



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY 6 SEPTEMBER 2017**
Time: **2.00 PM**
Venue: **COUNCIL CHAMBER**
To: **Councillors J Cattanach (Chair), D Peart (Vice Chair), Mrs E Casling, I Chilvers, J Deans, I Reynolds, R Packham, C Pearson, and P Welch.**

Agenda

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

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

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

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

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

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

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

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

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

5. Minutes

To confirm as a correct record the minutes of the Planning Committee meeting held on 9 August 2017 (pages 4 to 5 attached).

6. Planning Applications Received (pages 9 to 281)

- 6.1 2015/1217/FUL – Staynor Hall Development, Bawtry Road, Selby (pages 9 to 44 attached).
- 6.2 2015/1272/FUL – Staynor Hall Development, Bawtry Road, Selby (pages 45 to 77 attached).
- 6.3 2016/1254/FUL – The Bungalow, 31 Lumby Hill, Monk Fryston (pages 79 to 92 attached).
- 6.4 2017/0527/FUL – Old Forge Cottage, Main Street, Church Fenton (pages 93 to 108 attached).
- 6.5 2017/0177/FULM – 23 Ryther Road, Cawood (pages 109 to 134 attached).
- 6.6 2017/0494/FUL – Barff Lane, Brayton (pages 135 to 151 attached).
- 6.7 2017/0427/FULM – Barff Lane, Brayton (pages 153 to 178 attached).
- 6.8 2017/0049/FUL – Wheatlands, Gateforth New Road, Brayton (pages 179 to 190 attached).
- 6.9 2016/1314/FULM – Turnhead Farm, York Road, Barby (pages 191 to 223 attached).
- 6.10 2016/0892/FUL – Church Fenton Lane, Ulleskelf (pages 225 to 260 attached).
- 6.11 2017/0663/FUL – West Newlands Farm, Selby Road, Riccall (pages 261 to 272 attached).
- 6.12 2017/0230/FUL – Dyon Head, Dyon Lane, South Duffield, Selby (pages 273 to 281 attached).

Gillian Marshall
Solicitor to the Council

Dates of next meetings
Wednesday 11 October 2017
Wednesday 8 November 2017
Wednesday 6 December 2017

For enquiries relating to this agenda please contact Palbinder Mann on 01757 292207, or email to pmann@selby.gov.uk.

Recording at Council Meetings

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Minutes

Planning Committee

Venue:	Council Chamber
Date:	Wednesday 9 August 2017
Time:	2.00pm
Present:	Councillors J Cattnach (Chair), D Buckle (for I Reynolds), I Chilvers, J Deans, R Packham, C Pearson, D Peart and P Welch.
Apologies:	Councillor Mrs D White
Officers present:	Kelly Dawson, Senior Lawyer; Ruth Hardingham, Planning Development Manager; Keith Thompson, Senior Planning Officer; and Palbinder, Democratic Services Manager.
Public:	10
Press:	1

11. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Mrs D White.

12. DISCLOSURES OF INTEREST

There were no disclosures of interest.

13. CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

There was no address from the Chair.

14. 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.

15. MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 12 July 2017.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 12 July 2017.

16. PLANNING APPLICATIONS RECEIVED

The Committee considered the following planning applications:

16.1 Application: 2015/1217/FUL

Location: Staynor Hall Development, Bawtry Road, Selby

Proposal: Erection of a food retail store (Use Class A1) and construction of a roundabout and access road, parking areas and associated infrastructure.

16.2 Application: 2015/1272/FUL

Location: Staynor Hall Development, Bawtry Road, Selby

Proposal: Proposed erection of a public house with restaurant (Use Classes A3 and A4) and manager's accommodation, roundabout with access, parking area and associated infrastructure.

The Senior Lawyer explained that with regard to the above applications listed on the agenda, two letters had been received that raised material planning considerations. The Senior Lawyer explained that due to the letters being received at short notice before the meeting, it had not been possible to give due consideration to the content of the letters and advise officers accordingly on the content. Therefore the Senior Lawyer recommended to the Committee that the applications should be deferred to enable officers to give full consideration to the letters.

In response to the above statement, it was proposed and seconded that the applications be deferred for the reasons outlined above.

RESOLVED:

To DEFER both of the applications listed on the agenda for the reasons outlined above.

The meeting closed at 2.04pm.

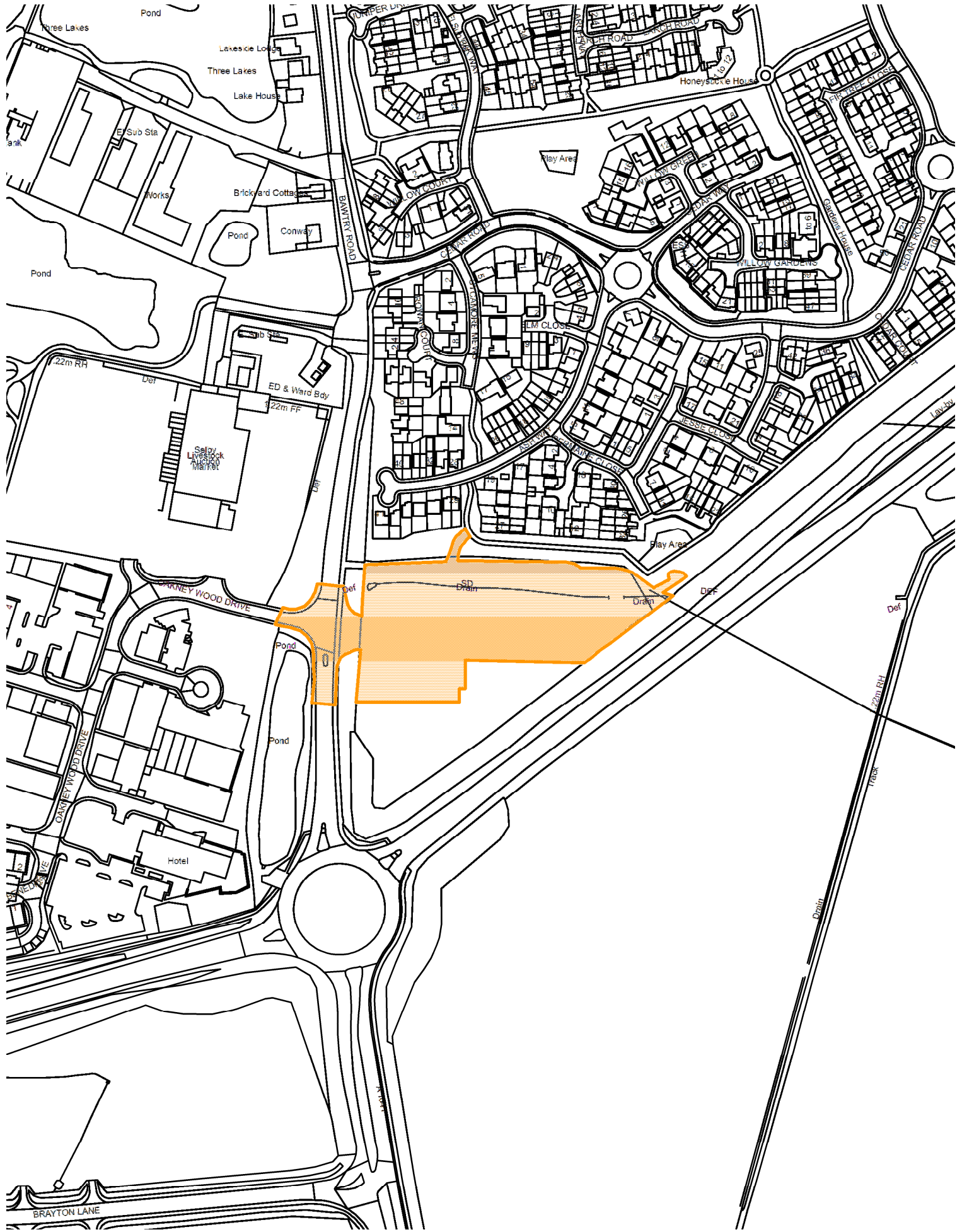
Items for Planning Committee

6 September 2017

Ref	Site Address	Description	Officer	Page
2015/1217/FUL	Staynor Hall Development, Bawtry Road, Selby	Erection of a food retail store (Use Class A1) and construction of a roundabout and access road, parking areas and associated infrastructure.	KETH	9
2015/1272/FUL	Staynor Hall Development, Bawtry Road, Selby	Proposed erection of a public house with restaurant (Use Classes A3 and A4) and manager's accommodation, roundabout with access, parking area and associated infrastructure.	KETH	45
2016/1254/FUL	The Bungalow, 31 Lumby Hill, Monk Fryston	Partial demolition of existing bungalow and erection of 4 No 3 bedroom semi-detached and 1 No 4 bedroom detached houses.	KETH	79
2017/0527/FUL	Old Forge Cottage, Main Street, Church Fenton	Proposed erection of 6 no. dwellings.	KETH	93
2017/0177/FULM	23 Ryther Road, Cawood	Proposed residential development of 0.78 Ha to provide 23 no. dwellings with ancillary infrastructure, access road, parking spaces and garages.	FIEL	109
2017/0494/FUL	Barff Lane, Brayton	Section 73 to vary condition number 17 (energy supply of the development) from planning application 2015/0367/FUL Proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond on land at Barff Lane, Brayton.	FIEL	135
2017/0427/FULM	Barff Lane, Brayton	Revised Proposals for Phase 2 Element of Approved Residential Development 2015/0367/FUL - Full Planning Application by Linden Homes for the Erection of 111 no. dwellings.	SIEA	153
2017/0049/FUL	Wheatlands, Gateforth New Road, Brayton	Proposed conversion of former stables to create a single dwelling house.	SIEA	179

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.	TOWE	191
2016/0892/FUL	Church Fenton Lane, Ulleskelf	Proposed erection of residential development of 30 units.	YVNA	225
2017/0663/FUL	West Newlands Farm, Selby Road, Riccall	Proposed erection of an agricultural building for the storage of tractors and machinery.	JETY	261
2017/0230/FUL	Dyon Head, Dyon Lane, South Duffield, Selby	Section 73 application to remove condition 4 (Agricultural occupancy) of approval 8/17/62/PA Outline application for the erection of a farm bungalow at Dyon House Farm South Duffield.	DIWI	273

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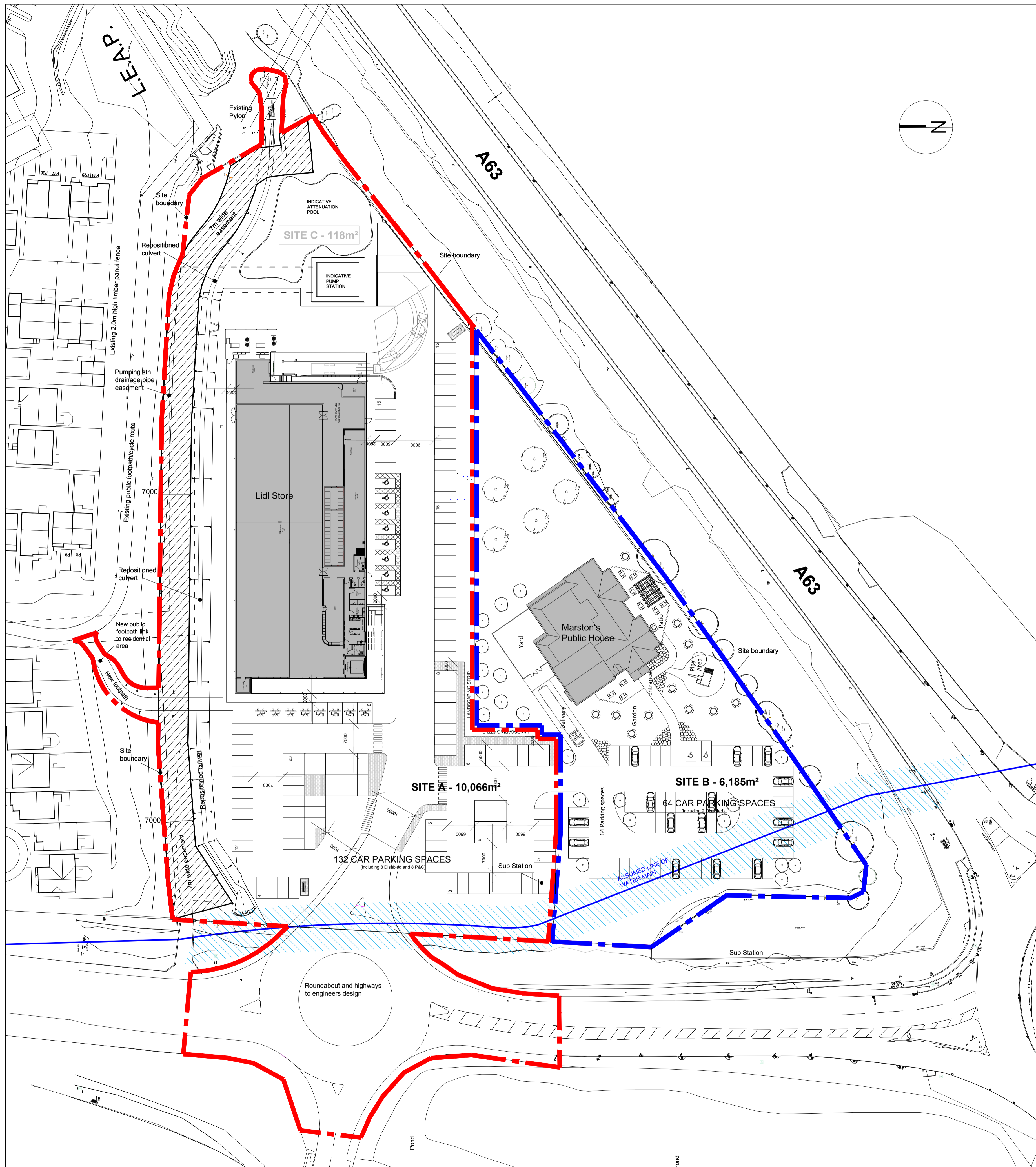


APPLICATION SITE

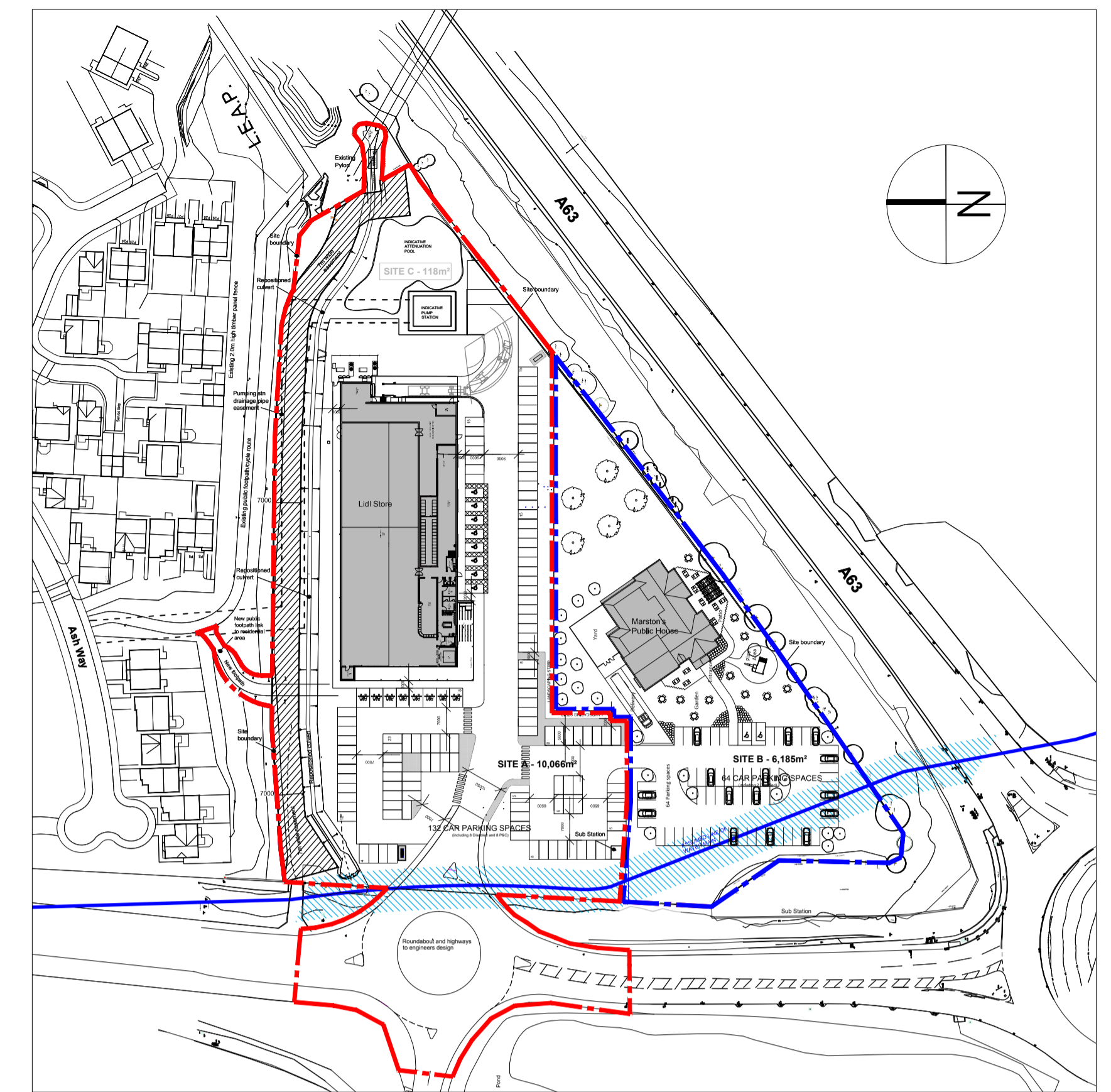
Item No: 2015/1217/FUL

Address: Staynor Hall Development, Bawtry Road, Selby

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1 Site Plan
1:500



1 Location Plan
1:1250

RECEIVED
16 June 2017
DEVELOPMENT MANAGEMENT

AMENDED
DRAWING

REV	DATE	DESCRIPTION	DR	CHK
B	29.05.17	Red line boundary updated to include all roundabout works		CJS
A	14.05.17	Scheme amended to suit revised highways / roundabout / CJS design		

PLANNING ISSUE

darnton_{B3}
ARCHITECTURE
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CLIENT WEBSTER FAMILY TRUST	
PROJECT RETAIL DEVELOPMENT AT STAYNOR HALL SELBY	
DRAWING LIDL UNIT - SITE A PROPOSED SITE & LOCATION PLAN	
SCALE @ A1 1:500 & 1:1250	CHECKED JC AH
CREATION DATE 23-10-15	REVISION B
DARNTONB3 DRAWING NO. 82538 - D33 - B01 - XX - M2 - A -90_01	
PROJECT NO - COMPANY - ZONE - LEVEL - TYPE - ROLE - NUMBER	
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DARNTONB3 LTD WORK TO A MANAGEMENT SYSTEM WHICH IS APPROVED TO ISO-9001 BY LSCA - CERTIFICATE NUMBER 1504267016	

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Report Reference Number: 2015/1217/FUL

Agenda Item No: 6.1

To: Planning Committee
Date: 6th September 2017
Author: Keith Thompson (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2015/1217/FUL	PARISH:	20
APPLICANT:	Mr S Rogerson	VALID DATE:	4th November 2015
		EXPIRY DATE:	3rd February 2016 EOT 8/9/2017
PROPOSAL:	Erection of a food retail store (Use Class A1) and construction of a roundabout and access road, parking areas and associated infrastructure.		
LOCATION:	Staynor Hall Development, Bawtry Road, Selby		

This application has been brought before Planning Committee as there are more than 10 objections contrary to the Officer recommendation to approve the application and the application is a Departure from the Development Plan (BRAY/2 of Selby District Local Plan).

Summary:

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

The construction of a new roundabout at the Oakney Wood Road junction and proposed access to the site has been included, following discussions with the applicant and landowner, Selby District Council and NYCC Highways.

There are a number of common issues between this proposal and Planning Application 2015/1272/FUL, for the proposed erection of a public house with restaurant on adjoining land and also being considered on this Agenda. These issues include being a departure from the Development Plan (BRAY/2 of Selby District Local Plan) and issues of conformity, the relationship to the Staynor Hall residential development, flood risk, and highways impacts and design.

The site is located within the defined Development Limits of Selby and is considered to be in accordance with Policies SP1 and SP2 of Selby Core Strategy. Although the application departs from the allocated employment use noted in BRAY/2, there are Policy considerations in the Local Plan and Core Strategy that attribute weight, in addition to benefits from the scheme as a result of the creation of new jobs and investment. It would also generally reflect the intentions behind the original Staynor Hall Master Plan and out line consent. A further benefit of the scheme (but not material to the planning decision) is the provision of a new roundabout which will help to reduce accidents and benefit adjoining landowners.

In short, it is a scheme that supports the strategic vision of the Council, as set out in the Corporate Plan 2015 – 2020 and is in line with the general objectives of the Core Strategy. It would deliver employment growth, strengthen the local economy and provide vital amenity facilities. Having had regard to the above, it is considered that, on balance, there are material considerations that would indicate that the development can be supported.

Recommendation

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

- (i) Following Referral of the application to the Secretary of State, his confirmation that it is not to be called in for his consideration; and**
- (ii) Subject to the conditions detailed in Paragraph 3.0 of the Report attached to any permission granted.**

1. Introduction and background

1.1 The Site

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

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

1.2 The proposal

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

1.2.2 The applicants have revised the size of the original food store to a smaller unit by omitting first floor space. The store would have a largely rectangular footprint and measure some 69m by 30.5m and have 1,325m² sales area, gross internal floor area 2,125m² and gross external area excluding the canopy 2,206m². The external materials proposed include a grey clad sloping roof, glazing to the Bawtry Road

elevation and the entrance elevations, rendered walls painted white and upper sections of walling grey clad. The car park would include 132 no. parking spaces which include 8 no. disabled parking bays 8 no. parent and child bays.

- 1.2.3 Trading hours would be from 7am – 10pm Monday to Saturday and Bank Holidays and 8am to 5pm Sundays.
- 1.2.4 A culvert that crosses the site would be repositioned on the northern periphery of the store. An attenuation pond and pump station is indicated in the north eastern area of the site and would facilitate drainage requirements for the site and occupies an area some 84m². The pumping station would be enclosed with a 2m high mesh panel fence and the pond with a 450mm knee rail fence.
- 1.2.5 The site is some 1ha in area and within land which was originally designated in Selby District Local Plan under Policy BRAY/2 for employment purposes. The Masterplan which accompanied the Outline permission had indicated the site for employment uses (B1, B2,B8).
- 1.2.6 A revised application has been submitted which, in addition to the smaller foodstore (described above) now includes revised access arrangements. The originally proposed priority junction has now been replaced with a roundabout junction (in the same location as proposed as part of the original outline application for Staynor Hall). This would serve the application site, the adjoining public house/restaurant and the Selby Business Park.

1.3 Planning History

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

- 1.3.1 Application reference CO/2002/1185 (Permitted - 06.06.2005) Outline application for the erection of 1,200 dwellings (4 existing to be demolished), employment, public open space, shopping and community facilities (including up to 2,000sq.m. of shops), together with associated footpaths, cycleways, roads, engineering works and landscaping on 56 hectares of land.
- 1.3.2 This Outline permission envisaged a roundabout coming forward in the future and this was controlled in the signed S106 Agreement that accompanied the decision notice. Recently on the Staynor Hall development two small retail units were approved in October 2016 measuring circa 70m² maximum. This was under Planning Reference: 2015/0580/EIA for a Reserved Matters application for the erection of No.44 dwellings, community facilities and retail units following outline approval 8/19/1011C/PA (CO/2002/1185))
- 1.3.3 Application reference 2015/0580/EIA was approved by Committee and issued on 21st October 2016 for Reserved matters application for the erection of No.44 dwellings, community facilities and retail units.
- 1.3.4 Rigid Containers Ltd site at Denison Road, Selby. The site has an expired Outline approval 2012/0159/OUT with matters reserved for a mixed use development incorporating residential retail, leisure and marina. The land owners are currently engaged with the Council in bringing forward another scheme for residential

purposes which was the subject to a pre application presentation to the Planning Committee earlier this year.

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

1.4 Consultations

The amended scheme which now includes the construction of a roundabout has been re-consulted with the expiry date 27th July 2017.

- 1.4.1 **Selby Town Council** – Supports the addition of a roundabout, do not feel the District Council should provide CIL to support this.

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

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

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

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

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

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

- 1.4.3 Revised Proposals (including Roundabout)

The LHA has engaged in detailed scoping discussions with the Applicant and their Transport Consultant. These discussions have ensured that the Transport Assessment has been of an acceptable scope and adopts a methodology that has been agreed with the LHA in respect of trip rates, traffic generation and traffic distribution.

The application as originally submitted proposed a priority junction with right turning lane to the south of Oakney Wood Road. The latest proposal is for the site to be accessed from a new roundabout directly opposite Oakney Wood Road. It is considered that this is a significant improvement from the original proposal. The roundabout will benefit both the application site and Oakney Wood Road by improving the flow of traffic compared to the priority junction arrangement. There will also be safety benefits associated with the roundabout through the reduction in traffic speeds and minimising the likelihood of side and head-on collisions.

The Local Highway Authority does not raise an objection to the proposal but recommends that the following conditions are appended to any planning permission the Planning Authority is minded to grant.

- 1.4.4 **SDC Environmental Health** – No objection subject to a condition.
- 1.4.5 **Yorkshire Water** – No objection subject to conditions.
- 1.4.6 **HER Officer** – No objection subject to a condition for a scheme of archaeological mitigation recording.
- 1.4.7 **NYCC Suds Officer** - Seeks further information from the applicant on Flood Risk, Peak Flow Control, Volume Control, Pollution Control, Designing for Exceedance and Maintenance, before conditions can be considered to ensure suitable surface water management.
- 1.4.8 **Selby Area Internal Drainage Board** – No objection subject to a condition to control discharge rates.
- 1.4.9 **Environment Agency** – No objection subject to condition.
- 1.4.10 **Planning Policy** – The Council's Policy team provided comment in March 2017 referring to supply of employment land and the sites assessment in the Draft 2015 Employment Land Review. The comments conclude that in advance of the Council reviewing existing site allocations for the emerging site allocations plan, there would be no Policy objections to the loss of this small employment allocation to retail use (subject to meeting the retail sequential test and design and access for example).

1.5 Publicity

- 1.5.1 The application has been advertised as a departure from the Development Plan by site and press notice. As a result there have been 30 letters of representations received, of which there were 28 letters of objection and 2 letter of support. These representations are summarised below. The responses include 4 letters before action submitted by solicitors acting on behalf of Christian Spencer Leisure Ltd. These letters suggest that the application for this and the adjoining site should be refused on a number of grounds including highways and adverse traffic impacts, loss of employment land, flood risk, the failure to advertise the applications, the failure to advertise the applications as departures, the location of development (in relation to the Staynor Hall Master Plan and impact of the additional public house on the trade and viability of the nearby Sleep Tight Hotel, the improper weight afforded to the provision of the roundabout (in the recently withdrawn report), the supply of employment land in Selby, overestimate of employment benefits, and para 24 of the NPPF. These matters are dealt with below.

NB: Amended plans have been received which include the construction of a roundabout and re-notification on this expired on 27th July 2017. The roundabout and access amendments have been accepted as a revision to the application.

Letters before action have been received from an objector, Christian Spencer Leisure Ltd and the points are summarised below:

1. Consultation on the roundabout has not included a notice in the local press,
2. Recommendation to approve comprises the Staynor Hall Masterplan,
3. Improper weight afforded to the provision of a roundabout as a material consideration in the determination of the application,
4. There is not a full and comprehensive assessment of employment land within Selby, including assessment of Policy SP13 is required,
5. Overestimate of jobs created by the permission,
6. No forward looking analysis of the proposed impact of the loss of the employment site,
7. Submitted that a comprehensive retail sequential test assessment has been undertaken.

General Comments

- The applicant's case remains unproven and should be refused unless material considerations indicate otherwise.
- There are concerns for noise, residential amenity, overlooking, traffic and highways.
- There are concerns for the loss of green field land and conflicts of GB Policy.
- Concerned for the proposals for a public house near to residential dwellings.
- Concerns those residents closest to the development site have not been consulted.
- There is no need for another super market, also concerned about noise, litter and the impact the development will have on residential amenity.
- Concerned for the Staynor Hall Masterplan and the Application Site.
- The proposals will negatively affect local house prices.
- Areas of the site should be used for uses which would benefit the community. There are a lack of amenities and facilities proposed.
- Concerned for antisocial behaviour including; noise, litter, damage and the safety of the children's playground.
- Needs to be a better screening of trees and shrubs and should have a better public footpath.
- Concerns for noise, residential amenity, overlooking and traffic or highways.
- Concerned for light pollution from the proposed car park into residential areas.
- There will be significant costs associated with contaminated land issues.

Highway Safety/Access

- No assessment has been undertaken for the A63/Bawtry Road roundabout or the Oakney Wood Drive junction.
- There is already significant queuing on Oakney Wood Drive in the evening peak period and the proposed development would exacerbate existing congestion and queuing

- There is a lack of forward visibility to the proposed site.
- The current unacceptable highway situation will in any event be made worse when unimplemented planning permissions on the Selby Business Park are implemented.
- No assessment of the adequacy of the proposed car parking provision is provided.
- It is considered that the TA submitted is inadequate and significantly underestimates the likely impact of the proposals on the highway network.
- More recent accident data is required in the TA and the TA raises significant safety issues in regards to the proposed site access junction.
- No junction modelling has been undertaken.
- No account has been taken of the traffic that will be generated by committed developments in the area.
- The TRICS data used is not robust.
- The trip distribution analysis is unsatisfactory.
- No capacity has been given to the capacity issue on the A63 roundabout or the Oakney Wood Drive junction.
- The proposal would be highly prejudicial to highway safety.
- Under the original S106 provision was made for a roundabout on Bawtry Road, which included provisions for safeguarding of an area of land for the roundabout.
- It is clear that the provision of this roundabout was and is necessary to provide an acceptable highway solution.
- Costs of a bridge across the railway. In addition to this without £30-35 mill of Community Infrastructure the site would not be sustainable.
- There are overall concerns for; lack of car parking, infrastructure, the poor road accident record, future growth, traffic growth, traffic impacts, visibility problems, congestion, queuing, poor access, roundabout access and the position of the ghost island, restrictions on HGV's and visibility splays.
- Concerned about increased traffic, congestions and road safety.
- The development should only go ahead once the roundabout is installed.
- The pattern of collisions on the Selby Business Park Junction with A1041 will persist and development will exacerbate the problems of queuing and right turning collisions.
- Concerns for traffic pollution, cycle track and pathways/ footpath.
- There are concerns for lack of infrastructure and future traffic growth and poor access
- The trip rates have been under estimated. Would like to see traffic issues resolved. Further to this would like to see a further roundabout at the junction of Bawtry road and Cedar road.
- Concerns for the scale of development in the area in relation to Transport and Infrastructure.
- Highways concerns and impact on commercial vehicles and turning points. Concerned for the noise from HGV's and the impact this will have on residential dwelling.

Principle of Development

- The original masterplan for Staynor Hall envisaged the site being used for employment purposes.
- The site is allocated in the Development Plan for employment purposes under BRAY/2 which is a saved policy.

- The principal employment allocation for Selby is Olympia Park which is to provide 23 hectares land for employment uses, without this there would be an acute and insupportable shortage of employment land for Selby.
- The commencement of the development of Olympia Park has been subject to considerable delay and there are concerns that this site is undeliverable. This emphasizes the importance of safeguarding existing Selby employment allocations such as BRAY/2.
- There are sound planning and commercial reasons for the safeguarding and protection of BRAY/2 as an employment site serving Selby.
- The application site has never been put on the market for its allocated employment use.
- The application site has excellent strategic accessibility and with its proximity to the bypass would appear to offer characteristics required for the development of B1 office development.
- Alternative sites should be looked at.
- Although the Council assert that they may have granted planning permission for employment exceeding the Core Strategy requirement, this does not take account for take-up of employment land measured by planning permissions, completions and associated employment growth.
- The Council should afford significant weight to the Green Paper in the determination of this application.
- There is no assessment of the site being used for allocated employment use in the future.
- It is Statutory for Local Planning Authorities to determine planning applications in accordance with the development plan and proposed development that conflicts with this should be refused.
- Concerned for the loss of employment allocation BRAY/2.
- The retention of employment allocation BRAY/2 was recommended due to good strategic accessibility and could meet the future demand from regional occupiers as an alternative to the Olympia Park allocation. Inspector's comments on the core strategy suggest employment sites should be informed by the Employment Land Review of which this permission contradicts. There has been a disregard for the loss of employment land for B uses. This proposal cannot be defined as economic development.
- This application conflicting with the Employment Land Review.
- The council's Policy and Strategy Team response to the consultation is fundamentally flawed, due to issues with comments on; the supply of employment land, Paragraph 22 of the National Planning Policy Framework, shopping: saved policies of the SDLP and the application of Paragraph 24 of the NPPF.
- The Employment Land Review recommends that the BRAY/2 allocation be protected.
- Concerned for the loss of employment land.

Flood Risk

- The application site is within Flood Zone 3 which is incorrectly identified as Flood Zone 1 in the FRA.
- It is unclear if a Sequential Test has been carried out.
- It is not considered that a search area of 500m for the Sequential Test is appropriate and there is no justification as to why the area has been restricted down.

- There is land within Flood Zone 2 that is designated within the Staynor Hall Masterplan for shopping and community facilities and it would be reasonable for the proposals to be located within this area.
- The Environment Agency need to be consulted.
- The FRA does not demonstrate that surface water outflow from the proposed development can be adequately dealt with and there is no evidence the surface water drainage arrangements have been agreed with the appropriate authorities.
- Costs of flood amelioration measures will be significant.
- There are concerns for, surface water run-off and the discussed new pumping station is currently at full capacity.
- There are overall concerns for drainage, flooding and surface water run-off.

Sequential Test – Retail

- It is considered that there are available sites that could be sufficient for each of the applications individually.
- The NPPF supports town centres uses within town centre locations and if an application fails the Sequential Test it should be refused.
- It is considered that the Civic Centre at Portholme Road would be suitable. Also three sites in the Selby District Employment Land Review 2016 are considered to be suitable.
- Olympia Park is a mixed use allocation which is considered as a sequentially preferable site.
- The Retail Commercial and Leisure Study did not recommend that any specific policy encourage additional convenience goods retail provision. In addition, no employment de- allocations were recommended.
- The PCA should be retained.

Other Issues

- There is a duty to send the application to the Secretary of State under the 2009 Direction (if the Planning Committee approved).
- It would be inappropriate to consider the application independent from the public house application,
- The phasing of the Staynor Hall development makes clear that the strategy reflects the masterplan – Proposed development without variation to phasing strategy or masterplan would be unlawful.
- Granting of permission would be subject to the possibility of judicial review.

There has also been two letters of support received as follows:

- This development will bring new services to the area. People won't need to use the car for everything. This development will bring a lot of value for future customers and a new school would be great for the area. The area is lacking a supermarket and a pub.
- Selby Livestock Auction Mart Ltd has withdrawn their objection on the basis that a roundabout would be constructed as part of the revised application.

1.6 Environmental Impact Assessment

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

1.7 The Town and Country Planning (Consultations) (England) Direction 2009 (the direction)

- 1.7.1 An objection referred to this direction and that the development should be subject to this direction as the Lidl and Marston's applications both equate to more than 2,500m² floor space. It is considered should the Planning Committee resolve to approve this application it is referred to the Secretary of State.

2 Report

2.1 Background

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

2.1.1 Selby District Core Strategy Local Plan

The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development
SP2 - Spatial Development Strategy
SP13 – Scale and Distribution of Economic Growth
SP14 – Town Centre and Local Services
SP15 - Sustainable Development and Climate Change
SP16 – Improving Resource Efficiency
SP18 - Protecting and Enhancing the Environment
SP19 - Design Quality

2.1.2 Selby District Local Plan

Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, the guidance in paragraph 214 of the NPPF does not apply and therefore applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which

states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
ENV2 – Environmental Pollution and Contaminated Land
ENV28 – Other Archaeological Remains
EMP2 – Location of Economic Development
EMP6 – Employment Development within Development Limits
BRAY/2 – Employment Allocation
S3 – Local Shops
T1 - Development in Relation to Highway
T2 - Access to Roads

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

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

The NPPF is a pro-growth document that stresses the importance of improving the economy. This can be clearly seen in paragraph 8, which states that 'economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. Similarly, paragraph 9 explains how a positive approach to planning can lead to developments that make it easier for jobs to be created in cities, towns and villages.

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

2.2 Key Issues

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

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

2.3 Principle of Development

Retail

- 2.3.1 Relevant policies in regards to the principle of retail provision include Policy S3 of the Local Plan and SP14 of the Core Strategy.
- 2.3.2 The application site is allocated for employment uses under BRAY/2 of Selby District Local Plan, East of Bawtry Road, Brayton and is 1.6ha. This application proposes the erection of a retail food store which is considered to depart from this Policy in the Development Plan.
- 2.3.3 Policy EMP2 of SDLP states that new employment development will be concentrated in and around Selby. In this Policy the application site is allocated as BRAY/2 East of Bawtry Road, Brayton and is 1.6ha.
- 2.3.4 This proposal includes 10,066m² for the Lidl site and the neighbouring site (also on the agenda for a pub/restaurant), equates to 6,185m² site area. The pumping station equates to 118m² site area. The total therefore equating to 16,369m² of BRAY/2.
- 2.3.5 In the 2005 Outline application referred to at para 1.3.1, the Section 106 agreement refers to a section noted 'Masterplan and Phasing Strategy'. The outline application included the provision of a new roundabout junction to serve the application site (and an index linked contribution of £50,000 towards its construction) , together with provision of new retail development of approximately 2,000 sq meters in the centre of the site together with a new community hall. The principle of new retailing in an out of centre location was therefore agreed as part of the original out line consent.
- 2.3.6 The proposed retail food store is not considered to prejudice the remainder of the site covered by the outline application and phasing strategy in the S106 agreement. The area of land originally allocated for retail development has been marketed without success since 2005. All the food operators were approached and the agent advises that no one was interested in locating a store in the centre of the site because there was no passing trade and a development of 1200 houses could not entirely support such a development. In 2016 the Committee approved an application for residential development, two smaller shops and a community centre on the site (see Planning History section). Nevertheless it remains important to provide new retail facilities in a sustainable location for the residents of the new Staynor Hall development as well as people working in nearby buildings e.g. on the Selby Industrial Park.
- 2.3.7 The overall ambitions of the Master Plan will still be delivered. This includes new housing (which forms an important part of the Councils land supply), the small retail units and the community hall, greenspace and the highway and footpath/cycle way network contained in the Master Plan.
- 2.3.8 Paragraph 24 of the NPPF states that '*Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should*

out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale’.

2.3.9 The proposed retail food store proposes a net sales area of up to 1,325 m² and a gross internal area of 2,125m². The proposal thereby falls below the threshold of 2,500m² whereby it is required for a retail impact assessment to be undertaken and there are no locally set retail impact assessment thresholds within the Selby Core Strategy or Local Plan. It is therefore considered that no further assessment is required in regards to an impact assessment as noted in the NPPF, however a retail sequential assessment is required as set out under Paragraph 24 of the NPPF.

2.3.10 As part of his submission the applicant has considered alternative retail sites. These include the former Rigid Paper Site which is edge of Town Centre and the former Civic Centre on Portholme Road also an edge of centre location. The applicant states that the Civic Centre site is available and is a suitable size to accommodate the proposed store, however it lies outside the 300 metre distance to the primary shopping frontage and as such the Civic Centre would not be sequentially preferable to the application site. Officers consider that this is not a correct assertion by the applicant because a site can be beyond 300 metres from the Primary Shopping Frontage but also be sequentially preferable to another out of centre site, which is located further away. Officers consider that although the Civic Centre site is sequentially preferable in location it can be discounted as unavailable, as the landowners of the site have not specified their intentions for this site .. There is also a building on site which would need to be demolished and the site would therefore need to be altered to suit the proposals. Furthermore, the Civic Centre site is large and would require a carefully planned comprehensive redevelopment, rather than piecemeal development in conjunction with surrounding land (eg the soon to become surplus police station). The Rigid Paper site has also been considered by Officers and although it is considered to be sequentially preferable in terms of being located closer to the town centre than Staynor Hall it can be discounted as not being available as Selby District Council are working closely with the site owners on a new planning application for residential development, it cannot be said to be a reasonable alternative.

2.3.11 An objection received refers to three alternative sites in Selby taken from the Draft Employment Land Review 2015 that they believe would be sequentially preferable to the proposed application site, these include Back Micklefield Car Park, Former Gas Holders and Vivars Way. The applicant’s agent has been asked to consider these sites and the following comments have been received;

- PS56 – Former Gas Holders Prospect Way - This site is considered to be out-of-centre as it is located more than 300 m from the commercial core. It is also considered that providing high traffic generating uses in this location would exacerbate the difficulties already experienced by traffic trying to exit the industrial estate.
- PS57 – Vivars Way – Whilst this site may be within the 300 m of the town centre, gaining physical access from the commercial core to the site extends to a distance of approximately 900 m. On balance the Site is therefore

considered to be realistically identified as an out of centre site. Traffic issues would also most likely affect this site.

- PS34 - Back Micklegate Car park - The Employment Land Review does identify (PS34) as a potential employment site capable of accommodating general industry/business. It also confirms that this site is not actively being marketed and that if it were to be pursued, the landowner has indicated that they would undertake the development themselves. The landowner in this instance is Selby District Council. The car park is in active use and being only one of a few public car parks located in such close proximity to the town centre, where there is high demand for off-street parking. On this basis, it can be concluded as not available.

2.3.12 The Council's Policy Team has considered the agent's comments on the above and has confirmed that in terms of PS 56 there has not been any historic interest in the site from trade counter/retail and industrial uses. A portion of the southern end of the site is used for operational gas distribution equipment which is to remain in situ. There may also be significant decontamination costs required dependent upon the end use and is partly within a HSE outer blast zone. PS34 has been discounted in the Employment Land Review and is not considered to be available. PS 56 is not considered to be a commercially attractive given that it has no main road frontage and lies at the end of a cul-de-sac. It is therefore considered that Back Micklefield Car Park, Former Gas Holders and Vivars Way can all be discounted. Furthermore, the Council's Policy team have advised that they have no objection to the application in terms of site suitability for retail, in the absence of any sequentially preferable sites which are suitable and available.

2.3.13 NPPG ID 2b-010 notes that if there are no suitable sequentially preferable locations, the sequential test is passed. Officers conclude that the sequential assessment demonstrates that there are no vacant sites available within or on the edge of Selby Town Centre that are more suitable and available for a retail food store of the size hereby proposed, even when allowing for flexibility in format and scale. The sequential test is passed.

2.3.14 The application site is located adjacent to Bawtry Road and lies south of a large housing site which has phases of housing still to be constructed but circa 600 houses are complete. The housing site will have a new cycle/ footpath link and the housing site is served by public transport with links to the town centre. There is a footpath that links the application site to the Staynor Hall residential development. (its provision is the subject of a proposed planning condition). Consequently, it is considered that the proposed scheme satisfies the requirements of Paragraph 24 of the NPPF which gives a preference to sites that are accessible and are well connected to the town centre when out of centre development is justified.

2.3.14 Also relevant to the determination of this application is the Outline application approved in June 2005 which included the provision of up to 2,000m² of shopping provision within the Staynor Hall Masterplan. A small amount of retail provision was approved in October 2016 (under Planning Reference: 2015/0580/EIA) for circa 70m² (comprising two units). The provision of a store would generally meet with the remaining quota of shopping provision approved under the Outline application. The store would provide a local shopping provision to the Staynor Hall housing estate, in addition to employees in the Selby Business Park and also passing trade.

2.3.15 The proposal complies with Policy SP14 of the Core Strategy and Policy S3 of the Local Plan. Policy SP14 supports local shops and services outside established Town Centres through promoting new services that serve the day-to-day needs of existing communities and planned growth of communities. Policy S3 of the Local Plan allows for local shops outside defined shopping centres providing they are within development limits, serve a local function and are of an appropriate scale.

2.4 Employment Use

2.4.1 An objection has been received which refers to there being no assessment by the Council on the reasonable prospect of the site being used for allocated employment use.

2.4.2 The Council's Policy team provided comment in March 2017 referring to the supply of employment land and the site's assessment in the Draft 2015 Employment Land Review. The Policy Officer has confirmed that the recent Annual Authorities Monitoring Reports for the District shows that the council has already granted planning permissions for employment that significantly exceeds the Core Strategy requirement of 37-52 Hectares of B1/B2/B8 by 2027 (in large part due to significant employment developments at the Sherburn Industrial estate). Therefore, it is considered that the BRAY/2 site is not required to meet this target.

2.4.3 Furthermore, there are still remaining areas of the Selby Business Park, allocated as site BRAY/1 for employment use in the 2005 Selby District Local Plan, which have not been fully developed. These include:

- BRAY/1(a): 0.23ha. This site has permission (2016/1411/FUL) for 3No. units for B8 use with associated ancillary trade counter and retail use at Units 1 to 3. 848 sqm
- BRAY/1(b): 0.72ha. This site has two permissions;
 - eight B1/B2/B8 units (2014/0964/FUL) 566 sqm on the western edge of this site (almost complete), and
 - two B1/B2/B8 units (2014/0909/FUL) 628 sqm in the middle of the site (under construction).
 - The remainder of this area of the site has yet to have any planning applications approved or submitted.
- BRAY/1(c): 1.75ha. The majority of this site had outline permission for B1/B2/B8 use(2010/0612/OUT) no floorspace specified, but this expired in December 2012.

