan has been submitted which demonstrates how the site could accommodate 60 dwellings, allowing for internal road networks, drainage areas and an area of recreational open space. The application site has a site area of 6.05 hectares which would achieve a density of approximately 22.3 dwellings per hectare which is considered to be low to medium density and as such would appear to be a reasonable density having had regard to the surrounding context.
- 2.10.5 With respect to the appearance of the proposals the submitted Planning Support Statement which includes the Design and Access Statement notes that the design and appearance of the scheme would be considered at the Reserved Matters stage but reference is made to the Village Design Statement and the context to the site. Taking into account the surrounding context of the site there is nothing to suggest that an appropriate appearance could not be achieved at reserved matters stage. The Indicative Layout notes a mix of properties which appear to be largely two storey. Providing that the scale of the properties proposed takes account of the surrounding context and in particular the inter-relationship with existing properties along the southern boundaries there is nothing to suggest that an appropriate scale cannot be achieved at reserved matters stage.
- 2.10.6 In terms of landscaping, this is reserved for future consideration, however it is noted that the site is generally open in character with trees and hedgerows located on the site boundaries. The submitted Planning Support Statement (Planning) notes that there are no trees or hedgerows within the site itself although it acknowledges that there are mature hedgerows on the boundaries which would be retained unless removal is required for creation of an access into the site.
- 2.10.7 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.
- 2.10.8 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. As this is an outline scheme there is no detail as to the proposed housing mix, however an appropriate mix could be achieved at reserved matters stage taking into account the housing needs identified in the Strategic Housing Market Assessment.

## **2.11 Impacts on Highway Safety**

- 2.11.1 Policy in respect of highway safety and capacity is provided by Policies ENV1(2), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF. In addition Policies T7 and T8 of the Local Plan set out requirements for cycling and public rights of way.
- 2.11.2 The application is accompanied by a Transport Assessment together with updated technical notes which examine the existing highway network, traffic flows and accident levels and presents the anticipated traffic generation and highway impacts

as a result of the development having also taken into account other permissions within Sherburn in Elmet.

2.11.3 North Yorkshire County Council Highways conclude that the application is acceptable in highways terms and would not have a severe detrimental impact on the network. The Parish Council have raised concerns in regards to the potential traffic impacts. The NYCC Highways Officer has confirmed that the existing large Persimmons/Redrow development is funding the cost of implementing MOVA at the village cross-roads signals. This stands for “Microprocessor Optimised Vehicle Actuation” which is an operating system that is more responsive to road conditions, continually assessing the traffic build up and allocating more green time to where it is needed with the aim of reducing congestion. There are some ancillary works which can also be done to improve the junction. The NYCC Highways Officer has also confirmed the suitability of Pinfold Garth to accommodate the traffic, stating that it is a typical estate road with a carriageway width of 5.5m.

2.11.4 It is accepted by officers that Sherburn-in-Elmet is designated as a Local Service Centre in the adopted Core Strategy and that the settlement represents a generally sustainable location in terms of access to jobs, local schools and services by a choice of transport modes. As with many settlements within the District there will be some reliance on the private motor vehicle to access employment and wider services and facilities. .

2.11.5 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.

## **2.12 Residential Amenity**

2.12.1 Policy in respect to impacts on residential amenity and securing a good standard of residential amenity is provided by ENV1(1) of the Local Plan, as part of the Core Principles of the NPPF and within Paragraph 200 of the NPPF.

2.12.2 The detailed design of the properties, orientation, boundary treatments 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.

2.12.3 The Lead Officer for Environmental Health has recommended conditions to minimise the impact on nearby residents of construction noise and disturbance to a minimum. A condition is also recommended to minimise the impact of noise within the new dwellings from the bypass.

2.12.4 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.

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



- 2.13.1 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.
- 2.13.2 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/ Great Crested Newt Mitigation Guidelines published by Natural England.
- 2.13.3 The application is accompanied by a Ecological Enhancement Management Plan (October 2015), prepared by Wold Ecology.

#### Nature Conservation Sites

- 2.13.4 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 within 2km of the site to the south west. The desktop data indicates the presence of 4 non-statutorily designated sites within 2km, these are Local Wildlife Sites and include 1 SSSI and 4 SINCs. Due to the separation distances involved it is not considered that the proposals would result in any significant adverse impacts on these sites.

#### Protected Species

- 2.13.5 The submitted Ecological Enhancement Management Plan considers the habitat on the site including the watercourses to the boundaries and ponds within the site, alongside hedgerows and trees in terms of bats, amphibians reptiles, terrestrial mammals and invasive species. Mitigation is noted in terms of limiting illumination in the vicinity of the dyke to limit impact on bats, limiting clearance of the site in the bird breeding season, a 6m buffer to the dyke to protect terrestrials mammals, enhancement of the hedges on the northern boundary for habitat purposes and the introduction of bat boxes within the site, nesting boxes within the site and provision of deadwood / rubble piles on the site periphery.

#### Habitats

- 2.13.6 The reports confirm that the site comprises agricultural land. The survey has not identified any habitats or plants species considered to be rare in the UK and therefore development of the site would have a negligible impact on the biodiversity value of the local area. The hedgerows noted as being are dominated by native species and the report advises that the hedgerows are cleared outside the bird breeding season and some enhancement of these hedgerows is also noted accordingly. A stand off to the Dyke which although not classified as BAP habitat could support such species is also noted. In the context of the submitted Report then there are a series of recommendations to protect the habitats of ecological value.
- 2.13.7 Natural England has raised no objection to the proposal. Yorkshire Wildlife Trust have written to confirm that, subject to conditions, they are happy with the details and management details set on in Ecological Enhancement Management Plan.

2.13.8 Therefore, in the absence of any evidence to suggest contrary to the findings of the information submitted by the Applicants, and having had regard to advice from Yorkshire Wildlife Trust, the findings of the submitted Reports are accepted.

2.13.9 Consequently, it is considered that the proposal would accord with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation subject to a condition that the proposals be carried out in accordance with the recommendations set out in the submitted Report and conditions on provision of a Ecological Enhancement Management Plan.

## **2.14 Energy Efficiency and Climate Change**

2.14.1 With respect to energy efficiency, 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 on permission granted in order to ensure compliance with Policies SP15 and SP16 of the Core Strategy.

2.14.2 Having taken the above into account it is considered 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.

## **2.15 Affordable Housing**

2.15.1 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.

2.15.2 The applicant has confirmed that they are prepared to provide 40% affordable units on site and that this could be secured via a Section 106 agreement.

## **2.16 Recreational Open Space**

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

2.16.2 The indicative layout plan demonstrates that the site could incorporate on-site recreational open space and this would need at the reserved matters stage accord with policy requirements set out in Policy RT2 and be maintained and managed by a management company. Using the standard formula of 60sqm of open space per dwelling, 3,600sqm would need to be provided.

2.16.3 Whilst the indicative layout suggests that there would be publically accessible open space on the south eastern part of the site, the final amount will need to comply with the amount of housing provision. To date, no justification has been provided to demonstrate that this level of provision cannot be provided on site. The publically

accessible open space shown on plan PSD01 Rev A will be secured through the s106 agreement.

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

2.17.1 ENV1 and CS6 of the Local Plan and the Developer Contributions Supplementary Planning Document set out the criteria for when contributions towards education, healthcare and waste and recycling are required. These policies should be afforded significant weight.

2.17.2 Having consulted North Yorkshire County Council Education and the Primary Care Trust, a contribution towards education facilities and for an additional consultation room at the Sherburn-in-Elmet medical practice has been requested. However, these monies are not now secured from the developer via a Section 106 agreement. Instead the developer would make the required payment to the Council based on the Community Infrastructure Levy Charge.

2.17.3 With respect to Waste and Recycling, a contribution of £65 per dwelling would be required and this would therefore be secured via Section 106 agreement.

## **2.18 Contamination**

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

2.18.2 The application is accompanied by a Preliminary Investigation prepared by Dunelm Geotechnical and Environmental dated August 2015. The report does identify an area of “possibly infilled land” within the site (north east corner) and recommendations are made on gas testing in this area. The report outlines further investigations due to the size of the development and the Council’s Contaminated Land Consultant has advised that this conclusion and recommendations are appropriate.

2.18.3 The Council’s Contaminated Land Consultant has also advised that should consent be granted for the scheme then standard conditions CL1 to CL5 should be utilised.

2.18.4 In this context the scheme is considered to accord with Policy ENV2 of the Local Plan and SP19 of the Core Strategy.

## **2.19 Impact on Heritage Assets**

2.19.1 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.

2.19.2 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.

- 2.19.3 The applicants have not provided any specific information in relation to Archaeology and the site does not lie within an Archaeological Consultation Zone for consultation with the County Council. However, in the context of comments from residents a consultation request was sent to NYCC Heritage Officers.
- 2.19.4 They have advised that the proposed development lies within an area of archaeological potential and that a scheme of archaeological mitigation recording should be undertaken in response to the ground-disturbing works associated with this development proposal which can be secured via condition on any consent.
- 2.19.5 The proposals are therefore considered acceptable with respect to archaeology in accordance with Policies ENV1 and ENV28, of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

## **2.20 Other Issues**

- 2.20.1 Local residents have stated that there is no need for open market housing in Sherburn. Selby District has under delivered with respect to housing for a number of years and as a result of this, and as set out above, does not have a five year housing supply of land which means that the Council's housing policies are out of date. This clearly demonstrates that there is a need for open market housing and it is also noted that the figures within the Core Strategy are minimum requirements.
- 2.20.2 Objectors have noted the presence of Japanese knotweed within the application site. This would need to be dealt with via a specialised contractor if present on site and the requirement to deal with this is covered by legislation outside planning to ensure its removal from the site.
- 2.20.4 Objectors have raised concerns at the lack of parking for future occupiers from the development to park in the town centre to access services. However, the indicative layout demonstrates that the appropriate level of on-site car parking can be delivered as part of the layout.
- 2.20.5 Objectors have raised concerns at the impact of the development on the boundaries of the site including the existing hedgerows. As noted earlier in the report the submitted ecology reports consider the impact on hedgerows and outline a series of mitigation measures to ensure these hedgerows are protected / managed appropriately. The mitigation and methods outlined in these reports can be controlled via conditions on any consent as such it is considered that the hedgerows have been appropriately assessed. In terms any boundary treatments other than hedges then the developer of the site would need to confirm the approaches to boundaries as part of the reserved matters submission or via condition discharge.
- 2.20.6 Objectors have made numerous comments regarding the impact of the proposals on the local infrastructure such as schools and the doctor's surgery. With respect to the leisure facilities, shopping facilities, and public toilets there is no policy requirement for these elements to be secured as part of the application, however it

should be noted that development often leads to improved services by virtue of the increased number of users. In terms of schools and healthcare infrastructure the site would be liable for payment of a CIL contribution which would be calculated in line with the schedule at the appropriate time.

2.20.7 In addition, I should draw the objectors attention to the comments made by the Inspector who, when granting planning permission for Outline consent for up to 270 dwellings at Land at Hodgson's Gate, East of Hodgson's Lane, considered there to be adequate amenities and infrastructure in place in Sherburn. In paragraph 33 of his report, he wrote:

"It is not, however, clear from the report which 'key services' are absent from the town. It has two primary schools, a secondary school, two GP surgeries, a library, numerous convenience stores (including the presence of four national multiple retailers) a pharmacy, a dentist, a post office and a reasonable bus service. In addition, there is a significant employment zone to the east of the town."

## **2.21 Benefits of the Proposal**

2.21.1 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.

2.22.2 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.

## **2.22 Conclusion**

2.22.1 The application proposes outline planning consent for the erection of up to 60 dwellings with associated vehicular access (all other matters are reserved). The

site is located in an area of open countryside immediately adjacent to the defined development limits of Sherburn and is on an area of land designated as safeguarded land. Just over half of the site lies in Flood Zone 2.

- 2.22.2 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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.
- 2.22.3 Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:
- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
  - (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood, green belt, countryside gaps and heritage assets).
- 2.22.4 In relation to this application the presumption in paragraph 14 and Policy SP1 is displaced by specific policies concerning flooding in the NPPF and safeguarded land in the Local Plan therefore the application is to be determined under the normal planning balance.
- 2.22.5 The scheme, if approved, will see the development of safeguarded land that has long-been identified as being suitable for much needed housing (including a significant amount of affordable properties) at a time when the Council does not have a 5-year land supply. It will also make provision for open space.
- 2.22.6 The site is very well placed for access to shops, restaurants, entertainment and leisure facilities. Public transport links are many and easily reached (bus stops are within 5 minutes walking distance and the train station, with links to York, Hull and Sheffield, is within a 10 minute walking distance). The site is well-placed for redevelopment – it is a sustainable and accessible site that has been safeguarded for future development and is close to Sherburn town centre.
- 2.22.7 Developing this parcel of land for housing is important because new houses, in sustainable locations such as this, can support local town centres like Sherburn; they add to the vitality of town centres.
- 2.22.8 The benefits, which weigh in its favour are that the applicants have demonstrated that appropriate flood mitigation measures can be delivered, the land has already been safeguarded for development, the Council does not currently have a 5 year land supply and it is a sustainable location that has excellent access to regular public transport, employment, education and health facilities as well as shops and other every day amenities.
- 2.22.9 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. It is on this basis that permission is recommended to be granted subject to the conditions and Section 106 agreement.

### 3.0 Recommendation

**This planning application is recommended to be APPROVED subject to delegation being given to Officers to complete the Section 106 agreement to secure 40% on site provision for affordable housing, on-site recreational open space provision and maintenance, a contribution of £20,000 towards traffic lights in the village centre, a Travel Plan and a £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 and, d) scale 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 60 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 development permitted by this planning permission shall only be carried out in accordance with the submitted Flood Risk Assessment (FRA) referenced 800/377r1 dated June 2015 and the following mitigation measure in the FRA:

- i) Finished floor levels are set no lower than 8.5m above Ordnance Datum (AOD), which is 600mm above the modelled 1% annual probability flood accommodating for climate change.

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 Wold Ecology report 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. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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 HGV construction traffic;
- ii. Traffic Management Plan;
- iii. Management and control of HGV 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.

23. 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.

24. 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.

25. 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.

26. 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)

27. 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.

28. Prior to the commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted and approved in writing by the Local Planning Authority. The approved CEMP shall include the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration and dust resulting from the site preparation, groundwork and construction phases of the development. It shall include details of measures to be employed to prevent the egress of mud, water and other detritus onto the public highway. Once approved, the Construction Environmental Management Plan shall be adhered to at all times.

Reason:

To minimise the creation and impact of noise, vibration and dust resulting from the site preparation, groundwork and construction phases of the development and to protect the amenity of local residents.

29. Construction or remediation work comprising the use of plant, machinery or equipment, or deliveries of materials shall only take place between the hours of 0700 to 1800 Monday to Friday and 0700 to 1300 on Saturdays and at no time on Sundays or Bank and Public Holidays.

Reason:

To protect the amenity of nearby residents/occupiers

30. In the event that the foundations of any building require piling, prior to any piling taking place in association with that building, a method statement shall be submitted to and approved in writing by the local planning authority detailing the type of piling to be used, potential noise and vibration levels at the nearest noise sensitive locations in accordance with British Standard 5228 – Part 4 and mitigation measures to be undertaken in order to safeguard the amenity of adjacent residents. The piling mitigation shall be carried out in accordance with the approved details.

Reason:

To protect the amenity of nearby residents/occupiers

31. 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.

32. 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.

33. 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.

34. 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.

35. 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.

36. 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.

37. No commencement of development until all the Japanese knotweed on the site has been cleared in its entirety.

Reason: To protect the amenities of the neighbouring occupiers.

1. *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.*

#### **PUBLIC RIGHT OF WAY**

*The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as any alternative route has been provided and confirmed under an Order made under the Town and Country Planning Act 1990.*

*Applicants are advised to contact the County Council's Access and Public Rights of Way team at County Hall, Northallerton via [paths@northyorks.gov.uk](mailto:paths@northyorks.gov.uk) to obtain up-to-date information regarding the line of the route of the way. The applicant should discuss with the Highway Authority any proposals for altering the route.*

### **3.1 Legal Issues**

#### **3.1.1 Planning Acts**

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

#### **3.1.2 Human Rights Act 1998**

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

#### **3.1.3 Equality Act 2010**

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

## **3.2 Financial Issues**

3.2.1 See paragraph 2.21.10 regarding site viability.

## **4. Conclusion**

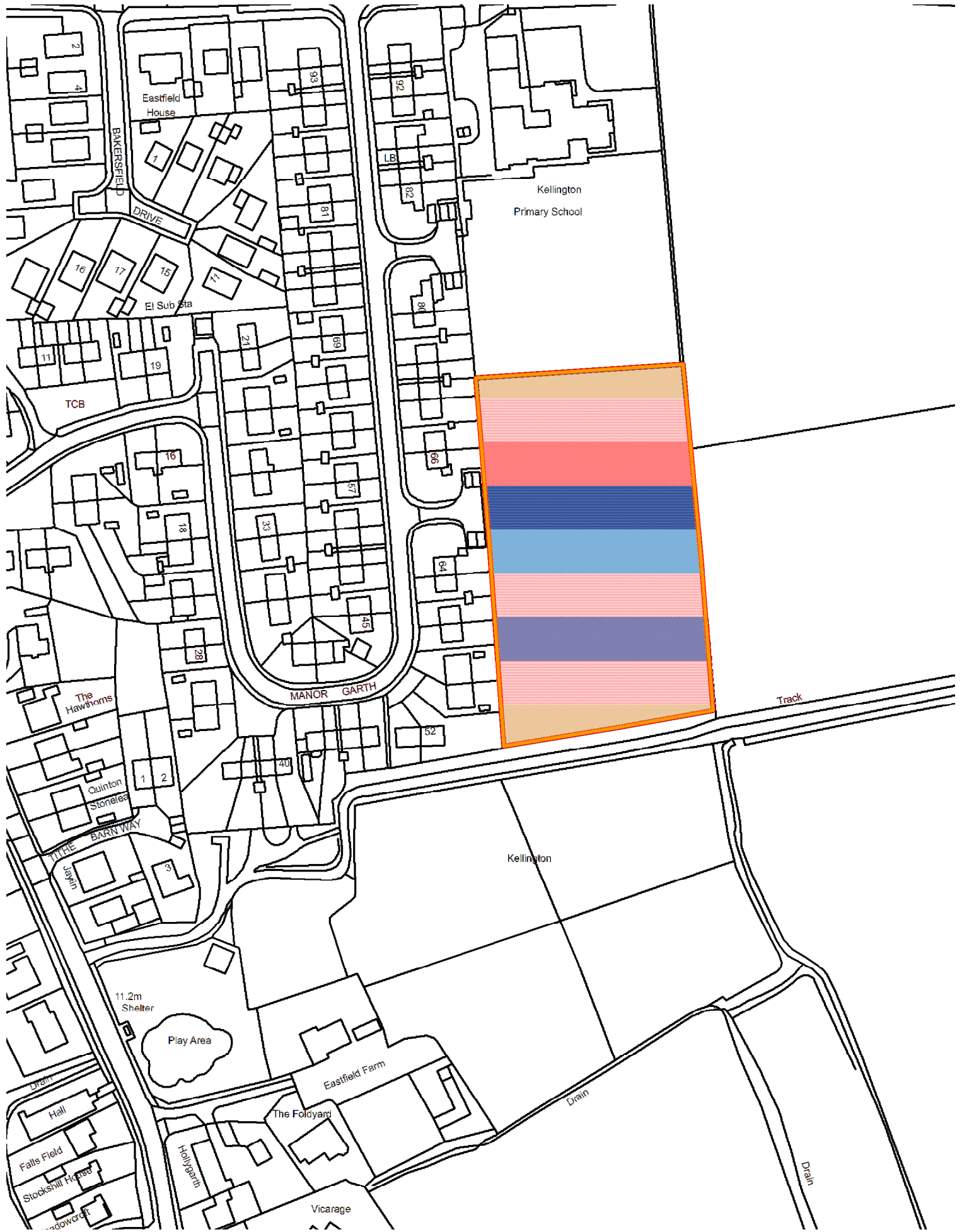
4.1 As stated in sections 2.20, 2.21 and 2.22 of the report.

## **5. Background Documents**

5.1 Planning Application file reference 2015/0895/OUT and associated documents.

***Contact Officer: Thomas Webster (Principal Planning Officer)***

**Appendix 1: Application Site Context.**



# APPLICATION SITE

**Item No:** 2015/0969/OUT

**Address:** Manor Garth, Kellington

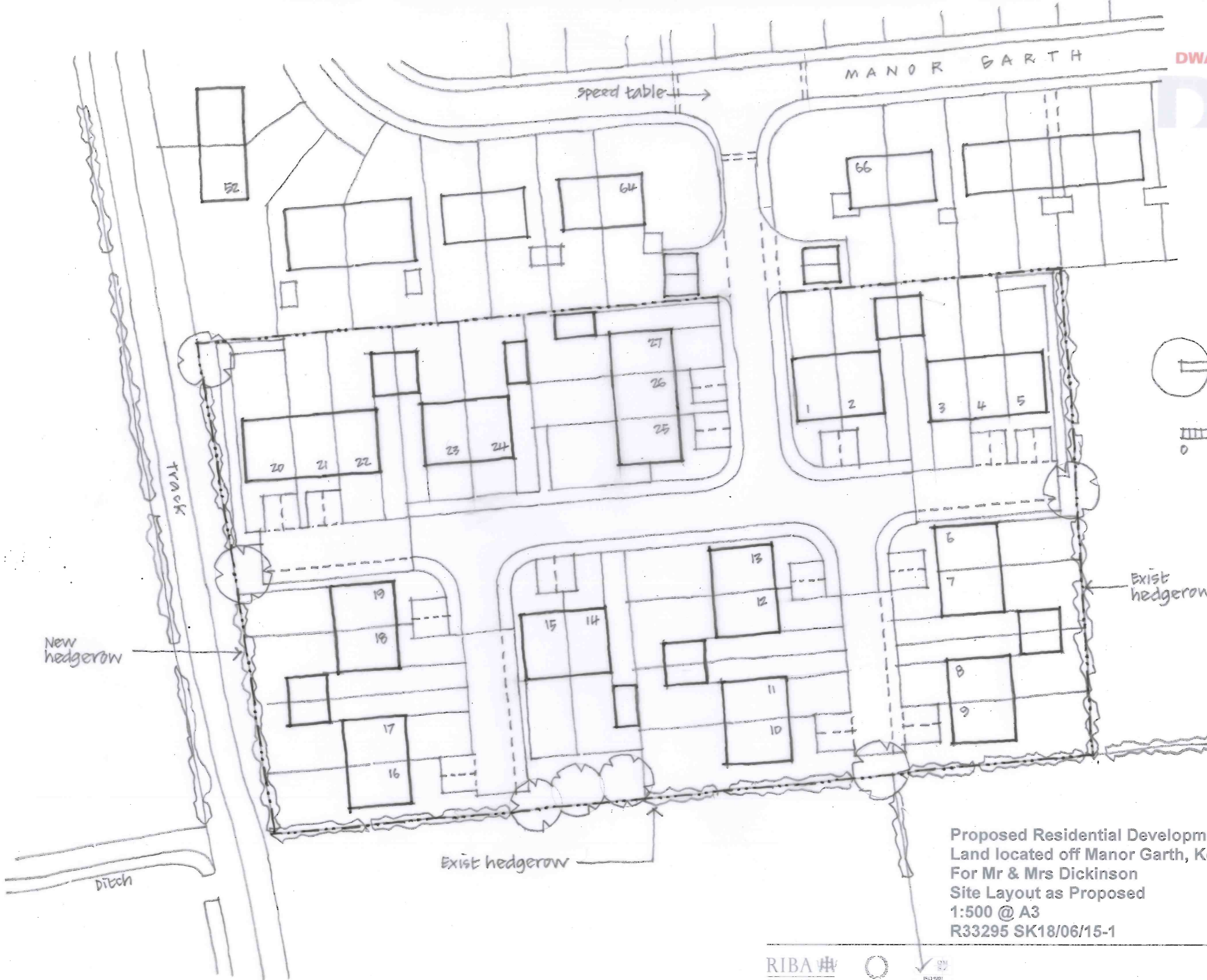
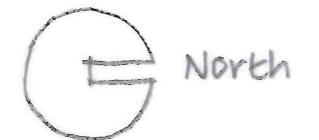
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Exist hedgerow

New hedgerow

Exist hedgerow

Track

Ditch

MANOR GARTH

speed table

Proposed Residential Development at  
Land located off Manor Garth, Kellington, DN14 0NP  
For Mr & Mrs Dickinson  
Site Layout as Proposed  
1:500 @ A3  
R33295 SK18/06/15-1

RECEIVED  
24 August 2015  
BUSINESS SUPPORT

**To: Planning Committee**  
**Date: 14 June 2017**  
**Author: Jenny Tyreman (Planning Officer)**  
**Lead Officer: Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2015/0969/OUT	PARISH:	Kellington Parish Council
APPLICANT:	Mrs Sharon Dickinson	VALID DATE: EXPIRY DATE:	25th August 2015 24th November 2015
PROPOSAL:	Outline application with all matters reserved for residential development on land to the east of		
LOCATION:	Manor Garth Kellington Goole East Yorkshire		

This application had a Committee resolution to grant Approval subject to completion of the Section 106 Agreement. Since this resolution there has been a further material consideration which Members need to consider and this is a Supreme Court Ruling relating Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East Borough Council which discusses what comprises a policy for the supply of housing and the approach to be taken in assessing applications against Paragraphs 14 and 49 of the NPPF.

**Summary:**

The application seeks outline planning permission for residential development with all matters reserved. An indicative layout plan shows a layout of 27 residential properties around a central spine road accessed via the existing cul-de-sac between 64 and 66 Manor Garth.

The application site is located outside the defined development limits of Kellington and therefore the proposal is contrary to Policy SP2A(c) of the Core Strategy.

However, 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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.

Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:

- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or
- (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood risk, green belt, countryside gaps and heritage assets).

No specific policies which restrict development apply to this application therefore the 'tilted balance' in paragraph 14 applies.

In assessing the proposal against the three dimensions of sustainable development set out within the NPPF, the development is considered to provide a range of 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 in close proximity to the boundary of a Designated Service Village which has good access to local services and public transport;
- 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.

The proposals could achieve an appropriate layout, appearance, landscaping, scale and access 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, flood risk, drainage and climate change, nature conservation and protected species, and contaminated land in accordance with policy.

Having had regard to all of the above, 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, in particular Paragraph 14, the Selby District Local Plan and the Core Strategy. In this case the "tilted balance" in paragraph 14 applies. It is on this basis that permission is recommended to be granted subject to the conditions and Section 106 agreement.

## **Recommendation**

**Subject to no objections being received from the Strategic Flood Authority and the Environmental Health Officer this planning application is recommended to be APPROVED subject to delegation being given to Officers to complete the Section 106 agreement to secure 40% on-site affordable housing provision, on-site recreational open space provision and associated maintenance and a waste and recycling contribution and subject to any conditions received from the Strategic Flood Authority and the Environmental Health Officer and the conditions detailed in Section 2.19 of this Report.**

### **1.0 Introduction and Background**

#### **1.1 The Site**

- 1.1.1 The application site is located adjacent to but outside of the defined development limits of Kellington.
- 1.1.2 The application site comprises approximately 0.86 hectares of agricultural land.
- 1.1.3 The application site is not within flood zones 2 or 3 and comprises a rectangular field east of Manor Garth and south of the school. The field boundaries would be retained and follows the approximate layout of the school land adjacent to the northern boundary. The field was overgrown when visited and did not appear to be actively used.
- 1.1.4 The site is accessed via Manor Garth with the new access to serve the site proposed at the end of small cul-de-sac between 64 and 66 Manor Garth serving 4 small lock up garages. To the west is Manor Garth and the housing estate, to the north the school and to the east and south open fields.

#### **1.2 The Proposal**

- 1.2.1 The applicant is seeking outline planning permission with all matters reserved for residential development on land to the east of Manor Garth, Kellington.

#### **1.3 Planning History**

- 1.3.1 There is no relevant planning history for this site.

#### **1.4 Consultations**

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

Kellington Parish Council held a 'drop in' session at the Village Hall to enable residents to see the details of the proposal provided by the developer. Typical comments from residents were:

'Too much heavy construction traffic passing by the school and up our narrow residential street. There will of course be increased traffic once completed. I welcome new houses just not behind the school. The building works would detract from the children's education, they currently have open views which is good for them'



'Wildlife habitat lose and access of heavy goods traffic on Manor Garth are the main issues'

'I have not got a problem with the housing, but I cannot see how the construction traffic will be able to get down Manor Garth without constantly mounting the pavement, which will damage the path and is dangerous for people, especially children, walking. There are always cars and at least one van parked on Manor Garth.'

Also the entrance to the field will not be safe. There is no pavement shown on the map. How can kids get to and from the new houses safely?'

'If the people who use the garages park in front of their garage. people going to or from the field will have to walk in the road to get to the field. That cannot be right'

'Support the housing but the access will be dangerous. Manor Garth is too narrow and always has cars and vans parked on it. The access for the construction should go from Roall Lane alongside the school to the back of the site, then it will be safe'

'Proposed access for construction vehicles will be impossible Manor Garth is too narrow. Heavy lorries will not make a good access along Roall Lane and also cars are parked outside the school all day.'

'An Ambulance going to 60 Manor Garth but the person had to be picked up in the garage turning area due to parked traffic'

'The proposed entrance is a 'Turning head' designed for vehicle especially delivery lorries to turn round in it should not be used for an entrance'

'Will it be safe to get into the garage and also park outside my garage? Don't think it will be safe for children to walk along and passed garages with no pavement. Speed bump right outside my house is not on. We had a 'no ball games' sign in the turning head and need to keep this. Cars parked outside garages will make this so called entrance unsafe. The entrance to the site should not be down Manor Garth or though the turning head. Is should be off Roall Lane where it will be safe.'

'The village needs new housing but this access is not safe. Manor Garth is already congested with legally parked cars, the dustbin lorry struggles to get down once a week. '

Objection to access of construction traffic up Manor Garth and amount of extra traffic when housing is built.

'Concerned about access up Manor Garth .Already have problems with driving up and down the road .'

'How is the construction traffic going to get to the site? The road is not wide enough to get lorries down so how are they going to deliver materials are they going to mount the pavement. That is the only way to get it down.'

'The entrance is where the cars turn - a turning head. So we need it otherwise we would have to go all the way around Manor Garth causing an issue to other people.'

'We need to make sure the children will be able to walk to school safely, so we need to ensure that the pavements are kept at the right size on both side of any new entrance.'

'At present the field is a wonderful area for wildlife. We see barn owls in the field and bats fly around at night. The grass land is a habitat for various creatures.'

'We need to make sure that we have housing the fits in with the area. We don't want three storey buildings'

'Some of the houses should be housing to rent for local people as we have a real need for that.'

'Roall Lane could be very busy with heavy lorries carrying materials right outside the school. Even if restrictions are put on this area people are coming and going to the school throughout the day.'