2.4.4 A small section of the eastern part of the site (joining onto the existing units) has permission (2017/0503/FUL) for 3 B1(c) light industrial use units, totalling 346 sqm floorspace. Together these sites total 2.8 hectares.

2.4.5 Other sites that are allocated or have permission for B1/2/8 use in Selby include the strategic mixed use site allocated at Olympia Park, designated in Policy SP7 of the Core Strategy. This site allocates 23ha of employment land, to be delivered on the eastern part of the site (east of the Potters Group railhead) and is specified to be served by the existing junction on the A63 Selby bypass. As the site is served directly by the existing bypass on the A63, its delivery is not constrained by the same issues seen on the permitted part of the Olympia Park site. The 23 hectares

consist of unconstrained greenfield land with willing land owners. This site alone meets the majority of the 23-27 hectare requirement seen in the indicative employment land distribution for Selby and Hinterland in Policy SP13 of the Core Strategy. It is also worth noting that the part of the allocated Olympia Park site north of the railway line previously had permission for B1/2/8 use (2011/0731/OUT), but this has since lapsed.

2.4.6 Land off East Common Lane was allocated for B1/B2/B8 employment use in the 2005 Selby District Local Plan (ref SEL/4). There remains an undeveloped area in the east of this site of 1.5ha that is serviced by a new access road. This area is part of a larger planning permission (ref 2007/0153/FUL), but this part of the site was shown for indicative future employment developments in that scheme.

2.4.7 Land south of the Industrial Chemicals Group on Bawtry Road has a full planning permission (reference 2016/0189/REM) for the erection of buildings for business, general industrial and warehousing purposes. The application site totals 7.4 hectares in area and has an indicative floor space of 14,000m² of B1/2/8 units proposed. An estate road to serve the site forms part of the permitted scheme. Therefore it is concluded that there is an adequate supply of employment sites with Selby should the application site be developed for retail purposes.

2.4.8 Policy SP13B (2) of Selby District Core Strategy refers to safeguarding established employment areas and allocated employment sites unless it can be demonstrated that there is no reasonable prospect of a site being used for that purpose.

2.4.9 NPPF para 22 states that: *“Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.”*

2.4.10 The applicant has provided information about the marketing history of the site. This includes the site not been marketed in the conventional sense such as with ‘For Sale’ sign erected on the land and its details advertised online, but the Site has been in the hands of a Land Agent for at least 10 years.

2.4.11 The land agent has been actively trying to identify a buyer / developer or assemble an appropriate consortium throughout that period, but it has not been possible to identify any company, person, or group willing to take the Site for offices or general industry. (In accordance with the outline consent and the original outline consent).

2.4.12 Since late 2007/early 2008, the only interest expressed with regard to developing the Site has been from a number of national food retailers, fast food chains, a petrol filling station and a hotelier.

2.4.13 At various instances, as schemes were drawn-up for these interested parties, some made provision for token office space development or starter type industrial unit but only to make use of unwanted space.

- 2.4.14 A letter submitted from 'Stephenson's' estate agents who acted for the Trust from the late 1990s provides a history of the site marketability for different land uses. It states that an original proposal for the Staynor Hall site included conversion and extending Queen Anne country house into a hotel and public house. Hoteliers and public house operators were approached with no interest expressed, particularly being located centrally within a residential estate with no passing trade. Over the years the site was offered and some interest came from commercial companies such as fast food outlets, car showroom and petrol filling station. The demand for warehousing and workshops has been non-existent throughout the period of marketing.
- 2.4.15 Based on the information provided by the applicant and the length of time for which the application site has been allocated it is considered that there is no reasonable prospect of a site being used for B class employment uses.
- 2.4.15 It is acknowledge by Officers that the site has been undeveloped since its last use as agriculture circa 15 years ago. The current application would bring forward permanent jobs at the food store and during construction works. This is a benefit to the proposal and is supported in the Council's Core Strategy and NPPF. The new roundabout and improved access should also help the marketing of vacant plots/units on the nearby Selby Industrial park.
- 2.4.16 To conclude, it is considered based on the evidence provided by the applicant and Planning Policy Officers advice that there is no reasonable prospect of the site being used for its allocated employment use. Although the proposal would generate employment it would not strictly accord with BRAY/2 and EMP2 of the Selby District Local Plan. The proposals would be in accordance with Policy SP13 of Selby District Core Strategy and the guidance contained in the NPPF, paragraph 22.

2.5 Impact on highways

- 2.5.1 Although the County Highways Authority did not object to the originally proposed access arrangements which involved the provision of a new junction on Bawtry Lane, there were concerns about the accident record at the sits and the impact on the already lengthy queues at the pm peak period on Oakney Wood Drive (the access to the Selby Business Park. These concerns were amplified in objections received form solicitors acting on behalf of the Wishing Well which is located on the business park. They considered the 'impacts on the proposed highway are totally unacceptable, insurmountable and such that no reasonable authority could justify the grant of planning permission for the Proposed Development'.
- 2.5.2 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.
- 2.5.3 As a result of these concerns and objections the Local Planning Authority and Highways Authority have worked with the landowner and applicant to secure the provision of a new roundabout instead of the originally proposed junction. North Yorkshire County Council Highways have considered the impact of the proposal on the highway network and have been involved in the discussion to construct a roundabout. The NYCC Highways officer has concluded that:

“The traffic impact at road junctions is measured in what is called the “ratio of flow to capacity” (RFC). Where this figure exceeds 0.85 the junction is nearing capacity and queuing starts to occur. Without the roundabout Oakney Wood Road junction was predicted to have an RFC of 2.38 in the future year of 2025 which equates to 60 queuing vehicles over the peak hour.

With the roundabout, the junction has been modelled for a future year of 2032 (15 years beyond the year of opening) and the RFC is predicted to drop to 0.68 with an average maximum queue of 2 vehicles over the peak hour.”

- 2.5.7 The NYCC has also confirmed that this Application has been considered cumulatively with planning application number 2015/1272/FUL. The NYCC has engaged in detailed scoping discussions with the Applicant and their Transport Consultant. These discussions have ensured that the Transport Assessment has been of an acceptable scope and adopts a methodology that has been agreed with the LHA in respect of trip rates, traffic generation and traffic distribution.
- 2.5.8 Parking provision for new development is set out in Selby Local Plan. For retail development the parking standards would equate to circa 117 parking spaces for a store in an urban area more than 1,000 m² and given the adoption date of the Plan these are maximums which have since been removed. Cycle provision would equate to 12 cycle bays for staff and 3 bays for customers with a total of 15 cycle bays required. The site layout plan does not indicate any secure cycle provision. Given the proposed parking provision equates to 132 vehicles there is capacity on site to provide the cycle bay provision and this can be secured by condition.
- 2.5.9 In conclusion the NYCC Highways Officer concludes that there are no objections to the proposals subject to conditions attached to any permission granted.

2.6 Visual impact on the Character and Form of the locality

- 2.6.1 Relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 (1) and (4) of the Selby District Local Plan, and Policy SP19 “Design Quality” of the Core Strategy.
- 2.6.2 Significant weight should be attached to the Local Plan policy ENV1 and Core Strategy Policies SP19 as they are broadly consistent with the aims of the NPPF.
- 2.6.3 Relevant policies within the NPPF, which relate to design, include paragraphs 56, 60, 61, 65 and 200.
- 2.6.4 The NPPG reiterates that development proposals should reflect the requirement for good design set out in national and local policy and sets out how high quality design should be achieved across all forms of development.
- 2.6.5 Policy BRAY/2 of SDLP states that proposals will need to make provision for high quality design; access from Bawtry Road; the establishment of a permanent 20m wide tree belt within the north eastern boundary of the site; the incorporation of footpath links; safe cycle tracks, including links with adjacent housing and, finally, an appropriate flood risk assessment.

- 2.6.6 The application site comprises circa 1ha grassed field located adjacent and to the south of a large housing development which is part occupied with houses and under consideration for further phases of development. There is a mixed use industrial estate to the west called Selby Business Centre, a pub/hotel and a livestock auction mart to the north of the estate. Bawtry Road divides the site from the established built form to the west and the A63 by-pass enclosing the site along its south-south eastern perimeter. There is established planting along this latter perimeter.
- 2.6.7 There is no specific design criteria for the area in which this proposal should made reference to, although the site is considered to act as a gateway to Selby when approaching from the south or on the by-pass.
- 2.6.8 The store would have a lean-to roof, single storey and have a modern external finish using clad roof and large elevations of glazing. The building would be similar to many of the Lidl style buildings seen throughout the country and a design that is brand focussed.
- 2.6.9 The application is accompanied by detailed elevations and plans of the proposed building and the associated access, car parking arrangements and landscaping proposals for the site. The proposal would have an active frontage facing south and west, responding to the most active road frontage being Bawtry Road. It is considered that the building would not appear out of scale in this locality which includes two storey houses on Staynor Hall and mixed scale commercial development in Selby Business Park and the design and appearance would not detract from the visual amenity of the area.
- 2.6.10 The design of the supermarket is considered to be acceptable. The development would provide a gateway development to the southern artery road into Selby Town. The existing 20m tree belt would not be altered by this proposal, there would be footpath/cycle connections to the neighbouring Staynor Hall housing estate and the flood risk impacts are considered to be satisfied and discussed further below.
- 2.6.11 There would be a significant buffer from the store to houses to the north and given that a car park lies on the western frontage of the site the building would not appear cramped on site. Given the mixed character of development in the area and the layout of the store, it is considered that the new retail food store hereby proposed would not appear as an unacceptable form of development in this location.
- 2.6.12 In conclusion, the proposal for a new retail food store is considered to be visually acceptable and would not detract from the character or visual amenity of the surrounding area. This development proposal is therefore considered to accord with Policies ENV1 of SDLP and Policy SP19 of SDCS, the NPPF and NPPG, insofar as these policies relate to matters of design and visual amenity.

2.7 Residential amenity

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

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

2.8 Flood risk, drainage and climate change

- 2.8.1 Relevant policies in respect to flood risk, drainage and climate change include Policy ENV1 (3) of the Selby District Local Plan, and Policies SP15 “Sustainable Development and Climate Change”, SP16 “Improving Resource Efficiency” and SP19 “Design Quality” of the Core Strategy.
- 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 paragraphs within the NPPF, which relate to flood risk, drainage and climate change include 94 and 95.
- 2.8.4 The NPPF seeks to avoid inappropriate development in areas at risk of flooding by directing development away from areas at highest risk. It requires Local Planning Authorities to apply a Sequential Test to planning applications in Flood Zones 2 and 3 to ensure that new development is located in areas at the lowest flood risk. Any application for planning permission in Flood Zones 2 or 3 must therefore demonstrate that there are no other reasonably available alternative sites that could be developed within the search area that are at a lower risk of flooding. An exceptions test is then required to be met in order to demonstrate that the development is justified and can be made safe.
- 2.8.5 The site is located within an area designated by the Environment Agency as Flood Zone 3 and must therefore be assessed in line with advice given in the NPPF regarding development and flood risk. Flood Zone 3 comprises land assessed as having a 1 in 100 or greater annual probability of river flooding (>1%), or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any year.
- 2.8.6 Objectors have raised concerns regarding the applicant’s area of search for the flood risk sequential test and reference to available land in the Staynor Hall development site in flood zone 2. The Council’s Sequential Test Developer Guidance Note (July 2017) states for proposals at ‘edge of town centre’ or ‘out of town centre’ locations, or in settlements without a defined retail area, the search area can be the catchment area that the development is intending to serve (i.e. the target catchment), having regard to the ‘sequential approach’ advocated in NPPF. The NPPF outlines that the flood risk sequential test catchment areas are set by the Local Planning Authority, on this occasion the area has been agreed between the Local Authority Officers and the applicant as 500m from the Staynor Hall Housing development. Objectors have raised concerns that the proposed food store will serve more than just the Staynor Hall development. Officers consider that the proposed food store will serve the Staynor Hall development and given that there are pedestrian links which will connect the two areas it is appropriate to restrict the area of search to 500 metres. In order to support the application the Authority must be satisfied that all appropriate mitigation will be agreed with the Environment Agency.
- 2.8.7 Objections on flood risk have been considered in the assessment. Reference is made to land within Flood Zone 2 being available in the Staynor Hall development

but land on this site is either allocated for housing, school provision, community centre or small retail shops and is not available for this proposal.

- 2.8.8 The Environment Agency advised that the Authority must satisfy themselves that the flood risk Sequential Test has been undertaken in a transparent way in accordance with the NPPF and NPPG. Officers have considered the information submitted and concur with the conclusion that there are no reasonably available alternative sites in the catchment area that are at a lower risk of flooding that could accommodate the development hereby proposed.
- 2.8.9 With regard to the exception test, the NPPF states at paragraph 102 that it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk and a site specific Flood Risk Assessment (FRA) must demonstrate that the development will be safe for its lifetime without increasing flood risk elsewhere and where possible will reduce flood risk overall. Buildings used for shops are identified as 'less vulnerable' uses according to Table 2 (Flood Risk Vulnerability Classification) of the NPPG, and such development within Flood Zone 3a does not need to be subject to the exceptions test.
- 2.8.10 This application is accompanied by a detailed Flood Risk Assessment which demonstrates that the development can be made safe from the risk of flooding and will not increase the risk of flooding elsewhere. The Environment Agency has been consulted in respect of this development proposal and have not objected, subject to a condition that requires the development to be carried out in accordance with the submitted FRA. This includes that finished floor levels (FFL) are set no lower than 5.3m above Ordnance Datum (AOD), floors to be of solid construction underlain with 1200g visqueen damp proof membrane, with lapped and taped joints, boilers, gas and electrical meters to be placed a minimum of 700mm above FFL and electrical sockets to be placed a minimum of 300mm above FFL and wired from above.
- 2.8.11 The Internal Drainage Board and Yorkshire Water have been consulted on the application with regards to drainage. Surface water drainage has also been a point raised by objectors. The IDB confirmed that after discussions with the applicant's engineers that the engineers would be submitting a Consent Application to the IDB providing information to support the discharge rate of 40 litres per second. The IDB seeks this to be controlled by condition which would be reasonable and necessary. Yorkshire Water had no objections to the proposal subject to conditions. Comments were received from NYCC Suds Officer who provided advice and sought further information. It is considered given the no objection from statutory consultees that have been involved in the site for a considerable amount of time that the site can be adequately managed with regards to surface water drainage.
- 2.8.12 The pumping station proposed in the north east area of the site would handle foul water from the site and the attenuation pond is noted as an overflow for surface water. There has been no objection from the statutory consultees on this aspect of the proposal.
- 2.8.13 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. Having had regard to the nature and scale of the proposal hereby sought, building regulations would control aspects of the

construction phase, and it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change would be limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria SP15 (B) of the Core Strategy.

2.8.14 Therefore having regard to policy SP15 (B) it is considered that the proposal is acceptable.

2.8.15 Policy SP16 of the Core Strategy seeks to promote resource efficiency and in particular schemes of non-residential more than 1,000m² should provide a minimum of 10% of total predicted energy requirements from renewable, low carbon or decentralised energy sources (or else in accordance with the most up to date revised national, sub-regional or local targets). No detail has been provided in the application submission to deal with this Policy requirement but can be secured by condition.

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

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

2.9 Nature conservation and protected species

2.9.1 Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 109 to 125 of the NPP and accompanying PPG in addition to the Habitat Regulations and Bat and Great Crested Newt Mitigation Guidelines published by Natural England. 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. The application site is not a formal or informal designated protected site for nature conservation itself or is known to support any populations of protected species or species or habitats of conservation interest.

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

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

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

and the NPPF subject to conditions attached to any permission granted to ensure that the development hereby permitted shall be carried out in accordance with recommendations, findings and mitigation measures outlined in the submitted ecology reports.

2.10 Trees and Landscaping

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

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

2.10.3 The submitted master site plan indicates a landscaping strip along the southern area of the site and a detailed landscaping plan shows planting along the Bawtry Road perimeter and on part of the northern perimeter. The species and location of the planting is considered to be acceptable and would accord with Policies ENV1(4) of Selby District Local Plan and SP19 of the Core Strategy.

2.11 Contamination

2.11.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. These policies should be afforded significant weight. The land comprises an agricultural field with no known former industrial uses on the site. Nevertheless, a Phase 1 and 2 geo environmental assessment report has been submitted with the application and raises no adverse issues for the development and for future occupiers of the food store. No recommendations were suggested and it is therefore considered that the proposed development would not raise adverse contamination issues for the development.

2.12 Conclusion

2.12.1 The application is a departure from BRAY/2 of Selby District Local Plan as the Policy allocates the site for employment uses (B uses) and therefore is in conflict with the Policy.

2.12.2 Policy SP13 and paragraph 22 of the NPPF refer to allocated sites in the development plan, and safeguarding unless it can be demonstrated that there is no reasonable prospect of a site being used for that purpose. It is considered taking into account all the issues in the report, with reference to evidence provided by the applicant with regard to market interest in the application site for employment uses the availability of employment land elsewhere in Selby Town that it is accepted that there is no reasonable prospect of the site being used for the allocated use. The proposal therefore complies with Policy SP13B (2) of Selby District Core Strategy and the NPPF paragraph 22. Significant weight is applied to these Policies.

2.12.3 It is considered that there are no other more sequentially preferable retail sites within Selby Town Centre that are available and suitable for the scale of retail food store hereby proposed and as a result it is considered that the proposed development passes the retail sequential test criteria. This is a matter that attributes moderate weight in supporting the application. Its size is generally comparable with

the quantum of retail approved in the original out line consent for the Staynor Hall development.

- 2.12.4 The new retail food store is considered to be visually acceptable and would not detract from the character or visual amenity of the surrounding area, nor would it give rise to any significant or unacceptable issues relating to noise and disturbance for the nearby neighbouring occupiers. The proposals are also considered to be acceptable in respect of matters relating to access, parking and highway safety, flood risk and drainage, nature conservation and land contamination, subject to appropriate conditions where necessary. These matters are applied moderate weight in supporting the application. Furthermore, there is sufficient employment land with planning permission and /or allocated with Selby to provide from employment uses should this site be developed for employment purposes.
- 2.12.5 Having regard to all material considerations which includes the benefits brought about by bringing a vacant allocated site forward for development and provision of jobs to boost the local economy. These matters are attributed moderate weight in supporting the application. There are no highways objections to the proposals.
- 2.12.6 A planning balancing exercise concludes that despite the conflict with BRAY/2 and EMP2 of the Local Plan there is conformity with Policies SP1, SP2, SP13, SP14, SP15, SP16, SP18 and SP19 of Selby Core Strategy and Policies ENV1, ENV2, ENV28, EMP6, S3, T1 and T2 of Selby District Local Plan. Overall, the development plan has a number of policies pulling in different directions. In this case there are material planning benefits which weigh in favour of the approval of the application.
- 2.12.7 In conclusion, the application site has been allocated for several years. However, no occupier has been forthcoming for this site nor the site identified for retail purposes in the Staynor Hall Master Plan. There are no sequentially preferable and available retail sites and there is an adequate supply of alternative employment sites in Selby and beyond. The development will generate approximately 20 full and 30 part time jobs (40 FTE's) The proposed food store will be, linked to the residential development at Staynor Hall with a new footpath and cycleway and it is served by buses. Its development will help to secure new investment and jobs in a prominent gateway and sustainable location within the towns defined development limits.
- 2.12.8 The recommendation for this application is set out below.

3.0 Recommendation

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

- (i) Following Referral of the application to the Secretary of State, his confirmation that it is not to be called in for his consideration; and**
- (ii) Subject to any recommended conditions detailed below:**

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

Reason:

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

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

8238 – 20 – 01A Proposed Ground Floor Plan
8238 – 20 -03A Proposed Roof Plan
8238 – 20 – 04A Proposed Elevations
8238 – 90 – 01B Site A Proposed Site Location Plan
13529/5000/MP01
8238 – 90 – 05A Proposed Site Logistics Plan
13529-101-3DT(6) Topographical Survey
13529-5000-06 Typical Highway Construction
13529-5000-09A Attenuation Pond & Headwall Detail
13529-5000-14A FW Compound
13529-5000-15 Manhole Details
13529-5000-16A Watercourse Cross Section
13529-5000-19C Site Entrance Roundabout Plan
2522/4 Detailed Landscape Proposals
2522/5 Site Layout Plan

Reason:

For the avoidance of doubt.

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

Reason:

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

04. Notwithstanding the provisions of Class A of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the sales area of the Use Class A1 development in the building shall not exceed 1,325 square metres gross.

Reason:

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

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

Reason:

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

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

Reason:

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

07. There shall be no goods delivered to the retail unit outside the hours of 07:00 - 22:00 Monday to Saturday and Bank Holidays, 08:00 -17:00 on Sundays.

Reason:

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

08. Opening hours for the retail unit shall not be outside the hours 07:00 to 22:00 hours Monday to Saturday and only for 6 consecutive hours between 10:00 and 18:00 on a Sunday and not on Christmas Day or Easter Sunday.

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

12. Before occupancy of the retail food store, a scheme to demonstrate that at least 10% of the energy supply of the development has been secured from decentralised and renewable or low-carbon energy sources including details and a timetable of how this is to be achieved, including details of physical works on site, has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter unless otherwise approved in writing by the Local Planning Authority.

Reason:

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

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

Reason:

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

14. No part of the development to which this permission relates shall be brought into use until the carriageway and any footway/footpath from which it gains access shall be constructed to base course macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

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

Reason:

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

15. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas have been constructed in accordance with the submitted drawing (Reference 13529/5000/MP01) Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

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

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

Reason:

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

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

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

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

Reason:

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

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

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

Reason:

In accordance with Policies T1 and T2 of Selby District Local Plan and to avoid interference with the free flow of traffic and to secure safe and appropriate access

and egress to the site in the interests of safety and convenience of highway users and the amenity of the area.

19. 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 accordance with Policy T1 of Selby District Local Plan and in the interests of both vehicle and pedestrian safety and the visual amenity of the area.

20. 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 Pedestrian Island and footway to access the bus stop on the western side of Bawtry Road

b. Relocation of bus stop on the western side of Bawtry Road to include appropriate infrastructure

Reason:

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

21. 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 20.

a. Provision of Pedestrian Island and footway to access the bus stop on the western side of Bawtry Road.

b. Relocation of bus stop on the western side of Bawtry Road to include appropriate infrastructure.

Reason:

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

22. 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 hereby permitted until full details of the

following have been submitted to and approved in writing by the Local Planning Authority:

- (i) vehicular and cycle parking
- (ii) vehicular turning arrangements
- (iii) manoeuvring arrangements
- (iv) loading and unloading arrangements.

Reason:

In accordance with Policy T1 of Selby District Local Plan and to ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.

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

Reason:

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

24. Details of any external lighting of the site shall be submitted to, and approved in writing by the Local Planning Authority prior to the commencement of the development. This information shall include:

- 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

The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

Reason:

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

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

- 1. Finished floor levels are set no lower than 5.3m above Ordnance Datum (AOD).
- 2. Floor to be of solid construction, underlain with 1200g visqueen damp proof membrane, with lapped and taped joints.

3. Boilers, gas and electrical meters to be placed a minimum of 700mm above finished floor level.
4. Electrical sockets to be placed a minimum of 300mm above FFL and wired from above.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason

To reduce the risk of flooding to the proposed development and to increase the resilience of the structure to flooding facilitating faster post flood recovery in accordance with Policy SP15 of Selby Core Strategy.

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

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

Reason:

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

27. No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 26.

Reason:

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

28. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 26 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

32. The development hereby permitted shall be carried out in accordance with recommendations, findings and mitigation measures outlined in the Extended Phase 1 Habitat Survey dated May 2014 and the Water Vole Survey of September 2015 by Wold Ecology Ltd.

Reason:

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

28. Prior to the occupation of the food store hereby permitted, the public footpath link to the Staynor Hall residential area shown on drawing number 8238-90-01 REV B shall be constructed and available for use.

Reason:

To ensure the provision of the pedestrian link in the interests of sustainability, in accordance with Policy T1 of 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

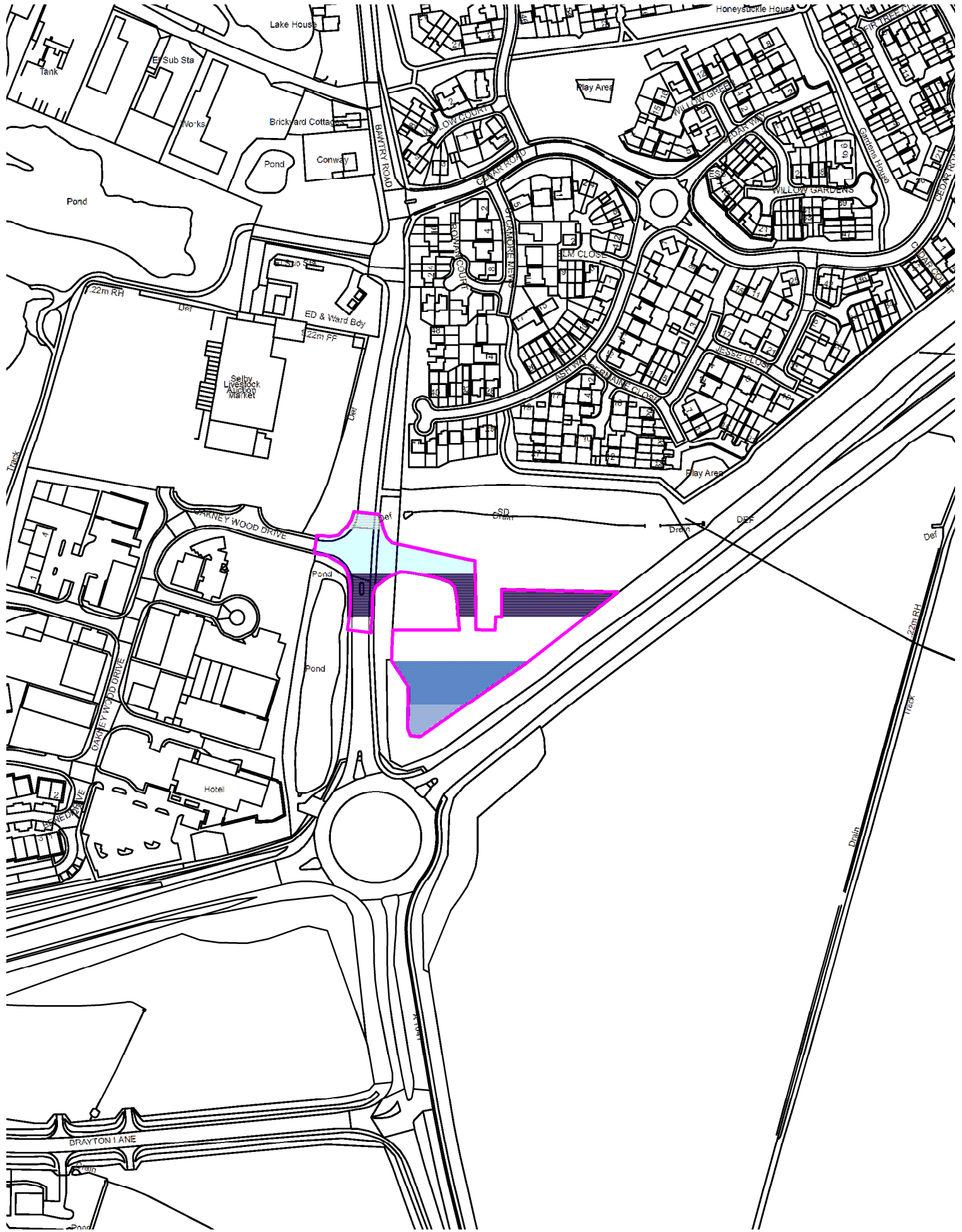
4.1 As stated in the main body of the report.

5. Background Documents

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

Contact Officer: Mr Keith Thompson (Senior Planning Officer)

Appendices: None

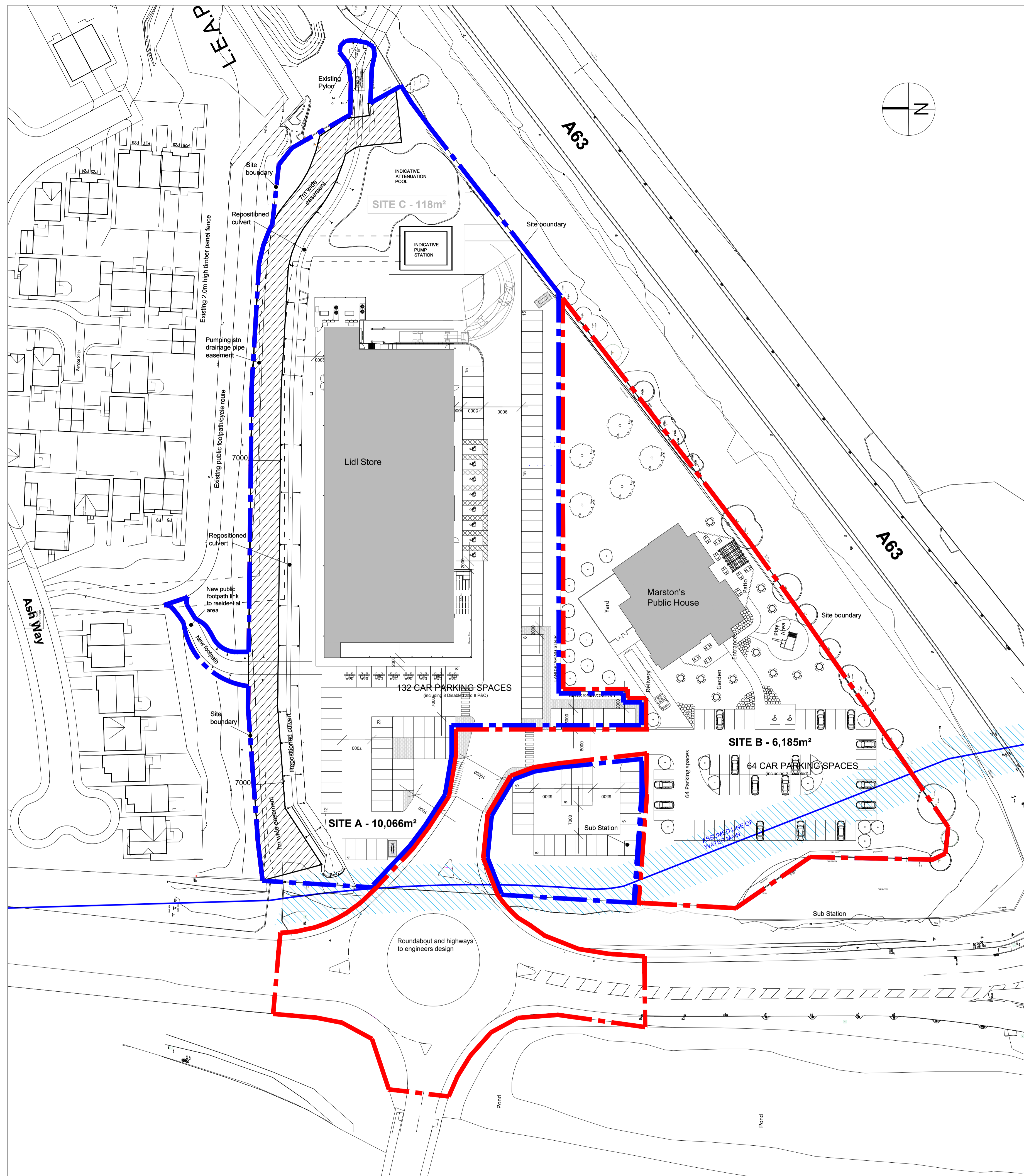


APPLICATION SITE

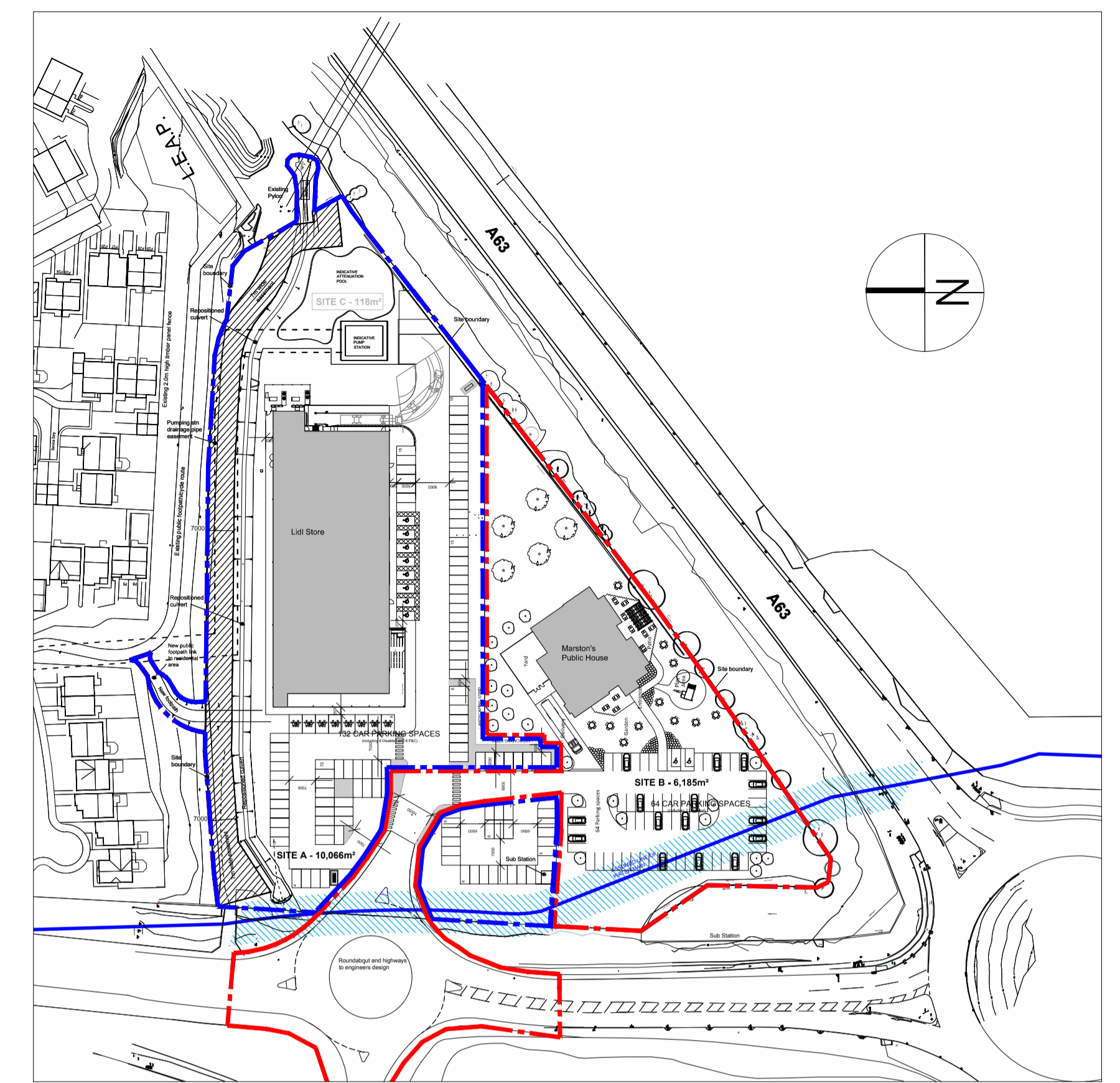
Item No: 2015/1272/FUL

Address: Staynor Hall Development, Bawtry Road, Selby

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1 Site Plan
1:500



1 Location Plan
1:1250

**AMENDED
DRAWING**

RECEIVED
19 July 2017
DEVELOPMENT MANAGEMENT

REV	DATE	DESCRIPTION	DR	CHK
B	07.07.17	Red line boundary updated to include all roundabout works		CJS
A	14.06.17	Scheme amended to suit revised highways / roundabout CJS design		CJS

PLANNING ISSUE

darnton_{B3}
ARCHITECTURE
LEEDS

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PROJECT
RETAIL DEVELOPMENT AT STAYNOR HALL
SELBY

DRAWING
MARSTON'S PUBLIC HOUSE - SITE B
PROPOSED SITE & LOCATION PLAN

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Report Reference Number: 2015/1272/FUL

Agenda Item No: 6.2

To: Planning Committee
Date: 6th September 2017
Author: Keith Thompson (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2015/1272/FUL	PARISH:	Selby Town Council
APPLICANT:	Mr S Rogerson	VALID DATE: EXPIRY DATE:	19th November 2015 14th January 2016 EOT 8/9/2017
PROPOSAL:	Proposed erection of a public house with restaurant (Use Classes A3 and A4) and manager's accommodation, roundabout with access, parking area and associated infrastructure		
LOCATION:	Staynor Hall Development, Bawtry Road, Selby		

This application has been brought before Planning Committee as there are more than 10 objections contrary to the Officer recommendation to approve the application and the application is a Departure from the Development Plan (BRAY/2 of Selby District Local Plan).

Summary:

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

The construction of a new roundabout at the Oakney Wood Road junction and proposed access to the site has been included, following discussions with the applicant and landowner, Selby District Council and NYCC Highways.

There are a number of common issues between this proposal and Planning Application 2015/1217/FUL, for the proposed erection of a food retail store on adjoining land and also being considered on this Agenda. These issues include being a departure from the Development Plan (BRAY/2 of Selby District Local Plan) and issues of conformity, the relationship to the Staynor Hall residential development, flood risk, and highways impacts and design.

The site is located within the defined Development Limits of Selby and is considered to be in accordance with Policies SP1 and SP2 of Selby Core Strategy. Although the application departs from the allocated employment use noted in BRAY/2, there are Policy considerations in the Local Plan and Core Strategy that attribute weight, in addition to benefits from the scheme as a result of the creation of new jobs and investment. It would also generally reflect the intentions behind the original Staynor Hall Master Plan and outline consent. A further benefit of the scheme (but not material to the planning decision) is the provision of a new roundabout which will help to reduce accidents and benefit adjoining landowners.

In short, it is a scheme that supports the strategic vision of the Council, as set out in the the Corporate Plan 2015 – 2020 and is in line with the general objectives of the Core Strategy. It would deliver employment growth, strengthen the local economy and provide vital amenity facilities. Having had regard to the above, it is considered that, on balance, there are material considerations that would indicate that the development can be supported.

Recommendation

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

- (i) Following Referral of the application to the Secretary of State, his confirmation that it is not to be called in for his consideration; and**
- (ii) Subject to conditions detailed in Paragraph 3.0 of the Report attached to any permission granted.**

1. Introduction and background

1.1 The Site

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

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

1.2 The proposal

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

1.2.2 The building would be circa 650m², two storey and comprise 165no. covers, WCs, cellar, bar service areas and ancillary rooms on the ground floor and the manager's accommodation with 2 bedrooms, changing rooms, office and ancillary rooms on

the second floor. The car park would include 64 no. parking spaces which include 2 no. disabled parking bays and 3 no. staff parking bays.

- 1.2.3 Opening hours have not been noted on the application form or have delivery hours.
- 1.2.4 The site is some 0.56ha in area and within land which was originally designated in Selby District Local Plan under Policy BRAY/2 for employment purposes. The Masterplan which accompanied an Outline permission had indicated the site as employment uses.
- 1.2.5 A revised application has been submitted which now includes revised access arrangements. The originally proposed priority junction has now been replaced with a roundabout junction (in the same location as proposed as part of the original outline application for Staynor Hall). This would serve the application site, the adjoining proposed food store and the Selby Business Park.

1.3 Planning History

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

- 1.3.1 Application reference CO/2002/1185 (Permitted - 06.06.2005) Outline application for the erection of 1,200 dwellings (4 existing to be demolished), employment, public open space, shopping and community facilities (including up to 2,000sq.m. of shops), together with associated footpaths, cycleways, roads, engineering works and landscaping on 56 hectares of land.
- 1.3.2 This Outline permission envisaged a roundabout coming forward in the future and this was controlled in the signed S106 Agreement that accompanied the decision notice. Recently on the Staynor Hall development two small retail units were approved in October 2016 measuring circa 70m² maximum. This was under Planning Reference: 2015/0580/EIA for a Reserved matters application for the erection of No.44 dwellings, community facilities and retail units following outline approval 8/19/1011C/PA (CO/2002/1185))
- 1.3.3 Application reference 2015/0580/EIA was approved by Committee and issued on 21st October 2016 for Reserved matters application for the erection of No.44 dwellings, community facilities and retail units.
- 1.3.4 Rigid Containers Ltd site at Denison Road, Selby. The site has an expired Outline approval 2012/0159/OUT with matters reserved for a mixed use development incorporating residential retail, leisure and marina. The land owners are currently engaged with the Council in bringing forward another scheme.
- 1.3.5 Application reference 2015/1272/FUL (Pending Consideration) Proposed erection of a public house with restaurant (Use Classes A3 and A4) and manager's accommodation with ancillary access, parking area and associated infrastructure. This proposal adjoins the application site and is proposed to share the means of access.

1.4 Consultations

The amended scheme which now includes the construction of a roundabout has been re-consulted with the expiry date 27th July 2017.

1.4.1 Selby Town Council – Supports the addition of a roundabout, do not feel the District Council should provide CIL to support this.

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

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

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

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

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

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

Revised Proposals (including Roundabout)

The LHA has engaged in detailed scoping discussions with the Applicant and their Transport Consultant. These discussions have ensured that the Transport Assessment has been of an acceptable scope and adopts a methodology that has been agreed with the LHA in respect of trip rates, traffic generation and traffic distribution.

The application as originally submitted proposed a priority junction with right turning lane to the south of Oakney Wood Road. The latest proposal is for the site to be accessed from a new roundabout directly opposite Oakney Wood Road. It is considered that this is a significant improvement from the original proposal. The roundabout will benefit both the application site and Oakney Wood Road by improving the flow of traffic compared to the priority junction arrangement.

There will also be safety benefits associated with the roundabout through the reduction in traffic speeds and minimising the likelihood of side and head-on

collisions. The Local Highway Authority does not raise an objection to the proposal but recommends that the following conditions are appended to any planning permission the Planning Authority is minded to grant.

1.4.3 SDC Environmental Health – No objection subject to a condition.

1.4.4 Yorkshire Water – No objections subject to conditions.

1.4.5 HER Officer – No objection subject to conditions for a scheme of archaeological mitigation recording.

1.4.6 Selby Area Internal Drainage Board – No objection subject to a condition to control discharge rates.

1.4.7 Environment Agency – No objection subject to condition.

1.4.8 Planning Policy - The Council's Policy team provided comment in March 2017 referring to supply of employment land and the sites assessment in the Draft 2015 Employment Land Review. The comments conclude that in advance of the Council reviewing existing site allocations for the emerging site allocations plan, there would be no Policy objections to the loss of this small employment allocation to leisure use (subject to meeting the retail sequential test and design and access for example).

1.5 Publicity

1.5.1 The application has been advertised as a departure from the Development Plan by site and press notice. As a result there have been 30 letters of representations received, of which there were 28 letters of objection and 2 letters of support. These representations are summarised below.

NB: Amended plans have been received which include the construction of a roundabout and re-notification on this expired on 27th July 2017. The roundabout and access amendments have been accepted as a revision to the application.

An objection refers to the Council not carrying out a proper re-consultation of the amendments which included a roundabout. It is considered that The 2015 Order has been complied with in that all of the consultation and publicity requirements of regulation 15 have been met for this major development. Regulation 15 does not deal with additional publicity or make it a requirement in the event that an application is subsequently amended.

Letters before action have been received from an objector, Christian Spencer Leisure Ltd and the points are summarised below:

1. Consultation on the roundabout has not included a notice in the local press,
2. Recommendation to approve comprises the Staynor Hall Masterplan,
3. Improper weight afforded to the provision of a roundabout as a material consideration in the determination of the application,
4. There is not a full and comprehensive assessment of employment land within Selby, including assessment of Policy SP13 is required,
5. Overestimate of jobs created by the permission,

6. No forward looking analysis of the proposed impact of the loss of the employment site,
7. Submitted that a comprehensive retail sequential test assessment has been undertaken.

The objector also refers to the proposal affecting the financial viability of Sleep Tight Hotel. This objection is not considered to be a material consideration in determination of this application.

Objections

Highway Safety/Access

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

Principle of Development

- Already a good provision of discount store at Aldi and restaurants at Three Lakes Retail Park, why the need for similar uses.
- Acknowledged aware of commercial site when purchasing house on Staynor but need cinema, doctors surgery, dentist.
- Retail sequential assessment required.
- The original masterplan for Staynor Hall envisaged the site being used for employment purposes.
- The site is allocated in the Development Plan for employment purposes under BRAY/2 which is a saved policy.
- The principal employment allocation for Selby is Olympia Park which is to provide 23 hectares land for employment uses, without this there would be an acute and insupportable shortage of employment land for Selby.
- The commencement of the development of Olympia Park has been subject to considerable delay and there are concerns that this site is undeliverable. This emphasizes the importance of safeguarding existing Selby employment allocations such as BRAY/2.

- There are sound planning and commercial reasons for the safeguarding and protection of BRAY/2 as an employment site serving Selby.
- The application site has never been put on the market for its allocated employment use.
- The application site has excellent strategic accessibility and with its proximity to the bypass would appear to offer characteristics required for the development of B1 office development.
- Alternative sites should be looked at.
- Although the Council assert that they may have granted planning permission for employment exceeding the Core Strategy requirement, this does not take account for take-up of employment land measured by planning permissions, completions and associated employment growth.
- The Council should afford significant weight to the Green Paper in the determination of this application.
- There is no assessment of the site being used for allocated employment use in the future.
- It is Statutory for Local Planning Authorities to determine planning applications in accordance with the development plan and proposed development that conflicts with this should be refused.
- Concerned for the loss of employment allocation BRAY/2.
- It is considered that there are available sites that could be sufficient for each of the applications individually.
- The NPPF supports town centres uses within town centre locations and if an application fails the Sequential Test it should be refused.
- It is considered that the Civic Centre at Portholme Road would be suitable. Also three sites in the Selby District Employment Land Review 2016 are considered to be suitable.
- Olympia Park is a mixed use allocation which is considered as a sequentially preferable site.

Flood Risk

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

Landscaping

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

Amenity

- Noise pollution from the proposal,
- Litter from the development will cause an overbearing effect,
- Noise from the construction phase and deliveries to the store,
- Field should be made into a sports field.

Non-planning issues

- Would reduce the value of my property.

Support

- A public house would bring more services close to Staynor Hall and reduce traffic as a result.
 - Would serve the Staynor Hall development residents.
 - A local shop and pub would improve the local community.
 - No objection in principle as the site has always been planned for employment development.
- Selby Livestock Auction Mart Ltd has lifted their objection on the basis that a roundabout would be constructed.

1.6 Environmental Impact Assessment

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

1.7 The Town and Country Planning (Consultations) (England) Direction 2009 (the direction)

1.7.1 An objection referred to this direction and that the development should be subject to this direction as the Lidl and Marston's applications both equate to more than 2,500m² floorspace. It is considered should the application be approved by committee that the application is referred to the Secretary of State.

2 Report

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

2.1.1 Selby District Core Strategy Local Plan

The relevant Core Strategy Policies are:

- SP1 - Presumption in Favour of Sustainable Development
- SP2 - Spatial Development Strategy
- SP13 – Scale and Distribution of Economic Growth
- SP14 – Town Centre and Local Services
- SP15 - Sustainable Development and Climate Change
- SP16 – Improving Resource Efficiency
- SP18 - Protecting and Enhancing the Environment

2.1.2 Selby District Local Plan

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

The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
ENV2 – Environmental Pollution and Contaminated Land
ENV28 – Other Archaeological Remains
EMP2 – Location of Economic Development
EMP6 – Employment Development within Development Limits
BRAY/2 – Employment Allocation
T1 - Development in Relation to Highway
T2 - Access to Roads
VP1 – Parking Provision
S3 – Local Shops

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

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

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

2.2 Key Issues

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

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

2.3 Principle of Development

- 2.3.1 Relevant policies in regards to the principle of retail provision include Policy S3 of the Local Plan and SP14 of the Core Strategy.
- 2.3.2 The application site is allocated for employment uses under BRAY/2 of Selby District Local Plan, East of Bawtry Road, Brayton and is 1.6ha. This application proposes the erection of a pub/restaurant which is considered to depart from this Policy in the Development Plan.
- 2.3.3 Policy EMP2 of SDLP states that new employment development will be concentrated in and around Selby. In this Policy the application site is allocated as BRAY/2 East of Bawtry Road, Brayton and is 1.6ha.
- 2.3.4 In the 2005 Outline application referred to at para 1.3.1, the Section 106 agreement refers to a section noted 'Masterplan and Phasing Strategy'. The outline application included the provision of a new roundabout junction to serve the application site (and an index linked contribution of £50,000 towards its construction), together with provision of new retail development of approximately 2,000 sq/m. The principle of new retailing in an out of centre location was therefore agreed as part of the original out line consent.
- 2.3.5 The proposed pub/restaurant is not considered to prejudice the remainder of the site covered by the outline application and phasing strategy in the S106 agreement. The area of land originally allocated for retail development has been marketed without success. In 2016 the Committee approved an application for residential development, two smaller shops and a community centre on the site (see Planning History). Nevertheless it remains important to provide new retail facilities in a sustainable location for the residents of the new Staynor Hall development as well as people working in nearby buildings e.g. on the Selby Business Park.
- 2.3.6 Paragraph 24 of the NPPF states that *'Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale'*.
- 2.3.7 The applicant has considered the former Rigid Paper Site which is edge of Town Centre and the former Civic Centre on Portholme Road also an edge of centre location. The applicant states that the Civic Centre site is available and is a suitable size to accommodate the proposed store, however it lies outside the 300 metre distance to the primary shopping frontage and as such the Civic Centre would not be sequentially preferable to the application site. Officers consider that this is not a correct assertion by the applicant because a site can be beyond 300 metres from the Primary Shopping Frontage but also be sequentially preferable to another out of centre site, which is located further away. Officers consider that although the Civic Centre site is sequentially preferable in location it can be discounted as unavailable,

as the landowners of the site have not specified their intentions for this site so it is not considered available at this time. There is also a building on site which would need to be demolished and the site would therefore need to be altered to suit the proposals. Furthermore, the Civic Centre site is large and would require a carefully planned comprehensive redevelopment, rather than piecemeal development. The Rigid Paper site has also been considered by Officers and although it is considered to be sequentially preferable in terms of being located closer to the town centre than Staynor Hall it can be discounted as not being available as Selby District Council are working closely with the site owners on a planning application, it cannot be said to be a reasonable alternative. It is noted that the expired Outline application at this site did not include commercial uses but a new application looks likely to include a public house.

2.3.8 An objection received refers to three alternative sites in Selby taken from the Draft Employment Land Review 2015 that they believe would be sequentially preferable to the proposed application site, these include Back Micklefield Car Park, Former Gas Holders and Vivars Way. The applicant's agent has been asked to consider these three sites and the following comments have been received from the applicant's agent:

- PS56 – Former Gas Holders Prospect Way - This site is considered to be out-of-centre as it is located more than 300 m from the commercial core. It is also considered that providing high traffic generating uses in this location would exacerbate the difficulties already experienced by traffic trying to exit the industrial estate.
- PS57 – Vivars Way – Whilst this site may be within the 300 m of the town centre, gaining physical access from the commercial core to the site extends to a distance of approximately 900 m. On balance the Site is therefore considered to be realistically identified as an out of centre site. Traffic issues would also most likely affect this site.
- PS34 - Back Micklegate Car park - The Employment Land Review does identify (PS34) as a potential employment site capable of accommodating general industry/business. It also confirms that this site is not actively being marketed and that if it were to be pursued, the landowner has indicated that they would undertake the development themselves. The landowner in this instance is Selby District Council. The car park is in active use and being only one of a few public car parks located in such close proximity to the town centre, where there is high demand for off-street parking. On this basis, it can be concluded as not available.

2.3.9 The Council's Policy Team has considered the agent's comments on the above and has confirmed that in terms of PS56 there has not been any historic interest in the site from trade counter/retail and industrial uses. A portion of the southern end of the site is used for operational gas distribution equipment which is to remain in situ. There may also be significant decontamination costs required dependent upon the end use and is partly within a HSE outer blast zone. PS34 has been discounted in the Employment Land Review and is not considered to be available. PS56 is not considered to be a commercially attractive given that it has no main road frontage and lies at the end of a cul-de-sac. It is therefore considered that Back Micklefield

Car Park, Former Gas Holders and Vivars Way can all be discounted. Furthermore, the Council's Policy team have advised that they have no objection to the application in terms of site suitability for retail, in the absence of any sequentially preferable sites which are suitable and available.

- 2.3.10 NPPG ID 2b-010 notes that if there are no suitable sequentially preferable locations, the sequential test is passed. Officers conclude that the sequential assessment demonstrates that there are no vacant sites available within or on the edge of Selby Town Centre that are more suitable and available for a pub/restaurant of the size hereby proposed, even when allowing for flexibility in format and scale. The sequential test is passed.
- 2.3.11 The application site is located adjacent to Bawtry Road and lies south of a large housing site which has phases of housing still to be constructed but circa 600 houses are complete. The housing site will have a new cycle/ footpath link and the housing site is served by public transport with links to the town centre. There is a footpath that links the application site to the Staynor Hall residential development. (its provision is the subject of a proposed planning condition). Consequently, it is considered that the proposed scheme satisfies the requirements of Paragraph 24 of the NPPF which gives a preference to sites that are accessible and are well connected to the town centre when out of centre development is justified.
- 2.3.12 Policy S3 of Selby District Local Plan states that development serves a location function and is of an appropriate scale. The proposal would provide pedestrian linkages to Staynor Hall housing development, providing a local function, in addition to a wider catchment with provision of car parking. The scale of the pub would be considered a medium scale building capable of serving a local and wider function. Officers consider that the proposal would therefore accord with Policy S3.
- 2.3.13 The proposal would bring forward jobs in the construction phase and during the operation of the pub/restaurant which would have a direct effect on the local economy. This would booster the Council's economic growth agenda, compliant with the Core Strategy and the NPPF and is a benefit that has significant weight in supporting the application.
- 2.3.14 As such the proposal complies with Policy SP14 of the Core Strategy and Policy S3 of the Local Plan. Policy SP14 supports local shops and services outside established Town Centres through promoting new services that serve the day-to-day needs of existing communities and planned growth of communities. Policy S3 of the Local Plan allows for local shops outside defined shopping centres providing they are within development limits, serve a local function and are of an appropriate scale.

2.4 **Employment Use**

- 2.4.1 An objection has been received which refers to there being no assessment by the Council on the reasonable prospect of the site being used for allocated employment use.
- 2.4.2 The Council's Policy team provided comment in March 2017 referring to the supply of employment land and the site's assessment in the Draft 2015 Employment Land Review. The Policy Officer has confirmed that the recent Annual Authorities

Monitoring Reports for the District shows that the council has already granted planning permissions for employment that significantly exceeds the Core Strategy requirement of 37-52 Hectares of B1/B2/B8 by 2027 (in large part due to significant employment developments at the Sherburn Industrial estate). Therefore, it is considered that the BRAY/2 site is not required to meet this target.

2.4.3 Furthermore, there are still remaining areas of the Selby Business Park, allocated as site BRAY/1 for employment use in the 2005 Selby District Local Plan, which have not been fully developed. These include:

- BRAY/1(a): 0.23ha. This site has permission (2016/1411/FUL) for 3No. units for B8 use with associated ancillary trade counter and retail use at Units 1 to 3. 848 sqm
- BRAY/1(b): 0.72ha. This site has two permissions;
 - eight B1/B2/B8 units (2014/0964/FUL) 566 sqm on the western edge of this site (almost complete), and
 - two B1/B2/B8 units (2014/0909/FUL) 628 sqm in the middle of the site (under construction).
 - The remainder of this area of the site has yet to have any planning applications approved or submitted.
- BRAY/1(c): 1.75ha. The majority of this site had outline permission for B1/B2/B8 use (2010/0612/OUT) no floorspace specified, but this expired in December 2012.

2.4.4 A small section of the eastern part of the site (joining onto the existing units) has permission (2017/0503/FUL) for 3 B1(c) light industrial use units, totalling 346 sqm floorspace. Together these sites total 2.8 hectares.

2.4.5 Other sites that are allocated or have permission for B1/2/8 use in Selby include the strategic mixed use site allocated at Olympia Park, designated in policy SP7 of the Core Strategy. This site allocates 23ha of employment land, to be delivered on the eastern part of the site (east of the Potters Group railhead) and is specified to be served by the existing junction on the A63 Selby bypass. As the site is served directly by the existing bypass on the A63, its delivery is not constrained by the same issues seen on the permitted part of the Olympia Park site. The 23 hectares consist of unconstrained greenfield land with willing land owners. This site alone meets the majority of the 23-27 hectare requirement seen in the indicative employment land distribution for Selby and Hinterland in Policy SP13 of the Core Strategy. It is also worth noting that the part of the allocated Olympia Park site north of the railway line previously had permission for B1/2/8 use (2011/0731/OUT), but this has since lapsed.

2.4.6 Land off East Common Lane was allocated for B1/B2/B8 employment use in the 2005 Selby District Local Plan (ref SEL/4). There remains an undeveloped area in the east of this site of 1.5ha that is serviced by a new access road. This area is part of a larger planning permission (ref 2007/0153/FUL), but this part of the site was shown for indicative future employment developments in that scheme.

2.4.7 Land south of the Industrial Chemicals Group on Bawtry Road has a full planning permission (reference 2016/0189/REM) for the erection of buildings for business, general industrial and warehousing purposes. The application site totals 7.4

hectares in area and has an indicative floor space of 14,000m² of B1/2/8 units proposed. An estate road to serve the site forms part of the permitted scheme.

- 2.4.8 Policy EMP2 of Selby District Local Plan refers to new employment development and allocates the site as BRAY/2 – land east of Bawtry Road, Brayton.
- 2.4.9 Policy SP13B (2) of Selby District Core Strategy refers to safeguarding established employment areas and allocated employment sites unless it can be demonstrated that there is no reasonable prospect of a site being used for that purpose.
- 2.4.10 NPPF para 22 states that: *“Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.”*
- 2.4.11 The applicant has provided information about the marketing history of the site. This includes the site not been marketed in the conventional sense such as with ‘For Sale’ sign erected on the land and its details advertised online, but the Site has been in the hands of a Land Agent for at least 10 years.
- 2.4.12 The land agent has been actively trying to identify a buyer / developer or assemble an appropriate consortium throughout that period, but it has not been possible to identify any company, person, or group willing to take the Site for offices or general industry (In accordance with the original outline consent).
- 2.4.13 Since late 2007 / early 2008, the only interest expressed with regard to developing the Site has been from a number of national food retailers, fast food chains, a petrol filling station and a hotelier.
- 2.4.14 At various instances, as schemes were drawn-up for these interested parties, some made provision for token office space development or starter type industrial unit but only to make use of unwanted space.
- 2.4.15 A letter submitted from ‘Stephenson’s’ estate agents who acted for the Trust from the late 1990s provides a history of the site marketability for different land uses. It states that an original proposal for the Staynor Hall site included conversion and extending Queen Anne country house into a hotel and public house. Hoteliers and public house operators were approached with no interest expressed, particularly being located centrally within a residential estate with no passing trade. Over the years the site was offered and some interest came from commercial companies such as fast food outlets, car showroom and petrol filling station. The demand for warehousing and workshops has been non-existent throughout the period of marketing.
- 2.4.16 Based on the information provided by the applicant and the length of time for which the application site has been allocated it is considered that there is no reasonable prospect of a site being used for B class employment uses.

2.4.17 It is acknowledge by Officers that the site has been undeveloped since its last use as agriculture circa 15 years ago. The current application would bring forward permanent jobs at pub/restaurant and during construction works. This is a benefit to the proposal and is supported in the Council's Core Strategy and NPPF. The new roundabout and improved access should also help the marketing of vacant plots/units on the nearby Selby Industrial park.

2.4.18 To conclude, it is considered based on the evidence provided by the applicant and Planning Policy Officers advice that there is no reasonable prospect of the site being used for its allocated employment use. Although the proposal would generate employment it would not strictly accord with BRAY/2 and EMP2 of the Selby District Local Plan. The proposals would be in accordance with Policy SP13 of Selby District Core Strategy and the guidance contained in the NPPF, paragraph 22.

2.5 Impact on highways

2.5.1 Although the County Highways Authority did not object to the originally proposed access arrangements which involved the provision of a new junction on Bawtry Lane, there were concerns about the accident record at the sits and the impact on the already lengthy queues at the pm peak period on Oakney Wood Drive (the access to the Selby Business Park These concerns were amplified in objections received form solicitors acting on behalf of the Wishing Well which is located on the business park. They considered the 'impacts on the proposed highway are totally unacceptable, insurmountable and such that no reasonable authority could justify the grant of planning permission for the Proposed Development'.

2.5.2 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.

2.5.3 As a result of these concerns and objections the Local Planning Authority and Highways Authority have worked with the landowner and applicant to secure the provision of a new roundabout instead of the originally proposed junction. North Yorkshire County Council Highways have considered the impact of the proposal on the highway network and have been involved in the discussion to construct a roundabout. The NYCC Highways officer has concluded that:

“The traffic impact at road junctions is measured in what is called the “ratio of flow to capacity” (RFC). Where this figure exceeds 0.85 the junction is nearing capacity and queuing starts to occur. Without the roundabout Oakney Wood Road junction was predicted to have an RFC of 2.38 in the future year of 2025 which equates to 60 queuing vehicles over the peak hour.

With the roundabout, the junction has been modelled for a future year of 2032 (15 years beyond the year of opening) and the RFC is predicted to drop to 0.68 with an average maximum queue of 2 vehicles over the peak hour.”

2.5.4 The NYCC has also confirmed that this Application has been considered cumulatively with planning application number 2015/1272/FUL. The NYCC has engaged in detailed scoping discussions with the Applicant and their Transport Consultant. These discussions have ensured that the Transport Assessment has

been of an acceptable scope and adopts a methodology that has been agreed with the LHA in respect of trip rates, traffic generation and traffic distribution.

- 2.5.5 Parking provision for new development is set out in the Selby Local Plan. The submitted plans indicate 64 parking spaces which includes 2 disabled parking bays. The site layout plan does not indicate any secure cycle provision. There is capacity on site to provide the cycle bay provision and this can be secured by condition. NYCC Highways had no objection to the parking provision on the site.
- 2.5.6 In conclusion the NYCC Highways Officer concludes that there are no objections to the proposals subject to conditions attached to any permission granted.

2.6 Visual impact on the Character and Form of the locality

- 2.6.1 Relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 (1) and (4) of the Selby District Local Plan, and Policy SP19 “Design Quality” of the Core Strategy.
- 2.6.2 Significant weight should be attached to the Local Plan policy ENV1 and Core Strategy Policies SP19 as they are broadly consistent with the aims of the NPPF.
- 2.6.3 Relevant policies within the NPPF, which relate to design, include paragraphs 56, 60, 61, 65 and 200.
- 2.6.4 The NPPG reiterates that development proposals should reflect the requirement for good design set out in national and local policy and sets out how high quality design should be achieved across all forms of development.
- 2.6.5 Policy BRAY/2 of SDLP states that proposals will need to make provision for high quality design; access from Bawtry Road; the establishment of a permanent 20m wide tree belt within the north eastern boundary of the site; the incorporation of footpath links; safe cycle tracks, including links with adjacent housing and, finally, an appropriate flood risk assessment.
- 2.6.6 The application site comprises circa 0.61ha grassed field located to the south of a large housing development which is part occupied with houses and under consideration for further phases of development. There is a mixed use industrial estate to the west called Selby Business Centre, a pub/hotel and a livestock auction mart to the north of the estate. Bawtry Road divides the site from the established built form to the west and the A63 by-pass enclosing the site along its south-south eastern perimeter. There is established planting along this latter perimeter.
- 2.6.7 There is no specific design criteria for the area in which this proposal should made reference to, although the site is considered to act as a gateway to Selby when approaching from the south or on the by-pass.
- 2.6.8 The proposal would have a two storey and single element which derives from historical precedents including the coaching inn, tavern and public house and integrates these within a contemporary concept of eating and drinking as a social, family event. The materials proposed include render, timber and brickwork with red plain tiles to the two storey element and grey to the lower roofs. A number of

different walling, roofing and cladding materials are proposed to add interest to the external form and appearance of the proposal.

2.6.9 There would be a significant buffer from the proposal of some 95m to houses to the north and the site has a spacious layout with hard and soft landscaping around the building and on the edge of the car park. Given the mixed character of development in the area and the layout of the proposal would not appear as an unacceptable form of development in this location.

2.6.10 The application is accompanied by detailed elevations and plans of the proposed building and the associated access, car parking arrangements and landscaping proposals for the site. The pub/restaurant and have outdoor seating and play area round its edge. The proposal would have an active frontage facing west, responding to the most active road frontage being Bawtry Road. It is considered that the building would not appear out of scale in this locality which includes two storey houses and mixed scale commercial development and the design and appearance would not detract from the visual amenity of the area.

The design of the proposal is considered to be acceptable. The development would provide a gateway development to the southern artery road into Selby Town. The existing 20m tree belt would not be altered by this proposal, there would be footpath/cycle connections to the neighbouring Staynor Hall housing estate and the flood risk impacts are considered to be satisfied and discussed further below.

There would be a significant buffer from the proposal to houses to the north and given that a car park lies on the western frontage of the site the building would not appear cramped on site. Given the mixed character of development in the area and the layout of the store, it is considered that the proposal hereby proposed would not appear as an unacceptable form of development in this location.

2.6.11 In conclusion, the proposals for a public house/restaurant is considered to be visually acceptable and would not detract from the character or visual amenity of the surrounding area. This development proposal is therefore considered to accord with Policies ENV1 of SDLP and Policy SP19 of SDCS, the NPPF and NPPG, insofar as these policies relate to matters of design and visual amenity.

2.7 Residential amenity

2.7.1 Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1 (1) of the Selby District Local Plan.

2.7.2 Significant weight should be attached to ENV1 of the SDLP as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved.

2.7.3 In considering residential amenity the key considerations are overlooking, overshadowing, overbearing impacts and separation distances.

2.7.4 The nearest houses lie to the north of the application site and form part of the wider housing estate called Staynor Hall. There would be a separation distance from the proposal to the nearest houses of some 95m. This distance is considered sufficient distance to ensure the building does not appear overbearing on this and neighbouring houses. Comments received from objectors relate to noise and

disturbance from the development, in particular from deliveries and general addition of a public house in proximity to houses. There would be deliveries to the building and this is indicated to occur on the west elevation of the building. It is considered this aspect of the proposal would raise no adverse residential amenity issues as a result of the separation distances and given the advice from the Council's Environmental Health Officer who raised no objection.

- 2.7.5 No opening hours have been submitted however given the separation distances from houses to the north, detail can be controlled by condition to ensure that the operation of the proposal is within acceptable parameters to ensure no adverse impact on residential amenity. No detail is provided for delivery vehicles times and for the same reason can be secured by condition.
- 2.7.6 It is considered that this arrangement would not result in a significant impact on the occupiers of the neighbouring residential properties in terms of noise and disturbance associated with deliveries and Council's Environmental Health Officer had no objection in this regard.
- 2.7.7 The application site will require flood lighting and would be acceptable in principle, however the detail can be controlled by condition in the interests of the visual amenity and character of the area.
- 2.7.8 The Council's Environmental Health Officer reviewed the submitted Noise Impact Assessment prepared by Dragonfly consulting and advised that the assessment concluded that noise from the operational phase of the development will be at the No Observable Effect Level and as such the development is compliant with the NPPF. There was no objection to this assessment. The Officer further noted that the development is of a relatively large scale and as such would entail an extended construction phase. This phase may negatively impact upon nearby residential amenity in terms of generation of noise, dust and vibration but may not be deemed to constitute a statutory nuisance. A condition is thereby recommended to seek a scheme to minimise such impact and this would be considered necessary and reasonable.
- 2.7.9 The proposal is therefore considered to accord with Policy ENV1 of SDLP and the NPPF, subject to conditions.

2.8 Flood risk, drainage and climate change

- 2.8.1 The NPPF seeks to avoid inappropriate development in areas at risk of flooding by directing development away from areas at highest risk. It requires Local Planning Authorities to apply a Sequential Test to planning applications in Flood Zones 2 and 3 to ensure that new development is located in areas at the lowest flood risk. Any application for planning permission in Flood Zones 2 or 3 must therefore demonstrate that there are no other reasonably available alternative sites that could be developed within the search area that are at a lower risk of flooding. An exceptions test is then required to be met in order to demonstrate that the development is justified and can be made safe.
- 2.8.2 Relevant policies in respect to flood risk, drainage and climate change include Policy ENV1 (3) of the Selby District Local Plan, and Policies SP15 "Sustainable Development and Climate Change", SP16 "Improving Resource Efficiency" and SP19 "Design Quality" of the Core Strategy.

- 2.8.3 Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 2.8.4 Relevant paragraphs within the NPPF, which relate to flood risk, drainage and climate change include 94 and 95.
- 2.8.5 The site is located within an area designated by the Environment Agency as Flood Zone 3 and must therefore be assessed in line with advice given in the NPPF regarding development and flood risk. Flood Zone 3 comprises land assessed as having a 1 in 100 or greater annual probability of river flooding (>1%), or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any year.
- 2.8.6 The Council's Sequential Test Developer Guidance Note (July 2017) states for proposals at 'edge of town centre' or 'out of town centre' locations, or in settlements without a defined retail area, the search area can be the catchment area that the development is intending to serve (i.e. the target catchment), having regard to the 'sequential approach' advocated in NPPF. The NPPF outlines that the flood risk sequential test catchment areas are set by the Local Planning Authority, on this occasion the area has been agreed between the Local Authority Officers and the applicant as 500m from the Staynor Hall Housing development. In order to support the application the Authority must be satisfied that all appropriate mitigation will be agreed with the Environment Agency.
- 2.8.7 Objections have been received on the application with regards to flood risk and have been considered in the assessment. Reference was made to land within Flood Zone 2 being available in the Staynor Hall development but it is considered that land on this site is either allocated for housing, school provision, community centre or small retail shops and is not available for this proposal.
- 2.8.8 The Environment Agency advised that the Authority must satisfy themselves that the flood risk Sequential Test has been undertaken in a transparent way in accordance with the NPPF and NPPG. Officers have considered the information submitted and concur with the conclusion that there are no reasonably available alternative sites in the agreed catchment area that are at a lower risk of flooding that could accommodate the development hereby proposed.
- 2.8.9 With regard to the exception test, the NPPF states at paragraph 102 that it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk and a site specific Flood Risk Assessment (FRA) must demonstrate that the development will be safe for its lifetime without increasing flood risk elsewhere and where possible will reduce flood risk overall. Buildings used for restaurants are identified as 'less vulnerable' uses according to Table 2 (Flood Risk Vulnerability Classification) of the NPPG, and such development within Flood Zone 3a does not need to be subject to the exceptions test. Drinking establishments are identified as 'more vulnerable' and need to be subject to the exception test.
- 2.8.10 This application is accompanied by a detailed Flood Risk Assessment which demonstrates that the development can be made safe from the risk of flooding and will not increase the risk of flooding elsewhere. The Environment Agency has been consulted in respect of this development proposal and has not objected, subject to a condition that requires the development to be carried out in accordance with the

submitted FRA. This includes finished floor levels (FFL) are set no lower than 5.3m above Ordnance Datum (AOD), floors to be of solid construction underlain with 1200g visqueen damp proof membrane, with lapped and taped joints, boilers, gas and electrical meters to be placed a minimum of 700mm above FFL and electrical sockets to be placed a minimum of 300mm above FFL and wired from above.

- 2.8.11 The wider sustainability benefits to the community have been considered and would be provision of a service in proximity of a significantly large housing estate in a location that is well connected on foot to this catchment area, in addition to good public transport connections to the town centre. The proposal would also provide economic and employment opportunities for the area which are positive sustainability benefits to the community. It is therefore considered on balance, that the exception test has been passed.
- 2.8.12 The Internal Drainage Board and Yorkshire Water have been consulted on the application with regards to drainage. Surface water drainage has also been a point raised by objectors. The IDB confirmed that after discussions with the applicant's engineers that the engineers would be submitting a Consent Application to the IDB providing information to support the discharge rate of 40 litres per second. The IDB seeks this to be controlled by condition which would be reasonable and necessary. Yorkshire Water had no objections to the proposal subject to conditions. Comments were received from NYCC Suds Officer who provided advice and sought further information. It is considered given the no objection from statutory consultees that have been involved in the site for a considerable amount of time that the site can be adequately managed with regards to surface water drainage.
- 2.8.13 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. Having had regard to the nature and scale of the proposal hereby sought, building regulations would control aspects of the construction phase, and it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change would be limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria SP15 (B) of the Core Strategy.
- 2.8.14 Therefore having regard to policy SP15 (B) it is considered that the proposal is acceptable.
- 2.8.15 It would be reasonable and necessary to secure electric charging facilities on site given the scale of the proposal and the likely modes of transport that would use the site and can be secured by condition.
- 2.8.16 In conclusion, no objections have been received from Yorkshire Water, the Environment Agency or the IDM (subject to appropriate conditions where necessary) and as such it is considered that this development proposal is acceptable in respect of matters relating to flood risk and foul and surface water drainage and climate change.

2.9 Nature conservation and protected species

- 2.9.1 Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy

and paragraphs 109 to 125 of the NPP and accompanying PPG in addition to the Habitat Regulations and Bat and Great Crested Newt Mitigation Guidelines published by Natural England.

- 2.9.2 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.
- 2.9.3 The application is accompanied with a Water Vole Survey as the site includes a ditch that runs along the northern perimeter of the site. The survey notes that the ditch is approximately 1m wide and 30cm deep and the flow is extremely slow to almost static. No evidence of water voles are recorded within the application site in addition to brown rat, wood mouse, bank and field vole, otters or mink.
- 2.9.4 A Phase 1 Habitat Survey was submitted to assess the impact on wildlife on the site and no ecology issues were raised as a result.
- 2.9.5 No further survey work was recommended. It is therefore considered that the proposed development would not adversely affect protected species in accordance with Policies ENV1(5) of Selby District Local Plan and SP18 of the Core Strategy and the NPPF.

2.10 Trees and Landscaping

- 2.10.1 Selby District Local Plan Policy ENV1(4) requires development to consider approaches on landscaping within the site and taking account of its surroundings.
- 2.10.2 Policy SP19(e) requires that proposals look to incorporate new landscaping as an integral part of the scheme.
- 2.10.3 There is a detailed landscaping plan which shows planting around the building and safeguarding existing planting on the southern boundaries. The species and location of the planting is considered to be acceptable and would accord with Policies ENV1(4) of Selby District Local Plan and SP19 of the Core Strategy.

2.11 Contamination

- 2.11.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. These policies should be afforded significant weight.
- 2.11.2 The land comprises an agricultural field with no known former industrial uses on the site. Nevertheless, a Phase 1 and 2 geo environmental assessment report has been submitted with the application and raises no adverse issues for the development and for future occupiers of the pub/restaurant. No recommendations were suggested and it is therefore considered that the proposed development would not raise adverse contamination issues for the development.

2.13 Conclusion

- 2.13.1 The application is a departure from BRAY/2 of Selby District Local Plan as the Policy allocates the site for employment uses (B uses) and therefore is in conflict with the Policy.

- 2.13.2 Policy SP13 and paragraph 22 of the NPPF refer to allocated sites in the development plan, and safeguarding unless it can be demonstrated that there is no reasonable prospect of a site being used for that purpose. It is considered taking into account all the issues in the report, with reference to evidence provided by the applicant with regard to market interest in the application site for employment uses the availability of employment land elsewhere in Selby Town that it is accepted that there is no reasonable prospect of the site being used for the allocated use. The proposal therefore complies with Policy SP13B (2) of Selby District Core Strategy and the NPPF paragraph 22. Significant weight is applied to these Policies.
- 2.13.3 It is considered that there are no other more sequentially preferable sites within Selby Town Centre, including the Rigid Paper site that are available and suitable for the scale of proposal hereby proposed and as a result it is considered that the proposed development passes the retail sequential test criteria. This is a matter that attributes moderate weight in supporting the application.
- 2.13.4 The proposal is considered to be visually acceptable and would not detract from the character or visual amenity of the surrounding area, nor would it give rise to any significant or unacceptable issues relating to noise and disturbance for the nearby neighbouring occupiers. The proposals are also considered to be acceptable in respect of matters relating to access, parking and highway safety, flood risk and drainage, nature conservation and land contamination, subject to appropriate conditions where necessary. These matters are applied moderate weight in supporting the application.
- 2.13.5 Having regard to all material considerations which includes the benefits brought about by bringing a vacant allocated site forward for development and provision of jobs to boost the local economy. These matters are attributed moderate weight in supporting the application. There are no highways objections to the proposals.
- 2.12.6 A planning balancing exercise concludes that despite the conflict with BRAY/2 and EMP2 of Local Plan, there is conformity with Policies SP1, SP2, SP13, SP14, SP15, SP16, SP18 and SP19 of Selby Core Strategy and Policies ENV1, ENV2, ENV28, EMP6, S3, T1 and T2 of Selby District Local Plan. Overall, the development plan has a number of policies pulling in different directions. In this case there are material planning benefits which weigh in favour of the approval of the application.
- 2.12.7 In conclusion, the application site has been allocated for several years. However, no occupier has been forthcoming for this site nor the site identified for retail purposes in the Staynor Hall Master Plan. There are no sequentially preferable and available retail sites and there is an adequate supply of alternative employment sites in Selby and beyond. The development will generate jobs. The proposed pub/restaurant will be, linked to the residential development at Staynor Hall with a new footpath and cycleway and it is served by buses. Its development will help to secure new investment and jobs in a prominent gateway and sustainable location within the towns defined development limits.
- 2.12.8 The recommendation for this application is set out below.

3.0 Recommendation

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

- (i) Following Referral of the application to the Secretary of State, his confirmation that it is not to be called in for his consideration; and
- (ii) Subject to the conditions detailed below:

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

Reason:

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

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

H7556-51D Proposed Ground Floor Plan
H7556-52E Proposed First Floor Plan
H 7556-53D Proposed Roof Plan
H7556-54E Proposed Elevations
H7556-57 Cross Section
8238 – 90 – 05A Proposed Site Logistics Plan
8238 – 90 – 06B Site B Proposed Location Plan
8238 – 90 – 08B Existing Site Location & Layout Plan
13529-101-3DT(6) Topographical Survey
13529-5000-06 Typical Highway Construction
13529-5000-09A Attenuation Pond & Headwall Detail
13529-5000-14A FW Compound
13529-5000-15 Manhole Details
13529-5000-16A Watercourse Cross Section
13529-5000-19C Site Entrance Roundabout Plan
2522/1 – Existing trees on site
13529/5000/03 REV B – External levels plan
13529/5000/MP01 - Masterplan
2522/6 – Site Layout Plan
2522/4 – Detailed Landscape Proposals

Reason:

For the avoidance of doubt

03. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be those specified on Drawing no. H7556-54E. Any variation to these details shall be submitted to and approved in writing by the Local Planning Authority before development commences. Development shall then be carried out in accordance with the approved details.

Reason:

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

04. There shall be no goods delivered to the building outside the hours of 06:30 - 22:00 Monday to Friday, 06:30 -13:00 Saturday and 06:30 to 10:00 on Sundays/Bank Holidays.

Reason:

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

05. Opening hours for the development shall not be outside the hours 07:00 – 12:30am seven days a week and 01:00am during Christmas, New Year's Day and Bank Holiday.

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

09. No part of the development to which this permission relates shall be brought into use until the carriageway and any footway/footpath from which it gains access shall

be constructed to base course macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

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

Reason:

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

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

Reason:

In accordance with Policies T1 and T2 of Selby District Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

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

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

Reason:

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

12. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas have been constructed in accordance with the submitted drawing (Reference 13529/5000/MP01) Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

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

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

Reason:

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

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

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

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

Reason:

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

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

Reason:

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

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

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

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason

To reduce the risk of flooding to the proposed development and to increase the resilience of the structure to flooding facilitating faster post flood recovery in accordance with Policy SP15 of Selby Core Strategy.

17. No development shall take commence until a Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and:
 1. The programme and methodology of site investigation and recording
 2. Community involvement and/or outreach proposals
 3. The programme for post investigation assessment
 4. Provision to be made for analysis of the site investigation and recording
 5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 6. Provision to be made for archive deposition of the analysis and records of the site investigation
 7. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Reason:

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

18. No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 17.

Reason:

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

19. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 17 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

25. The development hereby permitted shall be carried out in accordance with recommendations, findings and mitigation measures outlined in the Extended Phase 1 Habitat Survey dated May 2014 and the Water Vole Survey of September 2015 by Wold Ecology Ltd.

Reason:

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

26. 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 Pedestrian Island and footway to access the bus stop on the western side of Bawtry Road.

b. Relocation of bus stop on the western side of Bawtry Road to include appropriate infrastructure.

Reason:

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

27. 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 26.

- a. Provision of Pedestrian Island and footway to access the bus stop on the western side of Bawtry Road.
- b. Relocation of bus stop on the western side of Bawtry Road to include appropriate infrastructure.

Reason:

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

28. 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 hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority:

- (i) vehicular and cycle parking
- (ii) vehicular turning arrangements
- (iii) manoeuvring arrangements
- (iv) loading and unloading arrangements.

Reason:

In accordance with Policy T1 of Selby District Local Plan and to ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.

29. Prior to the occupation of the pub/restaurant hereby permitted, the public footpath link to the Staynor Hall residential area shown on drawing number 8238-90-06 REV B shall be constructed and available for use.

Reason:

To ensure the provision of the pedestrian link in the interests of sustainability, in accordance with Policy T1 of 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.

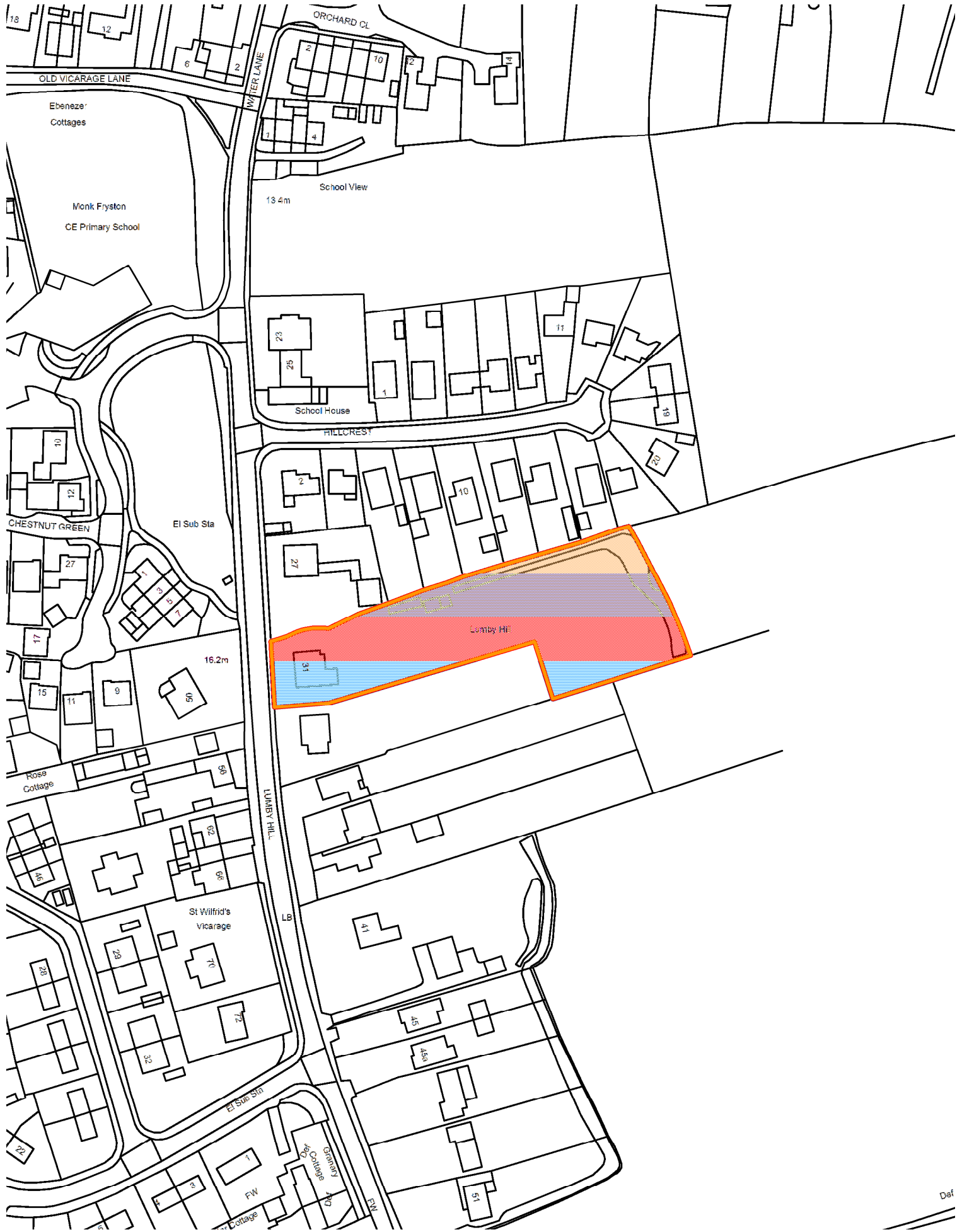
5. Background Documents

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

Contact Officer: Mr Keith Thompson (Senior Planning Officer)

Appendices: None

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APPLICATION SITE

Item No: 2016/1254/FUL

Address: The Bungalow, 31 Lumby Hill, Monk Fryston

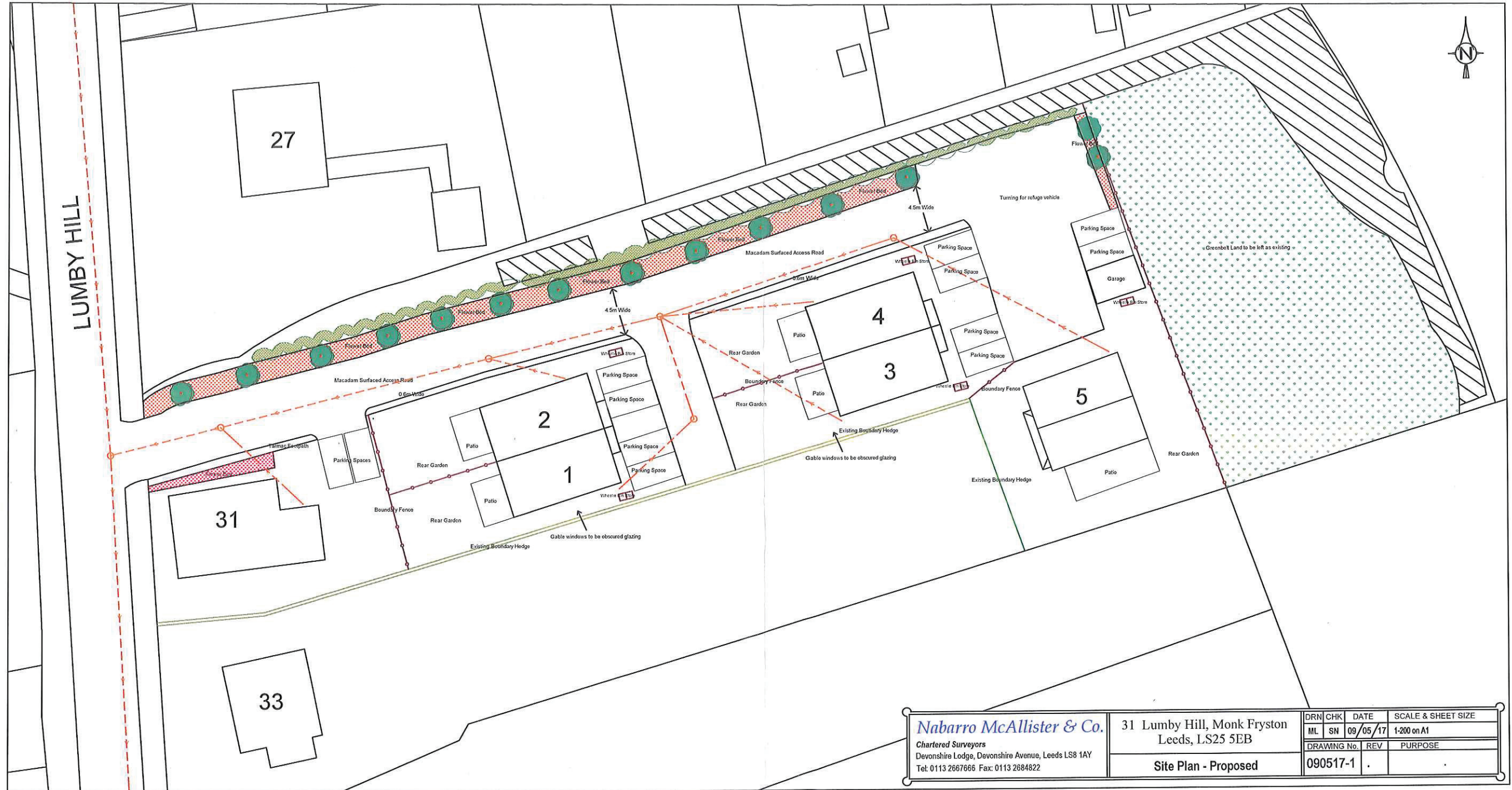
This map has been reproduced from the Ordnance Survey mapping with the permission of Her Majesty's stationary office. © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Selby District Council: 100018656

AMENDED DRAWING

RECEIVED

10 May 2017

DEVELOPMENT MANAGEMENT



Nabarro McAllister & Co.				31 Lumby Hill, Monk Fryston		DRN	CHK	DATE	SCALE & SHEET SIZE
Chartered Surveyors				Leeds, LS25 5EB		ML	SN	09/05/17	1:200 on A1
Devonshire Lodge, Devonshire Avenue, Leeds LS8 1AY				Site Plan - Proposed		DRAWING No.		REV	PURPOSE
Tel: 0113 2667666 Fax: 0113 2684822						090517-1		.	.