'The road is too narrow for construction traffic. We have problems already trying to get around the Garth, this is going to make it worse.'

'We need more houses but the entrance should not be down Manor Garth, it should be directly from Roall Lane, then it would be safe.'

'Traffic is the big problem with this site, the school is on Roall Lane and is incredibly busy at school times but there are always cars parked outside the school all day and Manor Garth always has cars and vans parked on it. It will not be safe and the access passed the garages will also not be safe'

'How can they have an access to the new estate with no safe pedestrian pavement?

'It will be a nightmare for Manor Garth residents during the construction time. Manor Garth is a narrow street with cars parked on both sides how will the huge vehicles delivering bricks etc to the site get down this narrow road. They will break up the pavements and the roads and we will be left with pavements that resident will be tripping up on because of the holes. The houses are okay but there should be a better access right off Roall Lane.'

#### 1.4.2 NYCC Highways

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

The design standard for the site is Manual for Streets and the required visibility splay is 2.4 metres by 45 metres. The visibility splay to the north of the site is not achievable at 45m. However a speed survey has highlighted that vehicles speeds are in line with 21mph. Therefore a reduction in the northern visibility splay to 27m is considered acceptable. The southern visibility splay can be measured to the centre line, whilst the visibility drawing (001) does not show the visibility splay to the centre line it is achievable. As is 27m to the northern splay.

During pre-application discussions I raised concerns about visibility being blocked for the existing garages. It is noted that drawing no. SHF.1214.TR.P.002A has annotated on it that the boundary walls of plots 1 and 27 will not exceed a height of 0.6m in order for the garages to have appropriate visibility.

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

#### 1.4.3 Yorkshire Water

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

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

Comments not received.

#### 1.4.5 Lead Officer-Environmental Health

Members to be updated at committee.

#### 1.4.6 Strategic Flood Authority

Members to be updated at committee.

#### 1.4.7 Policy Officer

Members to be updated at committee.

### 1.5 **Publicity**

1.5.1 The application was advertised by site notices, neighbour notification letter and advertisement in the local newspaper resulting in 5 objections and 1 letter of support being received. The issues raised can be summarised as follows:

- The access is dangerous.
- Parking and congestion is already a problem on Manor Garth and this proposal will make things worse.
- The road surface on Manor Garth is already damaged; the development and construction traffic will make this worse.
- Concern about children playing/walking to school and the extra traffic.
- The village has a poor public transport service. The development will encourage car use.
- The village has no village amenities.
- The village should not get larger.
- The site is not suitable for development.
- Loss of privacy and amenity if approved.
- How will construction traffic get through the narrow road?
- We welcome new residents but ask that no construction traffic is allowed during school start and end times.

## 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
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:

ENV1:	Control of Development
ENV2:	Environmental Pollution and Contaminated Land
T1:	Development in Relation to the Highway Network
T2:	Access to Roads
RT2:	Recreational Open Space
CS6:	Developer Contributions to Infrastructure and Community Facilities

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

The National Planning Policy Framework introduces, in paragraph 14, a presumption in favour of sustainable development. It 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".

This report is made in light of the guidance of the NPPF.

## 2.5 Key Issues

2.5.1 The key 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 arising from the development:
  - a) Layout, Scale, Landscaping and Design
  - b) Flood Risk, Drainage and Climate Change
  - c) Impact on Highway Safety
  - d) Impact on Residential Amenity
  - e) Nature Conservation and Protected Species

- f) Affordable Housing
  - g) Recreational Open Space
  - h) Education, Healthcare, Waste and Recycling
  - i) Contaminated Land
- 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

## **2.6 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 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.
- 2.6.3 Policy SP2 identifies Kellington as being a Designated Service Village which has some scope for additional residential development to support rural sustainability. The application site is located outside the defined development limits of Kellington at the eastern boundary of the settlement. 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.
- 2.6.4 In light of the above policy context the proposals for residential development 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.
- 2.6.5 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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.
- 2.6.6 Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:

- i. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or
- ii. Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood, green belt, countryside gaps and heritage assets).

2.6.7 No specific policies which restrict development apply to this application therefore the 'tilted balance' in paragraph 14 applies.

#### Sustainability of the Development

2.6.8 In respect of sustainability, the application site lies outside but adjacent to the defined development limits of the village of Kellington which is a Designated Service Village as identified in the Core Strategy where there is scope for additional residential growth to support rural sustainability. The village contains a post office/general store, a public house, village hall, primary school and sport and recreation facilities. It has a bus service to Selby. 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.

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

2.6.9 Core Strategy Policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability. It is important to determine in housing applications the impact a proposed scheme has on this level of growth, taking into account previous levels of growth since the start of the plan period and the scale of the proposal itself. Kellington has seen 17 dwellings built and/or approved in the settlement since the start of the Plan Period in April 2011. However, Core Strategy Policy SP5 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.

2.6.10 As a guide, the Council consulted on various growth options for the Designated Service Villages as part of the development of PLAN Selby in July / August 2015 and at this point the research indicated minimum growth options of between 12-24 dwellings for Kellington. While the level of development in the settlement may be within its potential growth options, the scale of this individual proposal, at 27 dwellings, is considered to be appropriate to the size and role of a settlement designated as a Designated Service Village in the Core Strategy.

#### Relationship of the Proposal to the Development Limit

2.6.11 Core Strategy Policy SP18 aims to protect the high quality and local distinctiveness of the natural and man-made environment; therefore it is important to determine the impact the proposed scheme has on its surroundings. The site is located partly within and partly outside the development limit. From emerging PLAN Selby evidence on the sensitivity of the landscape to development it is considered that the overall landscape assessment parcel for the area to which the application relates is

of moderate sensitivity to development, with the settlement fringe considered of low quality.

2.6.12 The proposal extends into the countryside, however when looking at the development limit boundary this site would effectively create a defensible landscaped boundary which would ensure that the development would be neither visually prominent, nor discordant within the landscape with the retention of the field boundary hedges and the in-line orientation of the school land adjacent. For these reasons the proposals in this context would set a new clearly defensible boundary with the open countryside around it and is considered acceptable in this respect. Development within the site would be seen within the context of the existing settlement of Kellington.

2.6.13 With regard to paragraph 14 of the NPPF, in this case the “tilted balance” referred to in paragraph 2.6.7 applies. On consideration of the above information, it is considered that the proposal is acceptable with regard to the appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability from both local and national policies, subject to compliance with flood risk policies within the NPPF. The impacts of the proposal are considered in the next section of the report.

## **2.7 Identifying the Impacts Arising from the Development**

2.7.1 The NPPF makes it clear that sustainable development is not merely about the spatial relationship of development to existing settlements, but also has a social, economic and environmental dimension. Paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system. The following sections look at the impacts of the proposal on these dimensions.

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

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

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

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

2.8.4 The application is outline with all matters reserved for future consideration. Notwithstanding this an indicative layout plan has been submitted which illustrates how the applicant considers the site could accommodate up to 27 dwellings. The character and appearance of the local area is varied comprising a wide range of house types, development forms and materials. Materials are generally clay pantiles, natural slates and concrete interlocking roof-tiles. The Design and Access Statement stipulates that Kellington is a medium sized village with a concentration of estate development in the northern and central portion. The proposed layout is simple in its form and has been designed to be in keeping with the existing

character of this part of the village. The density of the dwellings has also been kept to a level to be in keeping with the settlement and respect this location. Furthermore, the proposed new dwellings are positioned such that there will be no harmful overlooking or over dominance to nearby residential properties. It is envisaged that the proposed dwellings will be two storey and sympathetic to the scale and form of the existing residential dwellings in the vicinity of the application site. The applicant also states that it is their intention that the materials and appearance will be in keeping with the local context. Officers therefore consider that having had regard to the indicative layout provided and the surrounding context of the site there is nothing to suggest that an appropriate appearance could not be achieved at reserved matters stage.

- 2.8.5 Local residents have expressed concerns that the scale of the proposed development would lead to a loss of amenity and privacy, however having taken into account the context of the site it is considered that an appropriate layout could be achieved at reserved matters stage.
- 2.8.6 Policy SP8 of the Selby District Core Strategy Local Plan (2013) states that proposals must ensure that the types and sizes of dwellings reflect the demand and profile of households evidenced from the most recent Strategic Housing Market Assessment. The Strategic Housing Market Assessment carried out in 2009 is the most up to date strategy. As this proposal is an outline scheme which is seeking to establish if the principle of development is acceptable there are limited details to what the proposed housing mix would comprise of. However officers consider that an appropriate mix of housing could be achieved at reserved matters stage taking into account the housing needs identified within the Strategic Housing Market Assessment.
- 2.8.7 In terms of landscaping the existing site has a mature hedge along the north, east and southern boundaries. There are small clusters of trees along the western boundary but otherwise the field is clear of any trees. The retention of the boundary hedge is important and would form part of the detailed landscaping required as part of the reserved matters.
- 2.8.8 Given this it is considered that the proposals demonstrate that the site could incorporate appropriate landscaping in accordance with Policy ENV1 (4) of the Local Plan, Policy SP19 of the Core Strategy and the NPPF subject to the detailed landscaping scheme being conditioned in order to that the development is carried out in line with the recommendations as set out in the submitted Tree Report.
- 2.8.9 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.

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

- 2.9.1 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.



- 2.9.2 Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 2.9.3 Relevant paragraphs within the NPPF, which relate to flood risk, drainage and climate change include 94 and 95.
- 2.9.4 The application site is located within Flood Zone 1 which is at the lowest risk of flooding and therefore the proposal would not require a sequential test.
- 2.9.5 It should be noted that as from 6 April 2015 Local Planning Authorities are required to ensure that sustainable drainage systems (SuDS) for the management of surface water run-off are put in place, unless demonstrated to be inappropriate.
- 2.9.6 The SuDS Report submitted by the applicant states that the proposal is to connect the foul drainage from the proposed site into this existing mains sewer – a combined sewer exists in Manor Garth. Permission for this connection will need to be gained from Yorkshire Water prior to connection. The proposed method of disposal for surface water at the development is via soakaways to follow the hierarchy of Sustainable Urban Drainage Systems (SuDs). The ground conditions are to be assessed further (percolation testing) in order to determine that the proposed soakaway system would be suitable. If this is proved to be a feasible solution for surface water disposal, the Environmental Agency will need to be consulted for consent to discharge. The site is not within a ground water source protection zone, and so this method of disposal should be approved by the EA. The comments of the Strategic Flood Authority have not been received and their comments will be relayed to Planning Committee.
- 2.9.7 The increase in foul discharge from the proposed development is not considered to be significant and the risk of flooding to adjacent sites and local drainage infrastructure will not be significantly increased. The surface water runoff from the development should be designed to ensure that there is no risk of any flooding during a 1 in 30 year rainfall event plus a 30% allowance for climate change. This will ensure that the risk of flooding to adjacent sites will not be significantly increased.
- 2.9.8 Therefore, subject to no objections from the Strategic Flood Authority being received, the proposal would not have significant impact on flood risk, drainage and the sewerage system. Having had regard to the above, subject to the inclusion of conditions the proposed scheme is therefore considered acceptable in accordance with Policy ENV1(3), Policies SP15 and SP16 of the Core Strategy and the NPPF with respect to flood risk, drainage and climate change, subject to attached conditions.

## **2.10 Impact on Highway Safety**

- 2.10.1 Policy in respect of highway safety and capacity is provided by Policies ENV1(2), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF. These policies should be afforded significant weight.
- 2.10.2 The application is accompanied by a Transport Report consisting of details of a traffic speed and vehicle survey undertaken over a week in June 2015. The comments from NYCC Highways are based on the average speeds and vehicle

numbers along Manor Garth from this report. NYCC Highways raise no objections and suggest the attachment of conditions but as this is an outline application with all matters reserved the conditions are not attached below, the detailed highways aspects will be conditioned on any subsequent reserved matters or full application that includes access. The questions over safety for users of the existing garages by the site entrance have also been resolved. Local residents have raised concerns about the increase in traffic and construction vehicles along Manor Garth.

2.10.3 It is therefore considered that the scheme would be acceptable and in accordance with policies ENV1(2), T1 and T2 of the Local Plan, Policy SP19 of the Core Strategy and Paragraph 39 of the NPPF with respect to the impacts on the highway network subject to conditions.

## **2.11 Impact on Residential Amenity**

2.11.1 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 and Paragraph 200 of the NPPF.

2.11.2 As the application is for outline consent with all matters reserved the impact on the existing adjoining properties has been considered in the context of the matters to be determined and informed by the approaches as set out in the submitted Design and Access Statement. Concerns have been raised by nearby residents that the development would have an unacceptable intrusion of privacy. The indicative layout plan demonstrates that appropriate separation distances could be achieved between the existing and proposed dwellings so as to ensure that no significant detriment is caused through overlooking, overshadowing or creating an oppressive outlook.

2.11.3 The application site is not in a location which would be subject to significant noise impacts from roads or other sources within close proximity to the site.

2.11.4 This phase of the development may negatively impact upon nearby residential amenity due to the potential for generation of dust, noise and vibration. Concern has been expressed by local residents with respect to the noise, nuisance and general disturbance caused to existing residential properties. Whilst it is acknowledged that there would be some noise and disturbance during the construction phase, a scheme for mitigating noise and dust can be controlled via condition. Once occupied as residential properties the noise resultant from these would be akin to any residential scheme and as such would not be considered unduly detrimental to existing residents.

2.11.5 Having taken into account the matters discussed above it is considered that, subject to the attached conditions, the proposal would not cause significant detrimental impact on the residential amenities of either existing or future occupants in accordance with Policy ENV1(1) of the Local Plan and the NPPF.

## **2.12 Nature Conservation and Protected Species**

2.12.1 Relevant policies in respect to nature conservation include Policies ENV1(5) of the Selby District Local Plan and Policy SP18 "Protecting and Enhancing the

Environment” of the Core Strategy. Policy ENV1 should be afforded substantial weight as it is broadly consistent with the aims of the NPPF.

- 2.12.2 Protected Species are protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of a protected species is a material planning consideration.
- 2.12.3 The application site is not a formal or informal designated protected site for nature conservation or is known to support, or be in close proximity to any site supporting protected species or any other species of conservation interest.
- 2.12.4 The NPPF recognises the need for the planning system to contribute to and enhance the natural and local environment by recognising the wider benefits of ecosystem services and minimising impacts on biodiversity and providing net gains in biodiversity where possible. Paragraph 118 of the NPPF states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity and if significant harm results from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 2.12.5 The site is not within a designated SSSI, or area protected under the Birds and Habitats Directives. The site is not known to provide habitat for protected species. There are no sites designated for nature conservation within 400m of the site. It is not anticipated that any hedgerows would be classed as important under the Hedgerow Regulations 1997 assessment. As stated the retention of the mature hedgerows is not only important to the setting of the site but in this context the protection of biodiversity. The retention of the hedgerows at the site where feasible, or replacement planting using native species should therefore form part of the detailed landscaping plan to be submitted as part of the reserved matters application along with planting of a native hedgerow on the southern boundary.
- 2.12.6 It would therefore be recommended that the detailed landscaping scheme submitted, which takes into account the above comments and recommendations for enhancements, is secured via condition.
- 2.12.7 Having had regard to all of the above it is considered that subject to approval of reserved matters, there is no reason why the proposal would not accord with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation subject to a condition that the proposals be carried out in accordance with the recommendations set out in the Ecological Appraisal and further bat surveys.

## **2.13 Affordable Housing**

- 2.13.1 Policy SP9 states that the Council will seek to achieve a 40/60% affordable/ general market housing ratio within overall housing delivery. In pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings.

- 2.13.2 The policy goes on to state that the actual amount of affordable housing to be provided is a matter for negotiation at the time of a planning application, having regard to any abnormal costs, economic viability and other requirements associated with the development.
- 2.13.3 The applicant has confirmed that they are prepared to provide 40% affordable units confirming that this is achievable and this provision would be secured via a Section 106 agreement. The Selby District Council Strategic Housing Market Assessment 2009 has identified a need for both 2 and 3 bedroom affordable homes with a required tenure split of 30-50% Intermediate and 70-50% Rented as a starting point for negotiation. The Section 106 agreement would secure up to the 40% provision on site and would ensure that a detailed Affordable Housing Plan is provided setting out the size and tenure mix.
- 2.13.4 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.

## **2.14 Recreational Open Space**

- 2.14.1 The 2005 Selby District Local Plan Inset Map for Kellington identifies the site as a 'Proposed Recreation Open Space' under KEL/1 stating

"The Parish Council has identified a need for a sports pitch within the village. Agreement has been reached with a local landowner to acquire an area of land to the east of Kellington for this purpose. The site is identified on the Inset Proposals Map."

Policy KEL/1 goes on to state

"Land to the east of Manor Garth, Kellington, as defined on the Inset Proposals Map, is reserved for recreation open space purposes."

Since 2005, this proposed designation has not been brought forward as it was considered the site was not suitable for recreational purposes due its proximity to nearby residential dwellings. As such it is considered that the Policy is now out of date and should be given little weight in the determination of this application. Policy RT1 relates to the "loss existing recreational open space", however, as stated above the application site was never developed as recreational open space and therefore it would be inappropriate to subject the proposal to Policy RT1 of the Local Plan.

- 2.14.2 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.
- 2.14.3 Policy RT2 sets out that proposals for new residential development comprising 5 or more dwellings will be required to provide recreational open space at a rate of 60 square metres per dwelling. Policy RT2(b) states that for schemes of more than 10 but less than 50 dwellings there are four options available as to how recreational

open space should be provided. In the first instance, recreational open space would be expected to be provided on-site.

2.14.4 The indicative layout plan does not include any recreational open space on-site. However, it is considered that an appropriate amount of on-site recreational open space could be incorporated at the reserved matters stage and secured through a S106 agreement, albeit this could have implications for the number of dwellings which could be achieved on the site. Officers are still in discussions with the applicant regarding the inclusion of on-site recreational open space at the Reserved Matters stage and securing this through the S106 agreement and members will be updated at Committee on this matter.

2.14.5 Having regard to the above, it is considered that an appropriate amount of on-site recreational open space could be incorporated at Reserved Matters stage, subject to a Section 106 agreement, and on this basis the proposals would be considered acceptable having had regard to Policies RT2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

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

2.15.1 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.

2.15.2 North Yorkshire County Council Education have not confirmed if a contribution would be required towards education provision at Kellington Primary School, 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.

2.15.3 No response has been received from the Healthcare Service in relation to healthcare contributions; however no contribution would be required due to the adoption of CIL.

2.15.4 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.

2.15.5 Having had regard to the above the proposals and having had regard to policies ENV1 and CS6 of the Local Plan, Policy SP19 of the Core Strategy and the Developer Contributions SPD are considered acceptable with respect to developer contribution.

## **2.16 Contaminated Land**

2.16.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. The application is accompanied by a contamination statement which establishes the previous uses of the application site, and land nearby, and identify potential sources of contamination, receptors and pathways. The report concludes that although the potential for site contamination is considered to be low, a cautious approach will be taken with the development. If permitted, and should

contamination be identified during the ground work phase of development, works would be stopped and the Council's Environmental Health Officers would be notified so that they can provide advice on necessary remedial works associated with the contamination, and oversee works for the removal of contaminated soil to an appropriately licensed facility. This can be controlled through condition.

2.16.2 It is recommended that planning conditions are attached to any permission granted. The proposals are therefore acceptable in regards to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

## **2.17 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**

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

2.17.2 The application site is located outside the defined development limits of Kellington at the eastern boundary of the settlement. However, despite the site being located outside the defined development limits of the settlement, the site can be considered as being in a sustainable location. Furthermore, while the proposal extends into the open countryside, the proposal would set a new clearly defensible boundary with the open countryside around it and would be seen within the context of the existing settlement of Kellington.

2.17.3 The proposal would bring about economic, social and environmental benefits. Matters of acknowledged importance, such as, design and impact on the character and appearance of the area, impact of residential amenity, impact on highway safety, flood risk, drainage and climate change, nature conservation and protected species and land contamination are considered to be acceptable.

2.17.4 The proposal is therefore considered acceptable when assessed against the policies in the NPPF, Selby District Local Plan and the Core Strategy. With regard to paragraph 14 of the NPPF, in this case the "tilted balance" referred to in paragraph 2.6.7 applies. 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.

## **2.18 Conclusion**

2.18.1 The application seeks outline planning permission for residential development with all matters reserved. An indicative layout plan shows a layout of 27 residential properties around a central spine road accessed via the existing cul-de-sac between 64 and 66 Manor Garth.

2.18.2 The application site is located outside the defined development limits of Kellington and therefore the proposal is contrary to Policy SP2A(c) of the Core Strategy.

2.18.3 However, 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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.

2.18.4 Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:

(i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole; or

(ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood risk, green belt, countryside gaps and heritage assets).

2.18.5 No specific policies which restrict development apply to this application therefore the 'tilted balance' in paragraph 14 applies.

2.18.6 In assessing the proposal against the three dimensions of sustainable development set out within the NPPF, the development is considered to provide a range of 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 in close proximity to the boundary of a Designated Service Village which has good access to local services and public transport;
- 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.

2.18.7 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.

2.18.8 The proposals could achieve an appropriate layout, appearance, landscaping, scale and access 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, flood risk, drainage and climate change, nature conservation and protected species, and contaminated land in accordance with policy.

2.18.9 Having had regard to all of the above, 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, in particular Paragraph 14, the Selby District Local Plan and the Core Strategy. In this case the “tilted balance” in paragraph 14 applies. It is on this basis that permission is recommended to be granted subject to the conditions and Section 106 agreement.

## 2.19 Recommendation

**Subject to no objections being received from the Strategic Flood Authority and the Environmental Health Officer this planning application is recommended to be APPROVED subject to delegation being given to Officers to complete the Section 106 agreement to secure 40% on-site affordable housing provision, on-site recreational open space provision and associated maintenance and a waste and recycling contribution and subject to any conditions received from the Strategic Flood Authority and the Environmental Health Officer and the conditions detailed below:**

01. Applications for the approval of the reserved matters referred to in No.2 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 whichever is the later of the following dates:

- (i) The expiration of five years from the date of the grant of outline planning permission; or
- (ii) 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 92 of the Town and Country Planning Act 1990.

02. Approval of the details of the (a) layout, (b) scale, (c) external appearance of the buildings, (d) the landscaping of the site and (e) means of 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, and as required by Section 92 of the Town and Country Planning Act 1990.

03. 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.

04. The total number of dwellings authorised by this permission shall not exceed 27 and any reserved matters application(s) submitted pursuant to Conditions 01 and 02 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.

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

Reason:

In the interest of satisfactory and sustainable drainage.

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

Reason:

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

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

The following criteria shall be considered:

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

Reason:

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

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

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

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

Reason:

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

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

Reason:

To ensure that the development can be properly drained and in accordance with Policy ENV1 of the Selby District Local Plan.

10. Prior to the site preparation and construction work commencing, a scheme to minimise the impact of noise, vibration, dust and dirt on residential properties in close proximity to the site, shall be submitted to and agreed in writing with the Local Planning Authority. The development of the site shall be carried out in accordance with the approved scheme.

Reason:

To protect the residential amenity of the locality and in order to comply with Selby District Council's Policy's SP19 and ENV2.

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

Reason:

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

12. 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.

13. 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.

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

Location Plan, Drawing No. LOC 01, received 24 August 2015.

Layout Plan (Indicative Only), Drawing No. R33295 SK18/06/15-1, received 24 August 2015.

Access Details (Indicative Only), Drawing No. 001, received 24 August 2015.

Access Details (Indicative Only), Drawing No. SHF.1214.TR.P.002A, received 25 August 2015.

Reason:

For the avoidance of doubt.

#### INFORMATIVE:

The applicant should be advised that the Board's prior consent is required for any development including fences or planting within 9.00m of the bank top of any watercourse within or forming the boundary of the site. Any proposals to culvert, bridge, fill-in or make a discharge to the watercourse will also require the Board's prior consent.

There should be no development within 8 metres of the flood defences adjacent to the site. Any development near these defences will require the prior written consent of the Environment Agency. Please contact Claire Brown (0113 819 6073) to discuss.

### **3.1 Legal Issues**

#### **3.1.1 Planning Acts**

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

#### **3.1.2 Human Rights Act 1998**

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

### 3.1.3 Equality Act 2010

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

## 3.2 **Financial Issues**

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

## 4. **Conclusion**

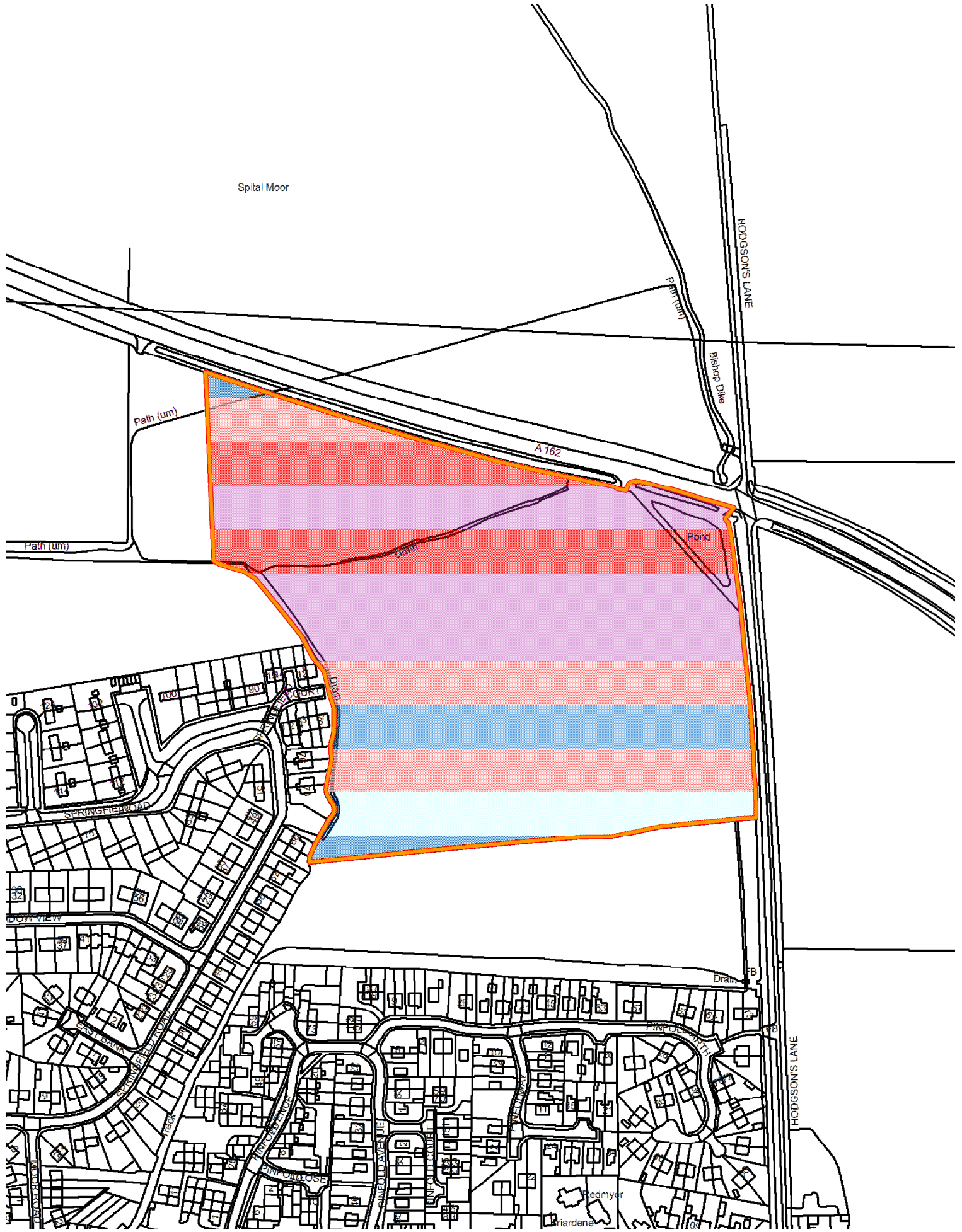
4.1 As stated in the main body of the report.

## 5. **Background Documents**

5.1 Planning Application file reference 2015/0969/OUT and associated documents.

**Contact Officer: Jenny Tyreman (Planning Officer)**

**Appendices: None**



# APPLICATION SITE

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

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

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<b>RECEIVED</b>
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  
 01915 66249

**To:** Planning Committee  
**Date:** 14 June 2017  
**Author:** Louise Milnes (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

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 had a Committee resolution to grant Approval subject to completion of the Section 106 Agreement. Since this resolution there has been a further material consideration which Members need to consider and this is a Supreme Court Ruling relating Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East Borough Council which discusses what comprises a policy for the supply of housing and the approach to be taken in assessing applications against Paragraphs 14 and 49 of the NPPF.

The application remains unchanged in all other respects.

**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 Hodgsons 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 for residential development for up to 65 dwellings which Committee resolved to Approve subject to a Section 106 agreement.

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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.

Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:

- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
- (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood, green belt, countryside gaps and heritage assets).

In relation to this application the presumption in paragraph 14 and Policy SP1 is displaced by specific policies concerning green belt and flooding in the NPPF and safeguarded land in the Local Plan therefore the application is to be determined under the normal planning balance.

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 appropriate 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, contributions towards highway improvements, a Travel Plan 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, Hodgsons 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 Hodgsons 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 Hodgsons Gate which was allowed at 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 had a resolution to grant planning permission subject to completion of a Section 106 Agreement.

## **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

Members to be updated at Committee.

#### 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 Hodgsons 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

A separate planning permission for the development of the former airfield at Lennerton Lane, Sherburn in Elmet (2013/0467/OUT) identified that an improvement to the A162/A63 roundabout is required to accommodate that development and other committed developments in the area. It is a condition of that

planning permission to deliver the improvement. Similarly a planning application for a residential development in Hambleton (2015/0105/OUT) will require the same roundabout improvement to be undertaken. This proposed development will also have an impact on the A162/A63 roundabout. Should this development come forward prior to the aforementioned developments it will be required to deliver the roundabout improvement.

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 Hodgsons Lane. To improve pedestrian/cycle amenity in the vicinity of Hodgsons 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 or by the imposition of conditions in any planning permission the Planning Authority is minded to grant.

Matters to be included in a Section 106 Agreement to which the Local Highway Authority would wish to be a party:

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 Matters 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 Hodgsons 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

##### **Sequential Test**

The applicant has submitted Sequential Test evidence with this application. The site lies within Flood Zone 2, which has a medium flood risk. Paragraph 101 of the National Planning Policy Framework (NPPF) requires decision-makers to steer new development to areas at the lowest risk of flooding by applying a Sequential Test.

Avoidance is the most effective flood risk management measure. Even when development can be made 'safe' in flood risk areas, there are always residual risks. In accordance with paragraph 103, consideration should only be given to development in flood risk areas following the Sequential Test.

Development should not be permitted if there are reasonably available sites, appropriate for the proposed development, in areas with a lower probability of flooding. Evidence to support the sequential test should be added to the planning file for the public record.