Report Reference Number: 2016/1254/FUL

Agenda Item No: 6.3

To: Planning Committee
Date: 6th September 2017
Author: Mr Keith Thompson (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Development Manager)

APPLICATION NUMBER:	2016/1254/FUL	PARISH:	Monk Fryston Parish Council
APPLICANT:	Ms Helen Ripley	VALID DATE:	25th October 2016
		EXPIRY DATE:	20th December 2016
PROPOSAL:	Partial demolition of existing bungalow and erection of 4 No 3 bedroom semi-detached and 1 No 4 bedroom detached houses		
LOCATION:	The Bungalow 31 Lumby Hill Monk Fryston Leeds West Yorkshire LS25 5EB		
RECOMMENDATION	REFUSE		

1. Introduction and background

1.1 The Site

1.1.1 The application site is located to the rear garden of no. 31 Lumby Hill, a detached dwelling. The application involves the subdivision of the long rear gardens of no 31 Lumby Hill. The site lies to the east of the dwelling on land that slopes from the roadside to the east. The northern perimeter of the site is enclosed by a quarry wall with houses situated to the north on Hillcrest. The southern perimeter has a hedge that separates the site with no. 33. The eastern part of the site lies within the Green Belt and the quarry edge forms the perimeter of the eastern part of the site.

1.2 The proposal

1.2.1 The application seeks planning permission for the erection of 5no. dwellings.

1.2.2 The proposed dwellings would include 2 no. pairs of three bedroom semis and a 4no. bedroom detached house.

1.2.3 An estate road would be constructed from Lumby Hill to serve the dwellings.

1.3 Planning History

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

1.3.1 CO/1992/0910 (Permitted - 29.09.1992) Proposed Construction of a pitched roof to replace existing flat roof at no. 31 Lumby Hill.

2.0 Consultation and Publicity

The application has been publicised by site and press notice and neighbour notification letter with 5 objections received (including a Cllr objection) citing the following concerns:

- Houses with chimneys burning fuel would be on the same level as our rear garden,
- Privacy between windows on houses on Hillcrest and new dwellings,
- Will the road be private or adopted by the Council,
- Who will be responsible for the quarry wall should there be any damage and the hedge,
- Who will be responsible for the flower bushes, trees,
- Will the existing property still have ownership of the Green Belt land and its maintenance,
- Distant views of shrubs and trees would change to roofs and chimneys,
- Drainage concerns,
- Monk Fryston school is over prescribed,
- Traffic will be increased,
- Overdevelopment,
- Adequate on-site parking should be provided,
- Reassurances on any subsidence issues with quarry wall,
- Noise from traffic from the houses.
- Contrary to the Development Plan being located in the Green Belt,
- Views from the Green Belt into the site have to be appraised,
- Sequentially PDL is preferred over greenfield land,
- Creates back land development

2.1 NYCC Highways

No objection subject to conditions.

2.2 Yorkshire Water

Clarification on a public sewer recorded to cross the site sought. No objection in principle to the proposed building position near to public sewer subject to control under Part H4 Building Regulations 2000.

2.3 Selby Area Internal Drainage Board

No comment.

2.4 Monk Fryston Parish Council

Objection on grounds of density and adequacy of the arrangement of the proposed vehicular access and lack of provision for visitor parking within the development.

2.5 Environmental Health

No objections.

2.6 Natural England

No comment.

2.7 North Yorkshire Bat Group

No comments received on the application.

2.8 Public Rights Of Way Officer

No comments received on the application.

2.9 Contaminated Land Consultants

No objection subject to SDC standard contaminated land conditions being applied. This is in order to address the potential risks associated with historic quarrying within close proximity to the site.

3.0 Site Constraints and Policy Context

Constraints

3.1 The application site is partly located within defined development limits with part of the site located within the Green Belt. The proposed development would all take place within the development limits and the area of land within the Green Belt would remain undeveloped.

3.2 The application site is located within Flood Zone 1.

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

3.3 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "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". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.

3.4 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.

Selby District Core Strategy Local Plan

3.5 The relevant Core Strategy Policies are:

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Development Strategy
SP3	Green Belt
SP4	Management of Residential Development in Settlements
SP5	Scale and Distribution of Housing
SP8	Housing Mix
SP9	Affordable Housing
SP15	Sustainable Development and Climate Change
SP18	Protecting and Enhancing the Environment
SP19	Design Quality

Selby District Local Plan

3.6 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, 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)".

3.7 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
CS6 - Development Contributions-Infrastructure

Supplementary Planning Documents

3.8 Monk Fryston Village Design Statement Aug 2011.

4.0 APPRAISAL

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

1. Principle of Development
2. Green Belt
3. Design and Impact on the Character and Appearance of the Area
4. Residential Amenity
5. Highway Safety
6. Flood Risk, Drainage and Climate Change
7. Nature Conservation and Protected Species
8. Land Contamination

9. Affordable Housing
10. Recreational Open Space

4.2 Principle of Development

- 4.2.1 The Council has confirmed (as a result of the endorsement of the Director of Economic Generation & Place of the 24th July 2017), that it now has a 5.4 year supply of deliverable housing land and as such the proposals should be considered in accordance with policies contained within the Core Strategy, saved policies in the Local Plan and guidance as set out in the NPPF.
- 4.2.2 The application is located part inside the defined development limits of Monk Fryston and part outside on land within the Green Belt. The housing scheme, access road and associated garden space are all located within the development limits and thus would be subject to Policy SP2a which permits in Designated Service Villages scope for additional residential development. Policy SP4a permits appropriate scale of development on greenfield land which includes garden land. Therefore in principle the proposal would accord with these policies subject to detailed assessment below.
- 4.2.3 In respect of sustainability, the proposed scheme is located within a Designated Service Village of Monk Fryston where there is access to local services. The development is therefore located within a sustainable location with sustainable modes of transport and located within walking distance of services and public transport. The site can be considered as being in a sustainable location.
- 4.2.4 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: -
- 4.2.5 Economic
The proposal would generate short term employment opportunities during the construction phase.

Social

The proposed dwellings would provide a limited Community Infrastructure Levy (CIL) contribution to help support local services

Environmental

The proposal would deliver high quality homes for local people and take into account environmental issues such as flooding and impacts on climate change.

The above factors weigh in favour of the development.

4.3 Green Belt

- 4.3.1 Relevant policies in respect to the principle of the development in the Green Belt are Policy SP3 of the Core Strategy and NPPF paragraphs 88 and 89. It is noted that no development is proposed in the Green Belt.

- 4.3.2 Part of the application site (land to the eastern area of the former quarry) is located outside defined development limits and is located within the Green Belt as such, national guidance contained within the NPPF and Policies SP2 (d) and SP3 of the Core Strategy are relevant.
- 4.3.3 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 development in the Green Belt. The NPPF and Local Plan set out the categories of appropriate development.
 - b. If the development is appropriate, the application should be determined on its own merits unless there is demonstrable harm to interests of acknowledged importance, other than the preservation of the Green Belt itself.
 - c. If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which outweigh the presumption against it.
- 4.3.4 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 4.3.5 The quarry wall provides a distinct and natural boundary to the edge of the site and intersects Green Belt land. A public footpath located to the south east of the site provides views and the site is largely screened. Trees and planting is visible that lies on the perimeter of the quarry with only houses at Hillcrest and The Crescent visible in the distance. The edge of the developed part of the site would have a fence, a detached garage, parking spaces and some soft landscaping introduced and situated along the Green Belt boundary which would be visually harmful and imposing on the visual character of the Green Belt.
- 4.4.6 Paragraphs 89 and 90 of the NPPF set out what does not constitute inappropriate development in the Green Belt. The proposal states that the land designated as Green Belt would be left as garden land for the host dwelling no. 31 Lumby Hall. There would be no new buildings erected on this land and there would be no change of use of land. Therefore in terms of principle of development the proposal would not result in adverse impact upon the openness of this area of Green Belt land.
- 4.3.7 The proposal would thereby adversely impact upon the visual character of the Green Belt with built development that butts the defined Green Belt boundary and is considered to be contrary to Policy SP3 of the Core Strategy.

4.4 Impact on Character and Form of the Locality

- 4.4.1 The proposed housing development would be laid out with two pairs of semi-detached dwellings and a detached dwelling in the eastern area of the site. Land further east is Green Belt land and this would remain as garden land for the host dwelling.

- 4.4.2 The original scheme was amended due to concerns with the separation distances between dwellings on site and also the relationship with the host dwelling, no. 31 Lumby Hill. The revised scheme reoriented plots 3 and 4 to change the front elevation to face east rather than west toward plots 1 and 2. There would be off street parking to the front of plots 1-4 and rear gardens enclosed with a boundary fence. The larger detached dwelling at plot 5 would have a more generous plot.
- 4.4.3 There is a varied mix of housing located along Lumby Hill which consists of an estate development to the north at Hillcrest which is a linear group of houses and cul-de-sac. These houses have mainly generous garden to the side and rear of the each dwelling. Off street parking is predominately sited to the side of each dwelling. Houses on the western flank of the road does not have a coherent layout pattern with houses set back from the roadside at different distances and varied garden sizes. Houses to the south of the application site include the host dwelling, each have characteristically houses located near the roadside and long narrow gardens to the rear (for at least 6 houses). Land beyond the gardens of these dwellings to the east is constrained by Green Belt and the open aspect is characteristic of this area of the village.
- 4.4.4 The host garden and neighbours to the south gardens provide an open aspect to the built environment in this area village. Land on the western flank of Lumby Hill is more densely developed than the eastern side from Hillcrest.
- 4.4.5 The houses would be laid out with two pairs of semis and a detached dwelling on land that is not level and will require significant excavation to levels and alteration to the land form. The separation distance between the semis would be circa 16m and the distance from the host dwelling to plots 1 and 2 would be circa 18m. The site slopes significantly from the roadside to the eastern edge where it meets Green Belt land and then the quarry edge. The site is also at lower ground level than Hillcrest to the north and the nearest houses on this estate are more than 21m away from the proposed houses.
- 4.4.6 The agent considers that the proposal is not dissimilar in layout to Hillcrest located to the north. Officers disagree insofar that Hillcrest has a much more generous layout with houses driveways located to the side of houses and space about dwellings being more generous. The contrived layout of the proposal does not relate well to the grain of housing along Lumby Hill which it is acknowledged varies, but nevertheless this scheme jars with the neighbouring houses layout character. The site would not appear to integrate with the grain of development in this part of the village, effectively appearing as a development that looks inward on itself. The properties would have no street or access frontage.
- 4.4.7 There would be adequate space for waste and recycling provision within each plot and this could be secured by condition.
- 4.4.8 It is considered that the character and appearance of the village would be adversely harmed by this proposal which does not relate to or ameliorate with its surroundings. The proposal is considered to fail to accord with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF, in particular Chapter 7 (requiring Good Design) at paragraphs 60 relating to promotion or reinforcement of local distinctiveness, and

paragraph 66 requiring applicants to work closely with those directly affected to evolve designs that take account of the views of the community.

4.5 Impact on Residential Amenity

- 4.5.1 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 4.5.2 Objections received from neighbours include concerns with privacy and overlooking from the new houses. The application site has a sloping ground level that extends from Lumby Hill toward to the eastern area of the garden, the lowest ground level. The houses on Hillcrest are on significantly higher ground level. The adjacent houses that lie to the south of the site have a similar ground level with their gardens falling to the east. The northern and eastern edge of the site is formed by the remains of a quarry edge and this provides a physical barrier between the site and neighbour's. When constructed the houses would have a roof line that peaks above the ground level of Hillcrest, but would not likely to be higher to raise issues of privacy or appear overbearing on these neighbour's outlook.
- 4.5.3 Plots 1 and 3 would have gable windows that serve bedrooms and these would overlook the rear garden of no. 33 Lumby Hill which is long and narrow and similar to the host dwelling. Whilst it would be appropriate to protect the immediate setting of the outdoor space of the neighbour, it is considered that the complete protection of the rear garden from overlooking is unreasonable. Nevertheless the neighbour's objection is noted. These windows could also be conditioned by securing obscured glazing.
- 4.5.4 Plot 5 would be set off the boundary with no. 33 rear garden circa 6m and there is a first floor gable window facing west which serves a bathroom and can be obscured glazing to remove any adverse overlooking of this garden. The south elevation of this plot would include two windows serving two bedrooms. There would be some overlooking of the far eastern area of no. 33 garden but given the length of this garden, this harm is not considered to be significant.
- 4.5.5 Plots 1 and 2 would have first floor windows that face the host dwelling at no. 33. Land levels slope from west to east. There would be significant overlooking from first floor windows of these new dwellings towards the rear garden of the host dwelling which be detrimental to their privacy and enjoyment of outdoor amenity space.
- 4.5.6 The semi-detached houses at plots 1-4 would have parking and turning areas to both the front and rear. Plots 2 and 4 closest to the access road would have vehicular movements to three sides. The level of amenity to the occupants would therefore be significantly reduced, creating conditions similar to those normally considered unacceptable for an existing dwelling when a new dwelling to the rear is proposed, in a 'backland' location.
- 4.5.7 As such it is considered that the proposals are unacceptable in terms of significant adverse impact on residential amenity of the host dwelling, by overlooking from

plots 1 and 2 rear windows and thus fails to accord with Policy ENV1 (4) of the Local Plan and the advice contained within the NPPF.

4.6 Impact on Highway Safety

- 4.6.1 The proposed dwellings would benefit from a vehicular access onto Lumby Hill. Each dwelling would have off street parking and an estate road would serve each dwelling. North Yorkshire County Council Highways raise no objections to the proposal subject to conditions.
- 4.6.2 Objections have been raised by the Parish Council regarding access from the site onto Lumby Hill. It is noted that the development would be more intense than the current single dwellinghouse access but there are no known capacity issues on Lumby Hill that would lead to the view that this scale of development would pose a highway safety risk or lead to adverse highway capacity issues.
- 4.6.3 Having regard to the above, it is considered that the proposal is acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Local Plan and the advice contained within the NPPF.

4.7 Flood Risk, Drainage and Climate Change

- 4.7.1 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. It is noted that in complying with the 2013 Building Regulations standards, the development will achieve compliance with criteria (a) to (b) of Policy SP15 (B) and criterion (c) of Policy SP16 of the Core Strategy.
- 4.7.2 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.”
- 4.7.3 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. The NPPF, paragraph 95, states that to support the move to a low carbon future, local planning authorities should plan for new development in locations and ways which reduce greenhouse gas emissions and which actively support energy efficiency improvements to existing buildings.
- 4.7.4 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 4.7.5 Yorkshire Water and the IDB did not raise any objections to the proposal with Yorkshire Water seeking under Building Regulations safeguarding of a water pipe on the site. As such, the proposal would raise no adverse drainage issues.

4.8 Nature Conservation and Protected Species

- 4.8.1 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.
- 4.8.2 The application site is not a designated protected site for nature conservation.
- 4.8.3 It is considered that the proposal would not harm any acknowledged nature conservation interests and is therefore in accordance with Policy ENV1 (5) of the Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

4.9 Land Contamination

- 4.9.1 The application has been reviewed by the Councils contaminated land consultants who advise based on the information submitted by the agent in the form of Contaminated Land information, should control the development by attaching standardised conditions, which would be reasonable and necessary.
- 4.9.2 Subject to the aforementioned conditions, it is considered that the proposal would be acceptable in respect to land contamination and is therefore in accordance with Policy ENV2 of the Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

4.10 Affordable Housing

- 4.10.1 In the context of the 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.

4.11 Recreational Open Space

- 4.11.1 Relevant policies in respect of the provision of recreational open space are Policy RT2 of the Selby District Local Plan. Policy RT2 should be afforded limited weight given it conflicts, in part, with the Council's Community Infrastructure Levy (CIL) Charging Rates, the Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and paragraphs 70 and 73 of the NPPF.
- 4.11.2 Policy RT2 states "Proposals for new residential development comprising 5 or more dwellings will be required to provide recreational open space at the rate of 60 square metres per dwelling on the following basis". Policy RT2(a) states "For schemes of more than 4 dwellings up to and including 10 dwellings, a commuted payment [is] required to enable the district council to provide new or upgrade existing facilities in the locality". However, it is noted that under the CIL, a contribution is made which can be spent by the Parish Council on improving existing recreational open space areas. As such, it is considered that the proposals are appropriate and accord with Policy RT2 of the Selby District Local Plan, Policy SP19 of the Core Strategy, the Developer Contributions Supplementary Planning Document and the advice contained within the NPPF.

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

4.12 Other Issues

4.12.1 Objections from neighbour refer to matters that are not material or subject to planning legislation. It is not considered that there is a right to a view from a dwelling window.

4.12.2 Smoke emanating from the proposed dwellings and impacting on houses on Hillcrest would be a matter for environmental health legislation if found to be a nuisance.

4.12.3 The quarry wall, bushes and flowers would be subject to care and maintenance by the landowner whether that is the existing landowner no. 31 or new owners when land is sold.

Legal Issues

5.1 Planning Acts: This application has been determined in accordance with the relevant planning acts.

5.2 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.

5.3 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.

Financial Issues

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

6.0 Conclusion

6.1 The scheme is considered to accord with Policies SP2a and SP4a and would be acceptable in principle.

6.2 However, it is considered that the character and appearance of the village would be adversely harmed by this proposal which does not relate to or ameliorate with its surroundings. The proposal is considered to fail to accord with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF, in particular Chapter 7 (requiring Good Design) at paragraphs 60 relating to promotion or reinforcement of local distinctiveness, and paragraph 66 requiring applicants to work closely with those directly affected to evolve designs that take account of the views of the community.

- 6.3 The proposed layout and ground levels of the site would not lead to an appropriate housing layout that would protect the host dwelling from overlooking. As such it is considered that the proposals are unacceptable in terms of residential amenity and thus fails to accord with Policy ENV1 (4) of the Local Plan and the advice contained within the NPPF.
- 6.4 The proposed development would adversely affect the visual open character of the Green Belt, by introducing built form on the boundary of the Green Belt, which would be contrary to Policy SP3 of Selby District Core Strategy and the NPPF.

7.0 Recommendation

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

01. The proposal would fail to protect the character and appearance of the village by introducing a scheme that does not relate to or ameliorate with its surroundings. The proposal is considered to fail to accord with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF (Chapter 7).
02. The proposed layout and ground levels of the site would not lead to an appropriate housing layout that would protect the host dwelling from significant adverse overlooking from plots 1 and 2 and undue disturbance from vehicular movements to the side and rear of plots 2 and 4. As such it is considered that the proposals are unacceptable in terms of residential amenity and thus fails to accord with Policy ENV1 (4) of the Local Plan and the advice contained within the NPPF.
03. The proposed development would adversely affect the visual open character of the Green Belt, by introducing built form on the boundary of the Green Belt, which would be contrary to Policy SP3 of Selby District Core Strategy and the NPPF.

Contact Officer: Case Officer Keith Thompson

Appendices: None



APPLICATION SITE

Item No: 2017/0527/FUL

Address: Old Forge Cottage, Main Street, Church Fenton

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

- * A wall forming part of only one building but which is on the boundary line between two (or more) properties.
- * A wall which is common to two (or more) properties, this includes where someone builds a wall and a neighbour subsequently built something butting up to it.
- * A garden wall, where the wall is outside the boundary line for both up to 1m and is used to separate the properties but is not part of any building.
- * Floors and ceilings of flats etc.
- * Excavation near to a neighbouring property.

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

Schedule Of Accommodation

6 HOUSES

House Type A - Plot 1 and 2
2 Bed
83.6 m² / 900 sq ft, excluding garage

House Type B - Plot 3, 4 and 5
4 Bed
164.7 m² / 1,773 sq ft each, excluding garage

House Type C - Plot 6
4 Bed
153.3 m² / 1,650 sq ft each, excluding garage

Total Accommodation
814.6 m² / 8,768 sq ft

Site Area - 0.45 HA approximately
excluding Old Forge Cottage plot

13 houses per hectare approximately

Refuse & Cycle Provision
With Individual Houses & Gardens

Rev E 11-04-17 Garage Plot 6 relocated, layout of Plots 1-3 altered
Rev D 07-04-17 Garage Plot 6 relocated
Rev C 07-04-17 Layout revised
Rev B 24-02-17 Previous application overlaid in blue
Rev A 06-02-17 Dwellings 4-6, plots extended to include protected trees.

The Planning & Design Partnership
PLANNING ARCHITECTURE INTERIORS LANDSCAPE
The Chicory Barn Studio,
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website: www.the-pdp.co.uk

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

Site Plan
Scale 1:200 @ A1



To: Planning Committee
Date: 6th September 2017
Author: Mr Keith Thompson (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Development Manager)

APPLICATION NUMBER:	2017/0527/FUL	PARISH:	Church Fenton Parish Council
APPLICANT:	Mr Keith Ellis	VALID DATE:	17th May 2017
		EXPIRY DATE:	12th July 2017
PROPOSAL:	Proposed erection of 6 no. dwellings		
LOCATION:	Old Forge Cottage Main Street Church Fenton Tadcaster North Yorkshire LS24 9RF		
RECOMMENDATION	REFUSE		

This application has been brought before Planning Committee as the applicant is a District Councillor.

1. Introduction and background

Site and Context

- 1.1 The application site is located to the north west of the junction between Main Street and Busk Lane. The application site comprises an existing detached triple garage and area of garden land associated with the residential property to the south east, Old Forge Cottage. The application site fronts Busk Lane to the east, with residential development to the east and south, a cricket pitch, pavilion and parking with open fields to the north and a football pitch with open fields to the west. To the northern and eastern boundaries of the application site are a region of Tree Preservation Order (TPO) trees (reference: 8/1985), comprising Ash and Sycamore.

The proposal

- 1.2. The application seeks planning permission for the erection of 6 dwellings. The proposed dwellings would be a mixture of three house types (A, B and C) providing 2 and 4 bedroom units. Plots 1 and 2 would comprise house type A, 2 bedroom

units which are semis. Plots 3, 4 and 5 would be house type B, a 4 bedroom detached house. Plot 6, house type C would also be 4 bedroom house and detached. The proposed dwellings would benefit from a vehicular access onto Busk Lane and would each benefit from an area of hardstanding to the front of the dwelling and a garden area.

Planning History

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

- 2005/0222/FUL (Refused - 07.06.2005) Outline application for erection of 4 No. dwellings and garages to include siting and means of access on land adjacent
- 2015/0835/FUL (Refused - 23.11.2015) Proposed erection of 9 No dwellings. The application was refused for the following reason:

1. *The proposal would have an adverse effect on the open character, form and purpose of the Strategic Countryside Gap between the two separate settlements of Church Fenton. The proposed development does not constitute a use with minimal intrusion and does not enhance the overall open character by the removal of existing structures. The proposal is therefore contrary to Policy SG1 of the Adopted Selby District Local Plan.*

- 2016/1368/FUL (Withdrawn - 08.03.2017) Erection of 6No Dwellings
- 2016/1384/FUL (Permitted - 09.02.2017) Proposed erection of 1 No dwelling

2.0 Consultation and Publicity

The application has been publicised by Site Notice and Press Notice as a Departure from the Development Plan, neighbour notification letters and the Parish Council notified. 11 objections have been received citing the following concerns:

- No changes to the proposal since the 2015 refusal,
- Out of character with the linear form of development in the village,
- Future growth of the TPO needs to be taken account of,
- Located in the Strategic Countryside Gap,
- Contrary to Local Planning Policy and the NPPF,
- Add pressure to the local primary school,
- Highway safety,
- Concerned with surface water run-off,
- Success at the sporting facilities could be affected by new occupants who could object to activities and floodlights,
- Have all neighbours been consulted

2.1 NYCC Highways

No objection subject to conditions.

2.2 Yorkshire Water

No comments received.

2.3 **Selby Area Internal Drainage Board**

No objection.

2.4 **Environmental Health**

No objection.

2.5 **Natural England**

No comments to make and advice provided with links to NE websites.

2.6 **North Yorkshire Bat Group**

No comments received.

2.7 **Public Rights Of Way Officer**

No comments received.

2.8 **Contaminated Land Consultants**

No objection to 5 standard conditions.

2.9 **Parish Council**

Objection:

- The proposal would result in the loss of the strategic countryside gap identified in the Selby District Local Plan Policy SG1
- The proposal is for backfill development which is contrary to the character of the village
- The access would create a traffic hazard as it is close to the Nanny Lane junction where there are existing traffic hazards
- The development is close to the Cricket Club and is likely to create conflict with a popular village amenity
- Recent approvals in Church Fenton significantly exceed any realistic allocation in PlanSelby.

3.0 **Site Constraints and Policy Context**

Constraints

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

3.2 The application site is located within Flood Zone 1.

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

3.3 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "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". National Planning Practice Guidance (NPPG) adds further context to the National Planning

Policy Framework (“NPPF”) and it is intended that the two documents should be read together.

- 3.4 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.

Selby District Core Strategy Local Plan

- 3.5 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:	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

Selby District Local Plan

- 3.6 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, 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)".

- 3.7 The relevant Selby District Local Plan Policies are:

SG1:	Strategic Countryside Gap
ENV1:	Control of Development
ENV2:	Environmental Pollution and Contaminated Land
RT2:	Open Space Requirements for New Residential Development
CS6:	Developer Contributions to Infrastructure and Community Facilities
T1:	Development in Relation to the Highway Network
T2:	Access to Roads

Supplementary Planning Documents

- 3.8 Church Fenton Village Design Statement, Feb 2012

4.0 APPRAISAL

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

1. Principle of Development
2. Strategic Countryside Gap
3. Design and Impact on the Character and Appearance of the Area
4. Residential Amenity
5. Highway Safety
6. Flood Risk, Drainage and Climate Change
7. Nature Conservation and Protected Species
8. Land Contamination
9. Affordable Housing
10. Recreational Open Space
11. Education and Healthcare, Waste and Recycling

4.2 Principle of Development

- 4.3 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. Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF and should be afforded significant weight.
- 4.4 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.
- 4.5 Policy SP2 identifies Church Fenton as being a Designated Service Village which has some scope for additional residential development to support rural sustainability. The application site is located outside but adjacent to the defined development limits (as defined in the adopted development plan) of Church Fenton at the eastern boundary of the settlement. The site lies outside the defined development limits of Church Fenton and therefore is located in open countryside.
- 4.6 In light of the above policy context the proposal for residential development is contrary to policy SP2A(c) of the Core Strategy. The proposal should therefore be refused unless material considerations indicate otherwise.
- 4.7 On the 24th July 2017, the Director of Economic Regeneration & Place formally endorsed an updated five year housing land supply Methodology and resultant housing land supply figure of 5.4 years, as set out in the 2017-2022 Five Year Housing Land Supply Statement. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a

positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date. The NPPF aim of boosting and maintaining the supply of housing is a material consideration when evaluating planning applications. An approval on this site (if its deliverability can be proved by the applicant) would provide additional dwellings to the housing supply.

Previous Levels of Growth and the Scale of the Proposal

- 4.8 Core Strategy Policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability. This policy sets a minimum target of 2000 for DSVs as whole, which the most recent monitoring indicates has been exceeded by completions and permissions in these settlements as a whole. However, the CS does not set a minimum dwelling target for individual DSVs, so it is not possible at this point to ascertain exactly whether Church Fenton has exceeded its dwelling target.
- 4.9 As a guide, for the purpose of consultation only, the Council put forward various growth options for the DSVs as part of the development of PLAN Selby in 2014 and 2015 and at that time the research indicated minimum growth options of between 24-39 dwellings for Church Fenton.
- 4.10 Taking into account the range of growth options identified for this settlement, the scale of this individual proposal, at 6 dwellings, is considered to be appropriate to the size and role of a settlement designated as a Designated Service Village, however the individual scale of the proposal must also be considered in terms of the cumulative impact it would have with the previous levels of growth in this settlement that have occurred since the start of the plan period. To date, Church Fenton has seen total completions and consents at 113 with an additional 6 units from this proposal. In total this is significantly more than the upper range of the minimum growth options indicated. As such it is considered an inappropriate level of growth for this DSV.

Sustainability of the Development

- 4.11 In respect of sustainability, the site is adjacent to the development limits of the village of Church Fenton, which is a Designated Service Village as identified in the Core Strategy, where there is scope for additional residential growth to support rural sustainability. The village contains a number of local services, including a primary school, general store and post office and also benefits from train station and bus services to York, Leeds, Selby and Tadcaster. In terms of access to facilities and a choice of mode of transport, despite the site being located outside the defined development limits of the settlement, the site can be considered as being in a sustainable location.
- 4.12 In addition to the above, it is noted that the village of Church Fenton has been identified as a Designated Service Village, both within the Selby District Local Plan and the Core Strategy, which demonstrates that the Council has considered the village a sustainable location. The village is considered to be “least sustainable” in Background Paper 5 Sustainability Assessment of Rural Settlements of the Core Strategy, however this is due to the distance of the settlement to employment opportunities. Having taken these points into account, despite the fact that the site

is located outside the defined development limits of Church Fenton, it is adjacent to the boundary and would be served by the facilities within this sustainable settlement and as such would perform highly with respect to its sustainability credentials in these respects.

- 4.13 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 generate short term employment opportunities during the construction phase. The proposals would bring additional residents to the area who in turn would contribute to the local economy through supporting local facilities and services.

Social

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

Environmental

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

The above factors weigh in favour of the development.

- 4.15 On consideration of the above information, it is considered that the site is outside of development limits and contrary to Policy SP2 of the CS, the above benefits and the sustainable location of the site are factors which weigh in favour of the development, but the significant levels of housing growth in Church Fenton would be contrary to Policy SP5 of the Core Strategy.

Strategic Countryside Gap

- 4.16 The application site is located within a Strategic Countryside Gap (SCG) between the east and west sides of Church Fenton. Policy SG1 of the Selby District Local Plan states “Proposals for development affecting Strategic Countryside Gaps, as defined on the proposals map, will not be permitted where there would be an adverse effect on the open character of the countryside or where the gap between settlements would be compromised”.
- 4.17 The supporting text of Policy SG1 states “Proposals for development in these gaps would only be acceptable where there would be no risk of physical intrusion such as certain types of recreational use, or where the overall open character of the land would be enhanced through the removal of existing structures”. It goes onto state “Proposals for other forms of development, including agricultural dwellings and affordable housing, which may in other circumstances be acceptable Outside Development Limits will not normally be permitted”.

- 4.18 Policy SG1 is not primarily concerned with the supply of housing, but rather with protecting specific areas of land. As such, it is considered that significant weight should be attached to Local Plan Policy SG1.
- 4.19 The application has been supported by a Landscape and Strategic Gap Appraisal prepared by Randall Thorp in November 2016. The appraisal considers the proposals visual relationship with the SCG, the effects of the proposal on the character of the landscape and the effects of the proposal on the functionality of the SCG.
- 4.20 The appraisal sets out that “In terms of perception of the gap therefore the open fields to the south of Main Street are essential in the perception of a gap between the two parts of the village. The land to the north of Main Street opposite to the open fields is also important in ensuring that the two parts of the settlement are perceived as separate. The land to the north of Main Street opposite where there is existing built form is of lesser importance because from public viewpoints within this area there is a perception of being within a village rather than an open gap. The part of the SCG which falls within the [application] site is of no consequence to the perception of the gap between the two parts of the village”. The appraisal goes on to state “Whilst the physical gap would be narrowed by the proposal to remove the [application] site from within the SCG this narrowing would not be perceived and would not result in any coalescence of the two parts of the village”. The appraisal concludes that “There would be no adverse effects on the landscape character as a result of the proposed development. Visual effects would be insignificant and the perception of the SCG would remain unaltered by the proposals” and that “The proposed development would not be in conflict with any of the roles of the SCG and there would be no effects on the overall functionality of the SCG as a result of the proposals”.
- 4.21 It is acknowledged that the part of the SCG within the application site represents a small proportion of the overall SCG designation for Church Fenton East/West. However, it is considered that any encroachment by urban form into the SCG would be harmful to its form, character and function. In this instance, the scale of the proposal is for 6 dwellings and the proposal would be located in a prominent position, close to the junction of Buck Lane and Main Street. It is noted that Old Forge Cottage is the only dwelling on the west side of Busk Lane on the north side of Main Street and the proposal would impact on the openness in views, in particular when travelling South along Busk Lane and east and west along Main Street.
- 4.22 As such, it is considered that the proposal is contrary to Policy SG1 of the Selby District Local Plan and that significant weight should be attached to the harm to the form, character and function of the SCG.

Design and Impact on the Character and Appearance of the Area

- 4.23 The application site is located outside the defined development limits of Church Fenton, which is a Designated Service Village as identified in the Core Strategy. In addition, the application site is located within the Strategic Countryside Gap (SCG) between the east and west sides of Church Fenton. The application seeks planning permission for the erection of 6 dwellings.
- 4.24 The application site is located to the north west of the junction between Main Street and Busk Lane. The application site comprises an existing detached triple garage

and area of garden land associated with the residential property to the south east, Old Forge Cottage. The application site fronts Busk Lane to the east, with residential development to the east and south, a cricket pitch, pavilion and parking with open fields to the north and a football pitch with open fields to the west.

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

Impact on Residential Amenity

- 4.30 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 4.31 The layout of the site, in combination with the size, scale, siting and design of the proposed dwellings would ensure that the proposal would not result in any adverse effects of oppression, overshadowing, or overlooking between the existing and proposed dwellings, which would have any adverse impact on the amenities of the occupiers of the properties.
- 4.32 The proposals make provision for an adequate amount of usable external amenity space for the occupiers of the existing dwelling and the proposed dwellings on plots 1, 2, 3. Plots 4, 5 and 6 have been moved 1.8m further west of the protected trees than the previously submitted layout that was withdrawn. This additional space to the rear of these plots would ensure that the protected trees would not likely come under pressure from future occupiers to constantly seek to have the trees cut or worse still removed.
- 4.33 Having regard to the above, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policy ENV1 (4) of the Local Plan and the advice contained within the NPPF.

Impact on Highway Safety

- 4.34 The proposed dwellings would benefit from a vehicular access onto Busk Lane. Each dwelling would benefit from an attached or detached double garage and an area of hardstanding to the front of the dwelling. North Yorkshire County Council Highways raise no objections to the proposal subject to conditions relating to detailed plans of road and footways layout, construction of roads and footways prior to occupation of dwellings, use of existing access, discharge of surface water and construction management plan.
- 4.35 Having regard to the above, it is considered that the proposal is acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Local Plan and the advice contained within the NPPF.

Flood Risk, Drainage and Climate Change

- 4.36 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. It is noted that in complying with the 2013 Building Regulations standards, the development will achieve compliance with criteria (a) to (b) of Policy SP15 (B) and criterion (c) of Policy SP16 of the Core Strategy.
- 4.37 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.”

- 4.38 The NPPF, paragraph 94, states that local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations. The NPPF, paragraph 95, states that to support the move to a low carbon future, local planning authorities should plan for new development in locations and ways which reduce greenhouse gas emissions and which actively support energy efficiency improvements to existing buildings.
- 4.39 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 4.40 The application form states that foul sewage would be disposed of via mains sewer and surface water would be disposed of via soakaway. Yorkshire Water and Selby Area Internal Drainage Board have not made any objections to the proposal, subject to a condition relating to soakaways. In addition, Officers consider that a condition in relation to drainage for foul and surface water should be attached to any permission granted.

Nature Conservation and Protected Species

- 4.41 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.
- 4.42 The application site is not a designated protected site for nature conservation.
- 4.43 An updated ecological assessment undertaken by MAB Environment & Ecology Ltd, dated November 2016, has been submitted with the application. The assessment includes an updated ecological appraisal and a Phase 1 Habitat Survey, following that undertaken in June 2015. The survey concludes that the site conditions remain much the same as in June 2015 and therefore the site remains to be of low ecological value and the proposed works would not impact on any protected species or habitats. The report does include mitigation and compensation measures and a method statement.
- 4.44 Subject to a condition requiring the proposed development to be carried out in accordance with the mitigation and compensation measures and method statement contained within the ecological assessment, it is considered that the proposal would not harm any acknowledged nature conservation interests and is therefore in accordance with Policy ENV1 (5) of the Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

Land Contamination

- 4.45 The application has been supported by a Phase 1 Desk Top Study Report. This has been assessed by the Council's Contaminated Land Consultant who has advised that contaminated land planning conditions should be applied to any planning permission granted, to ensure that intrusive site investigation is carried out, followed by any necessary remediation, prior to the commencement of development on site.
- 4.46 Subject to the aforementioned conditions, it is considered that the proposal would be acceptable in respect to land contamination and is therefore in accordance with

Policy ENV2 of the Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Affordable Housing

- 4.47 Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District.
- 4.48 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.
- 4.49 However, in the context of the West Berkshire decision it is considered that there is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. It is therefore considered that having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

Recreational Open Space

- 4.50 Relevant policies in respect of the provision of recreational open space are Policy RT2 of the Selby District Local Plan. Policy RT2 should be afforded limited weight given it conflicts, in part, with the Council's Community Infrastructure Levy (CIL) Charging Rates, the Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and paragraphs 70 and 73 of the NPPF.
- 4.51 Policy RT2 states "Proposals for new residential development comprising 5 or more dwellings will be required to provide recreational open space at the rate of 60 square metres per dwelling on the following basis". Policy RT2(a) states "For schemes of more than 4 dwellings up to and including 10 dwellings, a commuted payment [is] required to enable the district council to provide new or upgrade existing facilities in the locality". However, it is noted that under the CIL, a contribution is made which can be spent by the Parish Council on improving existing recreational open space areas. As such, it is considered that the proposals are appropriate and accord with Policy RT2 of the Selby District Local Plan, Policy SP19 of the Core Strategy, the Developer Contributions Supplementary Planning Document and the advice contained within the NPPF.
- 4.52 Having regard to the above, it is considered that the proposal would be acceptable in respect to recreational open space and is therefore in accordance with Policy RT2 of the Selby District Local Plan, Policy SP19 of the Core Strategy, the Developer Contributions Supplementary Planning Document and the advice contained within the NPPF.

Education and Healthcare, Waste and Recycling

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

- 4.54 In respect of contributions towards waste and recycling, the Council will seek provision or a contribution from the developer to ensure that, prior to the occupation of any dwelling, storage bins and boxes are provided. This could be secured by way of condition.
- 4.55 Having regard to the above, it is considered that the proposal would be acceptable in respect to education and healthcare, waste and recycling and is therefore in accordance with Policy CS6 of the Selby District Local Plan, Policy SP19 of the Core Strategy, the Developer Contributions Supplementary Planning Document and the advice contained within the NPPF.

Legal Issues

- 4.56 Planning Acts: This application has been determined in accordance with the relevant planning acts.
- 4.57 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.
- 4.58 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.

Financial Issues

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

5.0 Conclusion

- 5.1 The application seeks planning permission for the erection of 6 no. dwellings. The application site is located outside the defined development limits of Church Fenton, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside.
- 5.2 The principle of the proposed development is considered to be unacceptable having regard to Policy SP2A(c) of the Core Strategy, as the proposal is not for rural affordable housing need and there are no special circumstances. The application should be refused, unless material considerations indicate otherwise, such as the NPPF.
- 5.3 In assessing the proposal against the three dimensions of sustainable development set out within the NPPF, the development would bring economic, social and environmental benefits which weigh in favour of the proposal.
- 5.4 The proposed levels of growth however in Church Fenton are significant and a further 6 units would exacerbate the growth levels further. The proposal would be contrary to Policy SP5 of the CS.

- 5.5 Having assessed the proposals against the relevant policies, it is considered that the proposal is acceptable in respect of its design, impact on highway safety, climate change, flood risk and drainage, nature conservation and protected species, land contamination, recreational open space, education and healthcare and waste and recycling.
- 5.6 However, the proposal is considered contrary to Policy SG1 of the Selby District Local Plan. The application site is located within a Strategic Countryside Gap (SCG) between the east and west sides of Church Fenton and the proposal would result in encroachment by urban form into the SCG, which would have an adverse effect on the open character of the countryside and compromise the gap between settlements.
- 5.7 The scheme is considered contrary to Policy SP9 of the Core Strategy. However, in the context of the Court of Appeal decision it is considered that this is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. Officers therefore recommend that, having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

6.0 Recommendation

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

- 01 The proposal would have an adverse effect on the open character, form and purpose of the Strategic Countryside Gap between the two separate settlements of Church Fenton East and Church Fenton West. The proposed development would not constitute a use with minimal intrusion and does not enhance the overall open character by the removal of existing structures. The proposal is therefore contrary to Policy SG1 of the Selby District Local Plan.
02. The proposed development located outside the defined development limits of Church Fenton and a village that has significantly exceeded its housing growth options. The proposal would therefore lead to an unacceptable level of growth which would be inappropriate to the size and role of Church Fenton in conflict with the Spatial Development Strategy set out in Policy SP2A and SP5A and E of the Selby District Local Plan Core Strategy.

Contact Officer: Keith Thompson Senior Planning Officer

Appendices: None



APPLICATION SITE

Item No: 2017/0177/FULM

Address: 23 Ryther Road, Cawood

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SITE LAYOUT PLAN

AMENDED
DRAWING

RECEIVED
12 July 2017
DEVELOPMENT MANAGEMENT

Ryther Road, Cawood
Orion Homes

Housetype	number	sqft	total
Exeter	2	1407	2814
Ennerdale	2	1115	2230
Patterdale	2	1242	2484
Langdale	3	1319	3957
Dunstanburgh	3	1073	3219
Plymouth	1	1418	1418
Sandringham	1	1633	1633
Belfry	1	2055	2055
Preston	2	873	1746

Private total	17		21556
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● Padstow	6	841	5046
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Affordable Total	6		5046
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Site Total	23		26602
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Site area 0.78 Ha 1.93 Acres
Density 29dph
coverage 13,783 sqft per acre



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Rev:	Date:	Notes:
A	14/02/17	Plots 6 to 13 house types amended
B	20/06/17	Plots 10 & 11 house types amended to Padstow.
C	07/07/17	Parking to plots 8 & 9 amended.

Rev:	Date:	Notes:
..

Rev:	Date:	Notes:
..

Date:	03.02.17	Project:	Ryther road, Cawood - Site Layout Plan
Scale @ A1:	1:500	Drawing Number:	6293/001
Drawn By:	CD	Revision:	C


SO GOOD TO COME HOME TO
 Unit 5, Benton Office Park, Bennett Avenue,
 Horbury, Wakefield, WF4 5RA, Tel: 01924 831030



Report Reference Number: 2017/0177/FULM

Agenda Item No: 6.5

To: Planning Committee
Date: 6th September 2017
Author: Fiona Ellwood (Principle Planning Officer)
Lead Officer: Ruth Hardingham (Development Manager – Planning)

APPLICATION NUMBER:	2017/0177/FULM	PARISH:	Cawood Parish Council
APPLICANT:	Orion Homes Ltd	VALID DATE:	1st March 2017
		EXPIRY DATE:	31st May 2017
PROPOSAL:	Proposed residential development of 0.78 Ha to provide 23 no. dwellings with ancillary infrastructure, access road, parking spaces and garages		
LOCATION:	23 Ryther Road Cawood Selby North Yorkshire YO8 3TR		
RECOMMENDATION	APPROVE SUBJECT TO SECTION 106		

This application has been brought before Planning Committee due to the proposal being a departure to the Development Plan.

1.0 INTRODUCTION AND BACKGROUND

The Site and context

- 1.1 The application site lies outside the development limits of Cawood adjoining the North West boundary. It is open land to the rear of the existing residential dwellings which front Ryther Road however; a substantial part of the north west of the site is covered by glasshouses. The land adjoins the cemetery. There is intermittent hedgerow on the northern boundary adjacent to Boggard Lane.
- 1.2 Using the current Environment Agency Flood Maps (updated quarterly), the site lies within Flood Zones 1, 2 and 3. More than half of the site, including the paddock area behind the existing dwellings and extending across the greenhouses to the north lies within Flood Zone 3. A further area lies within Flood Zone 2 with approximately the remaining one third of the site (its northern and eastern most part) lying within Flood Zone 1.

The proposal

- 1.3 The application seeks full permission for residential development on 0.78 Hectares to provide 23 no. dwellings with ancillary infrastructure, access road, parking spaces and garages.
- 1.4 The scheme would be served by a single access from Ryther Road leading to a cul de sac arrangement. The submitted layout shows a mixture of detached dwellings with integral garages. These include 2, 3 and 4 bedroom properties with a maximum storey height of 2 storeys. 15 detached dwellings and 8 small semi/terrace units are proposed.

Planning History

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

2016/0909/FUL (REFUSED-17.11.2016) Proposed residential development to provide 24 residential units with ancillary infrastructure, access road, parking spaces and garages. The application was refused for reasons relating to Flood Risk, impact on character and form of the settlement, harsh urban edge and insufficient affordable housing;

2.0 CONSULTATIONS AND PUBLICITY

2.1 The Environment Agency

Site is partly within Flood Zone 2 and Flood Zone 3. Sequential Test needed. The Exception Test should be applied if it passes the Sequential Test. If the Sequential Test demonstrates that there are 'Reasonably Available' lower risk sites to which the development could be steered, the Exception Test should not be applied and the application should be refused.

Part 2 of the Test requires the applicant to demonstrate in a site specific flood risk assessment that the development will be safe, without increasing flood risk elsewhere, and, where possible will reduce flood risk elsewhere.

Mitigation measures within the revised plans with levels are now acceptable subject to conditions regarding minimum levels.

2.2 Yorkshire Water Services Ltd -

Recommends conditions for surface water drainage;
Recommends- advice from the EA and IDB's regarding surface water disposal.
Advises - Public sewer network is for domestic sewage purposes. Land and highway drainage have no right of connection to the public sewer network.
Advises a Water Supply can be provided.

2.3 Selby Area Internal Drainage Board

If surface water is via a soakaway- no objection in principle but percolation tests necessary to establish if the ground conditions are suitable.

If surface water is to a mains sewer system -no objection providing 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.

Conditions recommended.

2.4 Sustainable Drainage Systems

Detailed comments given in relation to Runoff, Flood Risk, Peak Flow Control, Volume Control, Pollution Control, Designing for Exceedance, Climate change and Urban Creep, Construction and maintenance.

Further information needed after which, if satisfactory a planning condition can be recommended to ensure suitable surface water management, subject to comments from Selby Area Internal Drainage Board, Yorkshire Water and the Environment Agency. Note that further restrictions on surface water disposal may be imposed by these authorities and the Local Planning Authority.

2.5 Contaminated Land Consultants

Conclude that without further information the review on the previous application remains unchanged as the nature and sensitivity of the latest application is not significantly different. (Conditions were recommended).

2.6 NYCC Highways

No objections subject to conditions.

2.7 NYCC Archaeological

The site lies on the edge of the historic core of the settlement at Cawood. Previous archaeological work on Rythergate identified a number of archaeological features and deposits close to the street frontage, including post-holes representing a late medieval structure and ditches of post-medieval date. In addition, several sherds of Roman pottery were recovered. Although these were thought to be residual, they are nevertheless indicative of Roman activity in the area. The site of a possible Roman villa lies to the north-west of the application site. There is potential, therefore, for development in this area to encounter remains of Roman, medieval and later date.

Recommendations: conditions for scheme of Archaeological Mitigation recording with watching brief.

2.8 NYCC Education Directorate-

Based on the proposed 23 2+ bedroom properties a shortfall of school places would arise as a result of this development and a developer contribution would, under S106 arrangements, be sought for primary education facilities. This contribution would be £78,177. No contribution sought for secondary school facilities at this time. A s106 developer contribution levy is recommended should this be appropriate outside of CIL charging arrangements.

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.

2.9 Environmental Health

No objections subject to condition relating to a requirement for the submission of a scheme to minimise the impact of noise, vibration, dust and dirt on residential property in close proximity to the site.

2.10 North Yorkshire Bat Group

No comments received.

2.11 Historic England

It is suggested specialist conservation and archaeological advisers are consulted, as relevant.

2.12 Designing out Crime Officer

Detailed comments made regarding:

- the concentration of affordable housing into one corner.
- lack of demarcation of front gardens-especially on corners.
- Comments about the type of door locks.
- Boundary treatment alongside Boggard Lane, utilising post and rail fencing. together with hedging and mesh is an acceptable 'designing out crime' solution.
- Lighting to external doors and street lighting should be provided.
- care co-ordinating the above with tree planting to avoid shading.
- site security during construction phase.

2.13 Public Rights Of Way Officer

Recommends an informative is added to the permission.

2.14 Natural England

No comments to make on this application.

2.15 Rural Housing Enabler

Comments made about the level of provision (pre-viability) being short of 40% requirement. Other comments regarding the tenure split, the space standards, the number of bedrooms and the lack of front gardens.

2.16 Parish Council

- Concerned over the closeness of the boundary fence to the existing cemetery wall. Request 1m gap to allow maintenance.
- Removal of all the hedges and replacement with fences is not appropriate. Suggest the hedge is improved rather than replaced with a fence.
- It is suggested that a speed hump is installed to replace the existing chicane on the highway - traffic speeds increase significantly when leaving the village and a development such as this will attract young families.
- Request the CIL money remains in the Parish.
- The village school may not have the capacity to cope with a great increase in pupil numbers.

- Preference for properties to be future proofed with new Building Regulations. Would prefer a financial contribution for open space to go towards disabled adaptations to help people to remain in the local area well into their dotage, regardless of their physical capabilities.
- The Parish Council is also disappointed that the number of affordable housing has been reduced.

2.17 Publicity

The application was advertised by site notice, newspaper advert and neighbour notification resulting in 10 letters of support and one objection. Some of the letters of support are from the same households. Main comments made are summarized as follows;

Objections;

- Site has been waterlogged for months at a time (photos provided) therefore dispute ARP report which advises external levels remain close to existing.
- altering ground levels would increase flooding elsewhere
- No detailed levels provided.
- Further information needed to understand the ridge heights
- query whether its 23 o24 dwellings also plans don't correspond and reports not updated from previous application.
- AH is less than the 40%
- various errors pointed out in D & A Statement
- use of hipped half gables out of keeping
- outside development limits setting a dangerous precedent
- Affordable Housing still in a single block rather than distributed through the development

Support

- suitable extension to village and is not an intrusion
- much needed housing and suitable location
- preferable to other sites in the SHLAA
- delivers affordable and market housing
- adds to longer term sustainability of Cawood

3.0 **SITE CONSTRAINTS AND POLICY CONTEXT**

3.1 The site lies outside the development limits of Cawood.

3.2 The site is partially within Flood zones 2 and 3. The western most part (approximately one third) is within Flood Zone 1.

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

3.3 NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "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". National Planning Practice Guidance (NPPG) adds further context to the National Planning

Policy Framework (“NPPF”) and it is intended that the two documents should be read together.

- 3.4 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.

Selby District Core Strategy Local Plan

- 3.5 The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development
SP2 - Spatial Development Strategy
SP4 - Management of Residential Development in Settlements
SP5 - The Scale and Distribution of Housing
SP8 - Housing Mix
SP9 - Affordable Housing
SP15 - Sustainable Development and Climate Change
SP16- Improving Resource Efficiency
SP18 - Protecting and Enhancing the Environment
SP19 - Design Quality

Selby District Local Plan

- 3.6 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, 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)".

- 3.7 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
T1 - Development in Relation to Highway
T2 - Access to Roads
RT2 - Open Space Requirements

4.0 APPRAISAL

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

1. Principle of the development
2. Impact on the Character and Form of the locality
3. Layout, scale, landscaping and design
3. Impact on highway
4. Residential Amenity
5. Impact on nature conservation and protected species
6. Affordable housing
7. Recreational open space
8. Education, Healthcare, Waste and Recycling
9. Contaminated land and ground conditions
10. Archaeology
11. Other Issues

Principle of the development

- 4.2 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. Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF and should be afforded significant weight.
- 4.3 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.
- 4.4 Policy SP2 identifies Cawood as being a Designated Service Village which has some scope for additional residential development to support rural sustainability. The application site is located outside but adjacent to the defined development limits (as defined in the adopted development plan) of Cawood at the northern boundary of the settlement. The site lies outside the defined development limits of Cawood and therefore is located in open countryside.
- 4.5 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.
- 4.6 The proposal should therefore be refused unless material considerations indicate otherwise. One such material consideration is the Council's position with respect to the five year housing land supply. On the 24th July 2017, the Director of Economic Regeneration and Place formally endorsed an updated five year housing land supply methodology and resultant housing land supply figure of 5.4 years, as set out in the 2017-2022 Five Year Housing Land Supply Statement. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application and despite the Council confirming it has a five year housing land supply, this supply needs to be maintained until the Sites and Policies Local Plan (PLAN Selby) allocates new sites suitable for housing. This should be done in such

a way that it does not cause significant harm to acknowledged interests and does not undermine the Local Plan process and these matters are discussed later within this report.

- 4.7 The NPPF is another material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development, with particular emphasis on boosting significantly the supply of housing. 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. An approval on this site (if its deliverability can be proved by the applicant) would provide additional dwellings to the housing supply.

Sustainability of the Development

- 4.8 In respect of sustainability, the proposed scheme is located adjacent to the development limits of Cawood which is a Designated Service Village with a range of services. Core Strategy Background Paper No 5, 'Sustainability Assessment of Rural Settlements', provides information on the village's services. The village contains a Primary School, a general Store, a post office, two pubs, a church and a doctor's surgery. The application site is located around 500m north of the nearest bus stops on Thorpe Lane (Chapel and Castle Gatehouse). Pedestrians wishing to access the bus stops will have good level and lit footways. The bus stops located on Thorpe Lane are served by the 42, 422, 424, and 823 bus services together with a number of school services to Selby High School, Brayton College and York College. Regular daily bus services are provided at the stops between Selby and York, which provide for a number of employment opportunities together with retail, leisure and recreation.
- 4.9 Despite the site being located outside the development limits of the settlement, it can be considered to be located adjacent to a highly sustainable settlement with a choice of sustainable modes of transport and located within walking distance of the village centre and its services and public transport in terms of the bus route. The above points weigh in favour of a conclusion that in terms of access to local facilities and services, the site can be considered as being in a sustainable location.
- 4.10 The village is also considered to have an overall ranking of 3 (out of 4) for sustainability in Background Paper 5 of the Core Strategy. However this is due to the settlement not being very well served by public transport and its limited access to employment. Having taken these points into account, despite the fact that the site is located outside the defined development limits of Cawood it is immediately 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.
- 4.11 Paragraph 7 of the NPPF, states that there are three dimensions to sustainable development, these being of an economic, social and environmental nature. These dimensions give rise to the need for the planning system to perform a number of roles which are as follows: -

Economic

The proposal would generate short term employment opportunities during the construction phase. The proposals would bring additional residents to the area who in turn would contribute to the local economy through supporting local facilities and services.

Social

The proposed dwelling would provide a Community Infrastructure Levy (CIL) contribution to help support local services and would provide some affordable housing units. The proposal would deliver both open market and affordable housing in Cawood and hence promote sustainable and balanced communities and would assist in the Council meeting the objectively assessed need for housing in the district. The proposals would include a proportion of on-site provision of affordable housing which would improve the tenure mix in this location.

Environmental

The proposal would deliver high quality homes for local people and take into account environmental issues such as impacts on climate change. There are limited benefits in terms of landscaping and ecology or biodiversity given the small scale of the site. In relation to flood risk, this is discussed later in the report. In this case the environmental factors overall do not weigh in favour of the scheme.

Previous Levels of Growth and the Scale of the Proposal

- 4.12 Core Strategy Policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability. This policy sets a minimum target of 2000 for DSVs as whole, which the most recent monitoring indicates has been exceeded by completions and permissions in these settlements as a whole. However, the CS does not set a minimum dwelling target for individual DSVs, so it is not possible at this point to ascertain exactly whether Cawood has exceeded its dwelling target.
- 4.13 As a guide, for the purpose of consultation only, the Council put forward various growth options for the DSVs as part of the development of PLAN Selby in 2014 and 2015 and at that time the research indicated minimum growth options of between 29-47 dwellings for Cawood.
- 4.14 Taking into account the range of growth options identified for this settlement, the scale of this individual proposal, at 23 dwellings, is considered to be appropriate to the size and role of a settlement designated as a Designated Service Village, however the individual scale of the proposal must also be considered in terms of the cumulative impact it would have with the previous levels of growth in this settlement that have occurred since the start of the plan period. To date, Cawood has seen 8 (gross) dwellings built in the settlement since the start of the Plan Period (6 net) in April 2011 and has extant gross approvals for 23 dwellings (23 net), giving a gross total of 31 dwellings (29 net). This site would increase the number to 54. This is not significantly more than the upper range of the minimum growth options indicated. As such it is not considered an inappropriate level of growth for this DSV.

Impact on the Character and Form of the locality

- 4.15 Core Strategy Policy SP18 aims to protect the high quality and local distinctiveness of the natural and man-made environment; therefore it is important to determine the impact the proposed scheme has on its surroundings. The site is located in the countryside and outside of Development Limits. The draft PLAN Selby evidence document “Settlement Setting Landscape Assessment” (January 2016) finds that that the overall landscape assessment parcel for the area to which the application relates is of medium sensitivity to development. It also assesses the settlement edge to be of moderate importance to protect from development.
- 4.16 The proposal extends into the countryside and in determining the application, consideration need to be given as to:
- the overall impact of the proposed development on the countryside;
 - whether the current Development Limit as defined in the Policies Map remains robustly defined, or has changed and,
 - whether the proposed development would set a new clearly defensible boundary.
- 4.17 This site is located on the north-west side of Cawood, a designated service village. The site adjoin the existing define development limits linking to the last three residential dwellings which front Ryther Road. Beyond the site to the west is the village church cemetery. At present the development on this side of the settlement gradually narrows down to the three dwellings which adjoin the application site forming a small row extending the settlement northwards in ribbon form. This development would link up to the cemetery boundary to the west filling in a large gap which contains a paddock and several large greenhouses.
- 4.18 The development would expand the settlement outwards increasing the depth of built form at the edge of the village. However, it is acknowledged that there is already a small cul-de sac on the east side of Ryther Road at this northern end. The site already contains several large glasshouses which are prominent within the site. This scheme submitted has been revised to incorporate a better landscaped edge to the northern end with a variation of house types, roof form and materials. Instead of the high panel fencing which would have formed a harsh urban edge, the scheme has been amended to a post and 4 rail fence with mesh fixed to the internal side. There would with native species hedge and tree planting within the plots. As such the outward appearance of the development when approaching the village from the North West will be a significant improvement on the previous scheme. Although the site would expand the settlement outwards and at depth, it would utilise a site already partially covered by buildings. Other similar forms of development already exist such as Anson Grove off Ryther Road to the east.
- 4.19 The revised scheme is considered to form a new strong visual edge and a new defensible boundary replacing the glass houses to this part of the settlement. As such it is now considered that the development would relate well to the existing development limits and would not adversely affect the setting of Cawood.
- 4.20 For the above reasons the development therefore accord with policies in respect to the impacts on the character and form of the locality include Policy ENV1(1) and (4) of the Selby District Local Plan, and Policies SP18 “Protecting and Enhancing the Environment” and SP19 “Design Quality” of the Core Strategy.

Layout, scale, landscaping and design

- 4.21 The scheme proposed provides for 23 dwellings served from a single access point onto Ryther Road. There would be 15 detached dwellings and 8 smaller units (terrace and semi-detached) some of which would form the affordable housing units. The site would be enclosed to the Boggard Lane frontage as described in the above section.
- 4.22 The general arrangement of dwellings, house mix and style are acceptable in terms of design. The spacing between them and overall arrangement within the site achieves a satisfactory standard of amenity. Two larger individual detached houses would front Ryther Road creating an attractive entrance to the site. The mix of house types and styles and the materials proposed would be acceptable given the mix and range of house types, sizes and materials in the locality. Landscaping of the site is provided with two new trees to the plots on the main road. Further details of landscaping can be secured by a condition.
- 4.23 Concerns have been raised by the parish council regarding the proximity of the site to the boundary wall of the graveyard and the difficulty of future maintenance. The applicants that the Parish Council would have a right of access to private land for maintenance of the wall and don't consider a maintenance gap to be necessary. Furthermore, this could lead to security issues. This is essentially a private legal matter between land owners and is not a material planning consideration. Further boundary details in this respect can be secured by condition.
- 4.24 Having had regard to all of the above elements it is considered that the layout is now acceptable in relation to scale and design and with the additional landscaping and more appropriate boundary treatment on the North West edge the scheme would not have a visually harmful effect on the setting of the village. It would therefore not have a detrimental impact to the character of the area and the approach to the village and would be in accordance with Policies ENV 1(1) and (4) and ENV3 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

Impact on highway safety conditions

- 4.25 The scheme provides an acceptable means of access subject to suitable agreement in relation to the access road adoption and subject to issues in relation to the village speed limits sign, villages sign, and lamp column and verge markers being relocated.
- 4.26 The applicant agrees that the village signs can be resolved under planning conditions. The applicant also proposes to request a Traffic Regulation Order to extend the 30mph limit across the frontage of the site. It is also proposed to enter into a Section 38 Agreement of the Highways Act 1980 to design and construct the highways to an adoptable standard and have the roads adopted at the end of the works and the maintenance period.
- 4.27 The Highway Authority has been re-consulted and now have no objections subject to conditions as indicated at the end of this report.

- 4.28 The scheme would therefore be 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.

Flood Risk

- 4.29 The position of the site within the flood zone has been described above. The Framework requires a sequential, risk based approach to the location of development. It indicates that the aim of the sequential test is to steer new development to areas with the lowest probability of flooding. It also indicates that a sequential approach should be used in areas known to be at risk from flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. Development should be directed to areas of Flood Zone 1 wherever possible, and then sequentially to Flood Zones 2 and 3, and to areas of least flood risk within Flood Zones 2 and 3.
- 4.30 Within Selby District, the appropriate Geographical Coverage Area for the Sequential Test is set out in 'The Selby District Council Sequential Test Developer Guidance Note' dated June 2017. This approach to sequential testing has been agreed in consultation with the Environment Agency. This revises and updates the earlier guidance Note from September 2016 which set out that for sites outside of the development limits the search area for sites should be District Wide. The new guidance notes sets out that the search area for DSV's is now within that particular DSV. But for applications not within development limits but immediately adjacent, the proposals must comply with the Council's Guidance Note for applicants on the 5 year supply position in respect of sustainability. This sets out the approach to determining applications.
- 4.31 This advice differs from the Guidance Note which was in place at the time of determination of the previous application (2016/0909/FUL) where the search area was district wide. Because other sites were available within the district at a lower flood risk that application failed the Sequential Test and was accordingly refused.
- 4.32 The current guidance sets out that for applications not within the development limits but immediately adjacent, the proposals must comply with the Council's Guidance Note for applicants on the Council's 5 year Supply Position in respect of sustainability. The position has been discussed under the 'Principle of the Development' at paragraphs 4.2-4.14 above. In terms of the Sequential Test, once the search area is determined, in this case the village of Cawood, alternative sites need to be looked at that could be suitable for the proposed development. These should include any allocated sites within the Local Plan, Land availability studies and emerging DPS's where relevant.
- 4.33 There are no allocated sites within the Local Plan for housing development in Cawood. No sites within Cawood are available on the land availability studies. Other sites have been put forward through SHLA but at present the emerging DPD has not reached the stage of indicating site allocations. Therefore there are no other sites indicated to be available at Cawood which could accommodate this number of dwellings on a lower flood risk site. This site therefore now passes the Sequential Test and it is appropriate to apply the Exceptions Test since dwellings are classified as a 'more vulnerable use' and the test is required in Flood Zones 3.

- 4.34 The Exception Test, as set out in paragraph 102 of the NPPF, is a method to demonstrate and ensure that flood risk to people and property can be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. Essentially there are two parts to the test.
- There should be wider sustainability benefits to the community that outweigh the flood risk.
 - It should be safe for its lifetime without increasing flood risk elsewhere and where possible reduce flood risk overall.
- 4.35 In terms of the first part of the test, the benefits and sustainability of the proposal have already been discussed above. The first part of the test is therefore met.
- 4.36 In terms of the second part of the test a revised scheme has been submitted incorporating mitigation measures. These include minimum finished floor levels appropriate to the Flood Risk levels in the different zones. The EA has responded agreeing these are now acceptable subject to an appropriate condition (see condition 7 below).
- 4.37 In terms of drainage Yorkshire Water and the Internal Drainage Board (IDB) raised no objections subject to the inclusion of a conditions and informatives which are attached to section 3.
- 4.38 Therefore it is considered overall that although the proposal is within flood zones 2 & 3, it passes the sequential test, incorporates satisfactory mitigation measures and would not increase flood risk elsewhere. Moreover, the proposal has wider sustainability benefits to the community that outweigh the flood risk. The proposal therefore is in accordance with Policy SP15 of the SDCSLP and the NPPF in this respect.

Residential Amenity

- 4.39 The spacing and distance between housing creates a satisfactory standard of amenity for future occupants without harm to the amenity of the existing nearby dwellings.
- 4.40 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 and the NPPF.

Impact on nature conservation and protected species

- 4.41 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.
- 4.42 The application was accompanied by a Great Crested Newt Survey by Brooke Ecological. The Survey has revealed the presence of a medium sized breeding population of great crested newt (max count of 16 adults) within a single off-site

pond some 110m south. The site provides only small areas of sub-optimal terrestrial habitat for amphibians, and barriers to dispersal are present along the east, south and west site boundaries. The breeding pond is immediately surrounded by large areas of high quality terrestrial habitat and places of shelter; therefore, the risk of great crested newt being found on site is considered to be very low. This is supported by the finding of a detailed fingertip search of the application site, carried out in July 2016, which found small numbers of common frog and toad, but no newts. Based on this, a Natural England EPSM Licence is not considered necessary and work can proceed with minimal risk of impacting on great crested newt.

- 4.43 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 any other protected species or any other species of conservation interest. No objections have been raised by consultees in respect of the above findings.
- 4.44 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.

Affordable housing

- 4.45 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.
- 4.46 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.
- 4.47 In terms of the quantity of AH provision, the maximum provision for 23 units would be 9 units. The applicants have submitted a viability appraisal suggesting a lower level of provision. The District Valuer has been consulted and it has been agreed that the scheme is not viable with 40% provision. The quantum has been reduced to 6 units.
- 4.48 In terms of the house types, a local Registered provider has indicated that they are prepared to work with Orion Homes to take the affordable homes and the sizes are considered acceptable. The scheme has been amended to address the concerns of the Rural Housing Enabler and comments on the revised scheme are awaited. Front garden areas have been incorporated into the layout for the AH units. An update will be given at the meeting. Overall the level of provision and the details of the AH houses are broadly acceptable for the above reasons subject to an update in relation to contamination costs.
- 4.49 The proposals are therefore considered acceptable with respect to affordable housing provision.

Recreational open space

- 4.50 Policy RT2(b) states that for schemes of more than 10 but less than 50 dwellings there are four options for the provision of recreational open space and that these are subject to negotiation.
- 4.51 Officers consider that an on-site provision for a site of this small size would not produce a meaningfully useful area of open space. The applicants have confirmed that they would be willing to provide a commuted sum contribution towards Recreational Open Space works which would need to be identified by the Parish Council, however since the adoption of the Community Infrastructure Levy (CIL) this cannot be secured by way of contribution. The application would be subject to a CIL payment a percentage of which could be paid to the Parish Council and can be spent on improvements to recreational open space within Cawood.
- 4.52 The Parish Council in their consultation response indicates they wish for the CIL money to remain in the Parish. Moreover, they say they would prefer a financial contribution for open space to go towards disabled adaptations to help people to remain in the local area well into their dotage, regardless of their physical capabilities. However, there are no measures to direct the CIL money through this planning application in this respect.
- 4.53 The applicant has indicated that the provision of on site open space would make the scheme unviable. They have stated that if units were removed from the scheme and the site capacity therefore reduced, then the overall GDV would significantly decrease. A number of items within the viability appraisal are fixed (i.e. on site services, access point etc.) and the District Valuer (DV) has agreed a benchmark land value. The DV has confirmed that when these costs are balanced, it would clearly demonstrate an overall reduction below 26% contribution to Affordable Housing. Although final figures are awaited at the time of writing this report, it is accepted that provision of open space on site would be unviable and would lead to a further reduction in the level of Affordable Housing Provision. An update will be given at Planning Committee but overall it is considered that the provision on site of a small piece of open space at the cost of reducing the number of affordable houses provided would be a lower priority.
- 4.54 Having had regard to the size, site constraints and location of the site it is considered acceptable in this instance for recreational open space not to be provided on-site and for payments towards recreational open space to be secured via the CIL charging system. It is therefore considered that the proposals are acceptable having had regard to Policies RT2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

Education, Waste and Recycling

- 4.55 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.

- 4.56 Having consulted North Yorkshire County Council Education they have confirmed that based on the proposed 24 units 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. A developer contribution would not be sought for secondary school facilities at this time.
- 4.57 However since the adoption of the Community Infrastructure Levy (CIL) this sum cannot be secured by S106 and a CIL payment would be secured instead which can be spent towards education provision in this area.
- 4.58 With respect to Waste and Recycling, a contribution of £65 per dwelling would be required and this could therefore be secured via Section 106 agreement.
- 4.59 Having had regard to the above the proposals comply with policies ENV1 and CS6 of the Local Plan, Policy SP19 of the Core Strategy and the Developer Contributions SPD with respect to developer contribution.

Contaminated land and ground conditions

- 4.60 The application is accompanied by a Combined Stage 1 & 2 Desk Study and Geo-Environmental Report by ARP Engineers. The Council's Contaminated Land Consultant has reviewed the Report and has re-iterated comments made on the previous application about the sensitivity of the site. Conditions were recommended. 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.

Archaeology

- 4.61 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.
- 4.62 North Yorkshire Heritage Services have been consulted and point out that there is potential for development in this area to encounter remains of Roman, medieval and other date material. As such appropriate conditions should be imposed to ensure a scheme of archaeological mitigation recording with a watching brief and appropriate reporting, analysis and archive preparation.
- 4.63 It is therefore considered that having had regard to Policy ENV28 of the Selby District Local Plan (2005), Policy SP18 of the Selby District Core Strategy Local Plan (2013) and Paragraph 135 of the NPPF it is considered that subject an appropriate condition the scheme would be acceptable in relation to the Heritage Assets.

Other Material Planning Issues

- 4.64 None.

Legal Issues

- 4.65 Planning Acts

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

4.66 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.

4.67 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.

Financial Issues

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

5.0 CONCLUSION

5.1 The application proposes full consent for residential development comprising 23 dwellings which are located outside the defined development limits of Cawood which is a Designated Service Village. Despite the fact the Council have confirmed a 5.4 year supply of housing land it is recognised that this in itself is not reason for refusing planning permission. Having had regard to the previous levels of growth within Cawood, the appropriate relationship of the proposal to the development limit, the nature of the site being residential curtilage whereby encroachment into agricultural land would not occur, the sustainability of the settlement and the anticipated timescale for delivery of these dwellings it is considered that on balance the proposals can be considered acceptable in principle in this location.

5.2 The proposals are considered acceptable with respect to the layout, appearance, scale, landscaping and access and provide an appropriate housing mix. The proposals are also considered to be acceptable in respect of the impact upon residential amenity, flooding, drainage and climate change, protected species, and contamination in accordance with policy. It is on this basis that permission is recommended to be granted subject to conditions.

6.0 RECOMMENDATION

This planning application is recommended to be APPROVED subject any changes arising from the updates referred to above and subject to the completion of a section 106 agreement to secure 6 affordable housing units, and a waste and re-cycling contribution and subject to the following conditions and reasons.

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

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.

- 03 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.

- 04 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 by the Local Planning Authority (reference Flood Risk Assessment (prepared by ARP - Report 119/158r1 dated March 2016)

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

- 05 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.

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

Reason

To safeguard the assets of the IDB

- 07 The development shall only be carried out in accordance with the approved Drawing No 119/158/SK03 Rev B (Indicative Finished Levels), and the following mitigation measures;

- (i) Finished floor levels to be set no lower than 8.1m AOD for parts of the site in Flood Zone 3 and no lower than 7.9m AOD for parts in Flood Zone 2.
- (ii) Provision of flood proofing /resilience measures up to a height of 300mm above finished floor levels.

The mitigations measures shall be fully implemented prior to occupation of any of the dwellings

Reason

To ensure that the development and its users are not exposed to unacceptable levels of flood risk.

08 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:

- a. Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:
 - the proposed highway layout including the highway boundary
 - dimensions of any carriageway, cycleway, footway, and verges
 - visibility splays
 - the proposed buildings and site layout, including levels
 - accesses and driveways
 - drainage and sewerage system
 - lining and signing
 - traffic calming measures
 - 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:
 - the existing ground level
 - the proposed road channel and centre line levels
 - full details of surface water drainage proposals.
- c. Full highway construction details including:
 - 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
 - when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
 - kerb and edging construction details
 - 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.

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 with the Local Planning Authority in consultation with the Highway Authority.

HI-01 INFORMATIVE

In imposing condition number 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 Policy T1 and ENV1 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.

- 09 No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation. The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority in consultation with the Highway Authority before the first dwelling of the development is occupied.

Reason

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

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

Reason

In accordance with policy T1 and in the interests of highway safety

- 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(s) or other works until:

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

- Provision of footway (linking the proposed site with the existing footway on the southern side of Ryther Road

- Relocation of the Village signs on Ryther Road (in consultation with the Parish Council and the Local Highway Authority).
- Relocation of the Lamp Column and marker posts on Ryther Road (in consultation with the Local Highway Authority).
- Relocation of the 30mph speed limit signs on Ryther Road (in consultation with the Local Highway Authority).

(ii) A programme for the completion of the proposed works has been submitted to and approved writing by the Local Planning Authority in consultation with the Local Highway Authority.

Reason

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

- 12 There shall be no site clearance, demolition, excavation or depositing of material in connection with the construction of the development until details of the consultation has been submitted and approved by the Local Highway Authority for the extension of the 30mph speed limit on Ryther Road, Cawood approved in consultation with the Local Planning Authority. The approved details shall, at the applicant's expense, undergo the legal process required. Subject to the successful completion of this legal process the measures will be implemented at the applicant's cost prior to the development being brought into use.

Reason:

In accordance with policy T1 and in the interests of highway safety.

- 13 No development for any phase of the development shall take place until a Construction Method Statement for that phase has been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Local Highway Authority. The approved Statement shall be adhered to throughout the construction period for the phase. The statement shall provide for the following in respect of the phase:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
- wheel washing facilities
- measures to control the emission of dust and dirt during construction
- a scheme for recycling/disposing of waste resulting from demolition and construction works.
- HGV routing to avoid Cawood Bridge

Reason

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

- 14 No dwelling shall be occupied until at least 10% of the **energy demand** of the development has been reduced through the use of enhanced building materials 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 interests of sustainability, to minimise the development's impact.

- 15 No demolition/development shall commence until a Written Scheme of 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:

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

B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).

C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been

Reason:

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

- 16 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.

- 17 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.

- 18 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.

- 19 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.

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

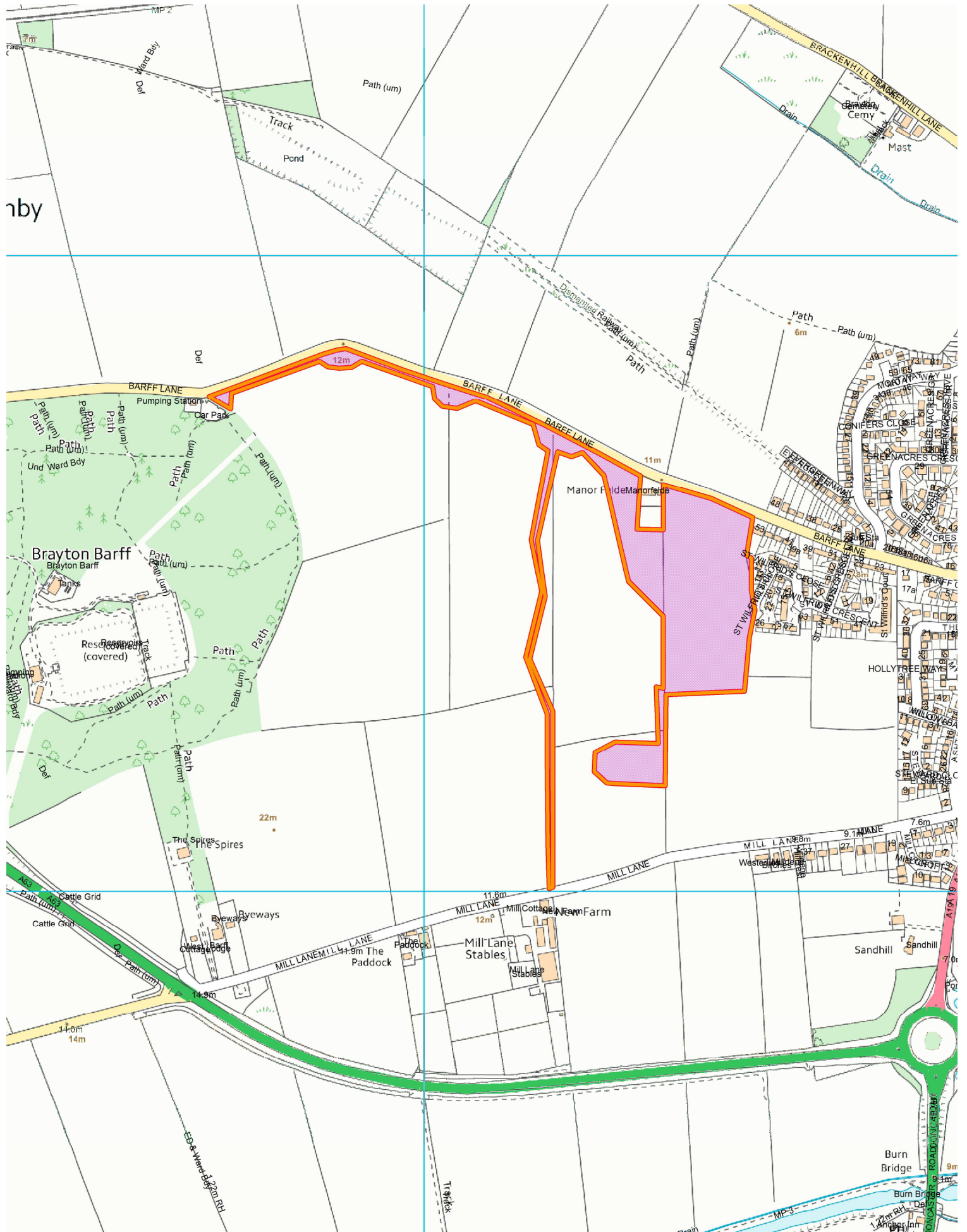
(To be inserted on the decision notice)

INFORMATIVES

- 01 The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraphs 186-187 of the NPPF.
- 02 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 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.
- 03 COAL
(To be inserted on the decision notice)

Contact Officer: Case Officer Fiona Ellwood

Appendices: None



APPLICATION SITE

Item No: 2017/0494/FUL

Address: Barff Lane, Brayton

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Report Reference Number: 2017/0494/FUL

Agenda Item No: 6.6

To: Planning Committee
Date: 6th September 2017
Author: Fiona Ellwood (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/0494/FUL	PARISH:	Brayton Parish Council
APPLICANT:	Linden Homes East Yorkshire	VALID DATE: EXPIRY DATE:	21st April 2017 21st July 2017
PROPOSAL:	Section 73 to vary condition number 17 (energy supply of the development) from planning application 2015/0367/FUL Proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond on land at		
LOCATION:	Street Record Barff Lane Brayton Selby North Yorkshire		
RECOMMENDATION	APPROVE SUBJECT TO DEED OF VARIATION TO ORIGINAL S106 OF 2015/0367/FUL		

This application has been brought before Planning Committee due to the proposal being contrary to Policy SP16 (Improving Resource Efficiency) of the Selby District Core Strategy (2013).

1. INTRODUCTION AND BACKGROUND

The Site and Context

- 1.1 The application relates to a planning condition on the housing development site on Barff Lane, Brayton which was approved in 2015. Construction of the scheme for 125 dwellings is underway.

The proposal

- 1.2 The application seeks consent under Section 73 of the Town & Country Planning Act to vary condition number 17 (energy supply of the development) from planning application 2015/0367/FUL Proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond on land at Barff Lane, Brayton.

Condition 17 of 2015/0367/FUL is as follows;

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.

This application seeks consent to vary the wording to the following;

No dwelling shall be occupied until at least 10% of the energy demand of the development has been reduced through the use of enhanced building materials 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.

Relevant Planning History

- 1.3 The following historical applications are considered to be relevant to the determination of this application.
- 2015/0367/FUL (PER - 13.11.2015) Proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond.
 - 2015/0389/FUL (PER - 03.12.2015) Proposed erection of 52 residential dwellings including site access.
 - Various applications between 2015 and 2016 to discharge the conditions of the permissions above.
 - Various applications between 2015 and 2017 to vary the conditions of the permissions above.
 - 2017/0427/FULM (PCO -) Revised Proposals for Phase 2 Element of Approved Residential Development 2015/0367/FUL - Full Planning Application by Linden Homes for the Erection of 111 no. dwellings. This is a current application for the adjoining land to the west.

2.0 CONSULTATION AND PUBLICITY

2.1 Development Policy
No comments received.

2.2 Parish Council
No comments received.

Publicity

The application was advertised by site notice and neighbour notification resulting in no responses.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

3.1 The site lies outside the development limits of Brayton.

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

3.2 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "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". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.

- 3.3 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.

Selby District Core Strategy Local Plan

- 3.4 The relevant Core Strategy Policies are:

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

Selby District Local Plan

- 3.5 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, 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

4.0 APPRAISAL

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

- Sustainable Development, Climate Change and Resource Efficiency

Sustainable Development, Climate Change and Resource Efficiency

- 4.2 Policy Context

Policy SP15 of the Core Strategy (Sustainable Development and Climate Change) seeks to promote sustainable development through a number of measures. SP15 B aims to ensure the design and layout of development contributes towards reducing carbon emissions and

are resilient to the effects of climate change. It requires that where necessary or appropriate schemes should (criteria a) & b)) improve energy efficiency and minimise energy consumption and should incorporate sustainable design and construction techniques. Criterion e) requires the incorporation of decentralised, renewable and low carbon forms of energy generation in line with Policies SP16 & SP17 of the Selby District Core Strategy (2013).

- 4.3 Policy SP18 seeks to protect and enhance the environment through a number of measures including criterion SP18 (8) which seeks to ensure that developments minimise energy and water consumption, the use of non-renewable resources and the amount of waste material.
- 4.4 Policy SP16 of the Core Strategy relates to Improving Resource Efficiency. It is the key policy relating to this proposal. In order to achieve this objective the policy requires, amongst other things, that unless a particular scheme would be demonstrably unviable or not feasible;

“New residential developments of 10 dwellings or more or non-residential schemes of 1000 m2 gross floor space or more to provide a minimum of 10% of total predicted energy requirements from renewable, low carbon or decentralised energy sources (or else in accordance with the most up to date revised national, sub regional or local targets”

Notes supporting this policy objective state that:

“Whilst building standards for insulation and energy efficiency are not directly within the remit of the planning system, the council, when considering development proposals will take into account the need to utilise energy efficient designs for all aspects including layout (e.g. orientation and passive solar design).

- 4.5 The Town and Country Planning Act 1990 Section 73 allows for applications to be made to undertake development without complying with conditions attached to such an approval. Paragraph (2) of Section 73 states "On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—
- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
- (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application."
- 4.6 As such the only consideration of this application is in relation to the conditions of the approval and the impact the proposed variation would have. Therefore key to the determination of this application is whether a new planning consent for the development with the proposed variation to Condition 17 (energy supply of the development) would be contrary to the provisions within the development plan or whether there are reasonable grounds for refusal if the condition was retained in its present form.
- 4.7 On this application, the applicants are not seeking to dispense with the need to address climate change in terms of sustainable buildings and their energy demands. Rather, an alternative 'fabric first' approach is proposed, which would significantly reduce the energy demands of the housing development and its CO2 emissions, through the initial construction methods and materials.
- 4.8 Such an approach would not accord with the specific requirement of Policy SP16. It is however necessary to assess the extent to which Policy SP16 is consistent with the NPPF.

The core planning principles of the NPPF include supporting the transition to a low carbon future in a changing climate and encouraging the use of renewable resources. In addition paragraph 95 of the NPPF advises that LPA's should plan for new development in locations and ways which reduce greenhouse gas emissions. Significantly it also advises that any local requirements should be consistent with the Government's zero carbon buildings policy and that nationally described standards should be adopted.

- 4.9 The most relevant nationally described standards are those in Part L of the Building Regulations. These have been amended significantly in recent years since the adoption of the Core Strategy. In 2013 & 2014 the Government made clear its intention to reply on a 'Building Regulations only' approach with no optional additional local standards in excess of those in Part L(2).
- 4.10 The overall aim of addressing the causes of climate change by reducing carbon emissions in Core Strategy Policy SP16 and the related policies is still broadly consistent with the NPPF. However, seeking to achieve that aim by specifying a target for on-site energy generation from renewable sources does not now accord with Paragraph 95 of the NPPF and would exceed national requirements in terms of carbon reduction.
- 4.11 On a recent appeal decision for a very similar case (APP/T3725/A/14/2226904) against Warwick District Council, the Inspector gave limited weight to an adopted Local Plan Policy which required 10% of the developments energy demands to come from renewable resources. The appeal was allowed and the condition varied on the basis that the Policy exceeded national requirements.
- 4.12 The applicant on this case has proposed the alternative approach of reduced energy demand which is set out in the Energy Statement accompanying the application. The scheme relates to 30 dwellings of between 2 & 4 bedrooms. It is proposed to follow the Energy Hierarchy and apply a 'Fabric First' approach to sustainable construction, delivering an equivalent energy demand reduction through improvements to the dwelling fabric, attention to thermal bridging and unwanted air leakage and additional passive and active demand reduction measures.
- 4.13 The applicant states that by following this approach, energy demand reductions will be built in to the lifetime of the dwellings rather than the limited lifespan of bolt-on renewable energy technologies. The scheme is stated to be able to achieve the required 10% reduction in energy demand for the development as a whole.
- 4.14 Given that the proposed varied wording of Condition 17 would accord with national planning policy guidance and with the emerging approach to climate change and to energy related aspects of sustainable buildings, it is considered that planning permission should be granted.

Legal Issues

- 4.15 Planning Acts: This application has been considered in accordance with the relevant planning acts.
- 4.16 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.
- 4.17 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.

Financial Issues

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

5.0 CONCLUSION

5.1 Having taken into account the policy context, national changes and requirements and the advice within the NPPF, the proposed variation of Condition 17 is considered acceptable. The proposed development with the varied conditions would be a sustainable form of development which would contribute towards reducing carbon emissions and be resilient to the effects of climate change. The scheme would improve energy efficiency and minimise energy consumption and should incorporate sustainable design and construction techniques. Overall the benefits of the scheme are considered to outweigh the conflict with the requirements of Policy SP16.

6.0 RECOMMENDATION

6.1 This planning application is recommended to be APPROVED subject to delegation being given to Officers to complete the Deed of Variation to the original Section 106 agreement and conditions set out below:

01. The development for which permission is hereby granted shall be begun within a period of three years from 13 November 2015 (the date of the original permission under reference 2015/0367/FUL).

Reason:

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

02. The development of phase 1 shall be carried out in accordance with the revised layout plan hereby approved, but using the materials submitted in the Materials Boundary Plan, Plan No LHN185-MBP-01 Rev B received 17 October 2016 and approved on 3rd November 2016, under ref 2016/1039/DOC, for plots 1-19 and plots 115-125. No development shall commence on other phases of the development until details of the proposed wall and roofing materials have been submitted to and approved in writing by the Local Planning Authority. Only the approved materials shall be used in the external finishes of the walls and roofs of the buildings unless otherwise approved in writing by the Local Planning Authority.

Reason:

To ensure that the proposals respect the character and appearance of the area in accordance with Policy ENV1 of the Selby District Local Plan and SP19 of the Selby District Core Strategy Local Plan.

03. The development of phase 1 shall be carried out in accordance with the details submitted in the Landscape Plan, Plan No. 2685/1 Rev D received 9th November 2016. No development shall commence on other phases of the development until 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 has been 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. The development of Phase 1 shall be carried out in accordance with the revised layout plan hereby approved, but with respect to boundary treatments the development shall be carried out in accordance the details submitted in the Materials and Boundary Plan, Plan No LHN185-MBP-01 Rev B received 17 October 2016 and approved on 3rd November 2016, under ref 2016/1039/DOC, for plots 1-19 and plots 115-125. No development shall commence on other phases of the development until details of the means of site enclosure are submitted to and approved in writing by the Local Planning Authority. The means of enclosure shall be constructed in accordance with the approved details prior to the occupation of the first dwelling and thereafter shall be retained as such.

Reason:

To allow the Local Planning Authority to control the development 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 Local Plan and Policy SP19 of the Selby District Core Strategy Local Plan.

05. The development shall be carried out in accordance with the details submitted for Phase 1 development of Plots 1-19 and 115-125 under reference 2016/1041/DOC and approved on 20 April 2017. For other phases of the development 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:

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

- (a) dimensions of any carriageway, private access, cycleway, footway, and verges
- (b) visibility splays
- (c) the proposed buildings and site layout, including levels
- (d) drainage and sewerage system
- (e) lining and signing
- (f) traffic calming measures
- (g) 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, footways/footpaths and private accesses.
- (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

Reason:

In accordance with Policies ENV1, T1 and T2 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.

- 06. 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 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.

- 07. The development shall be carried out in accordance with the details submitted for Phase 1 development of Plots 1-19 and 115-125 under reference 2016/1041/DOC and approved on 20 April 2017. For other phases of the development there shall be no access or egress 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. The works shall be implemented in accordance with the approved details and programme.

Reason:

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

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

access until the completion of all the permanent works shall be repaired immediately.

INFORMATIVE:

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

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

09. 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 accesses) until splays are provided giving clear visibility of 120 metres measured along both channel lines of Barff Lane, from a point measured 2.4 metres down the centre line of the access road/private accesses. 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 Policies ENV1, T1 and T2 of the Selby District Local Plan and in the interests of road safety.

10. The groundworks in respect of Phase 1 shall be carried out in accordance with the details submitted in the General Site Arrangement Plan, Drawing No 9403/100/001 C, Kerbing details Plan 1 of 2, Drawing No 9403/1100/001/C, and Kerbing Details Plan 2 of 2, Drawing No 9403/1100/002 C, all received 10 October 2016, and approved on 3 November 2016 under planning ref 2016/1040/DOC for plots 1-19 and 115-125. Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, for other phases of the development 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.

(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 footway across the site frontage adjacent to Barff Lane linking to the existing footway to the east of the site, including drainage and street lighting proposals.
- b. Provision of pedestrian crossing point on Barff Lane.
- c. 30mph Gateway Feature for the amended speed limit.

Reason:

In accordance with Policies ENV1, T1 and T2 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.

11. 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:
 - a. Provision of footway across the site frontage adjacent to Barrf Lane linking to the existing footway to the east of the site, including drainage and street lighting proposals.
 - b. Provision of pedestrian crossing point on Barff Lane.
 - c. 30mph Gateway Feature for the amended speed limit.

Reason:

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

12. No dwelling shall be occupied until the related parking facilities have been constructed in accordance with the approved drawing number 1630:01 Rev F. 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, T1 and T2 of the Selby District 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.

13. 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.

14. The site compound, on-site parking for staff and sub-contractors vehicles and on site materials storage shall be implemented in accordance with the details submitted in the Compound Plan, Plan No LHN185-CP-03, approved 1 August 2017 under reference 2017/0678/DOC. The approved areas shall be kept available for their intended use at all times that construction works are in operation.