Should you be satisfied that the Sequential Test has been carried out and passed, we have the following further comments to make in relation to flood risk.

### **Flood Risk**

Provided the proposed development is built in accordance with the submitted Flood Risk Assessment (AAH Planning Consultants, January 2017) then we have no objections.

We would, however, 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. As this is an ordinary watercourse within an IDB district we will defer to their recommendations as they would be 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**

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 and as such I would recommend 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.

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

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

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

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

No obstructions within 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 advise 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

We would like to repeat concerns made during the consultation period for the (subsequently refused) application for a residential development at this site, planning application reference: 2015/0895/OUT. It is noted that the Ecology Report submitted in support of the current application remains unchanged from that which was submitted in support of the previous application. Therefore it remains of concern 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.

Although the proposed development will not directly affect the roost, it is likely that the hedgerows and dyke bordering the site are used by the bats for foraging. 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 proposals made in the Ecology Report for ecological enhancement of the dyke through planting of species rich native hedges and inclusion of a six metre buffer from any development. Such a plan 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. This consists of firstly; the proposal for 270 residential dwellings adjacent to the site, application reference 2015/0544/OUT, initially refused planning permission but overturned and allowed on appeal in October 2016, and secondly; the yet to be determined application for 60 residential dwellings, located directly to the south of the site, application reference 2016/1256/OUTM.

Collaboration between the developers of the three sites is necessary 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.

All species of UK bats are fully protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended). It is an offence to recklessly or intentionally kill/injure a bat,



destroy or damage a bat roost or significantly impact the long-term survival of a bat roost colony. Damage or destruction of the roost would be in direct contradiction of the aims of the National Planning Policy Framework (NPPF) Paragraph 109 of the NPPF states that “The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressure”. 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.

We also support 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). 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

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.

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

If planning permission is granted we request that an appropriate amount of Community Infrastructure Levy is allocated for healthcare resources.

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 team at County Hall, Northallerton via [paths@northyorks.gov.uk](mailto:paths@northyorks.gov.uk) to obtain up-to-date information regarding the line of the route of the way. The applicant should discuss with the Highway Authority any proposals for altering the route.

#### 1.4.19 Contaminated Land Consultant (WPA)

Generally the report addresses geotechnical aspects, the risk however from contaminated land appears to be secondary within the report with much reliance on fully assessing the risk through further investigation. 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. Despite the lack of detailed risk assessment, 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. 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 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 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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.
- 2.6.7 Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:

- i. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
- ii. Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood, green belt, countryside gaps and heritage assets).

2.6.8 In relation to this application the presumption in paragraph 14 and Policy SP1 is displaced by specific policies concerning green belt and flooding in the NPPF and safeguarded land in the Local Plan therefore the application is to be determined under the normal planning balance.

2.6.9 The Council's Guidance Note "Five Year Supply Guidance Note for Applicants May 2017" describes how proposals will be assessed. 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. In considering the weight to be afforded to development plan policies the Council will consider the extent of housing supply shortfall, the measures in place to remedy the shortfall and the particular purpose of the policy. As such each application will be judged on its own merits and take into account factors such as :

- Visual impact on the character and form of the area
- Flood risk, Drainage and climate change
- Impact on highways and capacity of public transport
- Residential amenity
- Nature conservation and protected species
- Affordable housing
- Recreational open space
- Education, healthcare, waste and recycling
- Contamination
- Impact on heritage assets
- Impact on the Green Belt
- The deliverability of the scheme and its likelihood of adding to the 5 year supply of housing.

2.6.10 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 Hodgsons Gate to the east of the application site.

2.6.11 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.

2.6.12 Paragraph 7 of the NPPF, states that there are three dimensions to sustainable development, these being of an economic, social and environmental nature. These dimensions give rise to the need for the planning system to perform a number of roles. It is noted that the following benefits would arise from the development: -

2.6.13 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.

2.6.14 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.

2.6.15 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.

2.6.16 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.
  - (c) If the development is inappropriate, the presumption against inappropriate development in the Green belt applies and the development should not be permitted unless there are very special circumstances which outweigh the presumption.
- 2.7.4 Paragraph 87 of the NPPF makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 2.7.5 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.
- 2.7.6 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.
- 2.7.7 Impact on the openness of the Green Belt**
- 2.7.8 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.
- 2.7.9 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.
- 2.7.10 Harm to the Purposes of Including Land within the Green Belt**



2.7.11 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.

2.7.12 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.

2.7.13 As such the proposal would not constitute inappropriate development within the Green Belt and accord with the NPPF.

## **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 Hodgsons 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 1,1000 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

The purpose of carrying out a Sequential Test is made clear in Paragraph 101 of the NPPF, which states that “The aim of the Sequential Test is to steer new development to areas with the lowest possibility of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.”

2.9.4 There is an exception to this, which is that, according to Paragraph 104 of the NPPF “individual developments on sites allocated in development plans through the Sequential Test, applicants need not apply the Sequential Test”. However, in this particular instance Policy Officers have confirmed that this piece of land, which has been safeguarded through the Local Plan, was never subjected to Sequential Test.

2.9.5 Therefore, in accordance with the NPPF, the applicants have to submit information in order to inform the Sequential Test and demonstrate that there are no alternative housing sites in the District which are at a lower flood zone than the application site.

2.9.6 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 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.

2.9.7 It is noted that planning application 2016/0875/FUL for 55no. dwellings which Members resolved to grant approval on 12th April 2017 subject to the completion of a S106 also partly lies within Flood Zone 2. For this proposal the Council discussed

the scope of the Sequential Test for this application site with the Environment Agency and it was agreed that a pragmatic approach should be taken in defining the area of search, when applying the Sequential Test. It is considered that, as the site is designated "Safeguarded Land" within the Local Plan, has strong sustainability credentials (as listed in paragraph 2.7.9 of the report) and is located on the edge of a town identified in the Core Strategy as a Local Service Centre with scope for additional residential growth, the list of alternative sites should be limited to Sherburn Urban Area. It is also considered that this application site would pass the sequential test applying the same area of search as application 2016/0875/FUL.

### Flood Risk Assessment

- 2.9.8 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.
- 2.9.9 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.
- 2.9.10 The Environment Agency have stated that provided the development is built in accordance with the submitted Flood Risk Assessment then there would be no objections, however it would be strongly recommended that the soffit of the access bridge is a minimum of 600mm above the 1:100 modelled level to ensure that any debris floating down river can pass freely under it. The agents have confirmed that a bridge soffit could be designed 600mm above the associated flood level. These flood risk measures would be conditioned.
- 2.9.11 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 The following sections look 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 Hodgsons 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 Hodgsons 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 Hodgsons 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 Hodgsons 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 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

2.13.6 A separate planning permission for the development of the former airfield at Lennerton Lane, Sherburn in Elmet (2013/0467/OUT) identified that an improvement to the A162/A63 roundabout is required to accommodate that development and other committed developments in the area. It is a condition of that planning permission to deliver the improvement. Similarly a planning application for a residential development in Hambleton (2015/0105/OUT) will require the same roundabout improvement to be undertaken. This proposed development will also have an impact on the A162/A63 roundabout. Should this development come forward prior to the aforementioned developments 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 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 Hodgsons Lane. To improve pedestrian/cycle amenity in the vicinity of Hodgsons Lane/Moor Lane, new and additional drop kerb crossings will be required together with tactile pavements.

2.13.8 The Local Highway Authority 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

2.13.9 NYCC Highways have requested that conditions be imposed relating to the following matters:

- 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 Hodgsons 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.

2.13.10 Residents have expressed concern that 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. 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.

2.13.11 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.

2.13.12 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 Hodgsons 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 Hodgsons 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 failed to comply with the requirements of the NPPF in so far as the application is not accompanied by an Archaeological Desk Based Assessment. Notwithstanding this, having consulted the North Yorkshire Council Heritage Officer they have 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. It is therefore 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 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.

## **2.21 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 Hodgsons 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 Benefits of the Proposal**

2.22.1 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.

2.22.2 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 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 Hodgsons 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 for residential development for up to 65 dwellings which Committee resolved to Approve subject to a Section 106 agreement.
- 2.23.4 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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.
- 2.23.5 Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:
- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
  - (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood, green belt, countryside gaps and heritage assets).
- 2.23.6 In relation to this application the presumption in paragraph 14 and Policy SP1 is displaced by specific policies concerning green belt and flooding in the NPPF and safeguarded land in the Local Plan therefore the application is to be determined under the normal planning balance.
- 2.23.7 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.

2.23.8 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.

2.23.9 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.

2.23.10 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 appropriate within the Green Belt in accordance with Paragraph 89 of the NPPF.

2.23.11 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 the associated management arrangements, contributions towards highway improvements, a Travel Plan 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 LAmax 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).

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.

#### 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: Ruth Hardingham (Planning Development Manager)**

**Appendices: None**

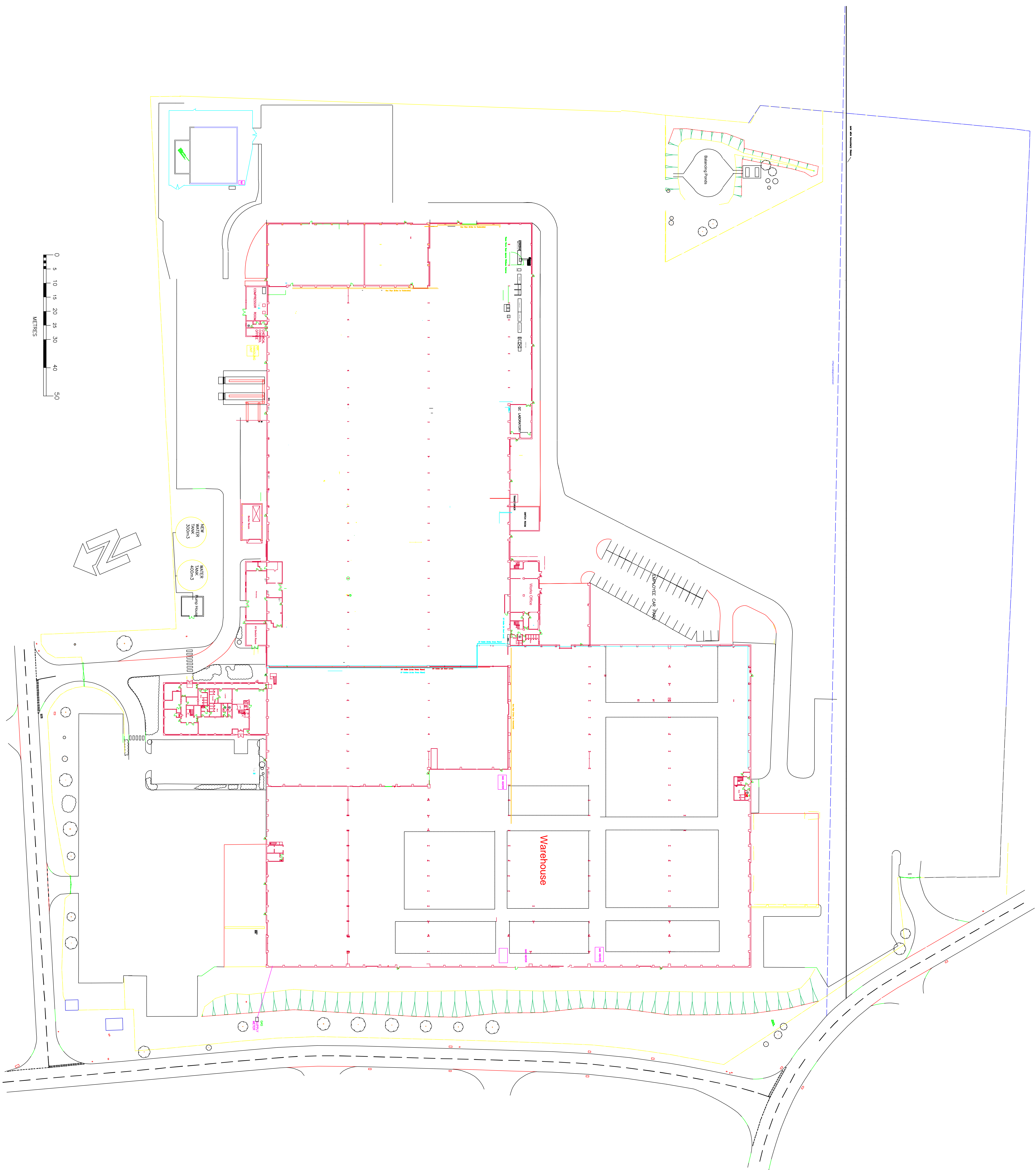


# APPLICATION SITE

**Item No:** 2016/1456/EIA

**Address:** Kingspan Insulation Ltd, Enterprise Way, Sherburn in Elmet

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BUSINESS SUPPORT

Revision	By	Date
A	ldgm	25.11.16 (date block revised)

**supercraft**  
STRUCTURES LIMITED  
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Client  
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Job Title  
Industrial Buildings

Site  
Kingspan Insulations Ltd  
Enterprise Way  
Shotton Airfield

Drawing Title  
EXISTING SITE PLAN

Drawn: DGM  
Date: June 2016  
Scale: 1:500 (A1/A0)  
Checked by: JSM  
Drawing No.: 26478 / 4  
Revision: A



**Report Reference Number 2016/1456/EIA (8/58/7BS/PA)**

**Agenda Item No: 7.5**

**To: Planning Committee**  
**Date: 14<sup>th</sup> June 2017**  
**Author: Fiona Ellwood (Principal Planning Officer)**  
**Lead Officer: Ruth Hardingham (Development Planning Manager)**

APPLICATION NUMBER:	2016/1456/EIA	PARISH:	Sherburn In Elmet Parish Council
APPLICANT:	Kingspan	VALID DATE:	13th December 2016
		EXPIRY DATE:	4th April 2017
PROPOSAL:	Proposed Installation of a Refused Derived Fuel (RDF) fired Combined Heat and Power (CHP) plant with 8000m2 Factory Extension and Associated Infrastructure.		
LOCATION:	Kingspan Insulation Ltd Enterprise Way Sherburn In Elmet North Yorkshire LS25 6NE		

This application has been brought before Planning Committee because it is accompanied by an Environmental Impact Assessment (EIA) Statement.

**Summary:**

There are two elements to the proposal. Firstly the installation of a Refused Derived Fuel (RDF) fired Combined Heat and Power (CHP) plant. Secondly, an 8000m2 Factory Extension and associated infrastructure at Kingspan Insulation Ltd, Enterprise Way, Sherburn in Elmet.

Before the application was submitted it was considered within the context of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 and April 2015 Amendment for with a view to determining whether an Environmental Impact Assessment was required.

The proposed development of the CHP Plant has been considered as having the potential to create harmful emissions of both noise and air pollution. Furthermore, there was an identified risk that the heat plume generated by the development could affect the operation of the adjacent airfield. In addition, there have been a number of similar waste incineration



projects within the vicinity and the cumulative impacts of these projects to air quality are unknown. Accordingly it has been assessed that an Environmental Impact Assessment is required with the submission of the planning application under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 and April 2015 Amendment for to evaluate these impacts.

In assessing the proposal, the development would be consistent with the aims of both the Core Strategy and the Local Plan and would bring economic and environmental benefits to the District. Given the established use of the site, the works are considered to be acceptable in principle. The key issues in the determination of this planning application are in relation to: the principle of the development; impact on the character and appearance of the locality; highway safety; impact on residential and local amenity; flood risk; drainage and climate change; nature conservation; heritage assets; contamination; the safe operation of the nearby Sherburn airfield and any other material considerations.

It is considered that the development is acceptable in respect of the above having regard to all relevant policies of the development plan and other material subject to the conditions at section 3 of this report.

## **Recommendation**

**This planning application is recommended to be APPROVED subject to conditions detailed in Paragraph 3.0 of the Report, and there being no objection and the inclusion of any conditions received from NYCC Flood Risk Officer.**

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

#### **1.1 The Site**

1.1.1 The 10.4 Hectare site is the existing Kingspan site to the east of Sherburn in Elmet on an established industrial estate. The Kingspan site is situated centrally within the Sherburn Industrial Estate, inside the perimeter of the existing Kingspan Insulation site predominantly on an unused grassed area. The existing Kingspan factory sits to the north and the proposed factory extension would adjoin this. In terms on surrounding uses, Eddie Stobart storage operation is located to the south and a number of other large industrial operations to the east and west.

1.1.2 The site lies within Flood Zone 1.

#### **1.2 The proposal**

1.2.1 There are two elements to the application. Firstly the Installation of a Refused Derived Fuel (RDF) fired Combined Heat and Power (CHP) plant. Secondly an 8000m<sup>2</sup> Factory Extension and Associated Infrastructure.

1.2.2 The proposal is considered to fall within the criteria of Schedule 2, Category 3 (a) of the Environmental Regulations which includes Industrial installations for the production of electricity, steam and hot water where the development exceeds 0.5 ha.

1.2.3 The RDF would produce energy from waste incineration. The CHP plant would be powered annually by approximately 132,000 tonnes of Refuse Derived Fuel (RDF).

The process of energy generation would be undertaken via the gasification process, which would involve the RDF subjected to extremely high temperatures (700 – 1500 degrees centigrade) within the boiler house. On the incineration of the fuel, a heated combustible syngas is produced that is used to heat the feed water. This would then be piped into the boiler creating high-pressure steam. The steam is then fed into the steam turbine, at which point electricity is generated.

1.2.4 The development is stated to enable the UK division of Kingspan Insulation Ltd to operate as a carbon neutral business. The generated energy from the proposed CHP plant would supply the UK division with green electricity, with all surplus energy being provided to the national grid. The proposed 8000m<sup>2</sup> factory extension would enable the further operational expansion of the Kingspan Insulation Ltd business at the Sherburn in Elmet site, and is stated to create new jobs within the locality.

1.2.5 The CHP Plant would have a total thermal input of 48MW, producing an electrical capacity of 14 MW and a thermal capacity of around 1.5 MW. It would be located to the south of the factory, and would comprise the following structural elements:

- One boiler building measuring 85m in length, 20m in width and 30m in height. This building shall house the main gasification process.
- A turbine hall and office block measuring 32m in length, 20m in width and 30m in height.
- A fuel store building measuring 55m in length, 20m in width and 25m in height
- An air-cooled condenser building measuring 35m by 15m and 25m in height.
- Associated infrastructure, including pipelines, access road and hardstanding.

1.2.6 The total area of the site required to accommodate the proposed CHP plant and factory extension, covers an area of around 2 hectares. The CHP plant would be powered by approximately 132,000 tonnes of Refuse Derived Fuel (RDF) per annum sourced from outside of the Sherburn Industrial Estate within a 50 mile radius.

1.2.7 The factory extension would be to the south east corner of the existing building, effectively creating a “u” shaped factory with access from the eastern side. The extension would measure 145m in length, 60m in width, with the roof 11m to eaves and 15m to the ridge. The 8000 sqm factory extension would be a steel portal frame building with steel cladding to match the existing building.

The associated infrastructure would comprise:

- A small gatehouse building
- New internal access route
- Reorganisation of internal car parking

1.2.8 It has been assessed that an Environmental Impact Assessment is required with the submission of the planning application under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 and April 2015 Amendment to evaluate the impacts of the development.

1.2.9 The site is identified in the Selby District Proposals Map as an ‘Established Employment Area’.

### **1.3 Planning History**

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

2006/0509/FUL-(PER-17.07.2006) Proposed sub-division of existing warehouse/industrial unit into 2 No. units, new servicing areas, associated access roads and car parking to include change of use from B2 (general industry) to B1 (business), B2 (general industry) and B8 (storage or distribution)

2006/0654/OUT (PER - 08.08.2006) Outline application for industrial units (B1, B2 and B8) and associated car parking.

2007/0754/FUL (PER - 30.10.2007) Proposed extension to existing industrial building for the loading of waste products

2011/1058/FUL (PER - 19.12.2011) Erection of an extension to industrial building and the erection of a temporary storage facility

PD/2013/0254 (ADVICE - 31.10.2013) To overclad the existing roof with an insulated roof panel, and to install a solar PV system

SCR/2013/0013 (EIANOT - 08.11.2013) EIA screening opinion for installation of biomass CHP plant and associated infrastructure

2013/1173/FUL (PER - 12.03.2014) To overclad the existing insulated roof with 40mm composite panels and installation of a 3MW solar PV system on the cladded roof

2014/0244/FUL (PER - 15.05.2014) Retrospective application for erection of a small GRP substation

SCR/2016/0002 (EIAREQ - 09.06.2016) Screening opinion request for the installation of a CHP plant, 8000m<sup>2</sup> factory extension and associated works

### **1.4 Consultations**

#### **1.4.1 North Yorkshire Highways and Transportation North Yorkshire**

Satisfied that the traffic the proposal may generate would not have a material impact on the operation of the road network therefore no objections. It is recommended conditions are attached to any permission granted.

#### **1.4.2 Environmental Health**

No objections subject to conditions attached to any permission granted.

#### **1.4.3 Natural England**

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

#### **1.4.4 Yorkshire Water**

Recommends conditions are attached to any permission granted.

Sewer within site boundary not affected. There is a sewage pumping station (SPS) under the control of Yorkshire Water located within part of the red line site boundary. Vehicular access, including with large tankers, could be required at any time. The submitted Flood Risk Assessment is satisfactory.

#### 1.4.5 The Environment Agency

Environmental Permit -The installation will require a permit from the Environment Agency under the Environmental Permitting (England and Wales) Regulations (2010) before it can be brought into operation.

Abstraction Licence -The ES refers to the release of steam. If the applicant intends to abstract water from the local environment at a rate greater than 20 cubic metres per day as an input to the process, they will need to apply for an abstraction licence.

Contaminated Land- The proposed development site appears to have been the subject of past industrial activity which poses a high risk of pollution to controlled waters. Refers to EA published "Guiding Principles for Land Contamination" which outlines the approach to managing risks to the water environment from this site.

Further detailed comments made on code of practice for waste, contaminated materials, handling of contaminated soil, characterisation of contaminated materials and hazardous waste.

#### 1.4.6 Councils Contamination Consultant

No objections subject to conditions attached to any permission granted.

For controlled waters risks have been appropriately assessed. Recommend a Site Investigation Strategy before undertaking the development to ensure ground water conditions are characterised and assessed and the potential risks to human health and controlled waters are investigated and risk assessed. This should include boreholes and testing of Green Dyke. A Desk Study Assessment for Unexploded Ordnance and a detailed drainage survey have also been recommended.

#### 1.4.7 Selby Area Internal Drainage

Comments made that no details for surface water are given in this application. Percolation tests are needed. YW need to be satisfied about the additional flow. Conditions suggested regarding drainage details, runoff rates and no obstructions within 7 metres of a watercourse.

#### 1.4.8 Yorkshire Wildlife Trust

The survey by Peak Ecology shows that the site is of low quality and there are unlikely to be major impacts on protected species or wildlife. The Trust would recommend the conditioning of a landscaping and planting plan using native species, to support wildlife and connect up habitat in the area as suggested on page 16 of the survey.

Within the application there does not seem to be information on emissions from the CHP plant and impacts on air quality, or information on the type of fuel to be used and how sustainable this will be and where it will come from. These issues could have impacts on biodiversity and human health in the area.

#### 1.4.9 Designing Out Crime Officer

No concerns or issues raised.

1.4.10 North Yorkshire Fire & Rescue Service

No objections or observations at this stage in the planning approval process.

1.4.11 Sherburn In Elmet Aeroclub

No comments received.

1.4.12 Parish Council

Concerns regarding possible air pollution and note the lack of detail regarding the fuel being burnt. No account has been taken of the cumulative impact of this site, when combined with emissions from the peak power generation plants proposed nearby at Gascoigne Wood (2015/1034/FUL, 2015/0017/FUL and 2015/0674/FUL). The Parish Council request that more information is supplied regarding the fuel being burnt and that an assessment is provided of the cumulative impact of this site, when combined with the peak power generation plants proposed nearby at Gascoigne Wood.

1.4.13 NYCC Flood Risk Officer

Comments are awaited and will be reported to Members at Committee.

## 1.5 Publicity

1.5.1 The application was advertised by way of site notice, newspaper notice and neighbour notification resulting in 2 letters of representation. Comments made summarised below;

1.5.2 Further information needed on a number of things including Carbon Analysis, Details of the expected RDF composition, energy flow diagram design and R1 calculations arising from the waste Framework Directive Annex 2.

1.5.3 Concerns raised regarding pollution- increased concentration levels of chemicals which are Asthma triggers. It is also considered that extra pollution from the increased traffic may arise.

1.5.4 Traffic problems on the roads in the industrial estate would be compounded.

## 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  
SP13 - Scale and Distribution of Economic Growth  
SP15 - Sustainable Development and Climate Change  
SP17 - Low-Carbon and Renewable Energy  
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  
ENV3 – Light Pollution  
T1 - Development in Relation to Highway  
T2 - Access to Roads  
ENV4 - Hazardous Substances  
EMP2 - Location of Economic Development  
EMP4 - Retention of Established Employment Area  
EMP6 - Employment Development

## **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**

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

1. The Principle of Development
2. Impact on the character and appearance of the locality
3. Highway Safety Conditions
4. Flood Risk, Drainage, Climate Change and Energy Efficiency
5. Impact on Residential and Local Amenities
6. Nature Conservation Interests
7. Contamination
8. Impact on safe operations at the Sherburn Aero Club
9. EIA and cumulative Impacts

## **2.6 The Principle of Development**

- 2.6.1 Policy SP1 of the Core Strategy (CS) outlines that ‘when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF’ and sets out how this will be undertaken.
- 2.6.2 Sherburn Industrial Estate is recognised in the adopted Core Strategy as a “major industrial site” and is one of the key employment areas for Selby District of regional and national importance.
- 2.6.3 Policy SP2 identifies the strategy for where development should be located within the District. The majority of new development will be directed to the towns and more sustainable villages, with Sherburn in Elmet designated as a ‘Local Service Centre’ where further housing, employment, retail, commercial and leisure growth will take place. Policy SP13 relates to the Scale and Distribution of Economic Growth and states that support will be given to developing and revitalising the local economy. SP13B seeks to support the more efficient use of existing employment sites and premises through modernisation, expansion, re-use and intensification. Saved Policy EMP6 (A) of the Local Plan, supports the extension or expansion of existing firms on allocated and established industrial sites.
- 2.6.4 The proposed factory extension is within an established employment site and the development would be consistent with the aims of these policies. The factory extension is anticipated to create an additional 15 jobs of a similar nature to those within the existing operation. The CHP unit would require around 30 additional staff including shift workers operating the plant and office workers.
- 2.6.5 Turning to the renewable energy generation aspect of the proposal, a core principle of the NPPF is that planning should “support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the use of renewable resources (for example, by the development of renewable energy)”. Furthermore, paragraph 93 states that supporting the delivery of renewable and low carbon energy and associated infrastructure is “central to the economic, social and environmental dimensions of sustainable development”. The Climate Change Act sets legally binding emission reduction targets for the UK. Furthermore the Renewables Directive mandates renewable energy use within the EU with a target for the UK to achieve 5% of its total energy consumption from renewable sources by 2020. In addition regard should be given to Policies EN-1, EN-2 and EN-5 with respect to the Government’s overarching policies to ensure a continued supply of electricity across the UK, with the majority of energy generated to be fed back into the national grid.

- 2.6.6 Policy SP17 (C) of the CS reflects the national support for Low Carbon and Renewable Energy schemes and sets out the criteria which new sources must meet. These include the need to protect the environment and local amenity and the need to demonstrate that the wider environmental, economic and social benefits outweigh any harm.
- 2.6.7 The application is for a CHP plant which is stated to not only meet the needs of the Kingspan operation, but to completely offset the energy consumption and carbon emissions associated with their whole UK division, including all lorry movements, whilst producing enough electricity surplus to power a sizeable population. Surplus power generated is intended to be made available to other industries on the estate. In turn, the facility could make a significant contribution to the UK Government's legally binding renewables targets set out in the Renewables Directive and the Climate Change Act. The applicants state that the development of the CHP Plant will generate nearly 4 times the proposed local renewable energy target for the plan period. This is considered to be a substantial wider environmental and public benefit of the proposal, meeting the energy needs of Kingspan, whilst reducing the UK's reliance both on fossil fuels and on the import of natural gas from overseas. As such the proposal is for the generation of 'green' electricity from a renewable and sustainable source, and is consistent with the aims of CS Policy SP17 and is supported by the broad economic principles of Government Policy.

## **2.7 Impact on the character and appearance of the locality**

- 2.7.1 Relevant policies in respect of the impact on the character and appearance of the locality include Policy ENV1 (1) of the Selby District Local Plan and Policy SP19 of the Core Strategy.
- 2.4.2 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.
- 2.7.2 The site is flat and open in nature, but is surrounded by the neighbouring industrial buildings within an established Employment Area.
- 2.7.3 Although by itself a substantial size building, the factory extension would sit alongside buildings of similar scale and design and would not therefore have a significant visual impact on the locality. The RDF facility will involve the erection of large utilitarian structures up to 30 metres in height as described in section 1.2. In addition there will be 45 metre chimney stacks.
- 2.7.4 The RDF development would be industrial in its design, including structures such as flues and industrial style buildings. These relate similarly to the character and appearance of other buildings contained upon the Sherburn Industrial Estate. It is intended for the proposed building structures to be clad in a light grey colour and this would help reduce their impact when seen against the skyline, as well as ensuring it is seen in context with other structures at the industrial estate.
- 2.7.5 When viewing the Sherburn Industrial Estate from the surrounding landscape at a number of specific viewpoints, other tall structures are visible. These include the grain store located to the north west of the Kingspan site, as well as structures upon



the site of the British Gypsum factory, of which are all considered to be at or upwards of 30m in height. The CHP plants proposed boiler building and associated chimney will therefore be seen in context with these existing tall industrial structures and in terms of size and scale are smaller than others in the vicinity.

- 2.7.6 A Landscape and Visual Impact Assessment (LVIA) has been prepared and submitted in support of this planning application. The LVIA states that the proposed development of the CHP Plant and factory extension will not result in any significant effect on areas of designated landscape, landscape character or individual landscape elements and features. Any adverse effects on the landscape would be limited to the development's locality, with the identified effects suitably mitigated for by the sites central location within the surrounding industrial estate. Accordingly, the developments proposed form and extent would be consistent in appearance with the existing surrounding land use and landscape character.
- 2.7.7 It is therefore considered that the proposal can be accommodated without any unacceptable visual or landscape impacts, preserving the character and appearance of the surrounding landscape and the locality, according with Policy SP19 of the adopted Local Plan and Saved Policy ENV1, and with the NPPF.