Reason:

In accordance with Policies ENV1, 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.

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. 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.

16. No dwelling shall be occupied until at least 10% of the energy demand of the development has been reduced through the use of enhanced building materials 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.

17. Notwithstanding the provisions of Class A and Class E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) no extensions, garages, outbuildings or other structures shall be erected on Plots 94 to 96, without the prior written consent of the Local Planning Authority.

Reason:

In the interests of residential amenity having had regard to Policies ENV1 of the Selby District Local Plan and SP19 of the Core Strategy.

18. Prior to the site preparation and construction work commencing, a scheme to minimise the impact of noise and vibration on residential properties in close proximity to the site, shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

In the interests of protecting residential amenity in accordance with Policies ENV1 and SP19 of the Local Plan and the NPPF.

19. The details submitted under reference 2016/1039/DOC are satisfactory in respect of Plots 1-19 and 115 -125. For the other phases of the development shall not commence until details of the means by which the public water supply infrastructure that is located within the site will be protected (throughout the construction and occupational phases of the development) has been submitted to and approved by the Local Planning Authority. Ground level changes above the water mains shall

not exceed 24 inches (two feet). Furthermore, construction works within the area affected by the presence of the pipes shall not commence until the approved protection measures have been implemented.

Reason:

In order to protect the public water supply.

20. The drainage scheme received on 11 February 2016 and approved under 2016/0144/DOC on 17 April 2016 shall be implemented before the development is brought into use.

Reason:

In the interest of satisfactory and sustainable drainage.

21. The works to provide a satisfactory outfall for surface water received on 11 February and approved under reference 2016/0144/DOC- on 7 April 2016 shall be implemented before the development is brought into use.

Reason:

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

22. The scheme submitted for proposed means of foulwater drainage, including details of any balancing works and off-site works, received on 11 February and approved under reference 2016/0144/DOC on 7 April 2016 shall be implemented before the development is brought into use.

Reason:

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

23. The development shall be carried out in complete accordance with the recommendations set out in the Preliminary Ecological Appraisal Reference: SF2313 dated March 2015 by Smeeden Foreman Limited, unless otherwise approved in writing by the Local Planning Authority. Specifically the following matters should be adhered to:

- The retention of the hedgerows and trees at the site where feasible, or replacement planting using native species.
- Where removal of hedgerow to provide access is necessary, consideration should be given to wildlife connectivity.
- Use of temporary protective demarcation fencing to protect retained areas/features including those immediately adjacent to the site. The fencing must be in accordance with BS5837:2012 'Trees in Relation to Design, Demolition and Construction', extend outside the canopy of the retained trees and remain in position until construction is complete.
- Use of directional lighting during construction which will not shine upon the site boundaries, hedgerows or trees within the site.
- Implementation of lighting scheme within proposals that minimise illumination of the site boundaries or trees within the site.
- Seeding areas associated with hedgerow/tree planting with a suitable wildflower mix.

Reason:

In the interests of ensuring that protected species are not significantly impacted by the development.

24. The arrangement for the provision of recreational open space on the development shall be carried out in accordance with the details submitted under application reference 2016/0360/DOC as approved on 31 May 2016. The recreational open space shall be implemented in accordance with the agreed timescale, maintained in accordance with the submitted details and made available for use by the public in perpetuity.

Reason:

To ensure the provision of appropriate recreational open space to serve the development and in accordance with Policy RT2 of the Selby District Local Plan.

25. The development hereby approved shall be carried out in accordance with the recommendations of the investigation and risk assessment to assess the nature and extent of any land contamination which was submitted under reference 2015/1363/DOC and approved on 6 January 2016 in respect of phase 1. Prior to the development of any other phases of the development a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason:

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

26. 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.

27. The scheme shall be implemented in accordance with the detailed design and associated management and maintenance plan of surface water drainage for the site which was submitted under reference 2016/0144/DOC and approved on 7 April 2016 and shall be implemented before the development is brought into use

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.

28. With respect to Piled Foundations, the development for Plots 1-19 and 115-125 shall be carried out in accordance with the Construction Environmental Management Plan received 26 August 2016 and approved 20 April 2016 under reference 2016/1041/DOC. Should any of the proposed foundations for other phases of the development 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.

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

ATR0001 REV A	Large Refuse Vehicle Auto-track Turn Manoeuvre
2714-0-004-N	Proposed Layout and Affordable Housing Layout Plan
2714-0-000	Location Plan
2714-0-005	Proposed Plans- House Type A
2714-0-006	Proposed Plans- House Type B
2714-0-007 A	Proposed Plans- House Type C
2714-0-008	Proposed Plans- House Type D
2714-0-009 A	Proposed Plans- House Type E
2714-0-010	Proposed Plans- House Type F
2714-0-011	Proposed Plans- House Type G
2714-0-012	Proposed Plans- House Type H
2714-0-013D	Proposed Site Layout with Additional Land Ownership
2714-0-014	Proposed Plans -Helpful House
27140-0-015	Proposed Garages Plans and Elevations

GL0385 Rev 03B	Landscape Plan-(Recreation)
2685/1 Rev D	Detailed Landscape Proposals
LHN185-MBP-01 Rev B	Materials and Boundary Plan
9403/100/001/C	General Site Arrangement Plan
9403/1100/001/C	Kerbing Details Plan 1 of 2
9403/1100/002/C	Kerbing Details Plan 2 of 2
1630:01 Rev F	Parking Facilities

Additional Plans for Plots 1-19 and 115-125 approved under reference 2016/0928/FUL

1630:02 a	Overall Site layout
1630.02	Location Plan

G.01	Single Garage plans
G.02	Double and Twin Garages
BA.01	House Type Barlow-Plots 4,5,16,121 & 124
HA.01	House Type Haxby- Plots 18 & 19
401.01	House type 401-Plot 3
404.01	House Type 404 – Plots 1,8,17 & 123
402.01	House Type 402-Plots 2,6,11,14,15,122 & 125
412.01	House Type 412- Plot 7
301.01	House Type 301- Plots 9,10,12 & 13
A22/A30.01	House Type A22/A30- Plots 115 to 120
1630.01 F	Planning Layout Plots 1-19 & 115-125

INFORMATIVES

01 The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraphs 186-187 of the NPPF.

02. THE COAL AUTHORITY

The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:

- o Collapse of shallow coal mine workings.
- o Collapse of, or risk of entry into, mine entries (shafts and adits).
- o Gas emissions from coal mines including methane and carbon dioxide.
- o Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
- o Transmission of gases into adjacent properties from underground sources through ground fractures.
- o Coal mining subsidence.
- o Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out of their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.

Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

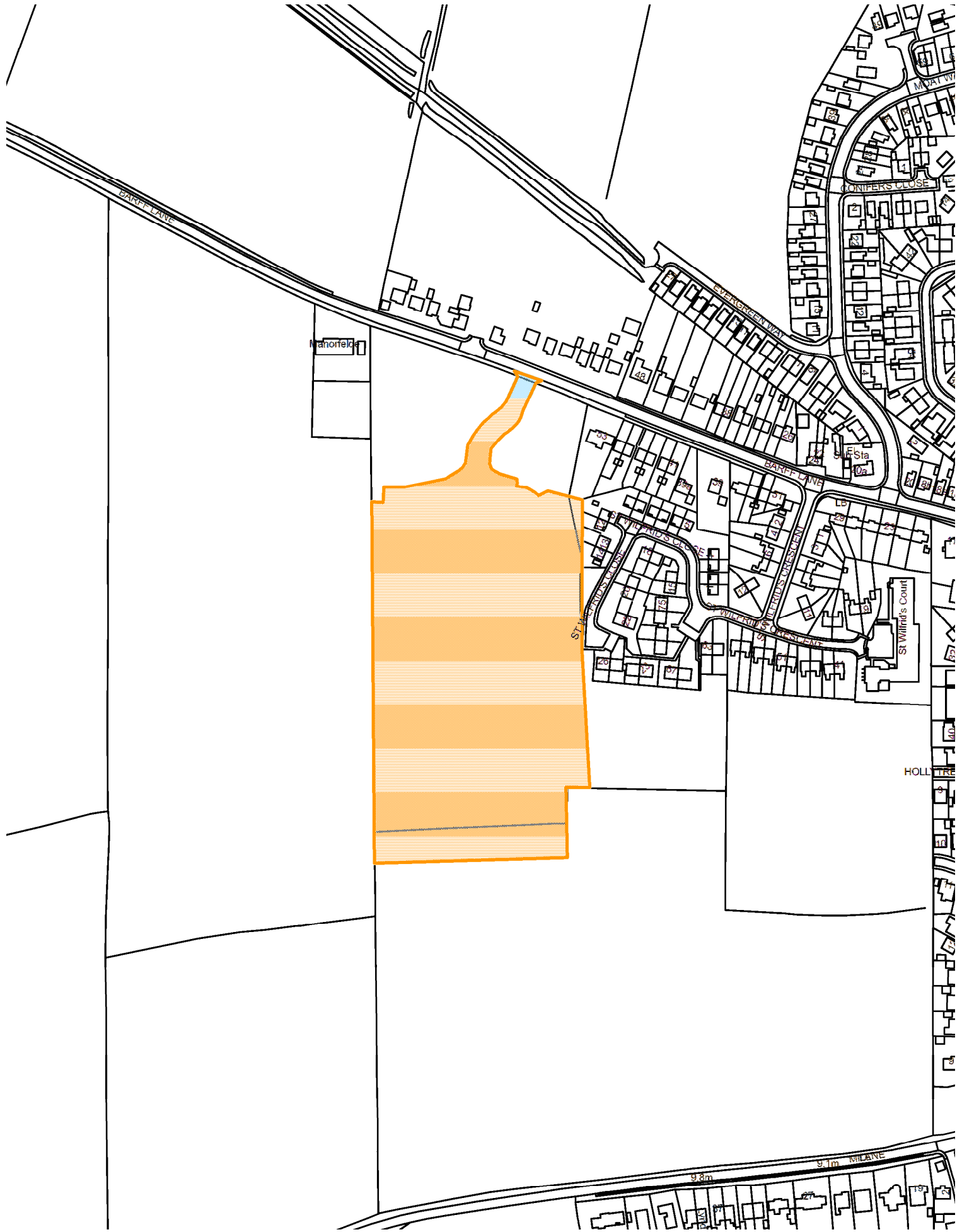
03 – HIGHWAYS INFORMATIVE

You are advised that any activity on the development 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.

Contact Officer: Fiona Ellwood, Principal Planning Officer

Appendices: None

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APPLICATION SITE

Item No: 2017/0427/FULM

Address: Barff Lane, Brayton

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BARFF LANE, BRAYTON PHASE 2

**AMENDED
DRAWING**

RECEIVED
26 June 2017
DEVELOPMENT MANAGEMENT

Private			
Reference	Beds	Storeys	Total
2 BEDS			
Harcourt	2	2	4
Eveleigh	3	2	19
4 BEDS			
Goodridge	4	2	13
Mylne	4	2	10
Grainger	4	2	11
Pembroke	4	2	4
Sub-Total			61
Affordable			
A22	2	2	28
A30	3	2	22
Sub-Total			50
Total			111

- PLANNING LAYOUT LAYERS KEY**
- 1800mm BRICK WALL
 - - - 1800mm TIMBER FENCE
 - 900mm ESTATE RAILINGS
 - 450mm Post & Rail Fence
 - > Rear Access Gate
 - * Affordable Housing
 - ▼ Front Door access
 - ◊ Rear / Side / Garage door access
 - 2.4 x 1.8m Shed



Rev.	Date	Revision:
A	17.03.17	Updated in line with clients comments. Affordable and private mix amended.
B	22.03.17	Garage sizes amended across the site.
C	03.04.17	Twin garage to plots 2-60/61 shown as pitched roof.
D	06.04.17	Patios and paving amended inline Linden spec.
E	13.06.17	Parking strategy to 2 bed units amended.

Drawing Number: 1704.01	Project: BARFF LANE BRAYTON	Date: FEB 17
Client: LINDEN HOMES NORTH	Drawing Title: PLANNING LAYOUT PHASE 2	Scale @ A1: 1:500
		Revision: E

STEN Architecture Ltd Suite 10, Unit 3, Bentley Office Park, Bennett Avenue, Horbury, Wakefield, WF4 5RA Telephone: 01924 669424	Web: www.sten-architecture.co.uk Twitter: @STEN_arch Facebook: stenarchitectureltd LinkedIn: Sten Architecture
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Report Reference Number: 2017/0427/FULM

Agenda Item No: 6.7

To: Planning Committee
Date: 6th September 2017
Author: Mr Simon Eades (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Development Manager)

APPLICATION NUMBER:	2017/0427/FULM	PARISH:	Brayton Parish Council
APPLICANT:	Andy Cramer Linden Homes	VALID DATE: EXPIRY DATE:	25th April 2017 25th July 2017
PROPOSAL:	Revised Proposals for Phase 2 Element of Approved Residential Development 2015/0367/FUL - Full Planning Application by Linden Homes for the Erection of 111 no. dwellings		
LOCATION:	Street Record, Barff Lane, Brayton, Selby, North Yorkshire		
RECOMMENDATION	APPROVE SUBJECT TO s106		

This application has been brought before Planning Committee due to the proposal being a departure to the Development Plan. It should, however, be noted that there is an extant planning permission for 125 dwellings (2015/0367/FUL), which has been implemented through the construction of four dwellings. This scheme is considered to have a fall-back position and the additional units being proposed are considered to be a boost to an area already established as being suitable for residential development.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1.1 The application site comprises 3.2 hectares and is located outside the defined development limits of Brayton. The site was originally agricultural land, but is now part of a building site in association with the extant planning permissions 2015/0367/FUL and 2016/0928/FUL that has now been implemented (four completed houses to date) and other houses are under construction either side of the vehicle access road into the site from Barff Lane and these are clearly visible from Barff Lane.
- 1.1.2 There are residential properties which comprise a mixture of single and two storey dwellings located to the east along Barff Lane and St Wilfrid's Crescent. The land to the north, west and south of the site is agricultural land.
- 1.1.3 The site is bounded by mature hedgerows and is situated within Flood Zone 1 which is at low probability of flooding.

- 1.1.4 There is a public footpath on the site along the eastern boundary which is accessed from the housing on St Wilfrid's Close.

The proposal

- 1.2.1 The proposals is for 111 new dwellings, which relates to the original consent (2015/0367/FUL), although the layout has changed with this proposal. Through this proposal, the extant permission will be split into two phases, and increase the number of units delivered on site by 16 units.
- 1.2.2 The original proposal (reference 2016/0928/FUL) was for 125 dwellings, but only 30 dwellings of those will be implemented under that consent. These 30 dwellings will be known as phase 1. There was also a subsequent s73 application (reference 2016/0928/FUL) that sought to vary the parking (12) and drawings (34) conditions. This application introduced the concept of a phased development, which is why the parcel of land delivering 30 dwellings, is known as phase 1.
- 1.2.3 The other properties that made up the 125 dwellings of the original application (plots 21-115) and the additional 16 now being sought under this education, will be known as phase 2. The additional 16 properties increase the total number of 125 dwellings on the site to 141. However, it should be noted that this is a full application for 111 dwellings, and that is how it is being assessed.
- 1.2.2 The application is accompanied by the following supporting documents –
- Supporting Letter
 - Contaminated Land Assessment
 - Drainage and Flood Risk Assessment
 - Transport Assessment
 - Ecological Assessment
 - Archaeological Appraisal

Relevant Planning History

- 1.3 The following historical applications and appeals are considered to be relevant to the determination of this application.:-
- 2015/0367/FUL (PER - 13.11.2015) Proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond
 - SCR/2015/0009 (EIANOT - 01.05.2015) Screening opinion for residential development of 125 dwellings including access
 - 2015/1363/DOC (COND - 06.01.2016) Discharge of condition 28 (Contaminated Land) of approval 2015/0367/FUL Proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond
 - 2015/1385/DOC (COND - 19.02.2016) Discharge of conditions 24 (archaeological evaluation) and 25 (written scheme of archaeological investigation) of approval 2015/0367/FUL (8/20/763/PA) for proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond

- 2016/0144/DOC (CONDP - 07.04.2016) Discharge of Condition 7 (surface water and highways), 21 (systems for drainage), 22 (outfall for surface water), 23 (disposal of foul water drainage) and 32 (surface water drainage) of approval 2015/0367/FUL Development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond.
- 2016/0360/DOC (COND - 20.05.2016) Discharge of condition 27 (recreational open space) of approval 2015/0367/FUL Proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond
- 2016/0928/FUL (PER - 09.11.2016) Section 73 application to amend condition 12 (parking) and condition 34 (drawings) of approval 2015/0367/FUL Proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond
- 2016/1039/DOC (CONDP - 03.11.2016) Discharge of condition 02 (Materials), 03 (Landscape Proposals), 04 (Boundary), 15 (Compound Layout), 20 (Main Water Supply) and 29 (Remediation Scheme) of approval 2015/0367/FUL Proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond
- 2016/1040/DOC (CONDP - 03.11.2016) Discharge of condition 10 (Groundworks) and 11 (Highway Works) of approval 2015/0367/FUL Proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond
- 2016/1041/DOC (CONDP - 20.04.2017) Discharge of condition 05 (Excavation/Groundworks), 07 (Surface Water), 19 (Noise & Vibration) and 33 (Piled Foundations) of approval 2015/0367/FUL Proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond
- 2016/1078/DOC (COND - 03.10.2016) Discharge of conditions 24 (archaeological investigation) and 25 (scheme of archaeological investigation) of approval 2015/0367/FUL (8/20/763/PA) for proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond
- 2016/1243/DOC (CONDP - 29.03.2017) Discharge of condition 14 (Highway condition), 16 (Travel plan) and 17 (Energy assessment) of approval 2015/0367/FUL Proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond
- 2017/0494/FUL (Pending) Section 73 to vary condition number 17 "energy supply of the development" from planning application 2015/0367/FUL Proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond
- 2015/0367/FUL Proposed development of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond

2.0 CONSULTATION AND PUBLICITY

2.1 **Yorkshire Water** – No objections subject to conditions

2.2.1 **Selby Area Internal Drainage Board** - No objection if the surface water were to be disposed of via a soakaway system, but would advise that the ground conditions in this area may not be suitable for soakaway drainage and that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year. No objection if surface water is to be directed to a mains sewer

system providing that the Water Authority are satisfied that the existing system will accept this additional flow.

- 2.3 **North Yorkshire Fire & Rescue Service** – No objections
- 2.4 **Sustainable Drainage Systems** - No further comments to those made 10/7/15 for application 2015/0367/FUL with respect to surface water management.
- 2.5 **Historic England** - No comments to make
- 2.6 **Designing Out Crime Officer** - The Designing Out Crime officer has made comments and recommendations on the following aspects; Design and Access statement, Tenure, Access and Movement, Public Open Space, Ambiguous Space, Defensible space, Boundary Protection, Car Parking, Cycle storage, Lighting, Landscaping and Utility Meters
- 2.7 **WPA Consulting - Contaminated Land Consultants** – Following the reports in the previous reports no further conditions relating to remediation are considered to be required for the specified site area for this application.
- 2.8 **Environmental Health** - Required to submit details in line with Selby District Council's Air Quality: Planning Guidance Note that an air quality assessment is provided.
- 2.9 **NYCC Highways** – No objections subject to conditions.
- 2.10 **Education Directorate North Yorkshire County Council** - Based on the proposed 111 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 £377,289. A developer contribution would not be sought for secondary school facilities at this time.
- 2.11 **Natural England** - No response received.
- 2.12 **Yorkshire Wildlife Trust** - No response received.
- 2.13 **North Yorkshire County Council -Policy Officer** -No response received.
- 2.14 **Vale Of York CCG** - No response received.
- 2.15 **Public Rights Of Way Officer** - No response received.
- 2.16 **Parish Council** - The main concerns of Brayton Parish Council are:
- Traffic
 - Speed of vehicles on Barff Lane.
 - A massive increase in numbers of cars on this road.
 - Services
 - In the three local primary schools and there are very few places in any of them at the moment and have concerns where the children in Brayton will currently be schooled

- Other services such as Doctors and Dentists - are stretched now, and Brayton has no other facilities to offer new residents apart from a Tesco Express.
- The Barff is a focal point of Brayton and we believe should be protected, and very few homes should be built nearby.

2.17 The application has been advertised on site by means of a site notice and adjacent neighbours have been notified by letter. One representation has been received outlining the following issues:

- The phase as approved proposes 95 dwellings comprising 51 detached dwellings and 44 semi-detached dwellings with 40 of them with garages. Whereas the amended scheme proposes 16 more dwellings with significant changes to the house types.
- The proposed scheme is for 111 dwellings, 38 detached and 73 dwellings two thirds are semi-detached / terraced dwellings. The introduction of Everleigh and Harecourt house types account for 23, in addition to the 50 A22 and A30 affordable dwellings.
- Visually all look the same with no garages
- Too much frontage parking and no greenery.
- Informed visibility is still an issue.
- 59% of the total scheme is semi-detached

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

3.1 The application site comprises 3.2 hectares and is located outside the defined development limits of Brayton. The site was originally agricultural land, but is now part of a building site in association with the extant planning permissions 2015/0367/FUL and 2016/0928/FUL. Houses are under construction either side of the vehicle access road into the site from Barff Lane and these are clearly visible from Barff Lane. There are residential properties which comprise a mixture of single and two storey dwellings located to the east along Barff Lane and St Wilfrid's Crescent. The land to the north, west and south of the site is agricultural land. The site is bounded by mature hedgerows and is situated within Flood Zone 1 which is at low probability of flooding. There is a public footpath on the site along the eastern boundary which is accessed from the housing on St Wilfrid's Close.

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

3.3 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "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". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.

3.4 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.

Selby District Core Strategy Local Plan

- 3.5 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

Selby District Local Plan

- 3.6 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, 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)".

- 3.7 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

4.0 APPRAISAL

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

1. Principle of development
2. Visual Impact on the Character and Form of the Area
3. Flood risk, drainage and climate change
4. Residential amenity
5. Impact on highways
6. Impact on Heritage Assets
7. Affordable housing

8. Recreational open space
9. Education, healthcare, waste and recycling
10. Nature conservation and protected species
11. Contamination
12. Other issues

Principle of development

- 4.2 The application site is outside of the development limits for Brayton (a Designated Service Village) and, now the Council has a five year land supply, it is contrary to Policy SP2A(c) of the Core Strategy. However, there is an extant permission on the site for 125 units, and the principle of residential development has been established. It is a significant material consideration, particularly as the permission has been implemented. This application seeks to split the original masterplan into two phase and introduce an additional 16 dwellings are proposed. Because of these additional units it is necessary to consider the this application against policy SP2A(c). For completeness, Policy SP2A(c) of the Core Strategy reads as follows:
- 4.3 *“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.”*
- 4.4 The proposal does not meet Policy SP2A(c) as it is not for rural affordable housing need and there are no special circumstances. The proposal should therefore be refused unless material considerations indicate otherwise. One such material consideration is the Council’s position with respect to the five year housing land supply. On the 24th July 2017, the Director of Economic Regeneration and Place formally endorsed an updated five year housing land supply methodology and resultant housing land supply figure of 5.4 years, as set out in the 2017-2022 Five Year Housing Land Supply Statement. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application and despite the Council confirming it has a five year housing land supply, this supply needs to be maintained until the Sites and Policies Local Plan (PLAN Selby) allocates new sites suitable for housing. This should be done in such a way that it does not cause significant harm to acknowledged interests and does not undermine the Local Plan process and these matters are discussed later within this report.
- 4.5 The NPPF is another material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development, with particular emphasis on boosting significantly the supply of housing. 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. An approval on this site (if its deliverability can be proved by the applicant) would provide additional dwellings to the housing supply.
- 4.6 It is established case law that if an applicant can demonstrate a fall-back position, for example, an existing consent which could be implemented in the absence of a

new permission, this constitutes a material consideration and should be taken into account in determining the application. This site does have Planning Permission for the erection of 125 dwellings under application number 2015/0367/FUL, or 30 dwellings under reference 2016/0928/FUL, which have been implemented. Accordingly, in the context of case law, the implemented Planning Permissions are considered to be clear Fall Back Positions, which is a material consideration of sufficient weight to outweigh the provisions SP2 (c) of the Core Strategy.

4.7 Sustainability of the Development

4.8 In respect of sustainability, the site is adjacent to the development limits of the village of Brayton which is a Designated Service Village, as identified within the Core Strategy where there is scope for additional residential growth to support rural sustainability. The village contains two public houses, a petrol filling station including Tesco convenience store, a butchers shop, a post office, vets, hairdressers, doctor's surgery including pharmacy, hospital, car garage, church, Parish hall, community centre, high school, three primary schools and one nursery. The village also benefits from a bus service operating to Selby, Pontefract and Wakefield. It is therefore considered that the settlement is well served by local services.

4.9 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. In addition to the above it is noted that the village of Brayton is a Designated Service Village with a defined Development Limit, both in the Selby District Local Plan and within the Core Strategy which demonstrates that the Council has considered the village a sustainable location. The village is considered to be "most sustainable" in Background Paper 5 "Sustainability Assessment of Rural Settlements" of the Core Strategy. Having taken these points into account, despite the fact that the site is located outside the defined development limits of Brayton 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.

4.10 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

4.11 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.

Social

4.12 The proposal would deliver levels of both open market and affordable housing in Brayton and hence would promote sustainable and balanced communities and would assist in the Council meeting the objectively assessed need for housing in the district. The proposals would provide 40% on-site provision of affordable housing

which would improve the tenure mix in this location. In addition the scheme would include recreational open space through on-site provision and would improve links to Brayton Barff and Mill Lane to the south. The proposals would also provide a contribution towards education facilities at the local Primary Schools.

Environmental

- 4.13 The proposal would deliver high quality homes for local people and take into account environmental issues such as flooding and impacts on climate change, and would achieve Code for Sustainable Homes Level 3.

Previous Levels of Growth and the Scale of Proposal

- 4.14 CS policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability. This policy sets a minimum target of 2000 for DSVs as whole, which the most recent monitoring indicates has been exceeded by completions and permissions in these settlements as a whole. However, the CS does not set a minimum dwelling target for individual DSVs, so it is not possible at this point to ascertain exactly whether Brayton has exceeded its dwelling target.
- 4.15 As a guide, for the purpose of consultation only, the Council put forward various growth options for the DSVs as part of the development of PLAN Selby in 2014 and 2015 and at that time the research indicated minimum growth options of between 108-147 dwellings for Brayton.
- 4.16 To date, Brayton has seen 10 (gross) dwellings built in the settlement since the start of the Plan Period (10 net) in April 2011 and has extant gross approvals for 228 dwellings (228 net), giving a gross total of 238 dwellings (238 net), 125 of these dwellings are currently permitted on this site through application 2015/0367/FUL.
- 4.17 Taking into account the range of growth options identified for this settlement, the increase in the scale of this individual proposal, at 16 dwellings, is considered to be appropriate to the size and role of a settlement designated as a Designated Service Village, however the individual scale of the proposal must also be considered in terms of the cumulative impact it would have with the previous levels of growth in this settlement that have occurred since the start of the plan period. The above factors weigh in favour of the development.

Visual Impact on the Character and Form of the Area

- 4.18 The main changes between this and the previous scheme reference (2016/0928/FUL) are as follows –
- Change of house types, to increase the number of 2 and 3 bedroomed properties and reduce the number of 4 bedroomed units
 - Frontage parking introduced to Plots 35 to 39, 40 to 46 and 50 to 56.
 - Increase in the red line application area from the south east corner to Plots 27 to 32.
 - Increase in the amount of dwellings contained in the second phase from 95 to 111 causing a net increase of 16 dwellings.

Extant Permission

Phase 1

(2015/0367/FUL)

23 x 2 bed
32 x 3 bed
70 x 4 bed

(2016/0928/FUL)

6 x 2 bed (6 Affordable no market)
4 x 3 bed (no affordable 4 market)
20 x 4 bed (no affordable 20 market)

Phase 1 Total 30

Phase 2 (current proposal)

32 x 2 bed (28 affordable 4 market)
41 x 3 bed (22 affordable 19 market)
38 x 4 bed (no affordable 38 market)

Phase 2 total 111

125 Total

141 Total of Phase 1 and Phase 2

- 4.19 There were initial concerns regarding the location and amount of frontage parking to the proposed dwellings. Amended plans have been received which reduce the amount of frontage parking to some extent and provide some additional green landscaping to break up the hard surfacing. The local planning authority and the applicant are currently reviewing the proposed layout. Members will be updated at Committee.
- 4.20 The Strategic Housing Market Assessment for the Central area which includes Brayton states that there is demand and pressure on stock for all property sizes and types, with particular pressure on terraced properties, therefore having taken this into account it is considered that the proposals provide an appropriate mix of housing to meet local housing needs in accordance with policy SP8 of the Core Strategy.
- 4.21 Paragraphs 58 and 69 of the NPPF states that amongst other things 'planning policies and decisions, in turn should aim to achieve places which promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.' It must be acknowledged that the above paragraphs use language such as 'aim to' and not direct language such as 'shall' so there is an element of flexibility in the consideration of such aspects. The proposed layout has ensured that dwellings have active frontages and the dwellings are positioned so that car parking areas have natural surveillance. Private space for each plot is clearly demarcated and appropriate boundary treatments can be conditioned so that occupants can distinguish their defensible private space.
- 4.22 The Police Architectural Liaison Officer has commented on the proposed layout and has made a series of recommendations, although it is recognised that some of these fall outside the remit of planning. In general terms the Police have confirmed that the development has many positive aspects which should help to ensure a safe and secure environment for residents.
- 4.23 Having had regard to all of the above elements it is considered that the proposal would not have a significant detrimental impact on the character and form of the

area and therefore accords with Policies ENV 1(1) and (4) and ENV3 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

Flood Risk, Drainage, Climate Change and Energy Efficiency

- 4.24 The application site is located in Flood Zone 1 which is at low probability of flooding. The application is accompanied by a Drainage and Flood Risk Statement which examines the existing site drainage, flood sources and site vulnerability and sets out a drainage strategy for the scheme. The risk of flooding from the sources identified within the report is considered to be low. The application form confirms that the disposal of foul sewage would be to the mains sewer in Barff Lane. Yorkshire Water have been consulted with respect to this and have raised no objections.
- 4.25 With respect to surface water drainage the report confirms that on site soakaway testing carried out during January 2015, that the underlying ground strata is not suitable for the discharge of surface water by infiltration techniques. The report therefore investigates the possible use of various Sustainable Urban Drainage Systems (SUDS) such as soakaway/infiltration systems. North Yorkshire County Council Flood Risk Officer has stated that there is not sufficient detail submitted with the application and as such they have recommended that a condition be imposed with respect to surface water drainage. Yorkshire Water have also requested that conditions be imposed.
- 4.26 In requesting conditions the drainage authorities have indicated that they have no objections in principle on drainage grounds. The conditions would therefore allow full details to be worked up and submitted for approval in consultation with those drainage authorities. Therefore subject to appropriate conditions it is considered that the drainage proposals are acceptable.
- 4.27 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. A S73 application has been submitted on the extant permission (2015/0367/FUL) in order to vary Condition 17 to apply a fabric first approach in order to achieve the required 10% reduction in energy demand. It is considered that the same condition should be re-applied to this scheme in order to maintain consistency.
- 4.28 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.

Residential Amenity

- 4.29 The nearest residential dwellings to the site are the properties of 10, 12, 13, 14 and 26 St Wilfred's Close. Plots 1 to 4 range from 11 to 14 metres from the rear boundaries of these properties. Plots 1 to 4 range from 21 to 22metres from the habitable room windows of these neighbouring properties.

- 4.30 The separation distances between existing and proposed dwellings and within the site are acceptable so as to ensure that no significant detriment would be caused through overlooking, overshadowing or creating an oppressive outlook. 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.
- 4.31 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.

Impact on Highways

- 4.32 The application submissions included a Transport Assessment and NYCC Highways were consulted on the details of the application and the transport assessment. NYCC Highways state that, although the increase in dwellings will generate additional vehicle trips during the peak periods, the increase is minimal and within the usual daily variation in traffic flows. On this basis, the NYCC Highways does not raise an objection to the proposal, subject to the conditions attached to the original permission and an additional condition.
- 4.33 The proposed layout of the site demonstrates that a sufficient level of parking provision, including visitor spaces, would be provided on site and there would be pedestrian linkages through the site alongside the proposed roads and through the site to access Mill Lane to the south and Brayton Barff to the west. It is therefore considered that the proposals achieve an appropriate internal highway layout
- 4.34 Having had regard to the above it is considered that the scheme is acceptable and in accordance with Policies ENV1 (2), T1 and T2 of the Local Plan and Paragraph 39 of the NPPF.

Impact on Heritage Assets

- 4.35 An Archaeological Strip and Record was carried out by MAP Archaeological Practice Ltd. on land immediately south of Barff Lane, Brayton, Selby, North Yorkshire (SE 59089 30400) between the 11th-23rd August 2016. The report concludes that:

“The work was undertaken in advance of the construction of 125 no. dwellings with associated access from Barff Lane, landscaping, new footpath and drainage pond (Application Ref. Nos. 2015/0367/FUL; 2015/1385/DOC). The Strip and Record was only undertaken across the northern end of the site based on the results of the previous Archaeological Trial Trenching. Two north-east to south-west ditches were recorded that may form part of an early medieval field system alongside isolated waste disposal pits. Interestingly, one of these pits may have served a dual purpose used to dispose of waste possibly from a nearby corn drier or hearth whilst drying flax plants as part of fibre processing. Deep plough scars and furrows were identified across the entirety of the Strip and Record Area which would suggest the field had been heavily truncated as a result of modern farming practices and regimes. At the time of the excavation the site was covered in a

maize crop and was bisected at its northern end by two east to west aligned overhead power lines. Two north-east to south-west ditches were recorded that may form part of an early medieval field system alongside isolated waste disposal pits. A small assemblage of medieval and post-medieval pottery was recovered, along with some medieval ceramic building material fragments, fired clay with wicker or wood impressions, a medieval lead spindle whorl, a lead pistol ball, copper alloy general service military buttons, copper alloy 4-eyelet buttons, a single modern ferrous nail and a copper alloy coin of George III dated to 1771.”

- 4.36 It is considered that above works comply with conditions applied to the previous permission and the scheme is now acceptable with regard to archaeology. 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.

Affordable Housing

- 4.37 The applicant has confirmed that they are able to provide 40% affordable housing provision on site and that this will be secured via a new Section 106 agreement. The Council’s Lead Officer for Policy supports the provision of 44 affordable units and has provided guidance to the developers with respect to the tenure of any affordable units to be secured so that this can be considered for inclusion in the Section 106 agreement. The proposals are therefore considered acceptable with respect to affordable housing provision having had regard to Policy SP9 subject to the completion of a Deed of Variation to the Section 106 agreement (2015/0367/FUL).

Recreational Open Space

- 4.38 In the extant planning permission 2015/0367/FUL and 2016/0928/FUL (which relates to phase 1) the proposed layout proposes on-site provision for recreational open space which has been identified as ‘The Green’. ‘The Green’ will be delivered with the 30 dwellings that make up Phase 1. Technically, as this application is a new full application, the applicants should be providing some on-site green space provision. However, the scheme will connect up with ‘the Green’, which will serve as a focal point for the two phases. In addition to this, an off-site contribution will be sought through CIL. It is therefore considered that the proposals are acceptable subject to a Deed of Variation of the Section 106 agreement attached to 2015/0367/FUL to secure the detailed scheme and timescale for the on-site Recreational Open Space to be completed, and that the proposals accord with Policies RT2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

Education, Waste and Recycling

- 4.39 The Section 106 Agreement that accompanied the original consent secured appropriate financial contributions (required to mitigate the impacts of the development on the social and physical infrastructure within the vicinity of the site). However, since that application was given consent, the Council has adopted its own Community Infrastructure Levy (CIL).

- 4.40 The introduction of CIL means that, with the exception of site specific projects, such as a Zebra Crossing, the money towards physical and social infrastructure is now collected through the CIL process and not through a s106 agreement. In the event that the applicants decides to only build 30 units of the extant consent, they will need to submit a Deed of Variation separate to this application in order to bring the s106 contributions in line with the revised amount of housing. For completeness, the site is located in the 'moderate' charging zone in the Council's CIL charging schedule. Therefore, the formula for the CIL contribution is as follows:
£35 per sqm of market housing floorspace.
- 4.41 Subject to a new agreement covering the contributions securing 40% affordable housing, and money towards a Zebra Crossing, Waste and Re-cycling, a monitoring fee and a Travel Plan monitoring fee, it is considered that the proposals would comply with Policy ENV1 of the Local Plan and the Developer Contributions Supplementary Planning Document

Impact on Nature Conservation and Protected Species

- 4.42 An Ecological Assessment has been submitted with the application which is dated 2017. Whilst the report is a little out of date, it concluded –
- “The Site is almost entirely occupied by arable land, a habitat of low ecological value; the presence of this habitat will not pose a constraint to development. Higher value habitat is found at the Site's margins, associated with the boundary hedges. Although these fall short of qualifying as important under the Hedgerow Regulations 1997, they fall under the NERC Act; Habitat of Principal Importance for hedgerows and should be retained and protected through development with protective fencing in line with BS5837:2012. It is concluded that development of the application Site will not lead to detrimental impacts on any protected or notable fauna, or designated sites. Although a further survey is not considered necessary in support of this conclusion certain precautions should be followed.
- 4.43 Boundary hedges to the west and south, as well as any new hedges planted as part of the development should not be subject to direct illumination by any exterior lighting to ensure their use by bats is not inhibited. If any lighting is to be installed in these areas it should directed away from hedge lines through the use of hoods or louvers, and emit no white or UV light. No evidence of badger could be found on Site at the time of survey and the risk of setts being established in the intervening time is assessed as being negligible. However, as a precaution, pipe ends and open excavations should be sealed overnight. To maintain the Site's value to hedgehogs, hedges should be used in place of fence panels, where possible, to prevent fragmentation of suitable foraging habitat. Where this is not possible a small hole, c.15cm in diameter, should be left at the base of each fence line”.
- 4.44 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 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.

Contaminated Land and Ground Conditions

- 4.45 The application is accompanied by a Geo-environmental Appraisal by JPG Civil and Structural Engineering which was assessed by the Council's Contamination Consultant who considers that the report is acceptable and therefore there are no objections subject to conditions. 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.

Legal Issues

- 4.46 Planning Acts: This application has been considered in accordance with the relevant planning acts.
- 4.47 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.
- 4.48 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.

Financial Issues

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

5.1 CONCLUSION

- 5.2 The scheme is contrary to policy, however, having considered the scheme and applied a "planning judgement", including balancing the extant consent(s), Officers would advise Members that the scheme is acceptable. It is considered to be acceptable because of the appropriateness of the location of the application site for residential development has already been established through the extant consent, and the additional units, will make more efficient use of residential land, and help bolster the housing supply.

RECOMMENDATION

- 6.1 **This application is recommended to be GRANTED subject to a satisfactorily revised layout showing revised affordable housing locations and sizes being received and agreed AND subject to the following conditions and a new S106 Agreement that covers the provision of 40% on-site affordable housing, a Zebra crossing contribution (tba), a Waste and Re-Cycling contribution, a monitoring fee and a Travel Plan monitoring fee and a Deed of Variation as required to vary the extant S106 Agreement in order for it to work for 30 dwellings.**

1. 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.

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

Location Plan	1704.02
Planning Layout	1704.01
Tree Protection Fencing - Phase 2	2685/3
Detailed Landscape Proposals - Phase 2	2685/2
Materials and Boundary's Plan	LHN185-MBP-02
Street Scenes	1704.04
A22 (Pair)	1704.A22.01
Plots 81-83	1704.A22.02
Floor Plans Plots 81-83	1704.A22.03
Elevations Plots 40-43 & 101-104	1704.A22.04
Floor Plans Plots 40-43 & 101-104	1704.A22.05
A30 (Pair)	1704.A30.01
Elevations Plots 36-39	1704.A30.02
Floor Plans Plots 36-39	1704.A30.03
Eveleigh (Pair)	1704.EV.01
Elevations Plots 62-64	1704.EV.02
Floor Plans Plots 62-64	1704.EV.03
Single garage	1704.G.P2.01
Twin garage	1704.G.P2.02
Goodridge	1704.GO.01
Goodridge	1704.GO.02
Grainger	1704.GR.01
Grainger	1704.GR.02
Harcourt (Pair)	1704.HA.01
Mylne	1704.MY.01
Mylne	1704.MY.02
Pembroke	1704.PE.01
Pembroke	1704.PE.02
Elevations Plots 7-10 and 97-100	1704.PS.01
Floor Plans Plots 7-10 and 97-100	1704.PS.02
Elevations Plots 21-23, 24-26 & 94-96	1704.PS.03
Floor Plans Plots 21-23, 24-26 & 94-96	1704.PS.03

Reason

For the avoidance of doubt.

3. The external wall and roofing materials, boundary treatments and block paving shall be carried out in accordance with the submitted Materials Layout Plan on drawing number LHN185-MBP-02. Only the approved materials shall be used in the external finishes of the walls and roofs of the buildings unless otherwise approved in writing by the Local Planning Authority.

Reason:

To ensure that the proposals respect the character and appearance of the area in accordance with Policy ENV1 of the Selby District Local Plan and SP19 of the Selby District Core Strategy Local Plan.

4. The proposed development shall be carried out in accordance with the Detailed Landscape proposal – Phase 2 received by the Council on the 21st April 2017. The Detailed Landscape proposal shall 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

5. No dwelling shall be occupied until at least 10% of the energy demand of the development has been reduced through the use of enhanced building materials 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.

6. Within three months of the date of this permission details of the means of protecting the public water supply infrastructure that is laid within the site boundary shall be submitted to and approved by the Local Planning Authority. Furthermore, development shall not commence in the relevant area(s) of the site until the approved scheme has been implemented to the satisfaction of the Local Planning Authority.

Reason

In order to protect the public water supply

7. 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.

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

9. 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. Furthermore, unless otherwise approved in writing 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 no foul water discharges take place until proper provision has been made for their disposal.

10. The development shall be carried out in complete accordance with the recommendations set out in the Preliminary Ecological Appraisal by Brook Ecological dated April 2017, 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.

11. No dwelling shall be occupied until arrangements for the provision of recreational open space on the development have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall cover the following matters:-

- a) The layout and disposition of the recreational open space, including any play equipment to be provided, if any.
- b) The timescale for the implementation and completion of the works to provide the recreational open space;
- c) The mechanism for ensuring that the recreational open space will be available for the public within perpetuity.
- d) Maintenance of the recreational open space in perpetuity.

Reason:

To ensure the provision of appropriate recreational open space to serve the development and in accordance with Policy RT2 of the Selby District Local Plan.

12. Trees must not be planted within 1.5m of any footway and 2.5m of any road which is intended to become highway maintainable at public expense. Hedges must not be planted within 0.8m of any road which is intended to become highway maintainable at public expense.

Reason

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

13. 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:

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

- (a) dimensions of any carriageway, private access, cycleway, footway, and verges
- (b) visibility splays
- (c) the proposed buildings and site layout, including levels
- (d) drainage and sewerage system
- (e) lining and signing
- (f) traffic calming measures
- (g) 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, footways/footpaths and private accesses.
- (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

Reason:

In accordance with Policies ENV1, T1 and T2 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.

14. 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 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.

15. There shall be no access or egress 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. The works shall be implemented in accordance with the approved details and programme.

Reason:

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

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

INFORMATIVE:

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

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

17. 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 accesses) until splays are provided giving clear visibility of 120 metres measured along both channel lines of Barff Lane, from a point measured 2.4 metres down the centre line of the access road/private accesses. 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 Policies ENV1, T1 and T2 of the Selby District Local Plan and in the interests of road safety.

18. 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.

(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 footway across the site frontage adjacent to Barff Lane linking to the existing footway to the east of the site, including drainage and street lighting proposals.
- b. Provision of pedestrian crossing point on Barff Lane.
- c. 30mph Gateway Feature for the amended speed limit.

Reason:

In accordance with Policies ENV1, T1 and T2 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.

19. 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:

- a. Provision of footway across the site frontage adjacent to Barff Lane linking to the existing footway to the east of the site, including drainage and street lighting proposals.
- b. Provision of pedestrian crossing point on Barff Lane.
- c. 30mph Gateway Feature for the amended speed limit.

Reason:

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

20. No dwelling shall be occupied until the related parking facilities have been constructed in accordance with the approved drawing number 2714-0-004 M. 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, T1 and T2 of the Selby District 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.

21. 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.

22. 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.

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. 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.

Reason:

In accordance with Policies ENV1, 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.

24. 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.

25. Prior to the site preparation and construction work commencing, a scheme to minimise the impact of noise and vibration on residential properties in close proximity to the site, shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

In the interests of protecting residential amenity in accordance with Policies ENV1 and SP19 of the Local Plan and the NPPF.

26. No dwelling shall be occupied until arrangements for the provision of recreational open space on the development have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall cover the following matters:-

- a) the layout and disposition of the recreational open space, including any play equipment to be provided, if any.
- b) the timescale for the implementation and completion of the works to provide the recreational open space;
- c) the mechanism for ensuring that the recreational open space will be available for the public within perpetuity.
- d) maintenance of the recreational open space in perpetuity.

Reason:

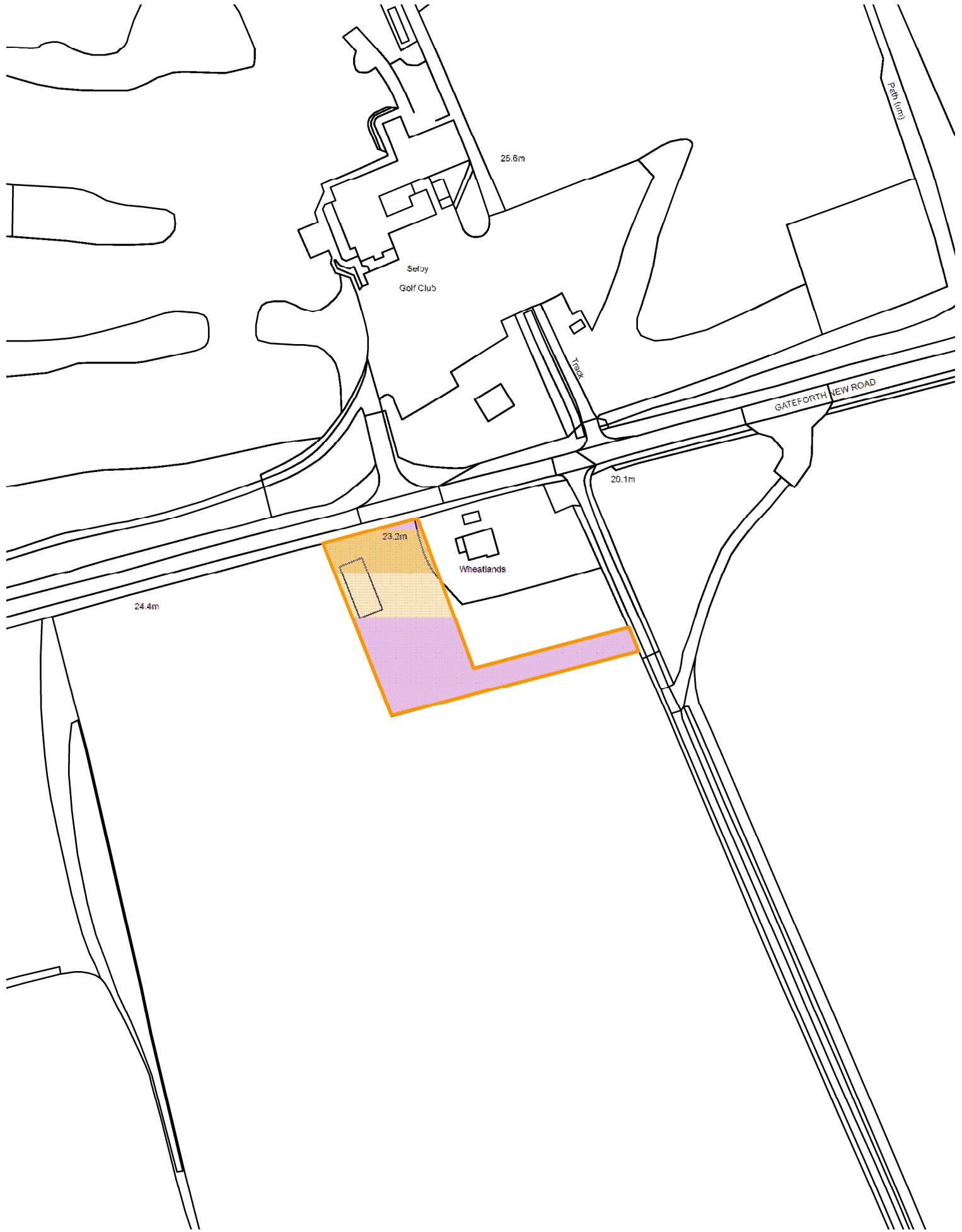
To ensure the provision of appropriate recreational open space to serve the development and in accordance with Policy RT2 of the Selby District Local Plan.

HIGHWAYS INFORMATIVE- Mud on the Highway

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

Contact Officer: Case officer Simon Eades Senior Planning Officer

Appendices: None

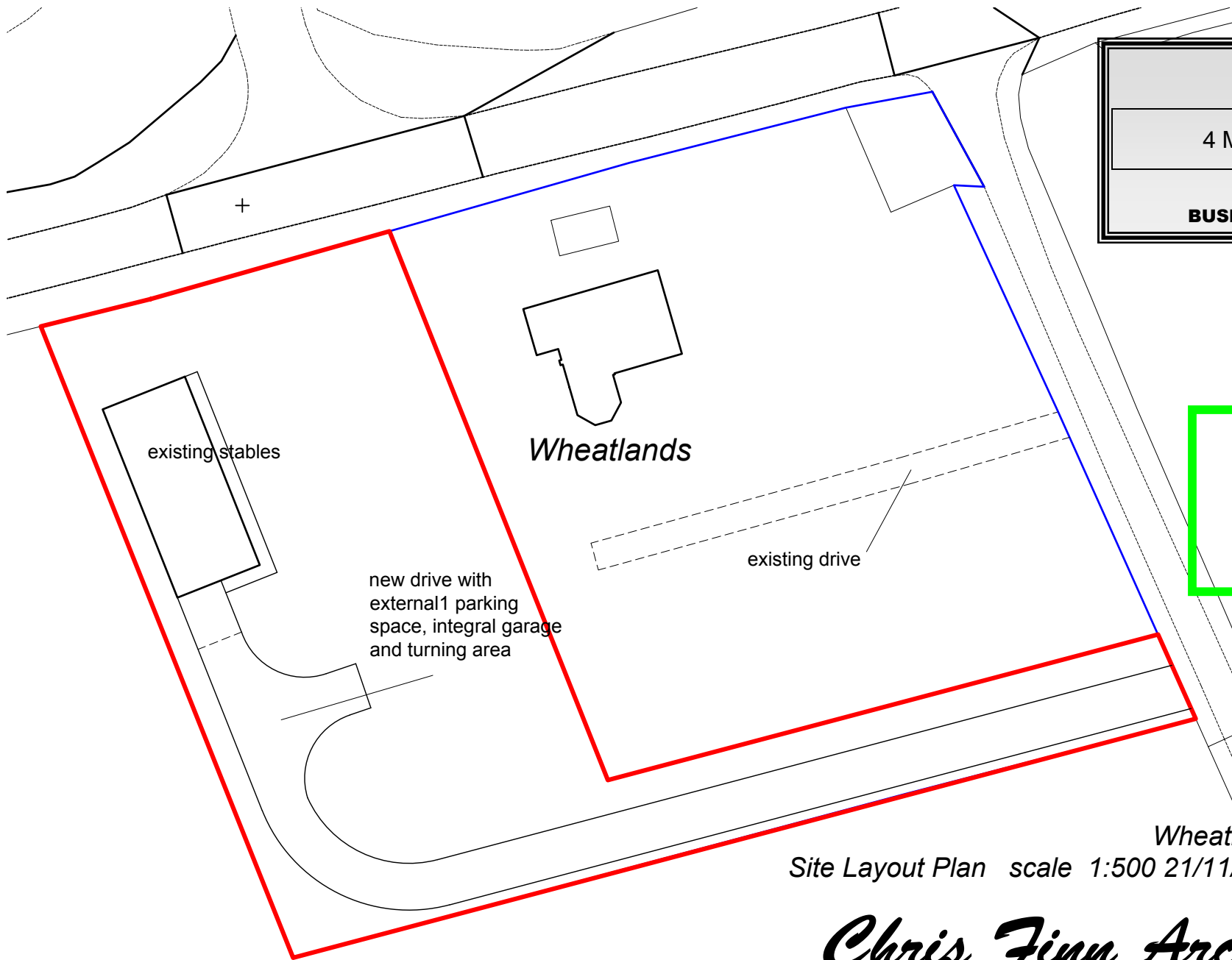


APPLICATION SITE

Item No: 2017/0049/FUL

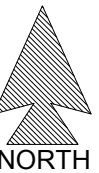
Address: Wheatlands, Gateforth New Road, Brayton

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RECEIVED
4 May 2017
BUSINESS SUPPORT

**AMENDED
DRAWING**



Julie Cale

Wheatlands Mill Lane Brayton Selby

Site Layout Plan scale 1:500 21/11/2016 drwg. no. 2550-06-01B

Chris Finn Architect

BOWLING GREEN HOUSE
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Report Reference Number: 2017/0049/FUL

Agenda Item No: 6.8

To: Planning Committee
Date: 6th September 2017
Author: Mr Simon Eades (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Development Manager)

APPLICATION NUMBER:	2017/0049/FUL	PARISH:	Gateforth Parish Council
APPLICANT:	Mr Mark Roebuck	VALID DATE:	27 th February 2017
		EXPIRY DATE:	24 th April 2017
PROPOSAL:	Proposed conversion of former stables to create a single dwelling house		
LOCATION:	Gateforth New Road Brayton Selby North Yorkshire YO8 9LB		
RECOMMENDATION	APPROVE		

This matter has been brought to Planning Committee because the application is being recommended for approval contrary to Policy H12 of the Selby District Local Plan. Policy H12 of the Selby District Local Plan should be given limited weight due to the conflict between the approach taken and that set out both in the Core Strategy and within the NPPF which should be given greater weight. Policy H12 of the Selby District Local Plan in particular criterion 1 and 3 differ to the approach taken by Policy SP2 (c) and Paragraph 55 of the NPPF

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located outside of any defined development limits and is located in the open countryside on the southern side of Gateforth New Road, opposite the entrance to Selby golf course and club premises. Wheatlands is a large two storey detached dwelling set within large grounds, which is side on to the road and which has access from a side road to the east. The application site forms part of the grounds to this property and is located to the west of the existing dwelling. At the north western corner of the site there is a large stable block, constructed of brick, with a tiled roof, which it is proposed to convert to a new dwelling. The application site is located in Flood Zone 1.

The proposal

- 1.2 The application seeks permission for the conversion of the former stables to create a single dwelling house. The scheme proposes subdividing the existing curtilage of Wheatlands to create new residential curtilage for the new dwelling. A new separate vehicular access to the south of the application site is also proposed. The planning history of the site is outlined below. It is important to note that although, a retrospective application for retention of the stable block was refused in 2006, a Certificate of Lawfulness for continued use of the building as a stable was granted in 2009.

Relevant Planning History

- 1.3 The following historical applications and appeals are considered to be relevant to the determination of this application.:-
- CO/2001/0784 - Permitted - 24.09.2001- Proposed erection of a stable block to the rear of Wheatlands
 - 2005/0739/FUL – Refused - 16.08.2005 - Application for the removal of agricultural occupancy condition 1
 - 2006/0336/FUL – Permitted - 16.05.2006 - Proposed 2 storey front extension following demolition of existing garage
 - 2006/0914/FUL - Permitted - 12.10.2006 - Retention of first floor extension and conversion of roof space to create additional bedroom
 - 2006/1041/FUL Refused - 10.10.2006 - Retrospective application for the retention of a stable block
 - 2009/1089/CPE - PER - 16.03.2010 - Application for a Certificate of Lawful Development for the continued use of the stable block
 - 2016/0314/CPE - Permitted - 22.06.2016 - Application for a lawful development certificate for use of a residential dwelling to the property known as Wheatlands without complying with the agricultural occupancy condition.

2.0 CONSULTATION AND PUBLICITY

- 2.1 **Gateforth Parish Council** - No response received.
- 2.2 **NYCC Highways** - No objections subject to conditions.
- 2.3 **Yorkshire Water** - No response received.
- 2.4 **Selby Area Internal Drainage Board** - No comments to make.
- 2.5 **WPA Consulting - Contaminated Land Consultants** – No objections subject to conditions.
- 2.6 **North Yorkshire Bat Group** - No response received.
- 2.7 **Environmental Health** – No objections.
- 2.8 **Publicity** - All immediate neighbours were informed by letter and a site notice was erected on site. No representations have been received during this period.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site is located outside of any defined development limits and is located in the open countryside on the southern side of Gateforth New Road. The application site is located in Flood Zone 1.

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

- 3.2 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "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". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.
- 3.3 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.

Selby District Core Strategy Local Plan

- 3.4 The relevant Core Strategy and saved Policies are:

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

Selby District Local Plan

- 3.5 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, 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)".

3.6 The relevant Selby District Local Plan Policies are:

ENV1:	Control of Development
ENV2:	Environmental Pollution and Contaminated Land
H12:	Conversion to Residential (Countryside)
T1:	Development in Relation to the Highway Network
T2:	Access to Roads

4.0 APPRAISAL

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

- Principle of development
- Flood Risk and Drainage
- Design and Impact on the character and form of the area
- Affordable Housing
- Impact on Residential Amenity
- Highway Safety Issues
- Protected Species
- Contaminated Land

Principle of development

- 4.2 Policy H12 of the Selby District Local Plan relates to the conversion of rural buildings to residential use in the countryside. The policy states that conversion will only be permitted where it can be demonstrated that the building is unsuited to business use. However, this Policy should be given limited weight due to the conflict between the approach set out both in the Core Strategy and within the NPPF which is more up to date, and which should be given greater weight.
- 4.3 Policy H12 of the Selby District Local Plan sets out specific criterion in such as "It can be demonstrated that the building, or its location, is unsuited to business use or that there is no demand for buildings for those purposes in the immediate locality" H12 (1) or "The building is structurally sound and capable of re-use without substantial rebuilding" H12 (2). The approach taken by Policy SP2 (c) and Paragraph 55 of the NPPF is significantly different as there is no specific criterion on the assessment of rural buildings as they allow the re-use of buildings with the open countryside.
- 4.4 From the planning history of the application site the building was originally an unauthorised building but has obtained a certificate of lawful development and is now immune from enforcement action due to the passage of time. The application is for the conversion of the stables to create a single dwelling house. The building, being of brick construction, can readily be re-used without significant alteration or visual impact to the locality. The proposed scheme therefore accords with Policy SP2 (c) of the Core Strategy and the advice contained within the NPPF with respect to the principle of development in this location.

Flood Risk and Drainage

- 4.5 The application site is within Flood Zone 1. The application form states the proposed scheme would dispose of surface water via a soakaway and foul sewerage via a septic tank. The application has received no response from Yorkshire Water and the Internal Drainage Board has no objections.
- 4.6 Environmental Health has now been informed that the proposed property will be served by a new septic tank which will serve this property only and surface water will drain to soakaway. In this case there is no further objection to the granting of this application.
- 4.7 On the basis of the above the proposed scheme is considered to be acceptable in terms of flood risk and drainage and therefore accords with Policies SP15, SP16, SP19 of the Core Strategy, and the advice contained within the NPPF.

Impact on the Character and Form of the area

- 4.8 The application is for the proposed conversion of former stables to create a single dwelling house. Amended plans have been received during the course of the application which includes the dwelling having an internal garage. This would lessen the future need for detached outbuildings/garages to serve the new dwelling and would therefore reduce the possibility of the requirement for further new buildings in the rural open countryside, should permission be granted. It is considered necessary to remove permitted development rights for future extensions or outbuildings so that the rural character of this location can be maintained.
- 4.9 The only external work proposed to the building is to change some of the fenestration layout. This is considered not to have a detrimental impact on the existing building nor the character of the open countryside. In terms of converting the existing building to a dwelling it is considered not to have a detrimental impact upon the open countryside character as the built form already exists and the proposal proposes no further expansion of this building.
- 4.10 Amended plans also include parking space, and the realignment of the new driveway and access opening further south so that it runs along the southern boundary. This means that the curtilage to the existing property Wheatlands is no longer split in half and the impact of the new driveway is lessened as it would run close to the existing hedgerow to the south. The impact of these features on the open countryside can be minimised by a suitable landscaping scheme.
- 4.11 The proposed scheme has not provided details of either landscaping or boundary treatments to the site. To the north, west and south of the site are existing hedgerows; the southern hedgerow does have some gaps within it which could do with being replenished with new hedgerow species. The hedgerows vary in height from 1.5metres to 2metres. The character and form of the open countryside in this location is low lying fields sub-divided by hedgerows. With this being the case it is considered necessary to impose a condition that the existing hedgerows on the northern and western boundaries be retained, and that the southern boundary hedge be maintained, retained and the gaps filled whilst retaining a minimum height of 1.5metres for the life of the development. In addition to this it is considered necessary to impose a condition that details of location, height and species of

hedgerow planting shall be submitted for the southern boundary and landscaping for the access road should also be provided.

- 4.12 On the basis of the above the proposed scheme is considered acceptable in terms of its design and its impact on the open countryside character of the area and is in accordance with Policies ENV1 and H12 of the Selby District Local Plan and Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Affordable Housing

- 4.13 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.
- 4.14 However, in the context of the West Berkshire decision it is considered that there is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. Officers therefore recommend that, having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

Impact on Residential Amenity

- 4.15 Due to the combination of the orientation of the site, siting of the proposed scheme and distance away from the neighbouring properties, the proposal is considered not to cause any significant adverse effects of overlooking overshadowing or oppression.
- 4.16 Having taken into account the matters discussed above it is considered that the proposal would not cause significant detrimental impact on the residential amenities of either existing or future occupants in accordance with policies ENV1(1) and ENV2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF

Highway Safety Issues

- 4.17 NYCC Highways have no objections to the proposal subject to conditions. 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.

Protected Species

- 4.18 An ecology survey was submitted with the application which concludes that the application site is not a protected site for nature conservation nor is it known to support, or be in close proximity to any site supporting protected species or any other species of conservation interest. As such it is considered that the proposed would not harm any acknowledged nature conservation interests and therefore

accords with ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the NPPF.

Land Contamination

- 4.19 The Council's Contaminated Land Consultant has reviewed the proposals and recommends that Selby District Council's standard contaminated land planning condition CL5 should be applied. This is to ensure that a watching brief is conducted throughout the development, so that in the case of discovery of any evidence of potential contamination possibly relating to the agricultural use of the site, the works can be halted to allow for further site investigation.
- 4.220 The proposals are therefore considered to be acceptable subject to an appropriate condition and are therefore in accordance with Policy ENV2 of the Local Plan.

Legal Issues

- 4.21 Planning Acts: This application has been considered in accordance with the relevant planning acts.
- 4.22 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.
- 4.23 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.

Financial Issues

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

5.0 CONCLUSION

- 5.1 The proposed scheme is for the proposed conversion of former stables to create a single dwelling house which accords with Policy SP2 of the Core Strategy.
- 5.2 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposed development would not have a detrimental effect on the form and character of the area, flood risk, drainage, climate change, protected species, highway safety or the residential amenity of the occupants of neighbouring properties. The application is therefore considered not to be contrary to Policy ENV1 of the Selby District Local Plan, Policies SP1, SP15 and SP19 of the Core Strategy and the advice contained within the NPPF.

6.0 RECOMMENDATION

- 6.1 That the application be approved subject to conditions worded as below (or subject to minor modification)

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

Reason:

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

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

Existing, proposed and location	2550-03-01
Planning Layout	2550-06-01
Location Plan	2550-06-02B
Planning Layout	2550-06-01B
Proposed Plans	2550-05-01A

Reason:

For the avoidance of doubt.

03. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing building in colour and texture.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan Policy SP19 (a) and (b) of the Core Strategy.

04. Notwithstanding the provisions of Class A and Class E to Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) no extensions, garages, outbuildings or other structures shall be erected, nor new windows, doors or other openings shall be inserted, without the prior written consent of the Local Planning Authority.

Reason:

In order to retain the character of the site in the interest of visual amenity, having had regard to Policy ENV1.

05. The hedgerows on the north, south and west boundaries shall be maintained, and retained at a minimum height of 1.5metres for the lifetime of the development. The gaps in the southern hedgerow boundary shall be filled, maintained and retained at the 1.5m minimum height for the lifetime of development. If the hedgerows on the north, south and west boundaries are damaged or die at any time they shall be immediately replaced and thereafter maintained and retained at a height of 1.5metres for the lifetime of the development.

Reason:

In the interest of residential amenity and in the interests of the protection of the character and form of the open countryside character and in accordance with Policies ENV1 and H12 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and the framework contained within the NPPF.

06. No development shall commence on site until hedgerow details for the eastern boundary and landscaping details for the new access track have been submitted to and agreed in writing with the Local Planning Authority. Details shall be submitted in relation to hedgerows species, height and location. The agreed scheme shall be retained and maintained for the lifetime of the development. If the hedgerows are damaged or die at any time they shall be immediately replaced and thereafter maintained and retained at height of 1.5metres for the lifetime of the development.

Reason:

In the interest of residential amenity and in the interests of the protection of the character and form of the open countryside character and in accordance with Policies ENV1 and H12 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and the framework contained within the NPPF.

07. 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 has been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements
- a. The existing access shall be improved in accordance with the approved details and/or Standard Detail number E6.
 - b. Any gates or barriers shall not be able to swing over the existing or proposed highway.
 - c. Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway and shall be maintained thereafter to prevent such discharges

Reason:

In accordance with policies ENV1, T1 and T2 of the Selby District Local Plan, SP19 of the Core Strategy and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience

INFORMATIVE

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

08. No development for any phase of the development shall take place until a Construction Method Statement for that phase has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period for the phase. The statement shall provide for the following in respect of the phase:
- a. The parking of vehicles of site operatives and visitors
 - b. loading and unloading of plant and materials
 - c. storage of plant and materials used in constructing the development

Reason:

In accordance with policies ENV1, T1 and T2 of the Selby District Local Plan, SP19 of the Core Strategy 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. 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.

Contact Officer: Simon Eades Senior Planning Officer,

Appendices: None



APPLICATION SITE

Item No: 2016/1314/FULM

Address: Turnhead Farm, York Road, Barbly

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Report Reference Number: 2016/1314/FULM

Agenda Item No: 6.9

To: Planning Committee
Date: 6th September 2017
Author: Tom Webster (Principal Planning Officer)
Lead Officer: Ruth Hardingham (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		

1. INTRODUCTION AND BACKGROUND

- 1.1 This application has been brought back before Planning Committee following consideration at the 14th June 2017 meeting, where Members resolved to support the Officer recommendation to grant planning permission subject to the signing of a S106 Agreement.
- 1.2 Post the 14th June 2017, on the 24th July 2017, the Director of Economic Generation & Place formally endorsed an updated five year housing land supply methodology and resultant housing land supply figure of 5.4 years, as set out in the 2017-2022 Five Year Housing Land Supply Statement.
- 1.3 The permission was not issued prior to the endorsement of the Director of Economic Generation & Place of the 24th July 2017 and, as such, it is considered that consent cannot be issued even if the S106 was signed without further consideration by the Planning Committee. This is on the basis that the application has to be reassessed by Officers as this announcement is considered to represent a “material change”, since the initial resolution on the 14th June 2017.

2.0 APPRAISAL

- 2.1 As outlined in the original Officers Report, as attached at **Appendix A**, the site has the benefit of an extant outline Planning Permission (Ref 2013/0478/FUL) dated 30th July 2015 for residential development including access. The consent was subject to a S106 agreement relating to on-site affordable housing provision of 10 units, education, health, waste and recycling contributions, on-site recreational open space provision and a series of conditions. Therefore, the principle of development has been established in principle through extant permission. The current application was made as a full application as the developer initially was looking at a reduced level of affordable housing provision, below that required under Consent 2013/0478/FUL.
- 2.2 In reporting the application to the 14th June 2017 Planning Committee, in terms of the principle of development, Officers advised committee that, because at that time the Council could not 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

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

- 2.3 As a result of the endorsement of the Director of Economic Generation & Place of the 24th July 2017, this position has changed and a "planning judgement" should now be applied in the context of the existence of a five year housing land supply and the extant consent for the site.
- 2.4 Having considered the scheme and applied a "planning judgement" and balancing the extant consent, Officers would advise Members that the scheme is still 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.

3.0 CONCLUSION

- 3.1 The scheme is contrary to policy, however, having considered the scheme and applied a "planning judgement", including balancing the extant consent(s), Officers would advise Members that the scheme is acceptable. It is considered to be acceptable because of the appropriateness of the location of the application site for residential development has already been established through the extant consent, and the additional units, will make more efficient use of residential land, and help bolster the housing supply.

4.0 RECOMMENDATION

4.1 Members are asked to reconfirm the resolution to grant subject to:

A Deed of Variation to the original S106, reducing the waste and re-cycling contribution to £5185.47, the health contribution down to £111731.84, and reducing the affordable housing requirement to 9 units.

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.

The Conditions at Section 3.0 of the **Appendix A** report.

5.0 LEGAL ISSUES

5.11 Planning Acts: This application has been considered in accordance with the relevant planning acts.

5.12 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.

5.13 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.

Financial Issues

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

Contact Officer: Tom Webster Principal Planning Officer

Appendices: 14th June 2017 Planning Committee Report



Report Reference Number 2016/1314/FULM Agenda Item No:

To: Planning Committee
Date: 10th 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 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 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
79 Total

133 Total

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
179 Total	233 Total

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.)

Original Agreement	Amended Agreement (DOV)
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
Total - 808276.00	Total - 715161.31

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 PolicySP19 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 noOnce 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 30th 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.

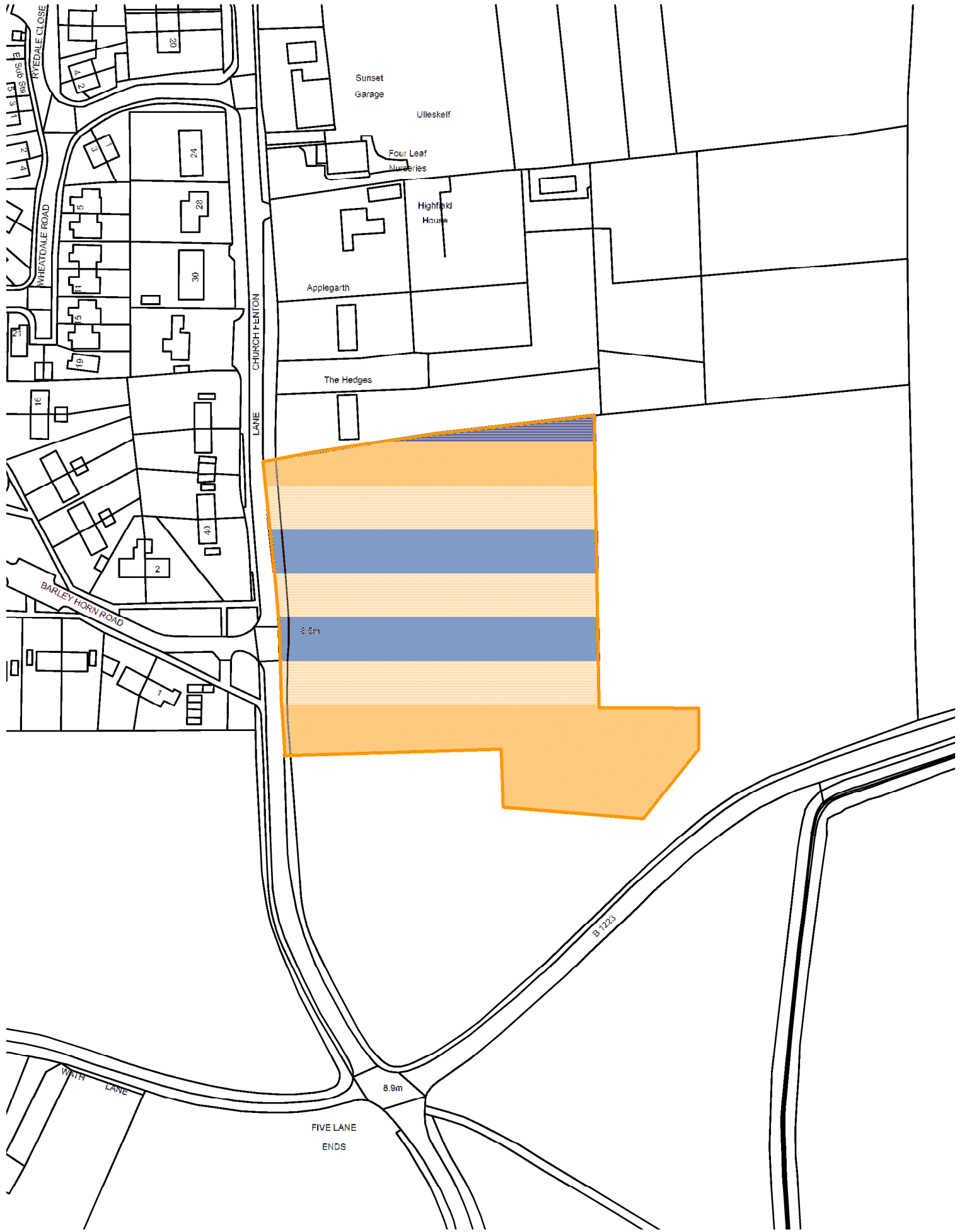
5. **Background Documents**

5.1 Planning Application file reference 2016/1314/FULM and associated documents.

Contact Officer: Mrs J. Low, Consultant Principal Planning Officer

Appendices: None

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APPLICATION SITE

Item No: 2016/0892/FUL

Address: Church Fenton Lane, Ulleskelf

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Enclosure Details.

- Indicative Landscaping - Refer to Landscape Architects Details
- Rear and dividing fences to be 1.8m Feather edge timber close boarded Fence
- 900mm Post and Rail Fence
- 450mm Timber Knee Rail
- Garden Gate - SW leged and braced gate 1.8m high
- Tarmac driveways with concrete path edging
- Rear Garden Patios and Access Paths Marshalls Saxon concrete paving slabs. Colour Buff.
- Bin collection point

RECEIVED
05/06/2017
BUSINESS SUPPORT

AMENDED DRAWING

Refer to Landscape Architects details for proposed Landscaping

Site Access road - Tarmac to adoptable highway standards

Extent of adoptable road

New Easement connecting into existing drainage ditch

Post & Rail fence with Hawthorn Planting to South and East boundary

Retention Basin to Engineers Details

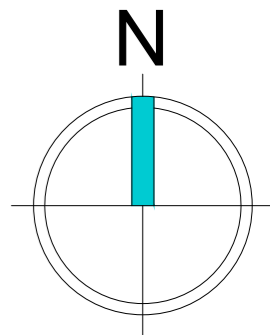
10m Access Strip for Land owner

SCHEDULE OF ACCOMMODATION

Type	Details	Size(sqft)	No.
T1 Alt	5B2S	1767	3
T9	4B2S	1649	1
T9 Alt	4B2S	1649	1
T1	4B2S	1515	6
T3	4B2S	1422	3
T5	3B2S	1055	1
T13	3B2S	1052	3
T7	3B2S	874	6
T6	2B2S	755	6
Total		35,940	30

Key to Affordable Housing Mix

- 3 Bed - 30% Discounted Sale
- 2 Bed - 30% Discounted Sale
- 3 Bed RSL Price Rented
- 2 Bed RSL Price Rented



Revision notes:

Rev:	Date:	Revision:
D	18.01.16	Turning head moved closer to eastern boundary. Plot 14 handed.
E	20.01.16	Plots 7-9 amended to T7 housetype. Adoptable road reduced in length by plots 10-12. Plots 25-30 amended to T7 semi-detached housetypes.
F	09.03.17	Plots 25-30 and 7-9 amended house types to affordable
G	04.04.17	Plots 22 amended to T1 Alt
H	12.04.17	Affordable Mix highlighted on layout. POS size noted
J	05.06.17	Plot 1 amended. Plots 7-9 & 25-27 updated to match floor plans

Drawing Number:
1620.02

Client:
Ulleskelf Development Company Limited

Project:
Proposed Residential Development
Church Fenton Lane, Ulleskelf

Drawing Title:
Planning Layout

Date:
May 2016

Scale @ A2:
1:500

Revision:
J

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Report Reference Number: 2016/0892/FUL

Agenda Item No: 6.10

To: Planning Committee
Date: 6th September 2017
Author: Yvonne Naylor (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Development Manager)

APPLICATION NUMBER:	2016/0892/FUL (8/64/174B/PA)	PARISH:	Ulleskelf Parish Council
APPLICANT:	Alfa Homes	VALID DATE:	30 th August 2016
		EXPIRY DATE:	29 th November 2016
PROPOSAL:	Proposed erection of residential development of 30 units		
LOCATION:	Church Fenton Lane, Ulleskelf		
RECOMMENDATION	APPROVE SUBJECT TO s106		

1. INTRODUCTION AND BACKGROUND

- 1.1 This application has been brought back before Planning Committee following consideration at the 12th July 2017 meeting, where Members resolved to support the Officer recommendation to grant planning permission subject to the signing of a S106 Agreement.
- 1.2 Post the 12th July 2017, on the 24th July 2017, the Director of Economic Generation & Place formally endorsed an updated five year housing land supply methodology and resultant housing land supply figure of 5.4 years, as set out in the 2017-2022 Five Year Housing Land Supply Statement.
- 1.3 The permission was not issued prior to the endorsement of the Director of Economic Generation & Place of the 24th July 2017 and as such it is considered that consent cannot be issued even if the S106 was signed without further consideration by the Planning Committee. This is on the basis that the application has to be reassessed by Officers as this announcement is considered to represent a “material change”, since the initial resolution on the 12th July 2017.

2.0 APPRAISAL

- 2.1 As outlined in the original Officers Report, as attached at **Appendix A**, the site has the benefit of an extant outline Planning Permission (Ref 2015/0190/OUT) dated 30th July 2015 for residential development including access. The consent was subject to a S106 relating to on-site affordable housing provision at 40%, an education contribution for the primary school, an off-site recreational open space contribution and a waste and recycling contribution and a series of conditions. Therefore the principle of development has been established in principle through the outline permission and reserved matters submissions could be made against this consent by the applicants. The current application was made as a full application as the developer initially was looking at a reduced level of affordable housing provision, below that required under Consent 2015/0190/OUT.
- 2.2 In reporting the application to the 12th July 2017 Planning Committee, in terms of the principle of development Officers advised committee that at that time the Council could not 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

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

- 2.3 As a result of the endorsement of the Director of Economic Generation & Place of the 24th July 2017, then this position has changed and a "planning judgement" should now be applied in the context of the existence of a five year housing land supply and the extant consent for the site.
- 2.4 Having considered the scheme and applied a "planning judgement" and balancing the extant consent then Officers would advise Members that the scheme is still acceptable and that 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.

3.0 CONCLUSION

- 3.1 Having considered the scheme and applied a "planning judgement" and balancing the extant consent then Officers would advise Members that the scheme is still acceptable and that 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.

4.0 RECOMMENDATION

- 4.1 Members are asked to reconfirm the resolution to grant subject to a S106 relating to the provision of 40% of units for Affordable Housing in accordance with Plan 1620.02 Revision J, a Waste and Recycling and Provision and Management of On-Site Recreational Open Space in accordance with Plan 1620.02 Revision J and the Conditions at Section 2.22 of the **Appendix A** report.

5.0 LEGAL ISSUES

- 5.11 Planning Acts: This application has been considered in accordance with the relevant planning acts.
- 5.12 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.
- 5.13 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.

Financial Issues

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

Contact Officer: Yvonne Naylor Principal Planning Officer

Appendices: 12th July 2017 Planning Committee Report

APPENDIX A



Report Reference Number 2016/0892/FUL

Agenda Item No:

To: Planning Committee
Date: 12th July 2017
Author: Yvonne Naylor (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Development Planning Manager)

APPLICATION NUMBER:	2016/0892/FUL (8/64/174B/PA)	PARISH:	Ulleskelf Parish Council
APPLICANT:	Alfa Homes	VALID DATE:	30 th August 2016
		EXPIRY DATE:	29 th November 2016 (EOT 1 st August 2017)
PROPOSAL:	Proposed erection of residential development of 30 units		
LOCATION:	Church Fenton Lane, Ulleskelf		

This application has been brought before Planning Committee due the proposals being a Departure from the Development Plan.

Summary:

The application seeks full consent for the erection of 30 dwellings on 0.99 hectares of land.

The application site is located outside the defined development limits of Ulleskelf 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.

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 would bring economic benefits as it would generate employment opportunities in both the construction and other sectors linked to the construction market. The proposals would also bring additional residents to the area who in turn would contribute to the local economy through supporting local facilities.

The proposals achieve a social role in that they would deliver levels of both open market and affordable housing in Ulleskelf, promoting sustainable and balanced communities and would assist the Council in achieving a 5 year supply of housing land. Following discussions with the District Valuer which resulted in no agreement on a reduced provision the Agents have agreed that the proposals would provide 40% on-site provision of affordable housing which would improve the tenure mix in this location. In addition the scheme would provide 515 sq m of recreational open space.

The proposals would have an environmental role in that it would deliver high quality homes for local people and the proposals take into account environmental issues such as ecology and biodiversity, flooding and impacts on climate change. Due to its proximity to local services and its access to public transport it would also reduce the need to travel by car.

The layout plan achieves an appropriate layout, appearance, and scale of development 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 the impact on flooding, drainage and climate change, protected species 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.

Recommendation

- 1. This application is recommended to be Granted subject a S106 Agreement in relation to the provision of 40% of units for Affordable Housing in accordance with Plan 1620.02 Revision J, a Waste and Recycling and Provision and Management of On Site Recreational Open Space in accordance with Plan**

1620.02 Revision J and subject to the conditions detailed in Paragraph 2.22 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 Ulleskelf adjoining the southern boundary of the settlement.

1.1.2 The site is currently agricultural land.

1.1.3 There are two storey residential properties located to the north and west along Church Fenton Lane, the land to the south and east would remain in agricultural use.

1.1.4 There is a mature hedgerow along the northern and western boundaries of the site.

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 for full planning permission for 30 dwellings with access taken from Church Lane and on site ROS provision equating to 515 sq m.

1.2.2 Vehicular access is to be taken from one proposed access point from Church Fenton Lane and this would be located towards the north western corner of the site.

1.2.3 The scheme includes a mix of house types and sizes with all units being 2 storey and providing between 2 and 5 bed spaces, in the following ratio:

- 2 x 2 bed (House Type T6)
- 13 x 3 bed (House Types T5, T13, T14 and T7)
- 14 x 4 bed (House Types T1, T9alt, T3, T8, T11 and T9)
- 1 x 5 bed (house Type T1alt)

Units have a mix of integral garaging or detached garaging with the exception of the House Types T6 and T7 which have parking spaces to the front of the units.

1.2.4 The submitted scheme also confirms all boundary treatments which combine 1.8m close board fencing and walls, post and rail fencing and knee rail fencing on the frontages between units.

1.2.5 The site is also proposed to include provision of 579 square metres of recreational open space within the central part of the site which is overlooked by the residential units.

1.3 Planning History

1.3.1 Outline planning permission was granted on the 30th July 2015 (reference 2015/0190/OUT) for residential development including access. The consent was subject to a S106 relating to on site affordable housing provision at 40%, an

education contribution for the primary school, an off-site recreational open space contribution and a waste and recycling contribution and a series of conditions.

1.4 Consultations

1.4.1 Ulleskelf Parish Council

Objected to the scheme on the following summarised grounds:

- The proposed development is outside the development limits for the village and is therefore contrary to Policy SP2A(c) of the Selby Core Strategy. This was given as a reason for the refusal of planning applications 2016/0309/OUT and 2016/0403/OUT. The Parish Council request that a consistent approach is applied in consideration of this issue.
- It is recognised that outline planning has already been passed on this site and if development is necessary outside the village development limits this is the Parish Councils preferred site. Also, it is not tandem building which is a development feature that the village plan wanted to avoid.
- Concerned about the ability of local schools to accommodate the additional pupils this development would create at both primary and secondary level as current provision is already at capacity and the local primary school has not further possibility for expansion.
- Would also like assurances from the local education authority that they can accommodate the additional secondary school pupils created by this development, alongside other planned developments in the area, which would allow pupils from the parish to continue to attend Tadcaster Grammar School.
- The increased levels of traffic this development would create, as car ownership is almost essential for anyone living in village, due to significant cuts to both train and bus services. With most households now having two cars the increase of up to 60 cars using this already busy and fast road raises concerns about the safety of pedestrians and particularly children in the village. Since the outline application for this development was approved, application 2016/0160/COU has been approved which allows up to 24 car transporters to use Church Fenton Lane every day. This has already made this road significantly more dangerous for residents and this development would expose this risk to an increased number of residents.
- The residents on this development would be directly exposed to the dangers of speeding traffic and car transporters as not only is the road entrance/exit to the development directly onto Church Fenton Lane, but 6 of the properties (25 to 30) have their driveways entrance/exit directly onto this B road. This raises additional concerns about cars from these properties potentially needing to reverse onto this busy road which is unsafe and a risk to traffic using the road.
- The speed of traffic entering the village, where this proposed development is located, was raised as a concern in response to the outline application for this development and the Parish Council requested the inclusion of a traffic calming measure in the development to slow the traffic down as it enters the village. PC are disappointed that no such measure has been included in the development and would request that this is looked at again. The Councils preferred measure would be for the development to be flipped (as per the original application), so that the entrance to the development is aligned to the entrance of Barley Horn Road, with a roundabout used to slow the traffic down and control the flow of traffic entering and exiting the two housing estates.
- Parish Council requested an extension of the 30mph zone, or a 40mph speed limit to be imposed on the approach to the village along this road.

- Road flooding is also a concern with Raw Lane/New Road flooding most winters, which diverts all the village traffic, on a 4-mile detour through Church Fenton and Barkston Ash, on roads unsuitable for the current level of traffic this creates, so any increase to this will only exacerbate the problem. Last year, during the severe flooding in December 2015- January 2016, all three access roads to the village flooded, cutting off the village completely, except for the limited access that was allowed through the Airfield. Again any increase in the traffic volume will exacerbate the problem if this occurs again. The roads in the development are narrow and concerns were raised that visitors will be parked on the road and potentially block access for emergency vehicles.
- The existing land drainage and sewerage in Ulleskelf is insufficient to deal with existing demands in times of heavy rain. Are the developer's drainage proposals sufficient to ensure they do not make this problem worse?
- The proposed development is too dense with too many properties on it and this estate-style development is not in character with the style of nearby properties, which is contrary to Policy SP19 of the Core Strategy. The Parish Council would like the retention pond to be included within the curtilage of the development and the number of houses reduced so it is more in character with adjacent properties.
- The planning statement state that the properties to the west are located "more than 50m from the rear of the proposed dwellings" (para 6.12) and therefore the amenity of these properties will not be detrimentally impacted. Concern was raise that this does not apply to the frontage of the proposed dwelling which is considerably nearer to the existing properties and therefore will have a detrimental impact in terms of outlook and loss of privacy.
- The Parish Councils response to the outline application stated that the houses facing directly onto the road are too close to the road which is out of character with other properties in the village and that the neighbouring property is overlooked. These issues have not been addressed.
- Plots 16 and 21 appear to have views restricted by the garage blocks.
- Plot 15 is unable to access vehicles by same route as adjacent properties 13 and 14 due to cessation of entry road and planting.

1.4.2 North Yorkshire County Council – Flood Risk Management

It is accepted that the Applicants can secure management of the drainage mechanisms through a management company should IDB or Yorkshire Water adoption not be practicable.

1.4.3 Yorkshire Water

Initially in September 2016 raised no objections subject to conditions on drainage detailing and easement to existing infrastructure on the site frontage. Further comments in March 2017 noted concerns that the 6" diameter live water main was within the red line and located within the proposed garden areas meaning access to repair and locating of buildings such as sheds and planting over the main may also occur. In this context they noted the need for the water main to be diverted. Having reviewed this matter with Yorkshire Water have advised that although there are concerns that the main is within the garden areas which would make repair harder it would not be a reason for re-design of the scheme or refusal. In verbally commenting on the re-consult in May 2017 Yorkshire Water also confirmed that in terms of the conditions noted in their September 2016 response they would wish to see these utilised on any consent.

1.4.4 Internal Drainage Board

As part of the application and following receipt of initial comments from the IDB the Developer liaised further with the IDB and further information was submitted in support of the scheme and comments from the IDB of February 2017 note no objection to the application and the proposed approach subject to a noted Condition. Further correspondence on the re-consultation in May 2017 noted that the Board would wish to see any approval granted conditioned to ensure that the drainage issues are addressed prior to the development being brought into use.

1.4.5 Lead Officer – Environmental Health

No objections subject to condition relating to a requirement for the submission of a scheme to minimise the impact of noise, vibration, dust and dirt on residential property in close proximity to the site.

1.4.6 NYCC Highways

Will require the developer to seek adoption of the highway and therefore conditions are suggested relating to

- Detailed plans of road and footway layout
- Construction of roads and footways prior to occupation of dwellings
- Discharge of surface water
- Travel plans
- Construction management plan

1.4.7 Education Directorate North Yorkshire County Council

Noted a contribution level, that if appropriate outside of CIL charging arrangements of £101,970 should be sought from the development. Based on noted comments that based on the proposed 30 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. NYCC Education also notes in commenting on the application that 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.

1.4.8 North Yorkshire Fire & Rescue Service

No objections received.

1.4.9 Police Architectural Liaison Officer

Incorporates key design approaches that are supported, and were suggested on the previous outline application, for example:

- Dwellings have been sited to provide effective overlooking of frontages.
- Parking has been provided within the curtilage of the property through a drive and/or garage or a secure space to the front of the dwelling.
- Public and private spaces appear to be clearly defined in order to minimise the risk of crime/anti-social behaviour going unchallenged. Frontages are clearly demarcated.
- Where it has been possible, rear gardens have been plotted against other rear gardens. This minimises the risk of possible unwanted

access.

- Boundary treatments have been balanced between security, surveillance and privacy.
- Secure rear gardens are being provided with access restricted by the use of suitable gates.
- The proposed Public Open Space (POS) within the development will be directly overlooked by housing, where it will achieve good surveillance opportunities. It is located far enough away from properties to ensure that residents do not suffer from loss of amenity as a result of noise or nuisance.