## **2.8 Highway Safety Conditions**

- 2.8.1 Policy in respect to highway safety and capacity is provided by Policies ENV1(2), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and Paragraphs 34, 35 and 39 of the NPPF. Significant weight should be attached to the Local Plan Policy as it is broadly consistent with the aims of the NPPF.
- 2.8.2 Access to the site is via two existing gated vehicular accesses. The main access for most deliveries and visitors is off Enterprise Way to the north where there is a large vehicle loading area and dedicated car park. The secondary access is to the south west directly off Enterprise. There are internal access roads and other areas for car parking, loading and external storage.
- 2.8.3 It is anticipated that there will be 5,800 heavy good vehicles movements annually associated with the CHP plant, which equates to approximately 250 movements a week. Personnel vehicle movements associated with the operation of the CHP plant will equate to 42 movements per day. The factory extension would create a net increase in HGV vehicle movements by approximately 22 per day and 22 staff movements per day, which would be spread over the 24-hour operation of the factory. All vehicle movements are to be spread across the sites 24-hour operation, although personnel vehicle movements would be intensified during the beginning and ending of shifts.
- 2.8.4 The RDF Plant is to be accessed via the operational sites existing secondary vehicular access at Aviation Road. The access shall principally service the CHP Plant. Amendments to the existing access layout are proposed which would bring the access up to the necessary standards to allow HGV vehicles to safely enter and exit the site at this point. The factory extension will continue to use the existing primary vehicular access at Enterprise Way and would not use the CHP Plant's secondary access. Objectors have raised concerns that traffic problems on the roads within the industrial estate will be compounded as a result of the development.

2.8.5 Discussions have taken place between the Highway Authority and the applicants and the amended transport statement is now considered to have an acceptable scope and methodology in respect of trip rates, traffic generation and distribution. The Highway Authority is now satisfied that the traffic the proposal may generate will not have a material impact on the operation of the road network. Conditions are recommended in relation to access, parking and turning, a Construction Traffic Management Plan, a Travel Plan to be submitted and approved Visibility Spays. These are included in section 3 of the report and subject to these the proposed development is not considered harmful to road safety conditions in accordance with policies ENV1(2), T1, and T2 of the Local Plan, Policy SP19 of the Core Strategy and Paragraphs 34, 35 and 39 of the NPPF

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

2.9.1 Policies SP15, SP16, SP17 and SP19 of the Core Strategy require proposals to take account climate change and energy efficiency within the design. Relevant paragraphs in the NPPF include paragraph 94.

2.9.2 The proposed development will introduce hard standing in the form of buildings and roads. The FRA and Drainage Strategy accompanying the development say that in order to ensure the increase in surface water runoff generated by the introduction of hard standing will not increase flood risk elsewhere, the applicants propose flow control and attenuation on site for storm events up to and including the 1 in 100 year plus 30% climate change event. All methods of surface water discharge have been assessed. Discharge of surface water to Green Dyke appears to be a feasible option. Discharge to Green Dyke via a new connection should be restricted to 3 l/s as agreed with the IDB. Attenuation will be required on site in order to restrict surface water discharge to 3 l/s. The drainage report indicates this could be provided within the existing balancing pond, a new balancing pond or a below ground attenuation tank. A pumped solution may be required for surface water drainage subject to the depth of an attenuation storage feature.

2.9.3 Yorkshire Water considers the flood risk assessment to be satisfactory and raise no objections to the scheme subject to conditions. Conditions are also recommended by the IDB. These are included at section 3 of the report and include a requirement for the submission of full drainage details to be agreed before work commences. Comments are awaited from the NYCC Flood Risk Officer and Members will be updated at Committee. An Environmental Permit will be required from the EA which will control pollutants, air emissions, water abstractions through the Environmental Permitting (England and Wales) Regulations (2010).

2.9.4 In relation to energy efficiency and climate change, the annual feedstock which will power the CHP plant will consist of 132,000 tonnes of RDF sourced from recycling centres from outside of the Sherburn Industrial Estate. The gasification process will see the feedstock fed into the boiler building, where it will be convert the fuel into a gas or syngas. The hot combustion gases heat the feed water, which is piped into the boiler, creating high pressure steam. The steam is then fed into the steam turbine, generating 112,000MWh of electricity from a sustainable source of energy.

2.9.7 The electricity will be used to power Kingspan's operation at Sherburn Industrial Estate, with excess energy being fed into the national grid to be used via a licensed

supplier at other Kingspan sites across the UK. At least 12,000MWh of heat from the steam turbine will be recovered and used to heat the Kingspan facility and nearby buildings on the industrial estate, thus reducing substantially the amount of fossil fuel used in the area. Approximately 10% of the total feedstock will be burnt to ash and sent to landfill. There are no other by-products associated with the gasification process. The plant will operate 24 hours a day, 7 days a week.

- 2.9.8 The redirection of RDF waste from landfill to the site will present further environmental and public sustainability benefits.
- 2.9.9 It is considered that the proposed development subject to no objections and the inclusion of any conditions being received from the NYCC Flood Risk Officer would provide a sustainable source of energy and is acceptable in terms of flood risk, drainage, climate change and energy efficiency. As such the development is in accordance with ENV1 of the Local Plan and Policies SP15, SP17 and SP19 of the Core Strategy and the NPPF.

## **2.10 Impact on Residential and Local Amenity**

- 2.10.1 Relevant policies in respect to impacts on residential amenity include Policy ENV1 (1), ENV2 and ENV3 of the Local Plan. Policies ENV1(1), ENV2 and ENV3 should be afforded significant weight given that it does not conflict with the NPPF.
- 2.10.2 The nearest residential properties to the site are the dwellings along Bishopdyke Road (B1222) 400m to the north. However, the impacts from the development on other users of the industrial estate in terms of air quality is also an important consideration.
- 2.10.3 The applicants have submitted an air quality assessment as part of the Environment Statement. The Air Quality and Plume report has assessed the sites existing baseline conditions and the likely effects that the proposed development will have upon the area, ensuring that any pollutant emissions will be in line with the applicable national air quality legislation. A dispersion model of the calculated plume was generated to establish the expected pollutant impacts on human and ecological receptors which surround the site.
- 2.10.4 The assessment concluded that the proposal would not lead to any undue impact on the environment or local amenity with any remaining impacts on the local community suitably minimised. The report concludes that the impacts on existing pollutant concentrations were not expected to be significantly higher than existing at any of the assessed locations and that the rates of nitrogen and acid gas deposition were also predicted to not significantly affect the existing conditions at any assessed receptor sites. The assessment was completed from a worst-case scenario, which assumed that the development would constantly emit the maximum permitted concentrations of each pollutant throughout its entire operation.
- 2.10.5 Notwithstanding the conclusions of the assessment, concerns were raised about air emissions and the potential use of RDF of animal origin as this could contaminate the neighbouring feed mill for the livestock industry. Further discussions and information has now been provided regarding the composition of the RDF which will mainly be paper, cardboard and no-recyclable plastics. The content of the RDF can be the subject of conditions prohibiting refuse of animal origin. Overall the process

will be under strict regulation by the EA, however, planning conditions in relation to the content of the refuse would not be controlled by the EA and therefore need to be subject to a planning condition. The Environmental Health Officer is now satisfied with the impact on air quality subject to appropriate conditions.

- 2.10.6 In terms of noise, a 'Noise and Vibration assessment' submitted in support of the planning application has calculated the noise and vibration levels that are expected to be generated by the development, against the existing site climate, including construction and offsite traffic. Where noise is to be generated by the development, the report has outlined appropriate mitigation measures to ensure that such noise is appropriately controlled.
- 2.10.9 On account of the sites location on an existing industrial estate, the acceptable noise levels during construction have been applied in accordance with the criteria considered acceptable within urban areas, near main roads or in heavy industrial areas, categorised at 75 decibels during daytime working hours (07:00 am to 19:00pm).
- 2.10.10 The assessment, which is based itself upon typical construction activities and their associated equipment has assumed a worst-case scenario, which would account for all operational equipment to be used continuously. The outcome of the assessment concludes that the generated construction noise and vibration levels would be significantly below the target noise and vibrations criteria, and have accordingly been classified as negligible.
- 2.10.11 A similar assessment in relation to the noise and vibration levels likely to be generated during the operation of the development and offside traffic were also undertaken. This concludes that the noise generated by the operation of the development would fall below the existing background noise levels and would therefore be unlikely to have a significant effect upon the local noise climate. The noise generated by offsite traffic is not calculated to have any impact upon the experienced noise levels within the settlement of Sherburn-in-Elmet, with the worst-case scenario suggesting an increase in 1.1db of noise, resulting in a minor adverse impact.
- 2.10.12 The Environmental Health Officer is satisfied with the findings of the submitted assessments and raises no objections subject to a condition to ensure the recommended noise mitigation measures are implemented. These relate mainly to a number of good practice measures and proactive action during the construction phase.
- 2.10.13 In terms of lighting, no details have been submitted. Given the scale of the buildings it is considered that lighting should be controlled to ensure there is no adverse effect on the character of the locality. However this can be controlled through a suitable planning condition.
- 2.10.14 It is therefore considered that subject to the conditions suggested, any potential harm could be mitigated to ensure that no significant detrimental impact is caused to the nearest residents, other users of the estate or local amenity through noise, air quality, light spillage or nuisance from the construction phase. As such the development is in accordance with Policy ENV1(1) and ENV2 and ENV3 of the Local Plan and the NPPF.

## **2.11 Nature conservation**

- 2.11.1 Relevant policies in respect to nature conservation include Policy ENV1 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.
- 2.11.2 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.
- 2.11.3 A full ecology walkover survey was completed by Peak Ecology in June 2016 and is provided with this application. The survey identifies that there are no statutory or non-statutory ecological designations within 1km of the site and confirms that the site has a low ecological value, which is considered to be unable to support any protected or notable species.
- 2.11.4 The site itself, and its immediate surroundings, have no designation for nature conservation interest. There is no European or nationally designated sites within 2km of the survey site. No impacts to designated sites are therefore anticipated.
- 2.11.5 The gasification unit and extension to the existing building on site will be constructed largely within an area of amenity grassland and hardstanding. Amenity grassland is, in general, a commonly occurring habitat across the UK and offers only limited potential for protected or notable species. The grassland sward is botanically poor and considered to be of low ecological value. Overall, the loss of an area of amenity grassland is considered to be of low ecological impact and the site offers good opportunities for an enhancement of the local habitats.
- 2.11.6 No protected or notable species were noted on site at the time of survey. Habitats on site were considered too isolated and homogeneous to be able to support reptiles, amphibians and badgers. Scattered trees and scrub were able to support feeding and nesting birds, along with commuting and feeding bats.
- 2.11.7 Irrespective of the low quality habitat that will be lost to the gasification unit, the site has the opportunity for additional planting to enhance the area for nature conservation. The NPPF encourages biodiversity gain in and around developments. A landscaping scheme is recommended to achieve additional tree and scrub planting. The Ecological appraisal suggests a high proportion of native tree and shrub species should be used and a diverse grassland mix would be appropriate. However, appropriate management would be needed to ensure the maintenance of a diverse sward, which may not be achievable within such an industrial setting.
- 2.11.8 Subject to such a landscaping condition to achieve the recommendations and mitigation measures, the proposed development is considered to be in accord with Policy SP18 of the adopted Plan, saved Policy ENV28 and NPPF.

## **2.12 Contamination**

- 2.12.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination.
- 2.12.2 The Environment Agency have raised concerns over the high risk of pollution to controlled waters due to past industrial activity and advise further investigation for human health protection. However, this has been fully considered by the Councils Contamination Consultant who considers the Phase 1 Assessment submitted to be satisfactory for controlled waters risks. It is recommended that a Site Investigation Strategy is undertaken before the development commences and standard conditions are recommended to ensure the appropriate investigation, remediation and mitigation measures are undertaken.
- 2.12.3 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.

### **2.13 Impact on safe operations at the Sherburn Aero Club**

- 2.13.1 To the south of the industrial estate is Sherburn in Elmet Airfield which is a private facility in full operation and under license by the Civil Aviation Authority. The Airfield facilitates light aircraft and helicopters. The report prepared by Alan Stratford Associates attached in Technical Appendix 2 of the Environmental Statement discusses the impact of the development on the airfield in more detail. The report reviewed whether the CHP plant and chimney could represent a safety hazard to aircraft using Sherburn airfield or those flying en-route in the vicinity. This has been assessed both in terms of the obstacle clearance requirements as set out in CAP 168 and any safety impacts resulting from the emissions plume from the chimney.
- 2.13.2 The plant and chimney are not in the approach or take-off paths for the airfields runways. Provided the built chimney is no more than 45m in height, it would not infringe any obstacle clearance limits defined under CAP 168, which could potentially breach the requirements for Sherburn's CAA Aerodrome Licence.
- 2.13.3 The report submitted indicates that the location of and the potential drift of the emissions plume from the chimney is such that it would not create any aircraft turbulence or present a safety hazard to pilots in terms of visibility or toxicity.
- 2.13.4 Discussions are stated to have taken place directly with the Sherburn Aero Club. No objections have been raised to the proposals. The Sherburn Aero Club have been consulted on the application but no response has been received in relation to this application.
- 2.13.5 In conclusion, in the light of the Aviation Report and the conclusions they reach, it is considered that the proposed development would not be harmful to the safe operation of the nearby airfield subject the CHP chimney stack being marked and lit in accordance with CAP 168 requirements. A condition can be imposed in this respect.

### **2.14 Environmental Statement**

- 2.14.1 The Environment Statement (ES) submitted with this application demonstrates that there are unlikely to be any significant impacts from the development itself or when considered cumulatively with other energy developments in the locality.
- 2.14.2 The EIA Regulations require the Environmental Statement to report on the main alternatives considered by the applicant and provide the reasons for choosing the site; such reasons should also give consideration to the associated environmental impacts.
- 2.14.3 In assessing the proposed development site and looking at alternatives, the key criteria were the operational requirements of Kingspan Insulation Ltd, the location of its existing factories and land ownership, the ability to provide heat to neighbouring uses and the physical parameters of available sites.
- 2.14.4 The site affords the ability to expand the existing business on the existing site and provide sustainable power for the factory. The factory at Sherburn in Elmet is one of the largest Kingspan operations and has land immediately adjacent to the existing factory within its ownership for expansion. The applicant considers that other factory sites do not have the available space combined with the excellent communication links that are offered by the site at Sherburn in Elmet.
- 2.14.5 In relation to the renewable energy generation aspect of the proposal, the location of the development is influenced by the requirement for it to be in close proximity to the end users of the heat, which are the commercial premises at the industrial estate. In addition the provision of lower costs and renewable heat to adjacent businesses will help secure the future of these businesses and may help attract additional employment/business opportunities to the estate.
- 2.14.6 The planning policy position of the proposed development site as an existing employment allocation provides a reasonable level of certainty to the principle of development and the Selby Local Plan guides development of the nature proposed by this planning application to this location. Other planning policy and environmental designations have been examined and again the lack of such restrictions on the proposed development site suggested firm suitability from a wider planning perspective.
- 2.14.7 It is concluded that there are sound reasons for choosing this site since the other Kingspan locations around the UK do not have the combined significant expansion room, communication links and neighbouring sites to export heat to. The existing site at Sherburn in Elmet is on an operational, owned and allocated employment site which presents a logical physical development that is in line with land use planning policy designation, physically enclosed by other similar neighbouring uses minimising negative amenity issues. Neighbouring businesses can benefit from the heat generation and therefore presents an economical and environmentally logical solution and appropriate location.

## **2.15 Conclusion**

- 2.15.1 In assessing the proposal, the development would be consistent with the aims of both the Core Strategy and the Local Plan and would bring economic, social and environmental benefits to the District. Given the established use of the site the works are considered to be acceptable in principle. The key issues in the

determination of this planning application are in relation to the principle of the development; impact on the character and appearance of the locality, ground conditions and contamination, flood risk, drainage and climate change, impact on residential amenity, highway safety and heritage assets, the safe operation of the nearby Sherburn airfield and any other material considerations.

2.15.2 It is considered that the development is acceptable in respect of the above having regard to all relevant policies of the development plan and other material subject to the conditions at section 3 of this report.

### **3.0 Recommendation**

This planning application is recommended to be APPROVED subject to conditions below and there being no objection received and the inclusion of any conditions received from NYCC Flood Risk Officer.

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 recommendations and mitigation measures detailed in the Preliminary Ecological Appraisal by Peak Ecology Ltd dated 01/06/2016 shall be carried out in full prior to the first bring into use of the development.

Reason:

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

03 Within 6 months of the commencement of the development a comprehensive scheme of landscaping and tree planting for the site, indicating inter alia the number, species, heights of planting and positions of all trees, shrubs and bushes to include details of the grassland seed mix shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme should thereafter be carried out in its entirety within the period of twelve months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. All trees, shrubs and bushes should be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses should be made good as and when necessary.

Reason:

To allow the Local Planning Authority to control the development in detail in order to ensure that the proposals are in keeping with the character and appearance of the area to comply with Policy ENV1 of the Selby District Local Plan and SP19 of the Selby District Core Strategy Local Plan.

04 Within 6 months of the development commencing, a detailed biodiversity management plan for the maintenance of the approved landscaping scheme of shall be submitted to and approved in writing by the Local Planning Authority. The



approved plan should thereafter implemented and maintained for the lifetime of the development.

Reason:

In the interests of maximising the biodiversity potential of the site in accordance with Policy ENV1, SP18(3)(b) and the National Planning Policy Framework.

- 05 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.

- 06 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.

- 07 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.

- 08 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.

- 09 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.

- 10 Before the development hereby approved shall commence a schedule and samples of the external walling materials and roofing materials for the new buildings and structures shall be submitted to and approved in writing by the Local Planning Authority. Only those materials approved shall be used in the development hereby approved.

Reason:

In the interests of visual amenity, the impact on the conservation area and in order to comply with Policies ENV1 of the Selby District Local Plan and SP18 of the Core Strategy.

- 11 Before the development hereby approved shall commence a scheme for the drainage of the development and the discharge of surface water from the site incorporating sustainable drainage details, shall be submitted for the written approval of the Local Planning Authority. Only the approved scheme shall be implemented and thereafter maintained for the lifetime of the development.

Reason

To comply with policy ENV1 of the Local Plan and to ensure that the site is properly drained and in order to prevent overloading

- 12 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 submitted to and approved in writing by the Local Planning Authority.

Reason

To comply with Policy ENV1 of the Local Plan and SP19 of the Core Strategy and to ensure the site is properly drained and in order to prevent overloading, surface water is not discharged to the foul sewer network.

- 13 No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved have been constructed in accordance with the submitted drawing (Ref 108838-002A). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason

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

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

- 1) Details of the routes to be used by HCV construction traffic
- 2) Measures to prevent mud/dirt being deposited on the highway
- 3) Parking/storage areas

Reason

In accordance with Policy ENV1 and T1 of the 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.

- 15 Prior to the development being brought into use, a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. 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 Policy ENV1 and T1 of the local Plan and to establish measures to encourage more sustainable non-car modes of transport.

- 16 Prior to the development being brought into use, the existing boundary fence which abuts the footway to the south of the proposed access shall be set back 2 metres from the back of the footway.

Reason:

In accordance with Policy T1 of the Local Plan and in the interests of road safety.

- 17 Unless otherwise agreed with the Local Planning Authority, the Refuse-Derived Fuel (RDF) used to fire the Combined Heat and Power (CHP) plant shall consist of mainly paper, cardboard and non-recyclable plastics, and shall not include any RDF from of animal origin.

Reason:

In accordance with Selby District Council's Policy SP19 and the National Planning Policy Framework (NPPF) paragraph 109.

- 18 The development hereby approved shall be constructed in accordance with noise mitigation recommendations as detailed in Section 6.3.3 of the Noise Impact Assessment, reference 7976.2/2079/03, and Section 8.61 of the Environmental Statement, reference K108383.

Reason:

To minimise any noise impact of construction activities on nearby noise sensitive receptors in the interest of amenity

- 19 No external lighting shall be installed on the site until plans have been submitted for the written approval of the Local Planning Authority which shall include details of the following;

- a) A contour map showing illumination spill beyond the site boundary measured in lux in the horizontal plane.
- b) The main beam angle of each light source.
- c) The uniformity ratio in respect of the lighting.
- d) The level of illuminance measured in lux, in the vertical plane at the windows of the nearest residential properties facing the site.
- e) The height of the lighting stanchions.
- f) Luminaire intensity at the receptors.

Thereafter the approved details only shall be implemented.

Reason:

To protect the amenity of the area and to minimise unnecessary light spillage above and outside of the development site and to comply with Policy ENV1 of the LP.

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

(to be inserted into the decision notice)

Reason:

For the avoidance of doubt

### **3.1 Legal Issues**

#### **3.1.1 Planning Acts**

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

#### **3.1.2 Human Rights Act 1998**

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

#### **3.1.3 Equality Act 2010**

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

### **3.2 Financial Issues**

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

### **4. Conclusion**

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

### **5. Background Documents**

- 5.1 Planning Application file reference 2016/1456/EIA and associated documents.

**Contact Officer:** Fiona Ellwood, Principal Planning Officer

**Appendices:** None



# APPLICATION SITE

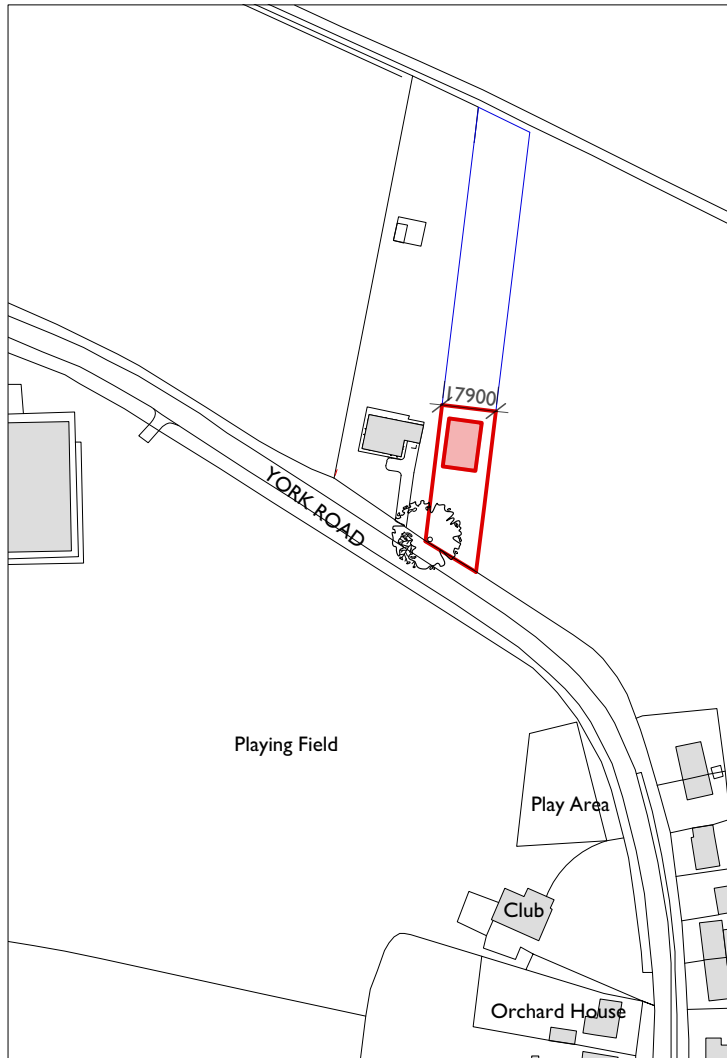
**Item No:** 2016/1514/OUT

**Address:** York Road, North Duffield

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**AMENDED  
 DRAWING**



RIBA WORK STAGE I

CONTRACTOR MUST VERIFY ALL DIMENSIONS ON SITE BEFORE COMENCING ANY WORK OR PRODUCING ANY SHOP DRAWINGS. DO NOT SCALE FROM THIS DRAWING

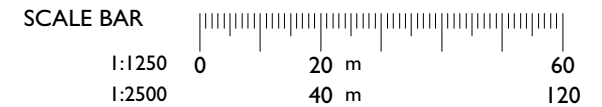


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CLIENT  
 Jennifer Hubbard

JOB  
 North Duffield



JOB NO.

DRAWING  
 Indicative Site Layout

DRG NO. SCALE  
 FF/20/1A 1:2500 @ A4



DRAWN APPROVED DATE  
 EAS CW 03/04/17

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**I SITE PLAN**  
 FF/20/1A Scale: 1:2500

**To: Planning Committee**  
**Date: 14 June 2017**  
**Author: Diane Wilson (Planning Officer)**  
**Lead Officer: Jonathan Carr Interim (Lead Officer – Planning)**

APPLICATION NUMBER:	2016/1514/OUT	PARISH:	North Duffield Parish Council
APPLICANT:	Mr Alexander John Strachan	VALID DATE: EXPIRY DATE:	4th January 2017 1st March 2017
PROPOSAL:	Outline application for erection of 1 No dwelling (all matters reserved)		
LOCATION:	Land North Of York Road North Duffield Selby North Yorkshire		

This application has been brought before Planning Committee due the proposals being contrary to the requirements of the Development Plan.

**Summary:**

The application proposes outline consent planning permission for the 1no. dwelling. The site is located in an area of open countryside approximately 75m north from the defined Development Limits of North Duffield. 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.

This report was originally written for consideration at the May 10th Planning Committee, but the report was deferred to enable consideration of the Supreme Court Judgement regarding Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant) which was made on the 10th May 2017. Following the Judgement the Council has reviewed its approach to decision making on planning applications and the approach in this case is as follows.

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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.

Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:

- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
- (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood, green belt, countryside gaps and heritage assets).

In this case, the “tilted balance” in paragraph 14 applies.

The proposal is considered to be acceptable in principle in respect of matters of acknowledged importance such as climate change, flood risk, drainage, impact on residential amenity, impact on the character of the local area, highway safety, contaminated land and protected species.

Having had regard to all of the above, 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, in particular Paragraph 14, the Selby District Local Plan and the Core Strategy. In this case the “tilted balance” in paragraph 14 applies. It is on this basis that permission is recommended to be granted subject to the conditions and Section 106 agreement.

### **Recommendation**

**This planning application is recommended to be APPROVED subject to the following 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 North Duffield approximately 75m north of the northern boundary of the settlement.
- 1.1.2 There is a mixture of two storey and single storey residential properties located to the south of the site along York Road.
- 1.1.3 The land surrounding the site is in agricultural use.
- 1.1.4 There are a number of small trees located along the front, side and rear boundaries.
- 1.1.5 The site is situated within Flood Zone 1 which is at low probability of flooding.

### **1.2. The Proposal**

- 1.2.1 The application is an outline consent for the erection of 1no. dwelling.

- 1.2.2 The location plan identifies an indicative layout, for one dwelling.
- 1.2.3 The proposed access would be taken from an access point in the southern corner of the site and would lead to a driveway.

### **1.3 Planning History**

- 1.3.1 An application referenced CO/2004/0310 for the erection of a garden shed/potting shed was Granted on 7 May 2004 on the neighbouring site.
- 1.3.2 An application referenced 2015/0193/FUL for the erection of a dwelling for the purposes for a disabled bungalow was granted 9<sup>th</sup> May 2015.

### **1.4 Consultations**

#### **1.4.1 Parish Council**

Object to the application given it is outside development limits.

#### **1.4.2 NYCC Highways**

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

The required visibility splay is 2 metres by 75 metres. It is noted that this is below the recommended visibility splays for a 60 mph road. However given that the site is located just outside of the 30 mph speed limit and drivers navigate the bend in the road. There has been a number of speed checks to ascertain the mean speed in the vicinity of the site. The mean speed associated with the eastern splay 33 mph. Therefore the visibility splay distance could be reduced to 59 metres. With this in mind a reduction in the splay to the east to 75 metres is considered acceptable.

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

#### **1.4.3 Contaminated Land Consultants**

Having reviewed the Screening Assessment Form for the above site, as well as a brief review of readily available online information, WPA recommend that Selby District Council's standard contaminated land condition CL5 should be applied. This is to ensure that a watching brief is carried out during development, whereby in the event of the discovery of evidence of contamination, works should be halted to allow for further investigation. This is a precautionary measure due to the agricultural use of the site and records of a landfill within 300m of the site.

#### **1.4.4 Ouse Area Internal Drainage Board**

The application form indicates that discharge to watercourse may be used. In order to reduce the risk of flooding the Board would recommend that the applicant be asked to demonstrate that there is already an existing connection to the relevant watercourse. Where an existing connection is proven the Board would seek that run off from the site should be constrained and that the discharge from the development is attenuated to 70% of the pre development rate (based on 140/1s/ha for proved

connected impermeable areas and 1.41/s/ha for Green field areas) With storage calculations to accommodate a 1:30 year storm with no surface flooding along the internal flooding of buildings surface run off from the site a 1:100 year storm event an allowance of 20% for climate change should be included in all calculations.

The Board has no objections to the development in principal but recommends that any approval granted to the proposed development should include a condition.

#### 1.4.5 Yorkshire Water

No response at the time of compilation of this report.

### 1.5 **Publicity**

- 1.5.1 The application was advertised by site notice, neighbour notification letter and advertisement in the local newspaper resulting no objections being received.

### **Report**

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

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

The relevant Core Strategy Policies are:

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Development Strategy
SP4	Management of Residential Development in Settlements
SP5	The Scale and Distribution of Housing
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 (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 and Guidance**

Affordable Housing Supplementary Planning Document  
North Duffield Village Design Statement

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 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) Impact on the Character and Form of the Locality
  - b) Flood Risk, Drainage, Climate Change and Energy Efficiency
  - c) Impact on Highways
  - d) Residential Amenity
  - e) Impact on Nature Conservation and Protected Species
  - f) Affordable Housing
  - g) Land Contamination
- 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.

## **2.6 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**

- 2.6.1 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 Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF and should be afforded significant weight.
- 2.6.3 The application site is located outside the defined development limits of North Duffield, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside.
- 2.6.4 Policy SP2A(c) of the Core Strategy states that "Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances."
- 2.6.5 The proposal does not meet Policy SP2A(c) as it is not for rural affordable housing need and there are no special circumstances. The application should therefore be refused unless material considerations indicate otherwise. One such material consideration is the NPPF.
- 2.6.6 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.
- 2.6.6 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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.
- 2.6.7 Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:
- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
  - (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood risk, green belt, countryside gaps and heritage assets).

In this case, the "tilted balance" in paragraph 14 applies.

## Sustainability of development

- 2.6.8 In respect of sustainability, the site is adjacent to the development limits of the village of North Duffield which is a Designated Service Village as identified in the Core Strategy where there is scope for additional residential growth to support rural sustainability. The village contains a public house, a village hall, a part time doctor's surgery, a general store including Post Office, a Primary School, sport and recreation facilities which include children's equipped play area, playing fields with a pavilion, bowls club, cricket and junior football clubs. The nearest secondary school is Barlby High which is 3.5 miles away and direct bus services are provided by the high school. The village has a limited public bus service. One bus runs between Hemingbrough and Selby but this has only 1- 2 daily services towards Selby. One bus runs between York and Market Weighton with 8-10 services on weekdays. The service has been recently cancelled on Sundays.
- 2.6.9 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.
- Economic  
The proposal would provide jobs in the construction of the proposed dwellings. The construction workers may also use the local services within the villages.
- Social  
The proposal would assist in the Council meeting the objectively assessed need for housing in the district.
- Environmental  
The proposal would deliver a high quality home for local people and takes into account environmental issues such as flood risk, climate change, nature conservation and protected species
- 2.6.10 These considerations weigh in favour of the proposal.
- 2.6.11 Paragraph 55 of the NPPF states that local planning authorities should avoid isolated new homes in the countryside unless there are special circumstances. Whether a proposed site is in an isolated location is a matter of fact and degree. It does not therefore follow that all because a dwelling would be outside the defined development limit of a village that it would be isolated. One has to take into account a variety of factors including distance to the village services, the variety of services that are in easy walking distance and the nature of pedestrian accesses. In this respect having taken all these factors into account it is considered that the proposed development would not result in an isolated new home in the countryside.
- 2.6.12 With regard to paragraph 14 of the NPPF, in this case the "tilted balance" referred to in paragraph 2.6.7 applies. On consideration of the above information, it is considered that the proposal is acceptable with regard to the appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability from both local and national policies, subject to compliance with flood risk policies within the NPPF. The impacts of the proposal are considered in the next section of the report.

## **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 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 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 Policies ENV1 (1), (4) of the Local Plan and Policies SP4 and SP19 of the Core Strategy.

2.9.2 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. Paragraph 64 states that "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."

2.9.3 The application is an outline application for 1no. dwelling. The existing properties to the south of the site along York Road vary in terms of their size, scale and design with a mixture of two storey and single storey dwellings. The dwellings tend to be set back from the road and contain small garden areas and driveways to the front/side and small garden areas to the rear. The dwellings are predominantly constructed from red brick with pantile roofs.

2.9.4 Planning permission was given for a detached bungalow reference 2015/0193/FUL on land adjacent to the application site area. This property is set back from the road with a small garden area to the front.

2.9.5 The curtilage of the site reflects the location of the neighbouring property so that the amount of amenity space to the rear of the property is more in keeping with that of other properties along York Road. Following communication with the agent it has been confirmed that the proposed dwelling would be single storey or 1 ½ storey in height and would be of a similar size and scale to other bungalows in the area with a similar layout and orientation. Proposed materials have not been specified at this stage however these can be conditioned.

2.9.6 In taking into account the impact on the landscape character of the locality although the site is outside of the development limits it is located close to the edge of the settlement and immediately adjacent to a development plot to the northwest. It is not considered therefore that the development of the site would be significantly detrimental either on the character of the area or the wider landscape character. Having had regard to the nature of the site which is currently flat open fields with very few features to note and in an area which is not considered to be a sensitive landscape on balance, it is not considered that the proposals would be harmful to the character and form of the locality.

2.9.7 In terms of landscaping and boundary treatments, there has been no information in respect of this. The agent has acknowledged that the tree on the site would remain.

Following a site visit it is noted that there is a hedgerow which runs along some of the highway and the perimeter of the site. However, landscaping would be for future consideration at Reserved Matters stage.

2.9.9 Having had regard to all of the above elements it is considered that the proposals would result in an appropriate design and impact on the character of the area in accordance with Policy ENV 1 (1) and (4) of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

2.9.10 The proposal would therefore be in accordance with Policy ENV1 (4), of the Selby District Local Plan, Policies SP4 and SP19 of Core Strategy and the NPPF.

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

2.10.1 Policies SP15, SP16 and SP19 of the Core Strategy and paragraphs 94 and 95 of the NPPF require proposals to take account climate change and energy efficiency within the design.

2.10.2 The application site is located in Flood Zone 1 (low probability of flooding). The application form states that foul sewage would be disposed of via a package treatment plant with surface water disposed of via soakaways. The Internal Drainage Board (IDB) has raised no objections to the proposals subject to conditions attached to any permission granted.

2.10.3 Subject to the aforementioned conditions, it is considered that the proposal is acceptable in terms of flood risk, drainage and climate change in accordance with Policy ENV1 (3) of the Local Plan, Policies SP15, SP16 and SP19 of the Core Strategy and the advice contained within the NPPF.

## **2.11 Impact on Highways**

2.11.1 Policies ENV1 (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. 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. Paragraph 39 of the NPPF is also of relevance.

2.11.2 The application is for outline consent and an indicative access has been proposed from the southern corner of the site from York Road. NYCC Highways have assessed the application with respect to the impacts on the highway and have confirmed that the proposals are acceptable and should not give rise to highway safety issues subject to conditions.

2.11.3 It is therefore considered that the scheme would be 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 impacts on the highway network subject to conditions.

## **2.12 Residential Amenity**

2.12.1 Policy in respect to impacts on residential amenity and securing a good standard of residential amenity is provided by ENV1 (1) of the Local Plan and Paragraph 200 of the NPPF.



2.12.2 This application is for outline consent for a dwelling, there is a residential property which bounds the application site area. In terms of residential amenity it is considered that this would be considered at a Reserved Matters stage. Therefore it is considered that this proposal is in accordance with Policy ENV1 (1) of the Local Plan and the NPPF.

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

2.13.1 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 and accompanying PPG in addition to the Habitat Regulations and Bat Mitigation Guidelines published by Natural England.

2.13.2 It is noted that the site is not a protected site for nature conservation nor is it known to support any protected species, or any species or habitat of conservation importance. As such it is considered that the proposed would not harm any acknowledged nature conservation interests and therefore would not be contrary Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

### **2.14 Affordable Housing**

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

2.14.2 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.

2.14.3 In the context of the recent Court of Appeal Judgement in relation to the West Berkshire Case the Council is no longer able to seek a contribution for Affordable Housing under SP9 of the Core Strategy and the Affordable Housing SPD. The proposal is contrary to the provisions of the Development Plan but there are material considerations – the High Court decision on the West Berkshire case - which would justify approving the application without the need to secure an affordable housing contribution. The application has to be determined at committee in accordance with the scheme of delegation.

### **2.15 Land Contamination**

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

2.15.2 The application is accompanied by a Contamination Screening Assessment Form which sets out that there is no past or existing contamination issues associated with the site. The report has been assessed by the Council's Contamination Consultant who has raised no objections subject to conditions to ensure that a watching brief is carried out during development, whereby in the event of the discovery of evidence

of contamination, works should be halted to allow for further investigation. This is a precautionary measure due to the agricultural use of the site and records of a landfill within 300m of the site.

2.15.3 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.

## **2.16 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.**

2.16.1 As noted above it is considered that the proposal is within a sustainable location, in assessing the proposal, the development would bring economic, social and environmental benefits to North Duffield. There would be some impact to the character of the village as the proposal is outside of the development limit, would not a significant impact in terms of on the amenity of neighbouring residential properties or the character of the area. It is considered that there are no other 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. With regard to paragraph 14 of the NPPF, in this case the “tilted balance” referred to in paragraph 2.6.7 applies.

2.16.2 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.

## **2.17 Conclusion**

2.17.1 The application proposes outline consent planning permission for the 1no. dwelling. The site is located in an area of open countryside approximately 75m north from the defined Development Limits of North Duffield. 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.

2.17.2 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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.

2.17.3 Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:

- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
- (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood, green belt, countryside gaps and heritage assets).

In this case, the “tilted balance” in paragraph 14 applies.

2.17.4 The proposal is considered to be acceptable in principle in respect of matters of acknowledged importance such as climate change, flood risk, drainage, impact on residential amenity, impact on the character of the local area, highway safety, contaminated land and protected species.

2.17.5 Having had regard to all of the above, 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, in particular Paragraph 14, the Selby District Local Plan and the Core Strategy. In this case the “tilted balance” in paragraph 14 applies. It is on this basis that permission is recommended to be granted subject to the conditions and Section 106 agreement.

### **3.0 Recommendation**

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

05. Before the development hereby approved is commenced a scheme for the discharge of surface and foul water shall be submitted to and approved in writing by the Local Planning Authority. The dwelling hereby approved shall not be brought into use until the scheme for the discharge of foul or surface water has been implemented. The implemented scheme shall be retained for the lifetime of the development.

Reason:

In the interest of satisfactory and sustainable drainage.

06. 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.

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

Reason:

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

08. The site is for a maximum of one dwelling on the site and this should be sited to front the road in a similar position as shown on the indicative plan.

Reason:

In the interests of the character and form of the area and to comply with Policy ENV1

09. Unless otherwise approved in writing by the local planning authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access to the site have been set out and constructed in accordance with the published specification of the Highway Authority and the following requirements

i) the crossing of the highway verge and or footway shall be constructed in accordance with the approved details and or standard detail number ED

ii) Any gates or barriers shall be erected a minimum of distance of 6 metres back the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway

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

Reason - To ensure satisfactory means of access to the site from the public highway and in the interest of vehicle and pedestrian highway and convenience to accord with policy ENV1 T1, and T2 of the Selby District Local Plan.

#### **Informative**

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

10. There shall be no access or egress by any vehicle between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 180 metres measured along the western channel line and 75 metres to the eastern channel line of the York Road from a point measured 2 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created these visibility areas shall be maintained clear of any obstruction and retained for their intended purposes at all times.

Reason - In accordance with ENV1, T1 and T2 of the Selby District Local Plan and in the interests of highway safety.

#### **Informative**

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

11. Unless otherwise approved in writing by the local planning authority there shall be no excavation or other groundworks except for investigative works or the depositing of material on the site in connection with the construction of the access road or building or other works hereby permitted until full details of the following have been submitted to and approved in writing by the local planning authority in consultation with the Highway Authority

i) Vehicular and cycle parking

ii) Vehicular turning arrangements

Reason - In accordance with ENV1 T1 and T2 of the Selby District Local Plan and to ensure appropriate on site facilities in the interest of highway safety and the general amenity of the development. Once created these shall be maintained clear of any obstruction and retained for their intended purposes at all times.

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

12. No part of the development shall be brought into use until the approved vehicle access, parking manoeuvring and turning areas approved under

i) are available for use unless otherwise approved in writing by the local planning authority

Reason - In accordance with ENV1 T1 and T2 of the Selby District Local Plan and to provide appropriate on site vehicle facilities in the interest of highway safety and the general amenity of the development.

13. 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.

#### **4.1 Legal Issues**

##### **4.1.1 Planning Acts**

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

##### **4.1.2 Human Rights Act 1998**

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

##### **4.1.3 Equality Act 2010**

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

## **5.1 Financial Issues**

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

## **6. Conclusion**

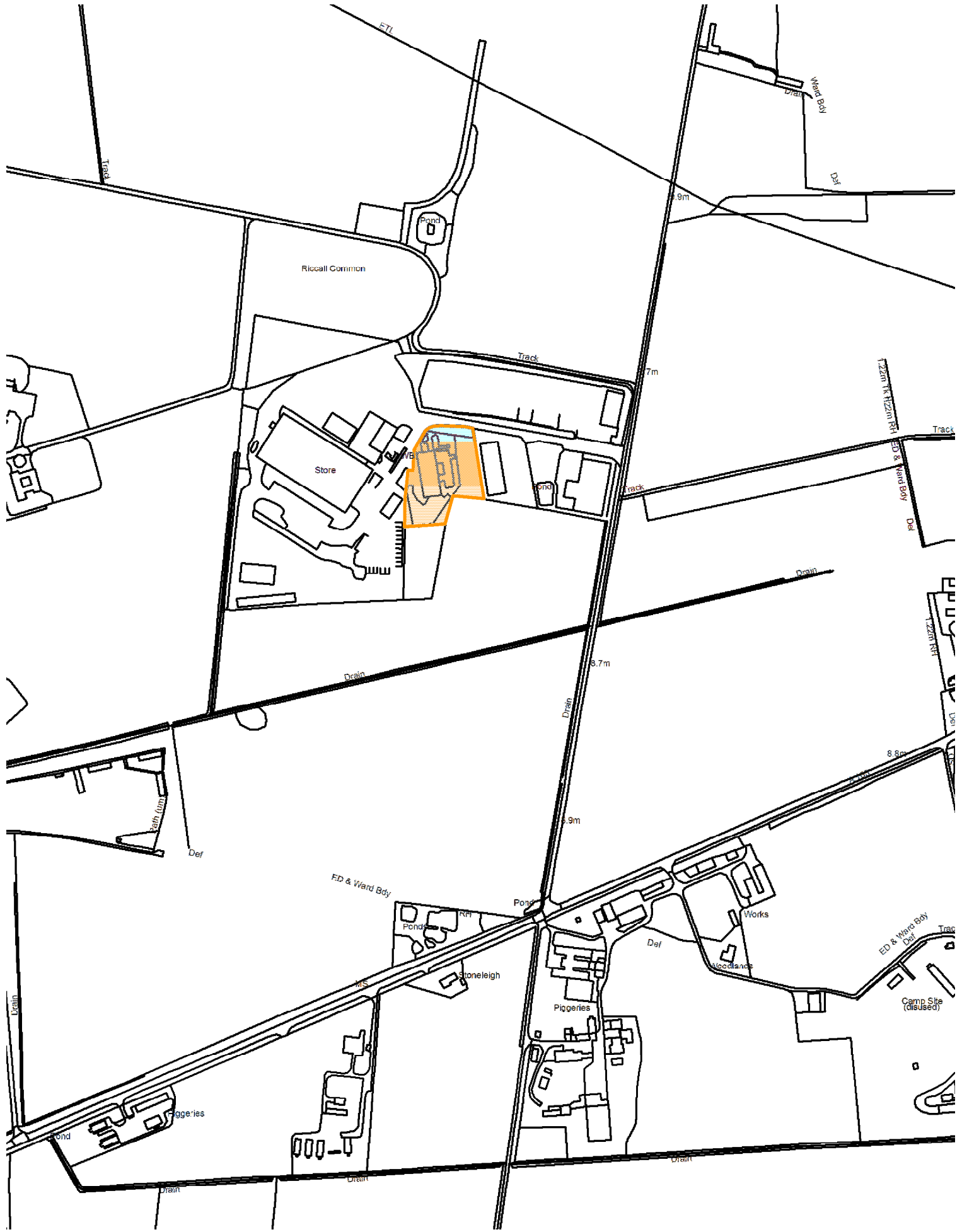
7.1 As stated in the main body of the report.

## **7. Background Documents**

7.1 Planning Application file reference 2016/1514/OUT and associated documents.

**Contact Officer:** Mrs Diane Wilson (Planning Officer)

**Appendices:** None



# APPLICATION SITE

**Item No:** 2016/1339/FULM

**Address:** Bottle Decoration Solutions Ltd, Riccall Airfield, Market Weighton Road, Barlby

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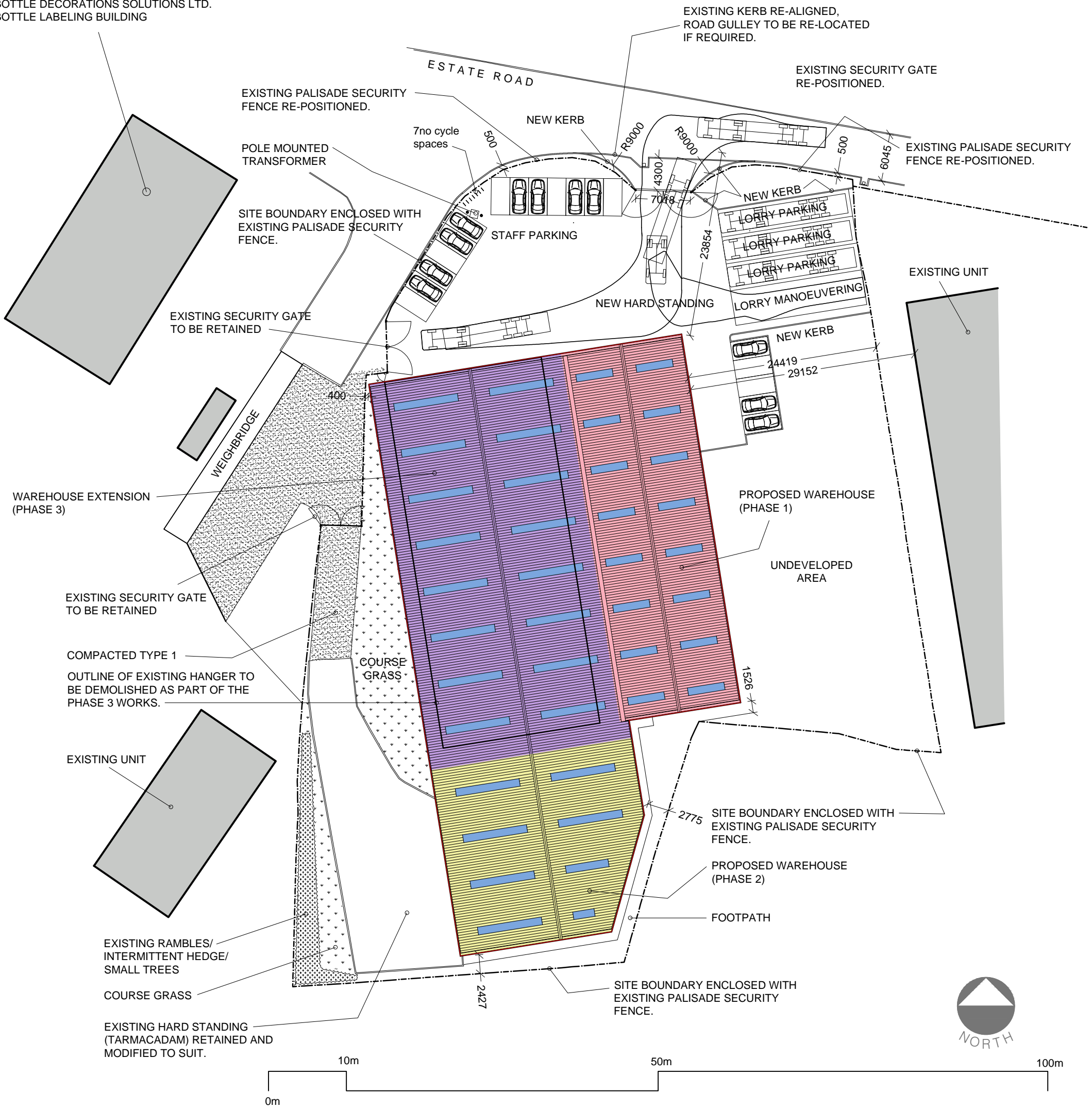


# AMENDED DRAWING

## PHASE KEY

- PHASE 1 - NEW WAREHOUSE
- PHASE 2 - NEW WAREHOUSE
- PHASE 3 - WAREHOUSE EXTENSION

BOTTLE DECORATIONS SOLUTIONS LTD.  
BOTTLE LABELING BUILDING



Rev	Date	Description	Initial
A	13.12.16	5 car park spaces added to east side of Phase 1	djk

Client BOTTLE DECORATIONS SOLUTIONS LIMITED

Project PROPOSED WAREHOUSE DEVELOPMENT  
RICCALL AIRFIELD INDUSTRIAL ESTATE,  
BARLBY, SELBY, Y08 5LD.

Title SITE (BLOCK) PLAN

Prj No 16-137

Scale 1:500@A3

Grindell House 35 North Bar Within Beverley HU17 8DB

Drg No 02

Date NOVEMBER 2016

Tel 01482 867731

Revision

Drawn DJK

info@grahambinningtonarchitects.co.uk



graham binnington architects



**Report Reference Number 2016/1339/FULM (8/15/470/PA)**

**Agenda Item No: 7.7**

**To:** Planning Committee  
**Date:** 14<sup>th</sup> June 2017  
**Author:** Mr Keith Thompson (Senior Planning Officer)  
**Lead Officer:** Jonathan Carr (Interim Lead Officer – Planning)

APPLICATION NUMBER:	2016/1339/FULM 8/15/470/PA	PARISH:	Riccall Parish Council
APPLICANT:	Bottle Decoration Solutions Ltd	VALID DATE:	24th November 2016
		EXPIRY DATE:	23rd February 2017
PROPOSAL:	Three phase extension to an existing warehouse facility with eventual demolition of the existing warehouse		
LOCATION:	Bottle Decoration Solutions Ltd, Riccall Airfield, Market Weighton Road Barlby, Selby, North Yorkshire, YO8 5LD		

This application has been brought before Planning Committee due to being a Departure from the Development Plan as the application site lies with the Former Airfield at Riccall Common which is designated as RIC/1 in the Selby District Local Plan. RIC/1 refers to land being allocated for storage and distribution uses and must be related to the expansion requirements of existing agriculture related businesses. The proposal does not fall under this requirement.

**Summary:**

The development of this site for the phased erection of three storage buildings in association with an existing storage and label bottling plant is considered to conflict with the allocation RIC/1 as the proposal does not relate to the expansion requirements of existing agriculture related businesses. However, Policy SP13 of the Core Strategy and the NPPF places significant weight in supporting expansion of existing businesses.

Furthermore, there have been many permissions granted on the airfield site for other industrial and related uses including haulage, vehicle maintenance and repair and a concrete batching plant. Also an appeal decision in 2000 granted permission for general

industrial use on the airfield site. The Inspector referred to the allocated use and the little uptake for the allocated use. In allowing the appeal the Inspector noted that there would still be sufficient land available for the type of development envisaged by the Council. Considerable time has elapsed since this appeal decision and the market for provision of storage and distribution for expansion requirements of existing agriculture related businesses would appear to have dimensioned significantly.

Therefore it is considered that Policy RIC1 provides justification for the principle of development on the site. At the same time, however, it is considered that the combination of the appeal decision, the subsequent planning permissions and the developments which have now occurred on the Airfield are significant material considerations.

In effect it is considered that these material considerations have significantly reduced the weight that should now be given to the specific policy requirement of reserving the Airfield for storage and distribution uses in connection with agriculturally-related businesses.

Consequently, it is considered that the development of the current application site for general storage purposes would be acceptable. The material considerations referred to above have indicated that a determination other than in accordance with the development plan would be appropriate in this instance.

## **Recommendation**

**This planning application is recommended to be APPROVED subject to conditions detailed in Paragraph 3.0 of the Report, and there being no objection received from NYCC Flood Risk Officer.**

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

#### **1.1 The Site**

1.1.1 The application site is part of the former airfield. It lies approximately 1.8km northeast of Barlby and 2.5km southeast of Riccall. It is 500 metres north of the A163 Market Weighton Road, and 300 metres south of Skipwith Common. Access is via Robinson Lane, which is a two-lane metalled road.

1.1.2 The site is currently occupied by a former aircraft hangover and is used for storing bottles that would be used in an adjacent building for labelling. The existing building is circa 883m<sup>2</sup>.

1.1.3 The site itself is largely covered in hard standing and is enclosed with security fencing. On nearby parts of the airfield there are a number of transport depots and vehicle-related uses with extensive areas of open storage and service yards. Some undeveloped land also remains. To the south of the site the land is in agricultural use.

#### **1.2 The Proposal**

1.2.1 The proposed development is to erect three warehouses for storage of bottles in association with the adjacent bottling labelling site. The buildings would be erected in three phases, with the latter resulting in the existing former hanger building being demolished for building three.

- 1.2.2 Phase 1 building would be circa 702m<sup>2</sup> and sited east of the existing building with a long narrow layout. Phase 2 building would be circa 546m<sup>2</sup> and be a free standing unit sited south of the existing unit. Bottle storage would then be shared between Phase 1 and 2 whilst the existing warehouse is demolished and Phase 3 building erected on the larger footprint and circa 1236m<sup>2</sup>.
- 1.2.3 The units would be constructed using coated composite profiled metal cladding walls with the roof the same. Colours and finishes to be approved.

### **1.3 Planning History**

- 1.3.1 There is no relevant planning history on the site.

### **1.4 Consultations**

- 1.4.1 Parish Council  
No objection

- 1.4.2 NYCC Highways  
No objections subject to conditions.

- 1.4.3 Planning Yorkshire Water  
No comments received during the statutory consultee period.

- 1.4.4 Archaeology Officer  
No objection

- 1.4.5 The Ouse & Derwent Internal Drainage Board  
No objection subject to conditions to secure surface water detail.

- 1.4.6 NYCC Flood Risk Officer  
Comments are awaited and will be reported to Members at Committee.

### **1.5 Publicity**

- 1.5.1 The application has been advertised by press and site notice and neighbour letter with no representations being received as a result.

## **2 Report**

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

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

The relevant Core Strategy Policies are:

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

### **2.1.2 Selby District Local Plan**

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

The relevant Selby District Local Plan Policies are:

- ENV1 - Control of Development
- T1 - Development in Relation to Highway
- EMP9 – Expansion of Existing Employment Uses
- RIC/1 - Former Airfield, Riccall Common (Inset Proposals Map No 50)

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

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

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

## **2.2 Key Issues**

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

1. Principle of Development
2. Design and Impact on Character of the Area
3. Impact on Highways
4. Residential Amenity
5. Nature Conservation

## 6. Flood Risk, Drainage, Climate Change and Energy Efficiency

### 2.3 Principle of Development

- 2.3.1 Policy SP1 of the Selby District Core Strategy Local Plan (2013) sets out that when considering development proposals the Council will take a positive approach that reflects the presumption of sustainable development as contained in the National Planning Policy Framework (NPPF). It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.
- 2.3.2 There are a number of policies within the development plan that are relevant. These include Core Strategy Policies SP2, SP13, SP15, SP18 and SP19. Taken together, the main thrust of these policies is that development in the open countryside (outside development limits) will generally be resisted unless it involves the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes and well-designed new buildings. Proposals of an appropriate scale which would diversify the local economy (consistent with the NPPF) or meet affordable housing needs (adjoining the development limits of a village and which meet the provisions of Policy SP9), or other special circumstances, may also be acceptable.
- 2.3.3 Policy SP13 states that in rural areas sustainable development on both greenfield and previously developed sites which brings sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported including rural tourism and other small scale rural development.
- 2.3.4 Policy EMP9 of Selby District Local Plan supports the expansion of existing industrial businesses outside development limits subject to four criteria which includes, highways, character and appearance of the area, design and loss of agricultural land. These points are discussed further in the report.
- 2.3.4 Under Policy RIC/1 of the Selby District Local Plan: "Land at the former Airfield, Riccall Common, as defined on the Inset Proposals Map, is allocated for storage and distribution use (Class B8). Proposals must be related to the expansion requirements of existing agriculture related businesses."
- 2.3.5 The proposal does not accord with the allocated requirements of the site as the warehouses would be used to store bottles and not related to the expansion requirements of existing agriculture related businesses.
- 2.3.6 Policy SP13 of the Core Strategy and the NPPF places significant weight in supporting expansion of existing businesses. Policy SP2 of the Core Strategy also permits the extension of existing buildings for employment purposes. These policies are considered to be more inline with the NPPF in supporting economic growth of existing businesses in the countryside.
- 2.3.7 Despite the proposal failing to accord with Policy allocation RIC1, there is strong Policy justification to support the proposal. The phased warehouses would support and facilitate the expansion of an existing business in a location that includes light

industrial uses, vehicle maintenance and a concrete batching plant. Therefore it is considered that Policy RIC1 provides justification for the principle of development on the site. At the same time, however, it is considered that the combination of the subsequent planning permissions and the developments which have now occurred on the Airfield are significant material considerations.

- 2.3.8 An appeal decision in 2000 granted permission for general industrial use on the airfield site. The Inspector referred to the allocated use and the little uptake for the allocated use. In allowing the appeal the Inspector noted that there would still be sufficient land available for the type of development envisaged by the Council. Considerable time has elapsed since this appeal decision and the market for provision of storage and distribution for expansion requirements of existing agriculture related businesses would appear to have dimensioned significantly.
- 2.3.9 In effect it is considered that these material considerations have significantly reduced the weight that should now be given to the specific policy requirement of reserving the Airfield for storage and distribution uses in connection with agriculturally-related businesses.
- 2.3.10 Consequently, it is considered that the development of the current application site for general storage purposes would be acceptable. The material considerations referred to above have indicated that a determination other than in accordance with the development plan would be appropriate in this instance. The proposal is thereby considered to accord with the Core Strategy Policies and NPPF with limited weight given to allocation RIC1.

## **2.4 Design and Impact on the Character and Form of the Area**

- 2.4.1 Relevant policies in respect of design and impact on the character of the area include Policy ENV1 (1) and (4), EMP9 (2), (3) and (4) of the Selby District Local Plan and Policies SP4 and SP19 of the Core Strategy.
- 2.4.2 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.
- 2.4.3 The scale, bulk and mass of the proposed storage buildings would resemble units found elsewhere on the industrial estate. The buildings would have pitched roofs with metal clad roofs and walls.
- 2.4.4 The buildings would relate to their surroundings and not look out of place on the estate. Colour detail to the external surfaces can be controlled by condition.
- 2.4.5 Policy EMP9 seeks new proposals to achieve a high standard of design and not have a significant adverse effect on the character and appearance of the area. The buildings are designed for a specific purpose, to store bottles and thus the scope to seek a scale and design other than that proposed would not be appropriate in this location.
- 2.4.6 Policy EMP9 (4) refers to proposals not expanding into adjoining agricultural land which this proposal would not, given it lies within an existing site within an allocated industrial estate. Furthermore the policy seeks proposals to be well screened and

landscaping. There is little scope to introduce these aspects into this type of proposal and given the nature of the site would prove fruitless.

2.4.7 It is therefore considered that the proposed development would accord with Policies EMP9 (2), (3) and (4) and ENV1 (1) and (4) of the Selby District Local Plan and Policies SP4 and SP19 of the Core Strategy.

## **2.5 Impact on Highways**

2.5.1 Policy in respect of highway safety and capacity is provided by Policies ENV1(2), EMP9 (1) and T1 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF. These policies should be afforded significant weight.

2.5.2 The proposal provides for on-site parking and vehicle turning along the northern area of the site with two access into the site. There is parking spaces provided for lorry parking and staff parking and a turning area.

2.5.3 NYCC Highways have provided input to the application regarding the parking layout and the agent made minor changes. These have been accepted and are considered to raise no adverse issues for highway safety or the local highway network.

2.5.4 NYCC Highways suggest conditions which are considered reasonable and necessary to control the development. It is therefore considered that the proposal would not result in a detrimental impact on the existing highway network in accordance with Policies EMP9 (1), ENV1 (2) and T1 of the Selby District Local Plan.

## **2.6 Residential Amenity**

2.6.1 Relevant policies in respect to impacts on residential amenity include Policies ENV1 (1) and EMP9 (1) of the Local Plan. Policy ENV1(1) should be afforded significant weight given that it does not conflict with the NPPF.

2.6.2 The site is located significant distance from any houses with neighbours on the estate being commercial operations of various nature. There would therefore be adverse harm to residential amenity.

2.6.3 The proposal is thereby considered to accord with the aforementioned policies.

## **2.7 Nature Conservation**

2.7.1 Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 109 to 125 of the NPP and accompanying PPG in addition to the Habitat Regulations and Bat Mitigation Guidelines published by Natural England.

2.7.2 In respect to impacts of development proposals on protected species planning policy and guidance is provided by the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010 and the NPPF. The presence of a protected species is a material planning consideration. In addition



Policies ENV1(5) and EMP9 (2) require proposals not to harm acknowledged nature conservation interests.

- 2.7.3 The proposal includes the demolition of a warehouse building that is fully operational. This building would be removed after Phases 1 and 2 have been complete and thus the existing building is not likely to be left vacant.
- 2.7.4 It is noted that there is a pond within 500m of the application site located to the east in the form of a surface water lagoon. The pond is sited within the Gel Systems Ltd site and the pond was installed to collect surface water from their buildings roof and hard standing areas. Upon request the agent has submitted a Scoping Survey.
- 2.7.5 The survey was carried out to determine the impact of the development on Great Crested Newts. The survey was carried out by the same reporter who conducted a survey in 2014 for development on the adjacent site to the east which butts the pond site.
- 2.7.6 The site was visited on 25<sup>th</sup> April 2017 and the survey notes that the site forms part of Ricall Airfield Industrial Estate, which contains several large buildings of modern construction in light industrial use. The proposed site contains large proportion of hard concrete surfaces and areas of consolidated hardcore surrounding an existing building.
- 2.7.7 The survey notes in addition to the storm water lagoon at Gel Systems site, there are three other ponds identified in the vicinity and within a radius of 500m of the application site.
- 2.7.8 The survey concludes to say that there is no aquatic environment or habitat within the application site and the land within the immediate development footprint provides poor quality terrestrial habitat for great crested newts, due to the extensive expanse of gravel within the yard and concrete areas immediately adjacent.
- 2.7.9 Furthermore, the closest pond at Gel Systems site has been demonstrated through the survey that there is a lack of habitation of Great Crested Newts. It is noted that this pond would not be directly affected by any works on the application site and there would be no impact on the surrounding landscape.
- 2.7.10 It is therefore considered that given the points raised in the survey and discussed above, that the proposal would not raise adverse issues for nature conservation in this locality and the proposal is thereby considered to accord with the aforementioned policies.

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

- 2.8.1 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account climate change and energy efficiency within the design. Relevant paragraphs in the NPPF include paragraph 94.
- 2.8.2 The application site is located in Flood Zone 1 (low probability of flooding).
- 2.8.3 No comment has been received from Yorkshire Water. The Drainage Board has provided comment, noted above, and they seek detail on surface water drainage

and noted an informative. It would be necessary to secure a phased condition for surface water drainage detail to be submitted and approved. Comments are awaited from the NYCC Flood Risk Officer and Members will be updated at Committee.

- 2.8.4 It is therefore considered that the proposal subject to no objections being received from NYCC Flood Risk Officer are in accordance with Policies SP15, SP16 and SP19 of the Core Strategy Local Plan, and the NPPF, subject to condition.

## **2.9 Conclusion**

- 2.9.1 The development of this site for the phased erection of three storage buildings in association with an existing storage and label bottling plant is considered to conflict with the allocation RIC/1 as the proposal does not relate to the expansion requirements of existing agriculture related businesses. However, Policy SP13 of the Core Strategy, EMP9 of the Local Plan and the NPPF place significant weight in supporting the expansion of existing businesses.
- 2.9.2 It is also noted that planning permissions granted on the industrial estate have demonstrated that there is little market interest in using the site for the expansion requirements of existing agriculture related businesses.
- 2.9.3 Therefore it is considered that Policy RIC1 provides justification for the principle of development on the site. At the same time, however, it is considered that the combination of the 2000 appeal decision, the subsequent planning permissions and the developments which have now occurred on the Airfield are significant material considerations.
- 2.9.4 Consequently, it is considered that the development of the current application site for general storage purposes would be acceptable. The material considerations referred to above have indicated that a determination other than in accordance with the development plan would be appropriate in this instance.
- 2.9.5 The proposal is considered to be acceptable in respect of matters of acknowledged importance such as design and impact on the character and form of the area, highway safety, drainage and flood risk, residential amenity and nature conservation.

## **3.0 Recommendation**

This planning application is recommended to be APPROVED subject to conditions below and there being no objection received from NYCC Flood Risk Officer.

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 vehicle parking, turning areas and access shown on drawing no. 02 Rev A shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

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

03. No phase of the development shall begin until a surface water drainage scheme for the phase, based on sustainable drainage principles have been submitted to and approved in writing by the Local Planning Authority. The scheme to be submitted shall consider the following:-

- Any proposal to discharge surface water to a watercourse from the redevelopment of a brownfield site should first establish the extent of any existing discharge to that watercourse.
- Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140lit/sec/ha or the established rate whichever is the lesser for the connected impermeable area).
- Discharge from “greenfield sites” taken as 1.4 lit/sec/ha (1:1yr storm).
- Storage volume should accommodate a 1:30 yr event with no surface flooding and no overland discharge off the site in a 1:100yr event.
- A 20% allowance for climate change should be included in all calculations.
- A range of durations should be used to establish the worst-case scenario.
- The suitability of soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 or other approved methodology.

Reason:

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

04. Prior to occupation of the buildings hereby permitted, detail of the colour finish to the buildings shall be submitted to and approved in writing by the Local Planning Authority. The approved colour finish shall be retained and maintained for the lifetime of the development.

Reason:

In the interests of visual amenity and the character of the area in order to comply with Policies ENV1 and EMP9 of the Selby District Local Plan.

05. The development shall be carried out in complete accordance with the recommendations set out in the “Report on Survey into Protected Species and Habitats” received 10<sup>th</sup> May 2017 by Environmental Resource Management, unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interests of ensuring that the scheme avoids potential impacts on Protected Species and in accordance with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and the NNPF.

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

- Location Plan 01
- Planning Layout 02A
- Existing Plans 03
- Proposed Plans 04
- Proposed Plans 05
- Proposed Plans 06

Reason:

For the avoidance of doubt

### **3.1 Legal Issues**

#### **3.1.1 Planning Acts**

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

#### **3.1.2 Human Rights Act 1998**

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

#### **3.1.3 Equality Act 2010**

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

### **3.2 Financial Issues**

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

### **4. Conclusion**

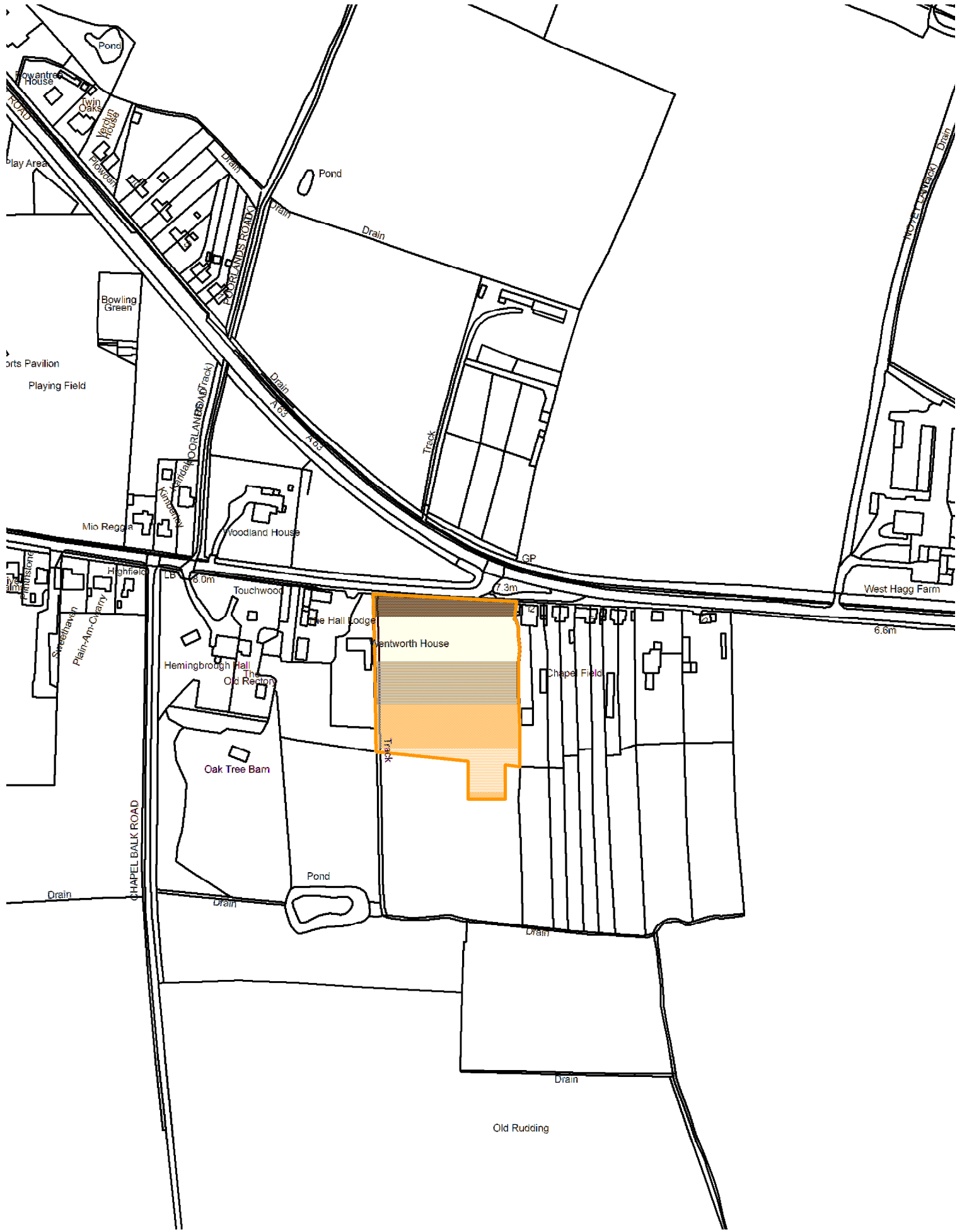
4.1 As stated in the main body of the report.

### **5. Background Documents**

5.1 Planning Application file reference 2016/1339/FULM and associated documents.

**Contact Officer:** Mr Keith Thompson (Senior Planning Officer)

**Appendices:** None



# APPLICATION SITE

**Item No:** 2016/1337/OUTM

**Address:** School Road, Hemingbrough

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KEY

- Distance from existing Properties
- Site Boundary
- · · Site Extents
- Active Facade
- Access to private Driveway
- Active Frontage
- Area of Proposed Driveway
- Possible Area for Housing



AMENDED  
DRAWING

RECEIVED
28.04.2017
BUSINESS SUPPORT

Hemingbrough, Selby, North Yorkshire

1:1000, Proposed Indicative Site Plan  
Mawson Kerr Architects Ltd, 6-8 Charlotte Square, Newcastle upon Tyne, NE1 4XF

**MAWSONKERR**  
Architecture and Sustainability

AL(0)01D <sup>219</sup>



**Report Reference Number: 2016/1337/OUTM**

**Agenda Item No: 7.8**

**To: Planning Committee**  
**Date: 14 June 2017**  
**Author: Calum Rowley (Senior Planning Officer)**  
**Lead Officer: Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2016/1337/OUTM 8/18/453A/PA	PARISH:	Hemingbrough Parish Council
APPLICANT:	York Diocesan Board of Finance	VALID DATE:	3 January 2017
		EXPIRY DATE:	4 April 2017
PROPOSAL:	Outline application for residential development of up to 21 dwellings (with all matters reserved) on land to the east of		
LOCATION:	School Road, Hemingbrough, Selby, North Yorkshire		

This application has been brought before Planning Committee due to the application being recommended for approval contrary to the provisions of the Development Plan.

**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 east and west, School Road to the north and a drainage ditch to the south.

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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.

Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:

- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or

- (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood risk, green belt, countryside gaps and heritage assets).

No specific policies which restrict development apply to this application therefore the 'tilted balance' in paragraph 14 applies.

In assessing the proposal against the three dimensions of sustainable development set out within the NPPF, the development is considered to provide a range of 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 in close proximity to the boundary of a Designated Service Village which has good access to local services and public transport;
- 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..

The proposals could achieve an appropriate layout, appearance, landscaping, scale and access 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, drainage and climate change, protected species, archaeology and contamination in accordance with policy.

Having had regard to all of the above, 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, in particular Paragraph 14, the Selby District Local Plan and the Core Strategy. In this case the "tilted balance" in paragraph 14 applies. It is on this basis that permission is recommended to be granted subject to the conditions and Section 106 agreement.

### **Recommendations:**

**This 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 recreation open space provision and maintenance and a waste and recycling contribution and the conditions detailed at section 2.21 of this report.**

## **1. Introduction and background**



## **1.1 The Site**

- 1.1.1 The application site is located outside the defined development limits of Hemingbrough, being located to the east of the existing settlement boundary and lies within Flood Zone 1.
- 1.1.2 The site is currently in arable agricultural use with existing residential properties to the east and west, School Road to the north and a drain to the south.
- 1.1.3 The surrounding residential properties are two storeys in height and constructed of facing brick with a tiled roof.
- 1.1.4 The site is bounded by hedgerow and a number of trees along the eastern, northern and western site boundaries.

## **1.2. The Proposal**

- 1.2.1 The application is for outline consent for residential development with all matters reserved for the development of up to 21no residential properties with associated recreational open space and dry offline basin.
- 1.2.2 The submitted indicative layout shows how the site could be laid out with two rows of residential development to the front of the site around a lopped internal access road.

## **1.3 Planning History**

- 1.3.1 An outline application (2015/1223/OUT) for residential development of up to 21 dwellings (with all matters reserved) on land to the east of School Road, Hemingbrough was withdrawn on 25 January 2016.

## **1.4 Consultations**

- 1.4.1 Hemingbrough Parish Council  
Strongly object (unless significant road improvements are carried out) for the following reasons:

- 1) The development would extend the village and there is sufficient brownfield land within the village that should be used before a greenfield site;
- 2) Lack of infrastructure to support further development;
- 3) Planning conditions should ensure that the hedges and trees remain on site;
- 4) No drives should come out directly onto School Road and the line of sight must be kept open for safety reasons;
- 5) The proposed development would cause a build-up of traffic pulling out onto the A63 from School Road. This entrance/exit to the village would need to be developed for any future traffic increase and a roundabout/waiting area in the road for turning into School Road would be required (at the applicants cost) on the grounds of safety.

If road improvements are not carried out then this development should be refused.

- 1.4.2 NYCC Highways

The amended site plan has addressed initial highways concerns. The site would require 2no car parking spaces for 2 & 3 bedroom dwellings and 3no spaces for 4 plus bedroom dwellings. It is noted that all matters are reserved and therefore car parking levels can be addressed at reserved matters. Several conditions are recommended.

#### 1.4.3 Yorkshire Water

Recommend one condition in order to protect the local aquatic environment and YW infrastructure. The Flood Risk and Drainage Assessment indicates that foul water will discharge to the public foul sewer and surface water will discharge to Barmby Pastures Drain. It is also advised that the access road may affect an existing live water main that is laid in the highway (and grass verge) and any works in the public highway will be controlled under NRASWA (New Roads and Street Works Act).

#### 1.4.4 The Ouse & Derwent Internal Drainage Board

There is no objection to the principle of this application if a SUDS solution can be established to work at this location and several conditions are recommended.

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

No response at the time of compilation of this report.

#### 1.4.6 Education Directorate North Yorkshire County Council

Based on the 21 2+ bedroom properties, no shortfall of school places would arise as a result of this development and a contribution would not be sought for primary or secondary education facilities.

#### 1.4.7 Yorkshire Wildlife Trust

It is recommended if the authority gives planning permission for this application that the following are put in place:

- A hedgerow survey to show whether the hedgerows are 'important' under the Hedgerow Regulations. Judging from the field patterns in the area it is likely that the hedges date back to the Enclosure Acts and the Ecology Report by Enviroscope Consulting mentions that some of the hedgerows are species rich. If hedges are to be cut down or incorporated into gardens it may be necessary for a hedgerow removal application. The final design of the site will need to take the hedgerows into consideration with sufficient root protection provided and a hedgerow management plan as part of an Ecological Management Plan for the site;
- Design of the Landscape Buffer area to the south of the development area should assume the potential presence of water vole. Issues such as protecting the pond and ditches from domestic animals such as dogs and cats would need to be covered plus appropriate planting if necessary;
- A low level lighting plan which will not impact protected species such as bats should be conditioned.
- The SUDS should be designed to enhance biodiversity;
- The recommendations from the August 2016 surveys by Enviroscope should be conditioned so that updated information on the presence of water vole is obtained;
- If trees with potential for the presence of bats are to be felled the recommendations on page 16 of the Ecology Survey must be followed.

#### 1.4.8 Natural England

Internationally and nationally designated sites

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the River Derwent Special Area of Conservation (SAC) which is a European site. The site is also notified at a national level as The River Derwent Site of Special Scientific Interest (SSSI).

#### Natura 2000 - No objection

In advising your authority on the requirements relating to Habitats Regulations Assessment, and to assist you in screening for the likelihood of significant effects, based on the information provided, the following advice is offered:

- the proposal is not necessary for the management of the European site
- that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment

#### SSSI – No objection

The River Derwent SSSI does not represent a constraint in determining this application.

#### Other advice

The Local Planning Authority (LPA) is expected to 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.

#### Protected Species

Refer to Standing Advice on protected species.

#### 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, if it is minded to grant permission for this application.

#### 1.4.9 North Yorkshire Bat Group

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

#### 1.4.10 Police Architectural Liaison Officer

Advice and recommendations are made for consideration at reserved matters stage.

#### 1.4.11 North Yorkshire And York Primary Care Trust

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

#### 1.4.12 North Yorkshire Fire & Rescue Service

The proposal should demonstrate compliance with the requirement B5 of Schedule 1 to the Building Regulations 2000 (as amended), access and facilities for the fire service. It is assumed that the provision of water for firefighting will meet the requirement set out in National guidance documents on the provision of water for firefighting, Appendix 5.

#### 1.4.13 Vale of York CCG

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

#### 1.4.14 Historic Environmental Records (HER) Officer

The developer has provided an archaeological geophysical survey of the development area. The survey has been carried out to a very high specification and has picked up very ephemeral features such as drains and furrows. This demonstrates that the technique has been successful and would have identified archaeological remains had they been present. The report provides sufficient information on which to determine the planning application (NPPF para. 128).

As the geophysical survey has proved largely negative (with some features interpreted as modern or agricultural) the site appears to have a low archaeological potential.

There is no objection and no further comments to make.

#### 1.4.15 Lead Officer – Environmental Health

The proposed development is of a relatively 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 1990 allows for the abatement of statutory nuisance in relation to noise, dust and vibration. It is however stressed that whilst a development may detrimentally impact upon existing residential amenity, it may not be deemed to constitute a statutory nuisance. It might be unwise in these circumstances to rely on the alternative control being exercised in the manner or to the degree needed to secure planning objectives and therefore, one condition is recommended should planning consent be granted.

#### 1.4.16 Lead Officer-Development Policy

*The Council's Five Year Housing Land Supply*

Members will be updated at Committee in relation to these comments.

Further comments provided in regards to:  
The Principle of Development;  
Previous Levels of Growth and the Scale of the Proposal;  
Relationship of the Proposal to the Development Limit; and  
Density and the built form.

#### 1.4.17 SuDS Officer

The site has been assessed previously as part of application 2015/1223/OUT and one condition was recommended. There is no objection to the proposal and the same condition is recommended. The conditions recommended by the Ouse and Derwent Internal Drainage Board have been noted and are also suitable and to

avoid duplication, there would not be any issues with the planning authority using the Board's conditions only providing the allowance for climate change is 30% not 20%.

#### 1.4.18 WPA Environmental (Contaminated Land Consultants)

Provided comments on the previous application (2015/1223/OUT) which concluded, and recommended that while the report is not compliant with technical guidance and contains contradictions in its conclusions; due to some possible sources of contamination found during the walkover and the sensitivity of the end user being residential with gardens, then some intrusive investigation may be prudent. Recommended that conditions are attached to any permission granted.

## 1.5 **Publicity**

1.5.1 The application was advertised by site notice, neighbour notification letter and advertisement in the local newspaper which has resulted in one letter of representation being received raising the following issues:

- The land on the opposite side of School Road has been granted planning permission which is a big mistake.
- Both these plots are very close to the junction of School Lane with the A63.
- This is a very busy road used by all modes of transport, both private and commercial.
- Traffic already can cause a delay in being able to access School Road.
- The local bus provision is poor.
- Vehicles parked on the road make it difficult to drive down if you meet a vehicle coming the opposite way.
- The village school capacity would struggle to cope with the influx of children.
- Level of traffic and safety is a concern.
- A major accident is waiting to happen if this goes ahead.
- Is this not within the Green Belt?

## 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 Local Plan Policies are:

Policy SP1:                      Presumption in favour of Sustainable Development

Policy SP2:	Spatial Development Strategy
Policy SP5:	The Scale and Distribution of Housing
Policy SP8:	Housing Mix
Policy SP9:	Affordable Housing
Policy SP15:	Sustainable Development and Climate Change
Policy SP16:	Improving Resource Efficiency
Policy SP17:	Low Carbon and Renewable Energy
Policy SP18:	Protecting and Enhancing the Environment
Policy SP19:	Design Quality

### 2.3 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 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  
Hemingbrough Village Design Statement

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

The National Planning Policy Framework introduces, in paragraph 14, a presumption in favour of sustainable development. It 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".

This 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. 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) Layout, appearance, scale and landscaping and Impact on the Character of the Area
  - b) Impact on Residential Amenity
  - c) Impact on the Highway
  - d) Impact on Nature Conservation and Protected Species
  - e) Affordable Housing
  - f) Housing Mix
  - g) Flood Risk, Drainage and Climate Change
  - h) Land Contamination
  - i) Recreational Open Space
  - j) Education, Healthcare and Waste & Recycling
  - k) Archaeology
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.

**2.6 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 Hemingbrough 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%.
- 2.6.7 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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.
- 2.6.8 Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:
- (i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
  - (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood, green belt, countryside gaps and heritage assets).

In this case, the “tilted balance” in paragraph 14 applies.

- 2.6.9 The Council’s Guidance Note “Five Year Supply Guidance Note for Applicants May 2017 describes how proposals will be assessed. 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. In considering the weight to be afforded to development plan policies the Council will consider the extent of housing supply shortfall, the measures in place to remedy the shortfall and the particular purpose of the policy. As such each application will be judged on its own merits.
- 2.6.10 In respect of sustainability, the site is adjacent (approx. 120 metres) to the development limits of Hemingbrough which is defined as a Designated Service Village within the Core Strategy which have some scope for additional residential and small scale employment growth to support rural sustainability. The village of Hemingbrough contains a primary school, post office, local shop, public house and church. In addition, there is a regular bus service between Goole and Selby which provides onward links to York, Leeds and other cities and a school bus service. There is a bus stop located directly outside of the application site and good footpath



links to the services within the village. It is therefore considered that the settlement is well served by local services.

2.6.11 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.

2.6.12 Paragraph 7 of the NPPF, states that there are three dimensions to sustainable development, these being of an economic, social and environmental nature. These dimensions give rise to the need for the planning system to perform a number of roles. It is noted that the following benefits would arise from the development: -

#### 2.6.13 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.

#### 2.6.14 Social

The proposal would deliver levels of both open market and affordable housing in Hemingbrough 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 Hemingbrough.

#### 2.6.15 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.

2.6.18 With regard to paragraph 14 of the NPPF, in this case the “tilted balance” referred to in paragraph 2.6.8 applies. On consideration of the above information, it is considered that the proposal is acceptable with regard to the appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability from both local and national policies, subject to compliance with flood risk policies within the NPPF. The impacts of the proposal are considered in the next section of the report.

## **2.7 Identifying the Impacts of the Proposal**

2.7.1 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.

## **2.8 Layout, Scale, Design and Impact on the Character of the Area**

- 2.8.1 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.
- 2.8.2 Significant weight should be attached to the Local Plan policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 2.8.3 Relevant policies within the NPPF, which relate to design include paragraphs 56, 60, 61, 65 and 200.
- 2.8.4 The application proposes outline consent for up to 21 no. dwellings with all matters reserved. An indicative layout plan has been submitted which demonstrates how the site could be laid out with the siting of the dwellings respecting the existing built form to the east and west of the site. In addition an area of recreational open space and a dry offline basin could be provided to the rear.
- 2.8.5 The submitted Supporting Statement states that “The site sits between Hemingbrough Hall to the west and existing residential development fronting onto Chapel Road and the A63 to the east. The site benefits from clear defensible boundaries to the north in the form of School Road, a drainage ditch to the south, and the east and west due to the presence of existing residential development. As such, the development of the site represents an entirely logical infill development which is in keeping with the current pattern of development along School Road. The site is well contained and offers the potential to grow the settlement in a planned manner.” It is noted that the site is constrained by School Road to the north and residential development to either side. Furthermore the indicative layout plan demonstrates how development could be constrained to the frontage of the site with a second row of properties set behind, ensuring that it does not extend significantly into the open countryside beyond in order to reflect the character of the area and other built form along School Road. It is considered that an appropriate layout can be achieved at Reserved Matters stage however it will be important to ensure that the built form is restricted in accordance with the indicative layout plan in any detailed scheme.
- 2.8.6 The site would achieve a density of approximately 19 dwellings per hectare which is considered to be a relatively low density. However, this is largely due to the southern portion of the site being retained for recreational open space and SuDS and 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 21 having had regard to the context of the site.
- 2.8.7 The Hemingbrough Village Design Statement (VDS) acknowledges that later estates to the south of Hemingbrough, built between the 1960s and the present day, have been constructed with little acknowledgement of the Hemingbrough character and are mostly built in a standardised distributor road with cul-de-sacs layout. The VDS considers that “In future development, more of the traditional features and layout could be incorporated in to this area without slavishly copying the designs.”
- 2.8.8 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 residential development as well as the Village Design

Statement. Taking into account the surrounding context of the site which comprises two storey dwellings, constructed with facing brick and a tile roof, there is nothing to suggest that an appropriate appearance and scale could not be achieved at reserved matters stage.

- 2.8.9 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 Supporting Statement states that “it is not proposed to remove any of these trees as it is considered that they play an important role in framing the site.” Having had regard to this it would be desirable to retain as much of the mature hedgerow and tree planting around the boundaries of the site and it is considered that an appropriate landscaping scheme can be agreed at reserved matters stage to ensure that this is achieved.
- 2.8.10 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.
- 2.8.11 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, front gardens should have well-defined clear demarcation, corner plots should have clearly defined boundaries, provision of appropriate street lighting, provision of cycle storage and recreational open space having effective management arrangements and natural surveillance over them. All of these issues should be taken into account within the design of a detailed reserved matters scheme.
- 2.8.12 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 Landscape Appraisals which form part of the Core Strategy Background Paper No. 10 states that ‘although open views of the wider landscape are available, the immediate field patterns to the east are broken up by areas of development outside the immediate compact form of the village and any development would be viewed within and against the backdrop of existing development and is not likely to appear visually intrusive or detract from the character of the area.’ The appraisal therefore considers that this area of Hemingbrough has low landscape sensitivity. As such it is not considered that the proposal would result in a significant visual or landscape harm.
- 2.8.13 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.

## **2.9 Impact on Residential Amenity**

- 2.9.1 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.
- 2.9.2 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. Having had regard to the relationship to neighbouring properties, it is considered that a scheme which protects residential amenity could be achieved at reserved matters stage.
- 2.9.3 The Lead Officer for Environmental Health considers that ‘the proposed development is of a relatively 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.’ A condition is recommended requiring a scheme to minimise the impact of noise, vibration, dust and dirt on residential properties be submitted prior to site preparation and construction work commencing which is considered reasonable and proportionate.
- 2.9.4 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.

## **2.10 Impact on the Highway Network**

- 2.10.1 Relevant policies in respect to highway safety and capacity include Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and criteria (c) and (d) Policy SP19 “Design Quality” of the Core Strategy Local Plan. Given that 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 these policies should be afforded weight as they are broadly consistent with the NPPF.
- 2.10.2 The Supporting Statement states that ‘access to the development is to be taken directly from School Road and the access point shown on the indicative layout provides the required visibility in both directions’. In addition it goes on to state that, ‘each unit will have an adequate number of parking spaces, to be built within the plot boundaries to meet the required parking standards.’
- 2.10.3 Comments from objectors in respect of the impacts on the existing highway network have been noted. The Highway Authority has stated that initial concerns over the access into the site have been overcome and as such an appropriate access to the site could be achieved. Highways have stated that it should be noted that the site would require 2 car parking spaces for 2 and 3 bedroom dwellings and 3 spaces for 4 plus bedroom dwellings. It is noted that the parking layout and detailed highway design this can be addressed at reserved matters stage. Several conditions are recommended, however, given the application is in outline form with all matters reserved, it would be unreasonable to include the stated highways conditions at this stage.

2.10.4 Given the above it is considered that an acceptable design and layout could be achieved to meet highway policies, in accordance with Policies T1 and T2 of the Selby District Local Plan.

## **2.11 Impact on Nature Conservation Issues**

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

2.11.2 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.

2.11.3 The application is accompanied by an Extended Phase 1 Habitat Survey (dated September 2015) which identified that further surveys were required in respect of Water Voles and Great Crested Newts which may be impacted upon through the proposed development. A subsequent Amphibian and Water Vole Survey (dated August 2016) by Enviroscope Consulting was therefore submitted in response to this.

### Nature Conservation Sites

2.11.4 The Phase 1 Survey notes that no statutory nature conservation designations have been identified at the site itself and the site is located 1.5km north of the River Derwent SSSI (Site of Special Scientific Interest) and SAC (Special Area of Conservation). The report states that the SSSI is primarily designated on the basis of its status due to it representing one of the best British examples of the classic river profile, and the diverse aquatic flora and fauna it supports. The site's SAC European Site status relates primarily to the river's lamprey population and spawning grounds plus to presence of bullhead, sea lamprey and otter.

2.11.5 In terms of non-statutorily designated sites (Sites of Importance for Nature Conservation (SINCs)) there are three sites, two of which have been deleted, with the closest SINC (Hagg Green Lane) to the application site is located approximately 0.75km to the north west. The report considers that due to the distance between the SINC and application site, any impact is unlikely. Having consulted Natural England they have raised no objections with respect to the impacts on nature conservation sites.

### Protected Species

2.11.6 The report establishes that three mature trees have been identified as having potential value to roosting bats and recommends that if removal or major works to these trees is proposed then two bat emergence/re-entry surveys of the trees is carried out in order to determine bat presence/absence and it may be necessary to obtain a European Protected species licence in advance of works to the trees. It is noted from the information submitted with the application that the proposal does not propose the loss of any trees within or around the site and no works are proposed. As such, a Bat Survey was not required to be submitted with the application but a condition can be included which requires a survey to be undertaken and submitted if any works to trees are proposed, prior to the commencement of development.

- 2.11.7 The Extended Phase 1 Habitat Survey noted the potential of the development to impact on water voles to the south of the site and as such, a further survey has been undertaken. This Survey confirms that the pond to the south of the site is considered to offer a very good habitat for water voles and a single water vole was observed in the summer of 2015. The report states that although no water voles were found during the surveys carried out in 2016, it is appropriate to consider the possibility of the site being colonised by water voles at a future date prior to construction. The report recommends that a further water vole survey is undertaken on the submission of a full application to determine whether water voles are using the site at that time. It also notes that a licence may be required from Natural England if water voles are present and any works would impact on the species.
- 2.11.8 With respect to Great Crested Newts, the survey states that the pond to the south has an average suitability to support GCN and during the course of two surveys, one male and one female smooth newt were bottle trapped. The report notes that no other amphibians were caught or observed and the aquatic fauna abundance and diversity in the pond was relatively poor and aquatic vegetation was not abundant. It also states that the eDNA analysis of the pond returned a negative result for GCN.
- 2.11.9 The report concludes that no impacts on GCN are anticipated through the development and given that smooth newts have been found at the pond, it is likely that toads and frogs are also present, however, these are offered limited protection. The report recommends that the EA Pollution Prevention Guidelines and a Construction Exclusion Zone is established which can be secured through condition.
- 2.11.10 The report also recommends that any works to trees or hedgerows should be carried out outside of the bird nesting season (February to August inclusive), and where this is not possible, an Ecologist should carry out a nesting bird check within 48 hours of any vegetation removal works.

#### Habitats

- 2.11.11 The report confirms that at the time of the survey the site was an arable field with plant species recorded which are commonplace and widespread. It considers that some of the hedgerows on the site are species-rich and are also a UK BAP Priority Habitat and are protected under the Hedgerow Regulations. Flocks of house sparrows, which are a UK BAP species and RSPB Red List species were also observed in the hedges. The report considers that the hedgerows are of value at a local scale which relates to their value as wildlife corridors, their floristic interest and their potential value to foraging and nesting birds.
- 2.11.12 It was also noted that Himalayan balsam is present on the site and is listed under Schedule 9 of the Wildlife & Countryside Act 1981. It adds that it is an offence to plant or otherwise allow this plant to grow in the wild.
- 2.11.13 The report considers that potential impacts of the development may relate to the loss, fragmentation and change in condition of existing habitats on and /or offsite during and post construction which could impact on protected and notable species

and there is potential for the invasive species Himalayan balsam to be spread as result of construction works.

2.11.14 Natural England has raised no objection to the proposal in respect to the impact on the SSSI and SAC and references its standing advice regarding impacts on protected species which has been considered. The Yorkshire Wildlife Trust has provided comments and recommendations based on the information and surveys submitted. The North Yorkshire Bat Group were consulted but have not responded to the consultation.

2.11.15 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 conditions that the proposals be carried out in accordance with the mitigation measures and recommendations set out in the Extended Phase 1 Habitat Survey (dated September 2015) and an Amphibian and Water Vole Survey (dated August 2016).

## **2.12 Affordable Housing**

2.12.1 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.

2.12.2 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.

2.12.3 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.

2.12.4 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.

## **2.13 Housing Mix**

2.13.1 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.

2.13.2 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.

2.13.3 As such, it is considered that the proposal could achieve an appropriate housing mix at reserved matters stage as identified in the SHMA, in accordance with Policy SP8 and the NPPF.

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

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

2.14.2 The proposals will consider energy efficiency/sustainable design measures within the scheme in order to meet building regulations requirements.

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

2.14.4 The application site is located in Flood Zone 1 which is at low probability of flooding and the Supporting Statement has advised that “Surface water will discharge to attenuation pipes within the site and a dry offline detention basin at the south of the site. The basin has been included within the site boundary and is intended to be adopted by Yorkshire Water in order that it can be maintained to ensure that it is fit for attenuation purposes. As regards foul drainage, disposal from the site will be to the 225mm diameter Yorkshire Water foul sewer on Hull Road to the north of the site.”

2.14.5 As the site exceeds 1 hectare in area, a site specific flood risk assessment is required to be submitted. In this instance, a Flood Risk and Drainage Assessment has been submitted which considers that the risk of fluvial, land and sewer flooding is low and there are no known problems at the site due to groundwater. The Assessment considers that the viability of using infiltration SuDS depends on the site infiltration rate which should be confirmed based on BRE Digest 365 guidelines but examination of the soils indicate relatively permeable soils.

2.14.6 In terms of adoption, the Assessment states that following discussions with Yorkshire Water, an offline dry detention basin as attenuation storage for the volume difference between the 1 in 2 year and 1 in 100 plus Climate Change event has been agreed. Ownership and maintenance would be taken by Yorkshire Water with a commuted sum payable to Yorkshire Water to cover maintenance costs.



- 2.14.7 The Flood Risk Assessment states that in order to mitigate against potential overland flows from sewer flooding in exceedance conditions, it is recommended that Finished Floor Levels (FFL) of all properties be set at least 150mm above existing ground levels. Several other recommendations have also been included which can be secured by way of condition.
- 2.14.8 The Internal Drainage Board have stated that they welcome the proposed use of SuDS and soakaways as an approach to surface water disposal and recommends that a drainage strategy is submitted to demonstrate that SuDS will operate effectively at the site.
- 2.14.9 The IDB concludes that they have no objection to the principle of the application if a SuDS solution can be established to work at this location but they have some concerns that there is no positive drainage system connecting the site to any YW asset or watercourse and it would be highly unlikely that the IDB would be willing to consent any new connection or discharge into any watercourse.
- 2.14.10 Yorkshire Water has confirmed that the proposed site access may affect an existing live water main that is laid in the highway (and grass verge) and a condition is recommended in respect of foul water.
- 2.14.11 The Strategic Drainage Officer (SuDs) has been consulted and recommends one condition but notes the IDB conditions which are suitable and to avoid duplication, advises that there would not be any issues with the planning authority using the Board's conditions providing the allowance for climate change is 30% not 20%.
- 2.14.12 Having taken the above into account it is therefore considered that, subject to the attached conditions a satisfactory drainage scheme could be brought forward to adequately address flood risk, drainage, climate change in accordance with Policies SP15, SP16 and SP19 of the Core Strategy Local Plan, and the NPPF.

## **2.15 Land Contamination**

- 2.15.1 Relevant policies in respect of land contamination are Policy SP19 'Design Quality' part (k) of the Core Strategy Local Plan, Policy ENV2 (A) of the Local Plan and paragraphs 120 and 121 of the NPPF. Policy ENV2 (A) of the Local Plan should be given significant weight in the determination of planning applications as it is broadly consistent with the NPPF.
- 2.15.2 A Preliminary Investigation has been submitted and the Council's Contamination Consultant previously assessed the same document as part of application 2015/1223/OUT. They advise that "While the report is not compliant with technical guidance and contains contradictions in its conclusions; due to some possible sources of contamination found during the walkover and the sensitivity of the end user being residential with gardens, then some intrusive investigation may be prudent." As such, several conditions are recommended in respect of land contamination.
- 2.15.3 The proposals, subject to the attached conditions are therefore considered to be acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

## **2.16 Recreation Open Space**

- 2.16.1 Policy in respect of the provision of recreational open space is provided by Policy RT2 of the Local Plan, the Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and paragraphs 70 and 73 of the NPPF.
- 2.16.2 The indicative layout demonstrates that there would be an area to the south of the site which could include a provision for recreational open space on-site, although the detailed type of provision to be provided would be established in detail at reserved matters stage. 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.
- 2.16.3 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.

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

- 2.17.1 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.
- 2.17.2 A consultation has been sent to the Healthcare Service in relation to this application but no response has been received. The NYCC Education Directorate has stated that a contribution would not be sought for primary or secondary education facilities as there would not be a shortfall of school places. However, it is noted that that monies would be collected through CIL if a contribution for education was requested.
- 2.17.3 With respect to Waste and Recycling, a contribution of £65 per dwelling would be required and this can be secured as part of a Section 106 Agreement.
- 2.17.4 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.

## **2.18 Archaeology**

- 2.18.1 Policy ENV28 of the Local Plan states that 'where development proposals affect sites of known or possible archaeological interest, the District Council will require an archaeological assessment/evaluation to be submitted as part of the planning application.' Given that paragraph 128 of the NPPF advises that Local Planning Authorities should require developers to submit desk-based assessments and, where necessary a field evaluation where the site on which development is proposed includes or has the potential to include heritage assets with archaeological interest then significant weight should be attached to this policy.

2.18.2 An Archaeological Geophysical Survey has been submitted with the application and the Heritage Officer has stated that “The survey has been carried out to a very high specification and has picked up very ephemeral features such as drains and furrows. This demonstrates that the technique has been successful and would have identified archaeological remains had they been present. The report provides sufficient information on which to determine the planning application (NPPF para. 128).”

2.18.3 The Heritage Officer concludes that “As the geophysical survey has proved largely negative (with some features interpreted as modern or agricultural) the site appears to have a low archaeological potential” and therefore, they have no objection to the proposal.

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

## **2.19 Taking into account the presumption in favour of sustainable development demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.**

2.19.1 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.

2.19.2 It is considered that there are no other 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. With regard to paragraph 14 of the NPPF, in this case the “tilted balance” referred to in paragraph 2.7.7 applies.

2.19.3 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.

## **2.20 Conclusion**

2.20.1 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 east and west, School Road to the north and a drainage ditch to the south.

2.20.2 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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy

SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.

2.20.3 Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:

- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
- (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood risk, green belt, countryside gaps and heritage assets).

No specific policies which restrict development apply to this application therefore the 'tilted balance' in paragraph 14 applies.

2.20.4 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 in close proximity to the boundary of a Designated Service Village which has good access to local services and public transport;
- 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.

2.20.5 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.

2.20.6 The proposals could achieve an appropriate layout, appearance, landscaping, scale and access 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, drainage and climate change, protected species, archaeology and contamination in accordance with policy.

2.20.7 Having had regard to all of the above, 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, in particular Paragraph 14, the Selby

District Local Plan and the Core Strategy. In this case the “tilted balance” in paragraph 14 applies. It is on this basis that permission is recommended to be granted subject to the conditions and Section 106 agreement.

## 2.21 Recommendation

**This 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 recreation open space provision and maintenance and a waste and recycling contribution and the conditions as detailed below.**

01. Applications for the approval of the reserved matters referred to in No.2 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.

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

Reason:

This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority, and as required by Section 92 of the Town and Country Planning Act 1990.

03. The total number of dwellings authorised by this permission shall not exceed 21 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.

04. 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.

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

Reason:

To protect the residential amenity of the locality and in order to comply with the NPPF and Selby District Council's Policy's SP19 and ENV2.

06. 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.

07. No development shall be commenced until the Local Planning Authority has approved a Scheme for the provision of surface water drainage works. The approved scheme shall be implemented before the development is brought into use, unless otherwise agreed in writing by the Local Planning Authority and the following criteria should be considered:

- Any proposal to discharge surface water to a watercourse from the redevelopment of a brownfield site should first establish the extent of any existing discharge to that watercourse;
- Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140lit/sec/ha or the established rate whichever is the lesser for the connected impermeable area);
- Discharge from "greenfield sites" taken as 1.4 lit/sec/ha (1:1yr storm);
- Storage volume should accommodate a 1:30 yr event with no surface flooding and no overland discharge off the site in a 1:100yr event;
- A 30% allowance for climate change should be included in all calculations;
- A range of durations should be used to establish the worst-case scenario;
- The suitability of soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 or other approved methodology.

Reason:

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

08. A strip of land 9 metres wide adjacent to the top of both banks of all watercourses on Site shall be kept clear of all new buildings and structures (including gates, walls, fences and trees) unless agreed otherwise in writing with the Local Planning Authority. Ground levels must not be raised within this area. Access arrangements should be agreed with the Internal Drainage Board.

Reason:

To maintain access to the watercourse for maintenance or improvements.

09. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in

accordance with details to be submitted to and approved in writing by the Local Planning Authority before development commences.

Reason:

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

10. The development permitted by this planning permission shall only be carried out in accordance with the Recommendations at paragraph 5.4 of the Flood Risk and Drainage Assessment dated October 2015 by JBA Consulting. The Recommendations shall be fully implemented prior to occupation of the approved scheme.

Reason:

To reduce the risk of flooding to the proposed development and future

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

Reason:

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

12. The development shall be carried out in complete accordance with the mitigation measures set out in the Ecology Report by Enviroscope Consulting, dated September 2015 and the Recommendations as set out in the Amphibian and Water Vole Survey by Enviroscope Consulting, dated August 2016, unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interests of ensuring that protected species are not significantly impacted by the development.

13. Prior to the commencement of development, a hedgerow survey and Management Plan should be submitted to assess whether the hedgerows are 'important' under the Hedgerow Regulations. Any hedgerow that is to be retained will require sufficient root protection which should be detailed within the Management Plan.

Reason:

In the interests of ensuring that the hedgerow is not significantly impacted by the development.

14. 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.

15. 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.

16. 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.



17. 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.

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

- 1055384/01B (Location Plan)
- A101 (Topographical Survey)

Reason:

For the avoidance of doubt

### **3.1 Legal Issues**

#### **3.1.1 Planning Acts**

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

#### **3.1.2 Human Rights Act 1998**

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

#### **3.1.3 Equality Act 2010**

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

### **3.2 Financial Issues**

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

## **4. Conclusion**

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

## **5. Background Documents**

- 5.1 Planning Application file reference 2016/1337/OUTM and associated documents.

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

**Appendices: None**



# APPLICATION SITE

**Item No:** 2016/1314/FULM

**Address:** Turnhead Farm, York Road, Barbly

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Schedule of Accommodation

HOUSETYPE	No.
ALVERTON 2 bed F.O.G.	2
DRAYTON 2 bed 4 garage F.O.G.	1
KENLEY 2 bed 2 storey	13
MAIDSTONE 3 bed 2 storey	20
BUCHANAN 3 bed 2 storey	4
ENNERDALE 3 bed 2 storey	6
DERWENT 3 bed 2 storey	23
NORBURY 3 bed 2.5 storey	14
RIPON 4 bed 2 storey	15
THORBURY 4 bed 2 storey	5
ALDERNEY 4 bed 2 storey	11
RADLEIGH 4 bed 2 storey	7
FOXTON Apartments 2 bed 3 storey	12
<b>TOTAL</b>	<b>133</b>

KEY:

- 1800mm HIGH BOUNDARY WALL
- 1800mm HIGH BOUNDARY WALL & FENCE
- 1800mm HIGH TIMBER FENCE
- 900mm METAL RAILINGS
- 450mm HIGH KNEE RAIL
- REMOVED TREE/HEDGE
- EASEMENT
- LOCKABLE REAR ACCESS GATE
- AFFORDABLE HOUSING - RENTED
- AFFORDABLE HOUSING - SHARED OWN
- VISITOR PARKING
- BLOCK PAVING
- REAR GARDEN TURF
- FRONT GARDEN TURF

Images and site layout are intended for illustrative purposes only and should be treated as general guidance only.  
 Site layout including parking arrangements, local affordable housing, community buildings, play areas and public open spaces may change to reflect changes in the planning permission for the development.  
 Please speak to your solicitor to whom full details of any planning consents including tenor plans will be available.  
 Site layouts and landscaping are not intended to form part of any contract or warranty unless specifically incorporated in writing into the contract.

**AMENDED  
DRAWING**

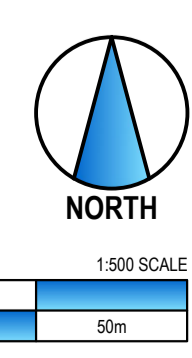


REV	DATE	DESCRIPTION	BY	CHECK
G	17.03.17	BOUNDARY TREATMENT AMENDED WHICH FACES THE NORTHERN FOOTPATH CONNECTION THROUGH THE SITE	DRN	VS
F	06.03.17	PLOT 222 GARAGE CHANGED TO STANDARD SINGLE PARKING ARRANGEMENT CHANGES FOR PLOTS 164-168 PLOTS A3 & B8 RENOVATED POSITION OF VISITOR PARKING SHOWN	DRN	VS
E	17.02.17	LAYOUT AMENDED FOLLOWING COMMENTS FROM CLIENT & PLANNING OFFICER	SD	VS
D	31.10.16	PARKING ARRANGEMENTS FOR THE APARTMENTS AND ADJACENT F.O.G.'S REVISED. PARKING FOR PLOTS 88-97 ALSO REVISED	DRN	VS
C	27.10.16	LAYOUT AMENDED FOLLOWING CLIENT COMMENTS	DRN	VS
B	26.10.16	LAYOUT AMENDED FOLLOWING CLIENT COMMENTS	DRN	VS
A	07.10.16	LAYOUT AMENDED FOLLOWING CLIENT COMMENTS	DRN	VS

RECEIVED  
 20.03.2017  
 BUSINESS SUPPORT

**jrp** ARCHITECTURE | PLANNING | LANDSCAPE

CLIENT: BARRATT YORK  
 PROJECT: PROPOSED RESIDENTIAL DEVELOPMENT YORK ROAD, BARLEY  
 DRAWING: PROPOSED PLANNING LAYOUT  
 DRAWING NUMBER: 15:4937:02G  
 SCALE @ A1: 1:500  
 DRAWN: DRN  
 CHECKED: VS  
 DATE: OCT 16  
 DATE: OCT 16



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**To: Planning Committee**  
**Date: 10<sup>th</sup> May 2017**  
**Author: Jill Low (Principal Planning Officer)**  
**Lead Officer: Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2016/1314/FULM	PARISH:	Barlby And Osgodby Parish Council
APPLICANT:	Barratt Homes Yorkshire East Division	VALID DATE:	18th November 2016
		EXPIRY DATE:	17th February 2017
PROPOSAL:	Proposed residential development (partial re-plan of approval 2013/0478/FUL), associated infrastructure, play areas and incidental open space		
LOCATION:	Turnhead Farm York Road Barlby Selby North Yorkshire YO8 5JZ		

This application has been brought before Planning Committee due to the changes proposed to the originally approved scheme which involves a re-plan of a significant portion of the site and give rise to an increase of 54 dwellings over the original scheme (originally 179 dwellings, now increased to 233). The scheme was originally granted permission subject to a complex section 106 Agreement covering contributions towards Education, Waste and Re-cycling, and Health care, with non-financial clauses covering the on-site provision of Recreational Amenity Space and its maintenance, provision of allotments and on-site affordable housing. The original scheme is already partially implemented and work on site is currently on-going. However, since permission was granted for the original scheme, requirements in respect of Section 106 payments have changed, with the introduction of the Community Infrastructure Levy (CIL). As CIL needs to be collected for the new scheme, this means that the original Section 106 Agreement needs to be amended to avoid “double counting.” This report is therefore brought before members to explain the changes to the scheme and the amended Section 106 arrangements.

**Summary:**

The proposed scheme is a detailed application for residential development on land at Turnhead Farm, York Road, Barlby. The details represent a partial re-plan of the previously approved scheme, under planning ref 2013/0478/FUL. A revised layout has been submitted which shows the re-planned area developed for 133 dwellings with 100 dwellings remaining as the original scheme. Although the application site is outside of the

development limits for Barlby and is therefore contrary to Policy SP2A (c) of the Core Strategy there is an extant permission on the site and the principle of residential development is firmly established here.

The highway authority has raised no objections to the principle of the development. The proposals are also considered to be acceptable in terms of climate change, protected species, affordable housing, archaeology, contaminated land and drainage and flooding matters. Having regard to the above, it is considered that the proposal would be acceptable when assessed against current Development Plan policies and policies in the NPPF.

This report was originally written for consideration at the May 10<sup>th</sup> Planning Committee, but the report was deferred to enable consideration of the Supreme Court Judgement regarding Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant) which was made on the 10<sup>th</sup> May 2017. Following the Judgement the Council has reviewed its approach to decision making on planning applications and the approach in this case is as follows.

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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.

Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:

- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
  - (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood risk, green belt, countryside gaps and heritage assets).
- In this case, the 'tilted balance' in paragraph 14 applies.

In assessing the proposal against the three dimensions of sustainable development set out within the NPPF, the development would bring economic benefits as it would contribute to the local economy providing additional funds through CIL which would contribute to the maintenance/improvement of local services and facilities as well as providing employment during the construction period.

The proposals achieve a social role in that Barlby is a Designated Service Village which has a range of accessible local services including pubs, several shops, sports and recreation facilities, and schools. The village is also served by a regular bus service with frequent trips between York and Selby. The new development will help to support these existing facilities.

In environmental terms the proposal would deliver 133 new dwellings (233 on the overall scheme) within a landscaped setting, on an area of land that will not be subject to flooding. Due to the proximity to local services and access to public transport, the proposals would also reduce the need to travel by car.

Having had regard to all of the above, 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, in particular Paragraph 14, the Selby District Local Plan and the Core Strategy. In this case, the “tilted balance” in paragraph 14 applies. It is on this basis that permission is recommended to be granted subject to the conditions and Section 106 agreement

## **Recommendation**

**This planning application is recommended to be GRANTED subject to conditions similar to those detailed in Paragraph 3.0 of the report and subject to a Deed of Variation to the original section 106 Agreement, reducing the waste and re-cycling contribution to £5185.47 and reducing the health contribution to £111731.84, and reducing the affordable housing requirement to 9 units, and the preparation of a new Section 106 Agreement requiring 11.27% on site affordable housing on the re-planned area (equating to 15 affordable units) and contributions to waste and re-cycling.**

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

#### **1.1 The Site**

1.1.1 The application site comprises 3.43 hectares and lies to the north of Barlby village between York Road to the east and the river Ouse to the west. To the south there is existing residential development and to the north lies the farm house to Turnhead Farm. The site was originally agricultural land, but is now part of a building site in association with the extant planning permission 2013/0478/FUL. Houses are under construction either side of the vehicle access road into the site from York Road and these are clearly visible from the A19. As part of the original scheme, a new roundabout has been constructed and recently completed at the junction of the A163 Market Weighton Road with the A19.

1.1.2 The application site essentially forms the middle part of the original application site, of 9.34 hectares stretching from Turnhead Farm in the north down to the southern end of the site. There is an area of land to the west of the application site which is also under construction. To the south west there is a further area of land which has permission under the original scheme for bungalows and this comprises 1.52 hectares but this is unaffected by the scheme currently under consideration.

1.1.3 There is a public footpath on the site along the southern (part) and western (river) boundary which is accessed from the housing to the south of the site. York Road and the route along the river bank up to where the river bends westwards is part of the Trans Pennine Trail. York Road is also a National Cycle route.

#### **1.2 The proposal**

1.2.1 The proposals relate to the construction of 133 new dwellings (partial re-plan of approval 2013/0478/FUL), with associated infrastructure, play areas and incidental open space and will increase the total number of dwellings on the site from 179 to

233, an increase of 54 dwellings. The actual layout is not dissimilar to what has been previously approved on the site although the density is greater. The main differences are outlined in paragraph 2.8.4 below.

1.2.2 The application is accompanied by the following supporting documents –

- Planning Statement
- Design and Access Statement
- Geo-environmental Appraisal and Gas Risk Assessment
- Flood Risk Assessment with update
- Drainage Strategy
- Transport Assessment Addendum
- Ecological Assessment
- Agricultural Land Classification
- Arboricultural Assessment
- Archaeological Appraisal
- Landscape Visual Impact Assessment

### 1.3 Planning History

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

2013/0478/FUL (PER - 30.07.2015) Proposed residential development, allotments, play area, incidental open space and landscaping

2015/0943/MAN (PER - 07.09.2015) Non material amendment to approval 2013/0478/FUL Proposed residential development, allotments, play area, incidental open space and landscaping

2015/0959/DPC (COND - 06.01.2016) Discharge of condition 34 (Archaeological Investigation) of approval 2013/0478/FUL (8/16/4C/PA) for proposed residential development, allotments, play area, incidental open space and landscaping

2015/1156/DOC (PCO - ) Discharge of conditions 02 (phasing plan), 03 (materials), 04 (landscaping), 05 (site enclosure), 13 (construction mitigation statement) and 28 (traffic) of approval 2013/0478/FUL (8/16/4C/PA) for proposed residential development, allotments, play area, incidental open space and landscaping

2015/1271/DOC (COND - 22.03.2016) Discharge of conditions 7 (Drainage), 9 (Surface Water), 12 (Surface Water Drainage), 14 (External Lighting), 17 (Access), 22 (Highway Works) and 23 (Watercourse) of approval 2013/0478/FUL Proposed residential development, allotments, play area, incidental open space and landscaping

2015/1364/DOC (COND - 09.01.2017) Discharge of condition 21 (Groundworks) of approval 2013/0478/FUL (8/16//46/PA). Proposed residential development, allotments, play area, incidental open space and landscaping

2015/1377/MAN (PER - 25.04.2016) Non material amendment to approval 2013/0478/FUL (8/16/4C/PA) for triple garage to Plot 8 reduced to a double garage and all extensions/conservatories/orangeries removed at land adjacent to York Road and A19 junction

2016/0369/DOC (COND - 09.01.2017) Discharge of conditions 15 (groundworks), 18 (groundworks) and 26 (HCVs) of approval 2013/0478/FUL for proposed residential development, allotments, play area, incidental open space and landscaping



## 1.4 Consultations

### 1.4.1 Yorkshire Water Services Ltd – No objection in principle, subject to-

- i) The proposed building stand –off from public rising main centre-line of 3 metres.
  - ii) The proposed separate systems of drainage on site and off site
  - iii) The anticipated amount of domestic foul water to be discharged to the public combined sewer.
  - iv) The proposed point of discharge of foul water to the respective public sewer.
- The amended plan shows surface water proposed to be drained to watercourse (River Ouse).

### 1.4.2 Selby Area Internal Drainage Board - Detailed plans of the surface water discharge could not be found within this application. If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year.

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

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

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

### 1.4.3 North Yorkshire County Council (CPO) – No reply received within the consultation period.

### 1.4.4 NYCC Archaeology - Have recently received a copy of the post-excavation archaeological assessment report. This is a very exciting site which is, in some respects, without parallel. It appears to be a high status Roman settlement with military connections but does not conform exactly to the usual settlement types such as fort, town or villa. It is probably responsible for controlling trade in the area and has produced some exceptional finds. The report makes recommendations for further analysis of specific parts of the site archive including the pottery and makes proposals for radiocarbon dating to secure the chronology further. The report also makes recommendations for publication and dissemination of the results of the work.

This is a regionally, if not nationally important site. Support the recommendations made in the reports. These are in line with the wording of the final part of the planning condition (No. 34; part C) requiring 'the analysis, publication and dissemination of results and archive deposition'. It is presumed that the developer will progress the works recommended in the reports.

### 1.4.5 NYCC Education – Have responded to say that as the development has commenced, they are not willing for the education contribution agreed in the original

Section 106 Agreement to be reduced to reflect the fact that it will now cover only 100 dwellings.

(Officer Note – CIL will be collected in respect of the re-planned area for 133 dwellings some of which will also go towards education facilities – see section 2.15 below for further details.)

- 1.4.6 Environmental Health - The proposed development is of a relatively 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 & vibration. The Environmental Protection Act 1990 allows for the abatement of statutory nuisance in relation to noise, dust and vibration. It is stressed that whilst a development may detrimentally impact upon existing residential amenity, it may not be deemed to constitute a statutory nuisance. It might be unwise in these circumstances to rely on the alternative control being exercised in the manner or to the degree needed to secure planning objectives. It is therefore recommended a condition is attached to any planning consent be granted.
- 1.4.7 Canal And River Trust - Based on the information available we have no comment to make.
- 1.4.8 North Yorkshire Fire & Rescue Service - At this stage in the planning approval process the fire authority have no objection/observation to the proposed development. The fire authority will make further comment in relation to the suitability of proposed fire safety measures at the time when the building control body submit a statutory Building Regulations consultation to the fire authority.
- 1.4.9 NYCC Sustainable Drainage Systems – No objections to amended scheme subject to conditions.
- 1.4.10 North Yorkshire Bat Group – No reply received within the consultation period.
- 1.4.11 Yorkshire Wildlife Trust – No reply received within the consultation period.
- 1.4.12 Vale of York CCG – No reply received within the consultation period.
- 1.4.13 NYCC Public Rights Of Way Officer - The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as any alternative route has been provided and confirmed under an Order made under the Town and Country Planning Act 1990. 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. The applicant should discuss with the Highway Authority any proposals for altering the route.
- 1.4.14 NYCC Highways And Transportation - It is noted that the proposal includes a separate cul de sac being accessed directly from York Road. York Road is a country lane without any footways or road lighting. It is a popular route for walkers, cyclists and equestrians and forms part of the National Cycle Route 65. The only vehicular traffic is associated with a very small number of agricultural/residential properties. An intensification of vehicular use along this route will be detrimental to the safety of the existing non-motorised users. It would provide an unnecessary inconvenience when the additional dwellings could be served internally from the main development. The layout should be amended to address this.

There are a number of areas where hedges are shown adjacent to the Shared Surface Roads. At these locations an additional 0.5 metre hard margin is required to prevent the hedges growing out over the shared surface.

The alignment of the road adjacent to Plot 217 and POS B should be altered so that that the access to the Shared Surface Road is laid out as a side road junction (see attached)

There appears to be a general lack of visitor parking spaces adjacent to the Shared Surface Roads. Visitor spaces generally form part of the adoptable works and as such should not be located within private drives.

(Officer Note – The plans have been amended to take account of these concerns and the Highway Authority has been re-consulted. Any further comments received will be reported verbally to the meeting.)

1.4.15 The Environment Agency - Provided the proposed development is in accordance with the submitted Flood Risk Assessment (FRA) and the FRA update, with all development located in flood zone 1 and surface water drainage (if discharging to main river) restricted to greenfield runoff rates, the EA have no objections.

1.4.16 WPA Consulting - Contaminated Land Consultants - Further to the comments of 21/12 it is now confirmed receipt and acceptance, in terms of review, of the Environmental data report that is referred to in the desktop study. In terms of planning conditions relating to contamination WPA now await the verification and sign off regarding ground gas protection measures plus H&S protocol observation for site workers to be reviewed.

1.4.17 Police Architectural Liaison Officer – To be reported verbally when received.

1.4.18 Parish Council – No response received within the consultation period.

## 1.5 Publicity

**Neighbour Summary** – The application was advertised as a departure by site notice, neighbour notification letter and advertisement in the local newspaper resulting in no representations have been received.

## 2 Report

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

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

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

The relevant Core Strategy Policies are:

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

### **2.1.2 Selby District Local Plan**

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

The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development  
ENV2 - Environmental Pollution and Contaminated Land  
ENV28 - Archaeology  
T1 - Development in Relation to Highway  
T2 - Access to Roads  
RT2 - Open Space Requirements

#### Other Policies/Guidance

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

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

The National Planning Policy Framework introduces, in paragraph 14, a presumption in favour of sustainable development. It 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".

This report is made in light of the guidance of the NPPF.

## **2.2 Key Issues**

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

1. The appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability contained within the Development Plan and the NPPF.
2. Identifying the impacts of the proposal.
  1. Visual Impact on the Character and Form of the Area
  2. Flood risk, drainage and climate change
  3. Residential amenity
  4. Impact on highways
  5. Impact on Heritage Assets
  6. Affordable housing
  7. Recreational open space
  8. Education, healthcare, waste and recycling
  9. Nature conservation and protected species
  10. Contamination
  11. Other issues
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.

## **2.6 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 The proposed scheme is a detailed application for residential development on land at Turnhead Farm, York Road, Barlby. The details represent a partial re-plan of the previously approved scheme, under planning ref 2013/0478/FUL. A revised layout has been submitted which shows the re-planned area developed for 133 dwellings with 100 dwellings remaining as the original scheme. Although the application site is outside of the development limits for Barlby and is therefore contrary to Policy SP2A (c) of the Core Strategy there is an extant permission on the site and the principle of residential development is firmly established here. However, further development is proposed at the northern end of the site in a location where none was planned previously. It is therefore necessary to consider the additional dwellings against this policy.

2.6.2 The application site is situated outside the defined development limits of Barlby 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.”

- 2.6.3 The proposal does not meet Policy SP2A(c) as it is not for rural affordable housing need and there are no special circumstances. The application should therefore be refused unless material circumstances indicate otherwise. One such material circumstance is the NPPF.
- 2.6.4 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.
- 2.6.5 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 paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.
- 2.6.6 Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:
- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
  - (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood risk, green belt, countryside gaps and heritage assets).
- 2.6.7 In this case, the 'tilted balance' in paragraph 14 applies.

#### Sustainability of the Development

- 2.6.8 In respect of sustainability, the site is adjacent to the development limits of the village of Barlby which is a Designated Service Village as identified in the Core Strategy where there is scope for additional residential growth to support rural sustainability. The village contains 2 public houses, shops, schools, a library and sport and recreation facilities. It also benefits from a bus service between York and Selby.
- 2.6.9 In addition to the above, the fact that Barlby has been designated as a Designated Service Village, both within the Selby District Local Plan and within the Core Strategy, demonstrates that the Council considers the village a sustainable location. Having taken these points into account, despite the fact that the site is located outside the defined development limits of Barlby, it is adjacent to the boundary and would be served by the facilities within this sustainable settlement and as such

would perform highly with respect to its sustainability credentials in these respects.

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

#### Economic

The development would bring economic benefits as it would contribute to the local economy providing additional funds through CIL which would contribute to the maintenance/improvement of local services and facilities as well as providing employment during the construction period.

#### Social

The proposal would achieve a social role in that Barlby is a Designated Service Village which has a range of accessible local services including pubs, several shops, sports and recreation facilities, and schools. The village is also served by a regular bus service with frequent trips between York and Selby. The new development will help to support these existing facilities.

#### Environmental

In environmental terms the proposal would deliver 133 new dwellings (233 on the overall scheme) within a landscaped setting, on an area of land that would not be subject to flooding. Due to the proximity to local services and access to public transport, the proposals would also reduce the need to travel by car.

The above factors weigh in favour of the development.

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

2.6.11 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.

2.6.13 Core Strategy Policy SP4 does not set a minimum dwelling target for individual service villages, so it is not possible to ascertain exactly whether Barlby has exceeded its dwelling target. As a guide, Policy Officers have confirmed that the Council consulted on various growth options for the Designated Service Villages as part of the development of PLAN Selby in July/August 2015 and at this point the research indicated minimum growth options of between 101 -139 dwellings. While the level of development in the settlement may be broadly on track to achieve its potential growth options, the scale of this individual proposal, providing an extra 54 dwellings over and above the original extant planning permission, is considered to be appropriate to the size and role of a settlement designated as a Designated Service Village in the Core Strategy.

2.6.14

2.6.1 With regard to paragraph 14 of the NPPF, in this case the “titled balance” referred to in paragraph 2.6.7 applies. On consideration of the above information, the proposal

is acceptable in regards to the appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability from both local and national policies, subject to compliance with flood risk policies within the NPPF. The impacts of the proposal are considered in the next section of the report.

## 2.7 Identifying 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 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.

## 2.8 Visual Impact on the Character and Form of the Area

2.8.1 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. In addition Policy SP8 of the Core Strategy requires an appropriate housing mix to be achieved.

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, 60, 61, 65 and 200.

2.8.3 The main changes between this and the previous scheme are as follows –

- Development of the northern corner of the site which was previously recreational open space, and re-planning of public footpath from the western boundary, through the site.
- Removal of overhead electricity lines, which formed the northern edge of the development previously (to be placed underground).
- The layout and disposition of the houses has changed but the road layout and public open space areas within the site (apart from the northern corner of the site) remain largely unchanged.
- The introduction of two 3-storey blocks of flats at the southern end of the site
- A revised mix of housing on the re-planned area to include more 2 and 3 bedroomed units:

Extant Consent	Re-Plan scheme
2 x 1bed	
9 x 2bed	28 x 2bed
8 x 3bed	67 x 3bed
59 x 4bed	38 x 4bed
1 x 5bed	
<b>79 Total</b>	<b>133 Total</b>

2.8.4 The density of the original scheme overall was 16 dwellings per hectare and the density across the whole site, if the proposals are approved, would be 21.45 dwellings per hectare. The density is quite low, due to the provision by the applicants of significant areas of public open space which will remain as part of the scheme apart from at the northern end of the site. The density of the re-planned site area alone, excluding the original site area is 38.7 dwellings per hectare. Whilst the density on the re-planned area is fairly high, this has to be considered in the context



of the overall site which has a good level of recreational open space provision. The breakdown of dwelling types across the site as a whole, in comparison to the original permission is as follows:

Extant Consent	Proposed, overall
4 x 1 bed	2 x 1 bed
38 x 2 bed	57 x 2 bed
42 x 3 bed	101 x 3 bed
92 x 4 bed	71 x 4 bed
3 x 5 bed	2 x 5 bed
<b>179 Total</b>	<b>233 Total</b>

2.8.5 The revised mix of dwellings is considered acceptable and in accordance with Policy SP8 of the Core Strategy regarding housing mix.

2.8.6 Aside from the loss of the open space at the northern end of the site, the open space areas across the application site remain largely unchanged from the previous scheme. A large central village green would be retained, together with three smaller areas of open space – areas A, B and C on the submitted plans. Area C would be slightly re-located and would provide a footpath link to the open space and the existing public right of way to the west. The re-planned scheme no longer provides a footpath link all the way along the western boundary to the northern end of the site, but in any event there is already an existing public right of way adjacent to the site which does this. It would still be possible to access the northern end of the site from within the application site by means of the estate roads within the scheme and a new footpath link enabling access to York Road via the cul-de-sac at the top end which has access direct from York Road. The likelihood is though, that walkers would utilise the existing public right of way

2.8.7 Whilst the loss of the open space to the north is regrettable, the recreational open space provision in respect of this scheme is still very good and exceeds policy requirements. This area was not put forward for development by the applicant previously due to the presence of overhead power lines, which effectively marked the edge of the development. These lines are now to be placed underground. Whilst development here would clearly be more prominent when viewed from York Road, it would be no different to the other new dwellings which would be equally visible from York Road. The overall design and layout of the dwellings at this point is similar to that which has already been granted planning permission on the rest of the scheme and is acceptable in this respect.

2.8.8 The application is accompanied by a Landscape Assessment which was prepared for the original 2013 application. The report concluded :

“It is considered that the proposed housing development has been designed to maximise the benefits offered by the existing boundary vegetation to integrate the site into the wider landscape, and that the package of proposed, detailed landscape measures which have been incorporated into the scheme will provide sufficient mitigation to minimise potential landscape and visual impacts in the medium to long term. It is not considered that there will be any significant long term, negative effects on the landscape fabric, character or visual amenity of the site and its wider environs...”

2.8.9 In respect of the area of new development to the north, the Planning Statement indicates –

“Development to the north extends further to that previously approved however the approach to the development as you enter Barlby remains landscape led with detached properties, large spaces between the built form and landscape areas to the front of the properties..... The site layout shows that the majority of the new housing will be set back from York Road by at least 10 metres and this is maintained to the north of the site where additional dwellings are proposed. This has enabled the provision of a wide landscaped edge on this boundary which has been designed to include a grass verge to the back of the road verge (incorporating the existing ditch), behind which is an undulating, tiered planted ribbon of trees and shrubs which will ultimately provide a visual buffer along the road corridor to soften the development edge and filter views into the site.”

2.8.10 The overall impact of the development of the land to the north upon the character of the area is considered to be negligible and whilst the loss of this area of open space is regrettable there are not sufficient grounds that would justify refusal of permission in terms of impact upon the landscape. There is still a significant amount of amenity open space attached to this development and the landscaping and tree planting scheme submitted with the application is of a high standard.

2.8.11 The scheme proposes more 2 and 3 bedroomed dwellings at the southern end of the site in the vicinity of open space area C and there are also some smaller units in the vicinity of open space area B. Adjoining the southern boundary of the site are two 3 storey blocks of flats. The layout has been considered in detail and the distances between the proposed new dwellings in terms of overlooking and separation distances are considered acceptable. The layout is not dissimilar to that already under construction under the original planning permission.

2.8.12 Amendments have been made to the submitted scheme to try to improve the amount of frontage car parking to the smaller semi-detached and terraced units in the vicinity of open space areas B and C. Whilst there is still a significant amount of frontage parking, it is now more broken up with green spaces in-between. The overall design and layout of these smaller units is similar to those already granted permission on the original scheme.

2.8.13 Each of the two 3 storey blocks of flats contains 6 x 2 bedroomed units and the overall design of the flats is considered acceptable, there being two gables either side of the main entrance on the front elevations, looking out over open space areas. The first and second floor flats have patio windows with Juliet balconies and the ground floor flats have a bay window either side of the entrance door. The rear elevation which faces the car park is more plain in appearance but the walls are broken up with string courses and the fenestration is symmetrical with a central entrance door.

2.8.14 The main roof to the flat blocks is a tiled pitched roof, hipped at both ends which helps to reduce the overall bulk of the buildings. Whilst there are no other 3 storey buildings on the overall development, these buildings will be located close to the edge of the site, looking out over public open space areas. This is to be welcomed in that one of the open space areas (Area E on the plans) is a children’s play area.

The design of the development at this southern end of the site is such that there is a 3 storey flat block in the south western most corner, then there are 3 detached dwellings, which also face out onto the open space and these adjoin the children's play area which is overlooked by the second flat block. It is pleasing that the development looks out over the open space at this end of the site rather than turning its back on it. The taller flat blocks will also serve as a kind of "end-stop" to the developed area and will not look out of place in this context.

- 2.8.15 To serve each block of 6 flats there are 6 car parking spaces with 2 visitor car parking spaces. Overlooking each of the car parking areas to the flats, there is another two bedroomed flat, with its own entrance and garage beneath. There is also a cycle store for the flats beneath. Both areas also have bin store enclosures and a small amount of amenity open space. The amenity space provided for the south western most block is less than what would normally be desirable but given that it directly adjoins and overlooks a large area of recreational open space, the proposals are considered acceptable in this instance.
- 2.8.16 Having had regard to all of the above elements it is considered that the revised proposals for the re-planned portion of the original application site are in keeping with the original concept relating to this development and in accordance with Policies ENV 1 of the Local Plan, Policies SP8 and SP19 of the Core Strategy and the NPPF.

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

- 2.9.1 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design.
- 2.9.2 The Flood Risk Assessment for the development was prepared in 2013 and the applicants have submitted an addendum to this with their application. The original assessment concluded:

"The site is located in its majority within Flood Zone 1 and outside the floodplain. A section is partially within Flood Zone 3 of the River Ouse. The proposed development is to be built on the land in Flood Zone 1, which is sequentially preferable and will not result in any loss of floodplain capacity that could increase flood risk elsewhere. Safe dry pedestrian access and egress will be readily achievable from the development to and from land outside the floodplain through using the proposed site access on York Road."

- 2.9.3 The addendum summarises the surface water design approach and requirements. Surface water attenuation is to be provided such that there is no flood risk to property and that it can be contained within the site for the 1 in 100 year event plus 30% allowance for climate change. The IDB has stated that a discharge to the IDB watercourse on site would have to be restricted to a rate of 1.4l/s/ha, however they would have no objection to a discharge directly to the River Ouse as agreed with the Environment Agency. The Environment Agency, IDB and SuDs Authority have not objected to the proposals, subject to conditions. The applicants further note in their Planning Statement that the drainage strategy has been implemented for the approved and constructed elements of the site and will be continued as part of this re-plan.

- 2.94 Yorkshire Water raised an objection to the scheme that the development would be too close to an existing public sewer running through the site. The plans have since been amended to take account of this and Yorkshire Water have been re-consulted. Their comments will be reported verbally to the meeting.
- 2.9.5 Regarding energy efficiency, a condition was applied to the original scheme requiring 10% of the energy supply of the development to be secured from decentralised and renewable or low-carbon energy sources. It is considered that the same condition should be re-applied to this scheme in order to maintain consistency.
- 2.9.6 Having taken the above into account the proposed scheme can adequately address flood risk and drainage subject to appropriate conditions. In addition climate change and energy efficiency measures can also be secured via condition to ensure accordance with Policies SP15, SP16 and SP19 of the Core Strategy and the NPPF.

## **2.10 Residential Amenity**

- 2.10.1 Policy in respect to impacts on residential amenity and securing a good standard of residential amenity are provided by Policies ENV1 (1) and ENV2 of the Local Plan and Paragraph 200 of the NPPF.
- 2.10.2 The nearest residential dwellings to the site are Turnhead Farm to the north and the existing residential development to the south. There have been changes at both ends of the site. Dealing with the Turnhead Farm end first, there are now dwellings which back onto the boundary with Turnhead Farm where there weren't any before. The rear elevation of Plots 38 and 39 face towards the side elevation of the existing farmhouse. However they are located between 23 and 28 metres distant from the side elevation. This is considered to be a reasonable distance in terms of residential amenity. Plots 40 and 41 are further away from the farmhouse and located at a more oblique angle and there is also some hedging in-between so these plots are unlikely to result in any loss of amenity to occupants of the farmhouse.
- 2.10.3 At the southern end of the site, the blocks of flats in the south western corner of the site overlooks the open space to the south and is not near any existing residential properties. The other block overlooks open space area E which is proposed to have a children's play area upon it. The nearest residential properties are located in Riverview, (the nearest being no 22 Riverview) but these are at least 30 metres distant from the proposed new block which is at an oblique angle to the existing dwellings. It is not considered that there would be any undue overlooking as a result of the proposals and due to the distances involved there are no overbearing or overshadowing issues.
- 2.10.4 With regard to the overall layout, it is considered that there is sufficient space between the dwellings so as not to cause any loss of amenity to future occupants of the new dwellings.
- 2.10.5 Having taken into account the matters discussed above it is considered that the proposal would not cause significant detrimental impact on the residential amenities

of either existing or future occupants in accordance with Policy ENV1(1) of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

## **2.11 Impact on Highways**

- 2.11.1 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.
- 2.11.2 The Highway Authority initially had concerns about the cul de sac at the northern end of the site, adjacent to Turnhead Farm, which took access directly from York Road, but with no safe footpath linking the development along York Road. The applicants have amended the plans to keep the cul de sac with access from York Road, but have provided a footpath which links this part of the site with the rest of the estate. This lessens the likelihood that people will walk along York Road itself, which is unlit and has no footways.
- 2.11.3 A number of other issues were raised by the Highway Authority and these have been addressed by the amended plans. The final comments of the Highway Authority are still awaited and these will be reported verbally to the Committee.
- 2.11.6 Subject to highways issues being resolved satisfactorily, the proposals will be acceptable and in accordance with Policies ENV1 (2), T1 and T2 of the Local Plan and Paragraph 39 of the NPPF.

## **2.12 Impact on Heritage Assets**

- 2.12.1 Relevant policies in respect to the impact on the historic environment and archaeology include Policies SP18 of the Selby District Core Strategy Local Plan and Policy ENV28 of the Selby District Local Plan. Policy ENV28 should be afforded significant weight as it is broadly compliant with the NPPF. Section 12 of the NPPF requires Local Planning Authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal taking account of available evidence and any necessary expertise.
- 2.12.2 The Committee Report for the extant consent concluded that:
- “Taking into account Paragraph 135 of the NPPF this states that the effect of an application on the significance of a non- designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. It is therefore considered that on balance, having had regard to the need to bring housing forward, the contribution of the proposed mitigation in the form of targeted Archaeological Excavation and Strip and Record to the understanding of an important Roman site a condition to secure this mitigation would be the most appropriate way of dealing with this matter.”
- 2.12.3 Since the previous permission was granted, excavations have taken place in advance of the residential development, which have confirmed the existence of a substantial extra-mural high status Roman military settlement on the western banks of the River Ouse. The site has provided valuable knowledge within a regional area

where little other previous archaeological investigations have been undertaken and helps towards closing gaps for Roman Selby, its environs and crucial links with the fortress and major Urban Settlement at York (Eboracum). A post-excavation archaeological assessment report has now been released, with recommendations that further analysis of specific parts of the site archive, including the pottery, be undertaken and makes proposals for radiocarbon dating to secure the chronology further. The report also makes recommendations for publication and dissemination of the results of the work. This is in line with the wording of the final part of the planning condition (No. 34; part C) requiring 'the analysis, publication and dissemination of results and archive deposition'. It is hoped that the developer will continue to progress the works recommended in the reports.

2.12.4 It is considered that having had regard to Policy ENV28 of the Selby District Local Plan (2005), Policy SP18 of the Selby District Core Strategy Local Plan (2013) and Paragraph 135 of the NPPF that the condition attached to the original planning permission in respect of archaeological works is being progressed appropriately. As all excavation work has been completed at the site and work is already progressing to comply with the original permission, it is not considered necessary to re-apply the archaeological condition.

## **2.13 Affordable Housing**

2.13.1 Policy SP9 of the Core Strategy states that the Council will seek to achieve 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. The policy goes on to state that the actual amount of affordable housing to be provided is a matter for negotiation at the time of a planning application, having regard to any abnormal costs, economic viability and other requirements associated with the development.

2.13.2 A viability appraisal was submitted with the application which indicated that the re-planned area of the development would only support 4 affordable units. The viability appraisal has been reviewed by the District Valuer and further discussions have been held with the applicants. The applicant has accepted the conclusions of the DV and agreed to provide 15 affordable housing units on the re-planned area, which, out of 133 dwellings, equates to 11.27%. Nine affordable units would be retained on the original scheme. Overall, on the whole site, 24 affordable dwellings are proposed out of 233 dwellings, which equates to 10.3%. This is an improvement upon the original scheme where less affordable housing was proposed (10 affordable units out of 179 dwellings, equating to 5.5%). The applicant has submitted an amended plan showing the location of the affordable housing together with details of the tenure –

Plots 107 to 109, 113 and 189 and 190 as Shared Ownership – 6 units  
Plots 114-116/181-183, and 110 to 112 to be for rent – 9 units.

2.13.3 Whilst the affordable housing provision falls short of the 40% policy requirement the proposals have been fully vetted by the District Valuer. The development has incurred additional costs as a result of the high water table on the site and the level of affordable housing being proposed is considered reasonable in the light of this. The provision of affordable housing will need to be the subject of a section 106

Agreement and subject to this the proposals will accord with Policy SP9 of the Core Strategy.

## **2.14 Recreational Open Space**

2.14.1 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.

2.14.2 Policy RT2(c) states that for schemes of 50 dwellings or more, provision within the site will normally be required unless deficiencies elsewhere in the settlement merit a combination of on-site and off-site provision. It further states that depending on the needs of residents and the total amount of space provided, a combination of different types of open space would be appropriate in accordance with NPFA standards.

2.14.3 The applicants do not propose to change the recreational open space provision from the original scheme which has extant permission, apart from the loss of the open space area to the north adjacent to Turnhead Farm, which is now proposed to be developed. Although this area was proposed to be landscaped as part of the original scheme, the land at that time was not in the applicant's ownership and remained in the ownership of the landowner. Despite the loss of this area, the amount of recreational open space to be provided on the overall scheme exceeds the policy requirement for 233 dwellings, which is approximately 1.4 hectares. The amount of open space to be provided across the whole scheme is as follows –

1,790 sq m (0.17 ha) of equipped Children's play space, which will provide for children from the new development but also replace the existing children's play area on adjacent land owned by the Parish Council, at the southern end of the site.

10,000 sq m (1 hectare) of incidental space to be landscaped and used for informal recreation and as community orchards

Approximately 12,900 sq m (1.29 hectares) of rough grassland/wild flower meadow between the development site and the River Ouse to be used for informal recreation.

2,500 sq m (0.25 hectares) of allotments – 11 allotments in total, with associated car parking

2.14.4 The provision of this open space was required by condition in the original planning permission and in the Section 106 Agreement attached to it. This agreement will need to be the subject of a deed of variation to reflect changed circumstances, in respect of the amended plans. Subject to this, the proposals are appropriate and accord with Policies RT2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

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

- 2.15.1 Policy ENV1 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.
- 2.15.2 In the case of the original planning permission, the Section 106 Agreement required the collection of contributions in accordance with the above policies and guidance. However, since then, the Community Infrastructure Levy (CIL) has been introduced and this is a material consideration in determining the current application. As the current application is a full planning application, CIL must be applied to it and this means that money would be collected towards education, health care, infrastructure etc at the rate of £10 per sq metre. In order to avoid “double counting” it was agreed with the applicants that there be a deed of variation to the original Section 106 Agreement to reduce the amounts paid for education, waste and re-cycling and healthcare as the number of dwellings to be constructed under the original scheme would now be 100 and not 179. CIL would be collected for the 133 dwellings that form part of the revised scheme. However, since the original discussion with the applicants, the County Council have stated that since the development has already commenced under the original planning permission, they expect the education contribution stipulated at £598,244.00 to be paid in full. The applicants have agreed to this.
- 2.15.3 Waste and re-cycling provision is not covered by CIL and the overall amount payable for 233 dwellings across the whole site would be £15,145, of which, £8,645 would be payable in respect of the re-planned area of the site. The table below sets out the changes to the section 106 payments. Although it appears that funds collected are being significantly reduced, additional money would be collected through CIL contributions for the 133 dwellings on the re-planned area. The details below show the differences in financial contributions in respect of the original application and the amended scheme. (The section 106 agreements as original and as proposed, will also cover non-financial clauses regarding the on-site provision of open space and play equipment, the provision of a management company for maintenance, provision of the allotments and provision of on-site affordable housing.)

<b>Original Agreement</b>	<b>Amended Agreement (DOV)</b>
Monitoring fee – 750.00	Monitoring fee - (already paid)
Waste & re-cycling - 9282.00	Waste & Re-cycling – 5185.47
Education - 598244.00	Education - 598244.00
Health - 200000.00	Health - 111731.84
<b>Total - 808276.00</b>	<b>Total - 715161.31</b>

- 2.15.4 Whilst there is a difference of some £93,114.69, between the above figures, members need to be aware that CIL will be collected on the re-planned area of the scheme and this is likely to cover the difference. Subject to a revised agreement on the lines outlined above, and a new agreement covering the waste and re-cycling contribution of £8,645 (and also that 11.27% affordable housing be provided on site) it is considered that the proposals would comply with Policy ENV1 of the Local Plan and the Developer Contributions Supplementary Planning Document.

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



2.16.1 Relevant policies in respect to nature conservation include Policies ENV1 (5) of the Selby District Local Plan and Policy SP18 “Protecting and Enhancing the Environment” of the Core Strategy. Policy ENV1 should be afforded substantial weight as it is broadly consistent with the aims of the NPPF.

2.16.2 An Ecological Assessment has been submitted with the application which is dated 2012. Whilst the report is a little out of date, it concluded –

“The site has been found to be of low ecological value, based on it supporting a very limited range of species poor and highly disturbed habitats. Otter presence has been confirmed on the tidal Ouse banks adjacent to the site, though no holts have been found. The layout presents little risk of leading to offences under wildlife legislation relating to this species as buffering habitat is retained between the development and the river. No other protected species have been found or are suspected at this site. Green space provision as master planned presents potential gains for biodiversity.”

2.16.3 It is considered that as construction work has been under way for some time now, that little potential exists for the situation to have radically altered from the previous position in respect of protected species. The report concluded that mitigation and enhancement measures, including the creation of an Otter holt, should be implemented. There is a condition on the original permission which requires these works to be carried out and it is considered that this condition should be re-applied to the new permission. Subject to this, 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,

## **2.17 Contaminated Land and Ground Conditions**

2.17.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. The application is accompanied by a Geo-environmental Appraisal prepared by Lithos, which was submitted with the original planning application and which concludes that there is no made-up ground within the site there is no hydro-carbon contamination of top soil, but there is an area of landfill outside of the site at Turnhead Farm. In the light of this, gas monitoring was undertaken at the site in 2013 and a gas monitoring report submitted which concluded that risk from the area of landfill concerned was low but that gas protection measures should be incorporated into the new development. The Council's Contaminated Land Consultants are satisfied that appropriate precautions are being undertaken and the proposals therefore comply with the above-mentioned Development Plan policies.

## **2.18 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.**

2.18.1 In assessing the proposal, the development would bring economic, social and environmental benefits to Barlby. Matters of acknowledged importance such as design, effect upon the character of the area, landscaping, boundary treatments, impact on trees, drainage and climate change, impact on highway safety, residential amenity, nature conservation and protected species, affordable housing,

recreational open space and impact on heritage assets are considered to be acceptable.

2.18.2 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. With regard to paragraph 14 of the NPPF, in this case the “tilted balance” referred to in paragraph 2.6.7, and 2.6.14 applies.

2.18.3 The proposals are in accordance 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.

### **3.0 Recommendation**

**This planning application is recommended to be GRANTED subject to conditions similar to those detailed in Paragraph 3.0 of the report and subject to a Deed of Variation to the original section 106 Agreement, reducing the waste and re-cycling contribution to £5185.47 and reducing the health contribution to £111731.84, and reducing the affordable housing requirement to 9 units, and the preparation of a new Section 106 Agreement requiring 11.27% on site affordable housing on the re-planned area (equating to 15 affordable units) and contributions to waste and re-cycling.**

01. The development for which permission is hereby granted shall be begun within a period of 3 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 work above foundation level, details of the materials to be used in the construction of the exterior walls and roof(s) of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

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

03. No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of Selby

District Local Plan.

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

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

Reason:

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

05. 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.

06. 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.

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

- a. the appointment of a travel co-ordinator
- b. a partnership approach to influence travel behaviour
- c. measures to encourage the use of alternative modes of transport other than the car
- d. provision of up-to-date details of public transport services
- e. continual appraisal of travel patterns and measures provided through the travel plan
- f. improved safety for vulnerable road users
- g. a reduction in all vehicle trips and mileage
- h. a programme for the implementation of such measures and any proposed physical works
- i. procedures for monitoring the uptake of such modes of transport and for providing evidence of compliance.

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

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to establish measures to encourage more sustainable non-car modes of transport.

08. No dwelling 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. 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 as operational thereafter unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interest of sustainability, to minimise the development's impact and to accord with Policies SP15 and SP18 of the Core Strategy.

09. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a road.

Reason:

In the interests of visual amenity and in order to comply with Policy SP19 of the Core Strategy and Policy ENV1 of Selby District Local Plan.

10. All hard and soft landscaping works shall be carried out in accordance with the approved landscaping plans and these works shall be carried out for each plot in its entirety within a period of 12 months from occupation of the plot or within such longer period as may otherwise be agreed in writing with the Planning Authority.

Reason:

In the interests of visual amenity and in order to comply with PolicySP19 of the Core Strategy and Policy ENV1 of Selby District Local Plan.

11. The means of site enclosure shall be constructed in accordance with the approved details (drawing ref ...) These works shall be carried out for each plot in their entirety prior to the occupation of that plot and thereafter shall be maintained as such.

Reason:

In the interests of visual amenity and in order to comply with PolicySP19 of the Core Strategy and Policy ENV1 of Selby District Local Plan.

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

Reason:

In the interests of satisfactory and sustainable drainage and to accord with Policy SP19 of the Core Strategy and ENV1 of the Selby District Local Plan.

13. 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 in writing by the Planning Authority.

Reason:

To ensure that the site is properly drained and to accord with Policy SP19 of the Core Strategy and ENV1 of the Selby District Local Plan.

14. Unless otherwise agreed in writing by the Planning Authority, no building or other obstruction shall be located over or within 6 (six) metres either side of the centre line of the public sewers which cross the site.

Reason:

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

15. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall 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 the site is properly drained and surface water is not discharged to the foul sewerage system, in accordance with Policy SP19 of the Core Strategy and Policy ENV1 of the Local Plan.

16. Unless otherwise approved in writing by the Planning Authority, 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 discharge takes place until proper provision has been made for its disposal and to accord with Policy SP19 of the Core Strategy and ENV1 of the Local Plan.

17. Prior to the commencement of work, a scheme to minimise the impact of noise, vibration, dust, and dirt on residential property in close proximity to the site, shall be submitted to and agreed in writing with the Planning Authority and thereafter carried out in accordance with the approved scheme.

Reason:

To protect the amenity of the area, the environment and local residents from noise emissions in accordance with Policy SP19 of the Core Strategy and ENV1 of the Local Plan.

18. Details of external lighting shall be submitted to and approved in writing by the Planning Authority prior to commencement of work above foundation level. The lighting shall be installed, maintained and operated in accordance with the approved details unless otherwise agreed in writing with the Planning Authority.

Reason:

In the interests of visual and residential amenity and to accord with Policy SP19 of the Core Strategy and Policy ENV1 of the Local Plan.

19. No dwelling shall be occupied until the related parking facilities have been constructed in accordance with approved drawing no .....Once created, these parking areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

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

20. The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction at all times until such time as any alternative route has been provided and confirmed under an Order made under the Town and Country Planning Act 1990.

Reason:

In the interests of the amenity of local residents and to accord with Policies SP19 of the Core Strategy and ENV1 of the local Plan.

21. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment and the Flood Risk Assessment update dated 4 December 2013 and the mitigation measures detailed within the FRA. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed in writing by the Planning Authority.

Reason:

To ensure safe access and egress from the site, reduce the risk of flooding to the proposed development and to accord with Policies SP15 and SP18 of the Core Strategy and Policy ENV1 of the Selby District Local Plan.

22. The development hereby permitted shall be carried out in complete accordance with the recommendations and mitigation measures set out in the approved Geo-environmental Appraisal Report No 1416/1 dated October 2013 and the Gas Risk Assessment dated 30<sup>th</sup> December 2013, unless otherwise agreed in writing by 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 off-site receptors.

23. The development hereby permitted shall be carried out in complete accordance with the recommendations set out in the approved ecological assessment reference BE-R1198-01.1 by Brooks Ecological, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In the interests of ensuring that protected species are not significantly impacted by the development and to accord with Policies SP18 and SP19 of the Core Strategy and Policies ENV1 and ENV10 of the Selby District Local Plan.

24. The development hereby permitted shall be carried out in complete accordance with the recommendations set out in the approved arboricultural report reference 10529/RG by JCA Ltd Arboricultural Consultants, unless otherwise agreed in writing by the Planning Authority.

Reason:

In the interests of the visual amenity of the site and to accord with Policies SP18 and SP19 of the Core Strategy and Policy ENV1 of the Selby District Local Plan.

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

(to be inserted into the Decision Notice)

Reason:

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

### **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 2016/1314/FULM and associated documents.

**Contact Officer:** Mrs J. Low, Consultant Principal Planning Officer

**Appendices:** None





DISTRICT COUNCIL

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# Planning Committee 2017-18



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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.