Believe that this proposed development will provide residents with a safe, non-threatening environment in which to live. This accords with the core principles and design objectives set out in the National Planning Policy Framework. Therefore the PALO has raised “no concerns”.

1.4.10 North Yorkshire And York Primary Care Trust

No comments received.

1.4.11 Contaminated Land Consultant

No objections subject to conditions attached to any permission granted.

1.4.12 Yorkshire Wildlife Trust

Initial comments from the trust noted that they “have been informed by a local member of the Trust that there are water voles in the Outwood drain. The applicants have provided further documents on a scheme to widen the Outwood drain and provide additional flood water capacity. Water voles are a protected species under the Wildlife and Countryside Act see <https://www.gov.uk/guidance/water-voles-protection-surveys-andlicences>. Nationally water vole populations are declining in the UK. The Selby District has regionally important populations of water voles due to the low lying nature of the area and the many drains present. Water voles will become active during March and April so surveys to assess the use of the drain by water voles can be carried out very soon. Water vole surveys and a mitigation plan will be required before planning permission is given.

Further comments from the Trust following receipt of a Water Vole Survey noted that the submitted Delta Simmons Report “does give a good idea of the size and distribution of the water vole population in Outwood Drain. The section “Recommendations” at 5.2 on page 9-10 of the report must be conditioned so that there are no impacts on water vole”

1.4.13 North Yorkshire Heritage

Confirmed there are no known archaeological deposits within the development area or its immediately vicinity, therefore have no objection to the proposal or any further comments.

1.4.14 Waste and Contracts

Initial comments on the earlier versions of the layout requested changes to the scheme, subsequently it has been confirmed that there no objections to Revision H of the proposed site plan.

1.4.15 Rural Housing Enabling Officer

Has reviewed the offered units, noted as 40% of the 30 units to be constructed on the site, so a total of 12 AH units, split as follows

- 3 x 3 bed at 30% Discounted sale
- 2 x 2 bed at 30% Discounted sale
- 3 x 3 bed RSL Price Rented
- 4 x 2 bed RSL Price Rented

With house types T6 and T7 plots 7 – 12 and 25 – 30, as shown on Revision H. She has noted that “if anything just slightly under Nat Space standard sizes so this might be reflected in an offer from a Registered Provider”, however the scheme is considered acceptable and the delivery of these units should be controlled via an appropriately worded S106 Agreement.

1.14 Publicity

The application was advertised via a site notice, neighbour letters and a press notice. A total of 8 properties have submitted objections, in summary the comments made were as follows:

Principle of Development

- Outside development limit of the settlement and thus contrary to SP2A(c) of the Core Strategy
- Consent for this site would be contrary to decisions made by the Council on smaller developments within the settlement which the Council refused
- Unacceptable level of growth of the village which is inappropriate to the size and role of the settlement and would exceed the growth options of 7-24 dwellings for Ulleskelf
- The settlement has already significantly contributed to the level of development needed in the District
- Results in the loss of green belt land which is also good agricultural land – new development should be directed to brownfield sites

Character

- Development is intrusive and out of character with this part of the village and area contrary to Policy ENV1 of the Local Plan and SP19 of the Core Strategy
- The surrounding existing properties are of a distinct character - individually designed or renovated, expensive and large – the proposed development differs significantly adversely affecting the character of the immediate area

Highways

- Will result in significant increase in traffic with a reliance on the private car because of the sites relationship to employment and services
- Access to the site should be considered
- Will result in congestion and highways conflict on a road which is already very busy
- Public transport linkages inadequate
- The revised plans show that parking for plots numbered 28, 29 and 30, at the front of the development, have space for only one car to park. Given that these are 2 bed roomed properties and the lack of public transport in Ulleskelf, it is likely that these properties will have more than one vehicle, with space for only one. Raises concern that should they park their cars on the main road this will cause another hazard on an already busy road.
- Cars from the houses opposite the development already park on Church Fenton Lane, and that added to the volume of traffic and car transporters that

travel through the village, will make it even more hazardous for cars pulling out of the B1223 junction onto Church Fenton Lane.

- The revised plans show trees planted in front of the aforementioned properties, taking up space that could be used for parking.

Amenity

- Would increase traffic noise experienced in the area

Flood Risk and Drainage

- The proposed development will increase the risk of flooding, in a settlement that flooded in December 2015
- Will result in an increase in surface water run off
- Foul drainage systems will not be able to accommodate the new development

Ecology

- The site is rich in species and used for feeding by a range of species.

Other Matters

- Cycle routes noted as accessible as noted in the submission as access only attainable by going to Tadcaster first.
- Water pressure in the village is already low and further development will exacerbate this.

2. Report

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

2.2 Selby District Core Strategy Local Plan

The relevant Core Strategy Policies are as follows:

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Development Strategy
SP5	Scale and Distribution of Housing
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 Highway
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 (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
- Ulleskelf Village Design Statement, February 2012
- North Yorkshire County Council SuDs Design Guidance, 2015

2.6 Key Issues

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

1. The appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability contained within the Development Plan and the NPPF.
2. Identifying the impacts of the proposal.
 1. Layout, appearance, scale and landscaping
 2. Flood risk, drainage and climate change

3. Highways
4. Residential amenity
5. Nature conservation and protected species
6. Affordable housing
7. Recreational open space
8. Contamination
9. Education, healthcare, waste and recycling
10. Designing out Crime
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.

2.7 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 Outline planning permission was granted on the 30th July 2015 (reference 2015/0190/OUT) for residential development including access. The consent was subject to a S106 relating to on-site affordable housing provision at 40%, an education contribution for the primary school, an off-site recreational open space contribution and a waste and recycling contribution and a series of conditions. Therefore the principle of development has been established in principle through the outline permission and reserved matters submissions could be made against this consent by the applicants. The current application was made as a full application as the developer initially was looking at a reduced level of affordable housing provision, below that required under Consent 2015/0190/OUT.
- 2.7.2 It is noted that the site was put forward under the Site Allocations DPD (Preferred Options) (2011) under reference ULES006 and was discounted on the basis that the site was in open countryside and there was a preferable site to locate development. The preferred housing allocation for Ulleskelf comprised a site marked ULES002 which is located within the development limits and could provide a mixed use development incorporating additional parking for the railway. It should however be noted that despite a preferred site being identified, no application has been submitted and furthermore the Site Allocations DPD (Preferred Options) did not proceed to formal adoption and as such can be afforded little weight in the decision making process. The application site is therefore assessed on its own merits having had regard to the current policy position.
- 2.7.3 The site lies outside the defined development limits of Ulleskelf and therefore is located in open countryside.
- 2.7.4 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.

- 2.7.5 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.
- 2.7.6 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.
- 2.7.7 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 and any extant planning consent for the site.
- 2.7.8 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%.
- 2.7.9 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.
- 2.7.10 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

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

- 2.7.11 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.

2.7.12 In respect of sustainability, the site is adjacent to the development limits of the village of Ulleskelf 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, a Methodist chapel, village hall and sport and recreation facilities. It also benefits from a railway station and is on the bus route between Tadcaster and Pontefract with a bus stop located on Church Fenton Lane. It is therefore considered that the settlement is reasonably well served by local services which weigh in favour of a conclusion that in terms of access to facilities and a choice of mode of transport, that despite the site being located outside the defined development limits of the settlement, the site can be considered as being in a sustainable location.

2.7.13 In addition to the above it is noted that the village of Ulleskelf has been designated as a Designated Service Village, both within the Selby District Local Plan and within the Core Strategy which demonstrates that the Council has considered the village a sustainable location. The village is considered to be “less sustainable” in Background Paper 5 Sustainability Assessment of Rural Settlements of the Core Strategy, however this is due to the settlement not containing a school nor doctors surgery, although it is noted that these are accessible in neighbouring villages and indeed a school bus service operates to and from the village. Having taken these points into account, despite the fact that the site is located outside the defined development limits of Ulleskelf 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.

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

Economic

The proposal would 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.

Social

The proposal would deliver levels of both open market and affordable housing in Ulleskelf and hence promote sustainable and balanced communities and would assist in the Council meeting the objectively assessed need for housing in the district. The proposals would provide 40% on-site provision of affordable housing which would improve the tenure mix in this location. In addition the scheme would include provision for recreational open space on-site.

Environmental

The proposal would deliver high quality homes for local people and take into account environmental issues such as flooding and impacts on climate change.

- 2.7.15 With regard to paragraph 14 of the NPPF, in this case the “tilted balance” referred to in paragraph 2.7.10 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.
- 2.7.16 Comments have been made by local residents regarding the size of the development and the fact they consider the village to have reached its capacity and there being, in residents’ opinion, more preferable sites for housing. As set out above the policies in the Core Strategy which relate to housing provision within each of the settlements is considered out of date due to the lack of a five year supply and there is also an extant outline consent for the site which could be progressed. As such the proposals are assessed on their own merits with respect to the impacts of this size of development on the existing services and facilities which are considered in detail below and concluded to be acceptable.

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 sections looks at the impacts arising from the proposal.

2.9 Layout, Appearance, Scale and Landscaping

- 2.9.1 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.
- 2.9.2 Significant weight should be attached to Local Plan policies ENV1 and ENV3 as they are consistent with the aims of the NPPF.
- 2.9.3 Relevant policies within the NPPF, which relate to design, include paragraphs 56, 60, 61, 65 and 200.
- 2.9.4 Objectors have noted concerns in relation to the design of the scheme and the impact on the character of the area which is noted as being “of a distinct character - individually designed or renovated, expensive and large” and stating that “the proposed development differs significantly adversely affecting the character of the immediate area”.
- 2.9.5 The application is a full application for the erection of 30 dwellings, with a new access from Church Fenton Lane serving 23 of the units and the remaining 7 units have driveways onto Church Fenton Lane. The majority of the internal road way will be progressed for adoption, and areas for bin presentation for the areas outside the adoption areas have been shown on the submitted layout.

- 2.9.6 The units comprise a range of house types including terraced configurations, semi-detached and detached units providing between 2 and 5 bed provision and all two storey.
- 2.9.7 There is also a mix of integral and detached garaging provision, with the smaller T6 and T7 house types having parking space provision to the front of the units.
- 2.9.8 The elevations of the proposed dwellings include use of string course detailing, storm porches, window soldier courses and dormer style detailing. The proposed materials for the units are shown on the elevations as brick and pantile roofing, with the precise materials to be agreed via Condition upon any consent, however given that the area has a mix of materials evident then it is considered that an appropriate materials pallet can be agreed. The submitted information does confirm that the rear garden patio areas and access paths would be “Marshalls Saxon Concrete paving slabs” in a buff colour.
- 2.9.9 The scheme also includes an area of Recreational Open Space, totalling 579 square metres, which will be grassed and demarcated by a 450mm timber rail fence.
- 2.9.10 All boundary treatments are also shown on the submitted layout with rear and dividing boundaries being defined through use of a 1.8m feather edge timber close boarded fences, and there are garden gate locations confirmed on the submitted layout which would be 1.8m in height.
- 2.9.11 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. It is considered that the mix shown on the development is an appropriate mix taking into account the housing needs identified in the Strategic Housing Market Assessment which notes for the “northern area” within which Ulleskelf sits there is a demand exceeds supply on all house types and tenures and that there is some pressure on stock as a result.
- 2.9.12 The scheme layout will result in a mix of units being provided with a strong frontage to Church Fenton Lane and appropriate relationships to existing development in the vicinity of the development. The scheme also incorporates parking provision within curtilages of the dwellings, boundaries treatments, defined private amenity space for all the units and an area of recreational open space in the central part of the scheme which is directly overlooked and appropriately sited to protect amenity.
- 2.9.13 The appearance and scale of the proposed units then details have been utilised on the elevations of the proposed dwellings to add interest and although materials are still be confirmed it is considered that the appearance of the units is acceptable in this mixed area. The comments of objectors are noted and it is accepted that there are some properties in the vicinity of the site that have a non-traditional design however it is considered that the area is a mixed design area and the proposed approach is considered acceptable.
- 2.9.14 In terms of landscaping, although the submitted layout notes indicative landscaping and is cross referenced to a “Landscaping Scheme for the Site”, such a scheme has not been submitted as part of the application, as such a condition would be appropriate to agree the final approach. The submitted layout does show indicative

tree planting on the frontage to Church Fenton Lane and within the site and shows planting of a hawthorn hedge to the southern and eastern boundaries to the development abutting the surrounding fields. This is considered appropriate and Officers would look to secure this as part of the landscaping scheme but can also control use of this approach in referencing the Planning Layout.

2.9.15 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 via condition on the consent

2.9.16 As such, having had regard to all of the above elements it is considered that an appropriate design has been achieved as part of the application and there are 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, policies SP8 and SP19 of the 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 require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design.

2.10.2 The application site is located in Flood Zone 1 (low probability of flooding).

2.10.3 The Planning Layout shows a “Retention Basin” to the south east of the application site and an easement to this basin, as well as retained easement to an existing water main on the northern boundary of the site. The application form confirms that this approach is considered to be a sustainable drainage approach for the management of the surface water. Foul sewerage provision will be via a connection to the public sewer which runs along Church Fenton Lane via a gravity connection which has been confirmed by the Agents.

2.10.4 It is noted that comments have been made by the Parish Council and residents with respect to localised flooding and raising concerns in terms of the capacity of existing drainage provision and possible impacts of further development in the settlement on water pressure levels and sewage disposal.

2.10.5 In commenting on the application no objections have been received from the IDB, Yorkshire Water or the SUD’s Officer and a series of conditions have been requested. The suggested conditions do overlap and as such consolidated conditions have been set out in the recommendation, securing the requirement for a final scheme and the protection of easements.

2.10.6 With respect to energy efficiency, the applicants have not made any submissions as to how Policies SP15 and SP16 of the Core Strategy requirements would be met however, the scheme would need to comply with Building Regulations and in accordance with Policy SP16(a) which requires that 10% of total predicted energy should be from renewal, low carbon or decentralised energy sources a condition should be imposed to any consent.

2.10.7 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 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

- 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. These policies should be afforded significant weight.
- 2.11.2 As noted above the application will have a single main access point serving 23 of the dwellings from Church Fenton Lane and then 7 dwellings facing Church Fenton Lane will have driveway access to the road.
- 2.11.3 In commenting on the application the Parish Council and residents have noted concerns of the highways impact in terms of increase in traffic levels and resultant congestion. Objectors have also raised concerns in terms of the level of car parking and real accessibility of the site to cycle networks.
- 2.11.3 The application has been considered by NYCC Highways and they have raised no objections to the scheme subject to a series of conditions relating to confirmation of technical details and requirements for provision detailed plans of the road and footway layouts, construction of roads and footways prior to occupation, discharge of highways surface water, travel plan requirements and a requirement for a construction management plan.
- 2.11.6 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.

2.12 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 In considering residential amenity the then the key considerations are overlooking, overshadowing overbearing impacts and separation distance.
- 2.12.3 Comments from local residents have been made with respect to the impact on residential amenity in terms of the impact of would increase traffic noise experienced in the area.
- 2.12.4 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. In commenting on the application the Council's Environmental Health Officer has noted that the "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 1990 allows for the abatement of statutory nuisance in relation to noise, dust and vibration". They have therefore in this case 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'. As such they have recommended a condition requiring that 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, should be submitted to and agreed in writing with the Local Planning Authority in order 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.

2.12.5 In terms of the proposed scheme then having considered detailed layout the resultant The separation distances with surrounding existing properties are acceptable and all internal relationships are also considered appropriate with the units siting ensuring that overlooking and overshadowing is minimised and that separation distances are achieved.

2.12.6 Concern has been expressed 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.

2.12.7 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) and ENV2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF, however the suggested condition noted by Environmental Health is considered appropriate.

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 NPP and accompanying NPPG in addition to the Habitat Regulations and Bat Mitigation Guidelines published by Natural England.

2.13.2 The application is accompanied by an Ecological Appraisal by Brooks Ecological which assesses the site having particular regard to wildlife corridors, water bodies, statutory designations and non-statutory designations and assesses the potential for protected species to be using the site and the impacts of the development on these species. The report states that the site supports habitats typical of farmland in the area, being of low ecological value and as such the development need not impact on protected or otherwise important habitats, designated sites or protected or notable faunal groups. The report recommends the retention of the hedgerow along the northern and western boundaries, as despite being species poor hedgerows are identified as a UKBAP priority habitat. Alongside this it recommends the extension of the hedgerow network within the developed site. The report sets out general precautions with respect to nesting birds. With respect to

enhancement the report states that opportunities should be realised to plant additional hedgerows around the eastern and southern boundaries of the site and hedge planting should be included through the site and existing gappy hedges beat up with additional native species. It also recommends that standard trees should be planted every 20m if possible around boundary hedges. It goes on to state that should an open space be retained a standing water body would be beneficial and this could be designed to work in conjunction with any SuDS.

2.13.3 A further Water Vole Survey was undertaken during the life of the application following comments on the application from the Yorkshire Wildlife Trust. The submitted Report notes that there was evidence of water vole activity including burrows with a medium relative population density identified. The report also notes that “the majority of activity was recorded within the central and southern sections of the drain. A length of the northern bank within the northern section of the Site did not support any water vole burrows at the time of the survey and has been highlighted as the most appropriate position for the proposed headwall installation”, also noting that “since no water vole burrows were recorded within the proposed working footprint or within immediate proximity it is anticipated that, with appropriate mitigation in place, the proposed outlet can be installed without the need to obtain a conservation licence from Natural England”. In this context the Report sets out a series of recommendations

2.13.4 The Report has in this context set out a series of recommendations which can be summarised as follows:

- To discourage water voles from digging burrows within the identified area prior to commencement of works the banks should be strimmed to the ground to remove any vegetation. The exact location of the works is to be established by a suitably qualified ecologist, who will undertake a further check to ensure no burrows are present before supervising the clearance works. The vegetation should be strimmed within the working footprint and up to 5 m in either direction (depending on the location of known burrows);
- Prior to the installation of the headwall, a suitably experienced ecologist will first check the area to ensure no burrows are present within the working footprint and up to 5 m in either direction, and will then supervise the installation works to ensure all mitigation measures are followed and that no water voles are impacts by the works;
- The working footprint is to be kept to the minimum required for the installation works to be completed; and
- All machinery used to install the head wall should be located on the same bank of the watercourse to be impacted by the works, in order to prevent inadvertent impact to the watercourse and potential disturbance to water vole within the surrounding area.
- In the event that a water vole burrow is identified within the working footprint or identified buffer zone, the proposals will be reviewed, and
- where possible the working footprint shifted accordingly, otherwise it may be necessary to apply for a conservation licence for water voles, which will require a programme of detailed habitat improvement works to be granted.
- The grassland banks provide a range of floral species, however, in order to enhance the diversity of foraging opportunities it is recommended that following the works, the area of disturbed ground surrounding the installed

headwall is planted with an appropriate species-rich seed mix for the soil type.

2.13.5 The report and the full recommendations included within have been considered by the Yorkshire Wildlife Trust and they have confirmed that the scheme should be implemented in accordance with the full recommendations as set out so that there are no impacts on water vole.

2.13.3 In terms of the inter-relationship between the Ecological Assessment and the landscaping scheme it is recommended that the detailed landscaping scheme takes into account the above comments and that these recommendations for enhancements are secured via condition.

2.13.5 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 conditions that the proposals be carried out in accordance with the recommendations set out in the Ecological Appraisal and the Water Vole Survey and that the landscaping condition should refer to the submitted Ecological Appraisal.

2.14 Affordable Housing

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

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

2.14.3 After protracted discussions between the Local Planning Authority, the applicants and the District Valuation Service the applicants have now confirmed that they are prepared to provide 40% affordable units and that this would be secured via a Section 106 agreement with the units and mechanism for their delivery being confirmed on the submitted Planning Layout, which will be incorporated into the S106. The Council's Rural Housing Enabling Officer supports the provision and mix of 12 affordable units.

2.14.4 The proposals are considered acceptable with respect to affordable housing provision having had regard to Policy SP9 subject to the completion of a Section 106 agreement.

2.15 Recreational Open Space

2.15.1 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.

2.15.2 On the extant outline consent for the site then it was considered that given that the site is on the edge of the settlement and given the scale of the development that the recreational open space provision would be better provided by way of contribution and there is provision for this within the Local Plan Policies. This approach is no longer available in the context of the Case Law, as such the developer has provided on area of open space on the site for ROS totalling 579 m².

2.15.3 The January 2017 Planning Committee considered an application for the development of the Four Leafs Nursery in the settlement, Ref 2016/0926/FUL. In this case the Committee were advised that no on-site provision was to be made and that the applicants argued that “there are adequate facilities locally within the village, including a children’s play area, playing fields and a MUGA”. This argument was accepted in this case as these facilities are all within walking distance of the site and there is no deficiency of recreational open space reported in the Recreation Open Space Strategy. A contribution will, in any event be made towards off-site recreational open space through CIL. This is considered also to be the case with the now application before you although clearly some on-site space has been secured.

2.15.3 It is therefore considered that subject to a Section 106 agreement to secure the management and 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.

2.16 Contamination

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

2.16.2 The application is accompanied by a Preliminary Contamination Investigation which recommends that further investigation is carried out, however given that significant contamination is unlikely any site investigation works could be conditioned. The report has been assessed by the Council’s Contamination Consultant who has raised no objections to the proposal and has recommended conditions.

2.16.3 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.

2.17 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 Having consulted North Yorkshire County Council Education they have confirmed that a contribution of £101,970 would be required towards education provision at Kirk Fenton Parochial CE Voluntary Controlled Primary School and this should be secured via Section 106 agreement. NYCC Education has confirmed that no contribution would be sought for secondary school facilities from the development. However, it is considered that such a contribution cannot be sought in this instance

now that the Council has CIL in place.

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

2.17.4 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.

2.17.5 Having had regard to the above the proposals comply with policies ENV1 and CS6 of the Local Plan, Policy SP19 of the Core Strategy and the Developer Contributions SPD with respect to developer contributions.

2.18 Designing Out Crime

2.18.1 Paragraphs 58 and 69 of the NPPF states that amongst other things 'planning policies and decisions, in turn should aim to achieve places which promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.' In addition Policy SP19 of the Core Strategy requires crime prevention to be taken into account. The layout has been considered by the Police Architectural Liaison Officer and raised no objections to the scheme, as such it is considered that the scheme accords with Policy SP19 of the Core Strategy and the core principles and design objectives set out in the National Planning Policy Framework.

2.19 Other Issues

2.19.1 An objector has raised concerns on the loss of the agricultural land and noting concern at the loss of green belt land. Firstly, the site is not located within the Green Belt as defined by the Local Plan but within the open countryside, as such the policy context is defined accordingly. Secondly in terms of the loss of agricultural land then it is noted that the proposals would result in the loss of agricultural land which is land with minor limitations which affect crop yield, cultivations or harvesting (Grade 2) land. Large amounts 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.

2.20 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.

2.20.1 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. Having considered the issues outlined above against the relevant policy tests it is considered that 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 and would comply with the three dimensions of sustainable development of sustainable

development set out within the NPPF alongside the consideration of the fallback Outline consent.

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

2.21 Conclusion

2.21.1 The application proposes full consent for the erection of 30 dwellings. The site is located in an area of open countryside immediately adjacent to the defined development limits of Ulleskelf. 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 Paragraphs 2.7.10 and 2.7.15 applies.

2.21.2 Having had regard to all of the above, the extant consent for the site and the technical issues as assessed in the Report, 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. It is on this basis that permission is recommended to be granted subject to the conditions and Section 106 agreement.

2.22 Recommendation

This application is recommended to be Granted subject a S106 Agreement in relation to the provision of 40% of units for Affordable Housing in accordance with Plan 1620.02 Revision J, a Waste and Recycling and Provision and Management of On-Site Recreational Open Space in accordance with Plan 1620.02 Revision j and the following conditions:

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

Reason:

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

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

- Location Plan Ref 1620.01
- Planning Layout Ref 1620.02 Revision J
- House Type T1, Plans Ref 1620.T1.03
- House Type T1, Elevations Ref 1620.T1.04
- House Type T1 Alt, Plans Ref 1620.T1.01
- House Type T1 Alt, Elevations Ref 1620.T1.02

- House Type T3, Plans Ref 1620.T3.01
- House Type T3, Elevations Ref 1620.T3.02
- House Type T5, Plans Ref 1620.T5.01A
- House Type T5, Elevations Ref 1620.T5.02A
- House Type T6, Plans Ref 1620.T6.01
- House Type T6, Elevations Ref 1620.T6.02A
- House Type T7, Plans Ref 1620.T7.01
- House Type T7, Elevations Ref 1620.T7.02
- House Type T9, Plans Ref 1620.T9.01
- House Type T9, Elevations Ref 1620.T9.02
- House Type T9 Alt, Plans Ref 1620.T9.03
- House Type T9 Alt, Elevations Ref 1620.T9.04
- House Type 13, Plans Ref 1620.T13.01A
- House Type 13, Elevations Ref 1620.T13.02A
- Single Garage Ref 1620.G1.01
- 5m Garage Ref 1620.G.02
- Twin Garage Ref 1620.G.03
- 1.8m Timber Fence Ref 1620.EN.01
- Timber Gates Ref 1620.EN.02
- 1.8m Screen Wall Ref 1620.EN.03

Reason:

For the avoidance of doubt

03. Prior to the commencement of development details of the external materials shall be submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

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

04. The boundary treatments as shown on Planning Layout (Ref 1620.02 Revision J) shall be implemented in accordance with the approved scheme before the occupation of the associated dwelling hereby approved.

Reason:

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

05. Before any development is commenced, the approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site, indicating inter alia the number, species, heights on planting and positions of all trees, shrubs and bushes. Such scheme as approved in writing by the Local Planning Authority shall be carried out in its entirety within the period of twelve months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. All trees, shrubs and bushes shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary. The submitted Landscape Scheme

should take into account the recommendations of the submitted Ecological Appraisal Reference: R-2165-01 dated February 2015 by Brooks Ecological.

Reason:

To safeguard the rights of control by the Local Planning Authority in the interests of amenity having had regard to Policy ENV1 of the Selby District Local Plan.

06. 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:
- a. Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:
 - the proposed highway layout including the highway boundary
 - dimensions of any carriageway, cycleway, footway, and verges
 - visibility splays
 - the proposed buildings and site layout, including levels
 - accesses and driveways
 - drainage and sewerage system
 - lining and signing
 - traffic calming measures
 - 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:
 - the existing ground level
 - the proposed road channel and centre line levels
 - full details of surface water drainage proposals.
 - c. Full highway construction details including:
 - 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
 - when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
 - kerb and edging construction details
 - 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. 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 with the Local Planning Authority in consultation with the Highway Authority.

Informative

In imposing condition number 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 Policy ENV1 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.

- 07. No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation. The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority in consultation with the Highway Authority before the first dwelling of the development is occupied.

Reason

In accordance with Policy ENV1 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.

- 08. 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 ENV1 of the Selby District Local Plan and in the interests of highway safety

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

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

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

Reason

In accordance with Policy ENV1 of the Selby District Local Plan and to establish measures to encourage more sustainable non-car modes of transport

10. No development for any phase of the development shall take place until a Construction Method Statement for that phase has been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Local Highway Authority. The approved Statement shall be adhered to throughout the construction period for the phase. The statement shall provide for the following in respect of the phase:

- a. the parking of vehicles of site operatives and visitors
- b. loading and unloading of plant and materials
- c. storage of plant and materials used in constructing the development
- d. erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
- e. wheel washing facilities
- f. measures to control the emission of dust and dirt during construction
- g. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason

In accordance with Policy ENV1 of the Selby District Local Plan and in the interests of highway safety.

11. 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.

12. 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.

13. 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.

14. Unless otherwise agreed in writing by the Local Planning Authority, no building or other obstruction shall be located over or within 3.0 (three) metres either side of the centre line of the water main, which crosses 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 that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading.

16. 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.

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.

17. 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 shall be subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
 - a) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
 - b) 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;
 - c) 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.

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

Reason:

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

19. Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and 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.

20. 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.

21. The development shall be carried out in complete accordance with the recommendations set out in the Ecological Appraisal Reference: R-2165-01 dated February 2015 by Brooks Ecological, unless otherwise approved in writing by the Local Planning Authority.

Reason:

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

22. The development shall be carried out in complete accordance with the recommendations set out in the Water Vole Survey Reference 15-1188.02 dated April 2017 by DeltaSimmons, unless otherwise approved in writing by the Local Planning Authority.

Reason:

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

23. Details of any external lighting of the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. This information shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details.

Reason:

In accordance with Policy ENV1 and ENV3 of the Selby District Local Plan and the NPPF.

3.1 Legal Issues

3.1.1 Planning Acts

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

3.1.2 Human Rights Act 1998

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

3.1.3 Equality Act 2010

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

3.2 Financial Issues

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

4. Conclusion

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

5. Background Documents

- 5.1 Planning Application file reference 2016/0892/FUL and associated documents.

Contact Officer: Yvonne Naylor (Principal Planning Officer)

Appendices: None

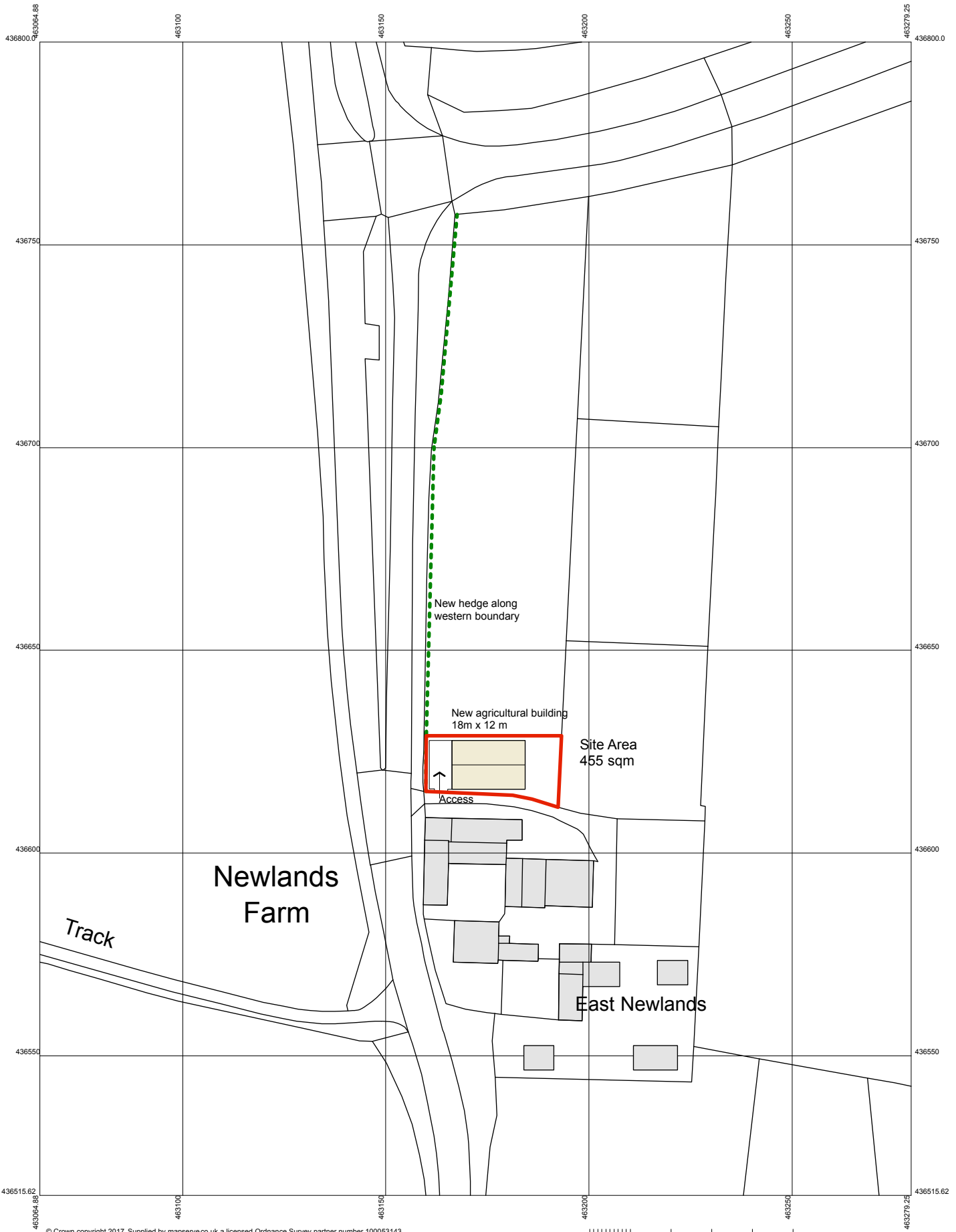


APPLICATION SITE

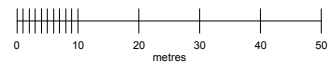
Item No: 2017/0663/FUL

Address: West Newlands Farm, Selby Road, Riccall

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New Agricultural Building
 West Newlands Farm, Selby Road, Riccall,
 York, YO19 6QR
 05 06 2017
PLANNING APPLICATION
 Location Plan 1:1250
 Drawing No **WN 01**



RECEIVED
 13 June 2017
DEVELOPMENT MANAGEMENT



Report Reference Number: 2017/0663/FUL

Agenda Item No: 6.11

To: Planning Committee
Date: 6th September 2017
Author: Jenny Tyreman (Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/0663/FUL	PARISH:	Riccall Parish Council
APPLICANT:	Mr David Fox	VALID DATE:	28th June 2017
		EXPIRY DATE:	23rd August 2017
PROPOSAL:	Proposed erection of an agricultural building for the storage of tractors and machinery		
LOCATION:	West Newlands Farm Selby Road Riccall York North Yorkshire YO19 6QR		
RECOMMENDATION:	Refuse		

This application has been brought before Planning Committee as it has been called in by Cllr Reynolds on the following grounds:

- The proposal would not result in a significant impact on the character of the open countryside.
- The siting and appearance of the proposed building with suitable screening would be simply seen as a part of the existing group of agricultural buildings and would be well related to those buildings.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside.
- 1.2 The application site comprises part of a field to the north of West Newlands Farm. The application site is surrounded by open fields to the north and east, West Newlands Farm to the south and Selby Road with open fields beyond to the west.

The Proposal

- 1.3 The application seeks planning permission for the erection of an agricultural building for the storage of tractors and machinery.
- 1.4 The proposed agricultural building would measure a maximum of 12 metres in width by 18 metres in depth and would have a pitched roof with eaves to a height of 4 metres above ground floor level and ridge to a height of 6.6 metres above ground floor level. The materials to be used in the external construction of the proposed agricultural building would be block work clad with Yorkshire boarding for the walls and profiled insulated colour coated sheeting for the roof.
- 1.5 The proposed agricultural building would be accessed from an existing vehicular access from Selby Road and would benefit from a proposed area of hardstanding to the west of the proposed building which would measure a maximum of 12 metres in width by 5 metres in depth.

Relevant Planning History

- 1.6 The following historical applications are considered to be relevant to the determination of this application.
 - CO/1989/0405 (PER - 08.10.1990) Proposed change of use of redundant farm buildings to form four dwellings
 - 2012/0518/HPA (PER - 12.07.2012) Boundary wall/steel railings over 1m height

2. CONSULTATION AND PUBLICITY

(All immediate neighbours were informed by letter, a site notice was erected and five statutory consultees notified)

- 2.1 **Parish Council** – No response within statutory consultation period.
- 2.2 **NYCC Highways** - There are no local Highway Authority objections to the proposed development. However the access is in need of resurfacing and therefore it is recommended that a condition relating to the construction requirements of private access/verge crossings.
- 2.3 **Environmental Health** - No objection.
- 2.4 **National Grid** - No response within statutory consultation period.
- 2.5 **HER Officer** – No objection.
- 2.6 **Ouse and Derwent Internal Drainage Board** - The Board does have assets adjacent to the site in the form of various watercourses in the area. Detailed comments have been provided regarding surface water drainage proposals and it is recommended that any approval granted for the proposed development should include conditions relating to drainage works to be agreed, effective soakaways, evidence of existing surface water discharge and surface water to adjacent watercourse.

2.7 No letters of representation have been received as a result of the advertisement of the application.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

3.1 The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside.

3.2 The application site is located within an archaeology consultation zone.

3.3 The application site is located within Flood Zone 1.

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

3.4 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "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". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.

3.5 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.

Selby District Core Strategy Local Plan

3.6 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
- SP18 – Protecting and Enhancing the Environment
- SP19 – Design Quality

Selby District Local Plan

3.7 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, 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)".

3.8 The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- ENV28 – Other Archaeological Remains
- EMP13 – Control of Agricultural Development
- T1 – Development in Relation to the Highway Network

4. APPRAISAL

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

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Nature Conservation and Protected Species
- Flood Risk and Drainage
- Impact on Archaeology

The Principle of the Development

4.2 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.

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

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

4.5 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. Having had regard to the nature and scale of the proposal, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria of SP15 (B) of the Core Strategy.

4.6 Therefore having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.

4.7 Policy SP2 (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”.

- 4.8 Policy SP13 of the Core Strategy states that in rural areas, sustainable development which brings about sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported, including (amongst other things) the re-use of existing building and infrastructure and the development of well-designed new buildings. In all cases development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.
- 4.9 Policy EMP13 of the Selby District Local Plan supports agricultural development in principle and states that agricultural development will be permitted provided it is necessary for agricultural purposes and subject to five criteria which will be assessed later in this report.
- 4.10 While considering the principle of the development, it is noted that the description of development is that of an “agricultural building for the storage of tractors and machinery”. However, no further information was originally submitted with the application regarding the nature and extent of the farming activities at West Newlands Farm or the nature of the tractors and machinery that would be stored within the proposed building and how these related to the farming activities at the site. This information is necessary in order to assess whether the proposal would be necessary for agricultural purposes.
- 4.11 The applicant’s agent was requested to provide the aforementioned information so that an assessment as to whether the proposal would be necessary for agricultural purposes could be made.
- 4.12 The applicant’s agent provided additional information setting out that the applicant owns and lives at the property known as “West Newlands Farm” and also owns the agricultural field to the north of the property, which includes the application site. The additional information sets out that the existing buildings at West Newlands Farm accommodate a workshop and storage, which are used by the applicant for the repair and maintenance of vintage agricultural machinery, including tractors and associated vehicles, as part of his hobby. In addition, it notes that the applicant has used the vintage agricultural machinery to cultivate the field to the north of the property by giving demonstrations as to how the machinery is used. The additional information states that the proposed building is required for the storage of the vintage agricultural machinery. No repair and maintenance work would take place within the proposed building.
- 4.13 Having regard to the additional information provided by the applicant’s agent and taking into account the definition of “agriculture” and “agricultural” set in in Section 336 of the Town and Country Planning Act 1990, it is not considered that it has been demonstrated that the proposed building is necessary for agricultural purposes, and therefore the proposal does not accord with Policy EMP13 (1) of the Selby District Local Plan. As set out in the additional information provided by the applicant’s agent, the proposed building would be used for the storage of vintage

agricultural machinery which are repaired and maintained by the applicant as part of his hobby. The proposed building would therefore be considered as an ancillary building to West Newlands Farm as a domestic property, as opposed to an agricultural building.

- 4.14 In addition, the proposed building would not meet Policies SP2 or SP13 of the Core Strategy, as it would not be a new building of an appropriate scale which would contribute towards and improve the local economy or enhance or maintain the vitality of rural communities, and it would not bring about sustainable economic growth through local employment opportunities or expansion of businesses. While the additional information sets out that the applicant is an agricultural engineer, it continues to state that his business premises are located elsewhere from the application site and the vintage agricultural machinery which would be stored within the proposed building are repaired and maintained by the applicant as part of this hobby, unrelated to his business.
- 4.15 Having regard to the above, the proposal would be unacceptable in principle whether considered as an agricultural building, as stated in the description of development, or as an ancillary domestic outbuilding, as it appears from the submitted information and would be contrary to Policies SP2 and SP13 of the Core Strategy and Policy EMP13 of the Selby District Local Plan.

Design and Impact on the Character and Appearance of the Area

- 4.16 The application site is located outside the defined developments of any settlement and is therefore located within the open countryside. The application site comprises part of a field to the north of West Newlands Farm and is surrounded by open fields to the north and east, buildings comprising West Newlands Farm to the south and Selby Road with open fields beyond to the west.
- 4.17 The application proposes the erection of an agricultural building for the storage of tractors and machinery. The proposed building would measure a maximum of 12 metres in width by 18 metres in depth and would have a pitched roof with eaves to a height of 4 metres above ground floor level and ridge to a height of 6.6 metres above ground floor level. The materials to be used in the external construction of the proposed building would be block work clad with Yorkshire boarding for the walls and profiled insulated colour coated sheeting for the roof. To the west of the proposed building would be an area of hardstanding, which would measure a maximum of 12 metres in width by 5 metres in depth.
- 4.18 Notwithstanding the objection to the principle of the development, in that it is not considered that it has been demonstrated that the proposed building is necessary for agricultural purposes, in terms of the impact of the proposal on the character and appearance of the area, the following can be noted. The proposed building would be of an appropriate scale and design for an agricultural building having regard to its setting, being similar in scale to adjacent built form and having a typical agricultural appearance with block work clad with Yorkshire boarding for the external walls and sheeting for the roof. Furthermore, the proposed building would be sited adjacent to existing built form at West Newlands Farm and would be read against and within the context of those existing buildings, such that the proposed building would not appear unduly prominent within the surrounding area. It is noted that the submitted plans show the planting of a new hedge along the western

boundary of the field within which the proposed building would be located, which would aid in mitigating against visual impact of the proposed development. However, the proposed hedge would not be located within the application site and as such there would be no means of securing the planting of the new hedge as part of the proposal. It is considered that the proposed hedge would only provide a limited mitigation, and given the siting of the building it is not considered that it would be necessary to condition the hedge to make the proposals acceptable in terms of the impact on the character and appearance of the area.

- 4.19 Having regard to the above, it is considered that the proposal would have an acceptable siting, design and appearance for an agricultural building and would not have any significant adverse impact on the character and appearance of the area in accordance with Policies ENV1 (1) and (4) and EMP13 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and the advice contained within the NPPF. However, as noted above, in terms of the principle of the development, it is not considered that it has been demonstrated that the proposed building is necessary for agricultural purposes.
- 4.20 As set out in the 'principle of the development' section above, having regard to the submitted information it is considered that the proposal is for the erection of an ancillary building to West Newlands Farm as a domestic property, as opposed to an agricultural building. When considering the impact of the proposal on the character and appearance of the open countryside in this respect, the proposed building would not be of an appropriate size and scale having regard to its intended end use as an ancillary building to the existing dwelling, as it would not be subordinate to the size and scale of the existing dwelling and would be located outside the residential curtilage of West Newlands Farm, encroaching into the open countryside. Such a proposal would therefore be considered to be visually intrusive and have an adverse impact on the character and appearance of the open countryside. Notwithstanding this, the determination of this application is on the basis applied for, which is for an agricultural building, as considered above.

Impact on Residential Amenity

- 4.21 Given the size, siting and design of the proposed building and its relationship to neighbouring residential properties, it is considered that the proposal would not have an oppressive appearance when viewed from any neighbouring residential properties and would not result in any adverse effects of overshadowing or overlooking so as to have any adverse effects on the amenities of the occupiers of any neighbouring properties. Furthermore, the Environmental Health Officer has been consulted on the proposals and has not raised any objections.
- 4.22 Having regard to the above, it is considered that the proposal is acceptable in terms of its impact on residential amenity in accordance with Policies ENV1 (1) and (4) and EMP13 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained with the NPPF.

Impact on Highway Safety

- 4.23 The proposal would use an existing access and would not alter any existing parking arrangements within the site. North Yorkshire County Council Highways have been consulted on the application and have not raised any objections to the proposals.

NYCC Highways note that the access is in need of resurfacing and therefore recommend that a condition relating to the construction requirements of private access/verge crossings is attached to any planning permission granted. However, given the nature and scale of the development, it is considered that attaching this condition would be unreasonable.

- 4.24 Having regard to the above, it is considered that the proposal would not result in a detrimental impact on highway safety in accordance with Policies ENV1 (2), T1 and EMP13 (3) of the Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Nature Conservation and Protected Species

- 4.25 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.
- 4.26 The application site is not a protected site for nature conservation and is not known to support, or be in close proximity to, any site supporting protected species or any other species or habitat of conservation interest.
- 4.27 Given the above, it is considered that the proposal would not harm any acknowledged nature conservation interests and is therefore in accordance with Policies ENV1 (5) and EMP13 (6) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

Flood Risk and Drainage

- 4.28 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 4.29 In terms of drainage, the submitted application form states that surface water would be disposed of via soakaway, however, the submitted design and access statement sets out that surface water would be drained to a land drain. The Ouse and Derwent Internal Drainage Board have advised that they have assets adjacent to the site in the form of various watercourses in the area. The Ouse and Derwent Internal Drainage Board have no objection to the use of soakaways as an approach to surface water drainage, however, evidence of the effectiveness of the use of soakaways would need to be provided. In terms of the use of land drain as an approach to surface water drainage, further details would need to be provided in relation to discharge rates. The Internal Drainage Board therefore recommended that any approval granted for the proposed development should include conditions relating to drainage works to be agreed, effective soakaways, evidence of existing surface water discharge and surface water to adjacent watercourse.

Impact on Archaeology

- 4.30 The application site is located within an Archaeology Consultation Zone. The Historic Environment Records Officer has been consulted on the proposals and notes that Riccall Common and its environments preserve a rich archaeological resource including Iron Age and Romano-British settlement and burial activity. However, given the small scale of the proposal adjacent to the existing farm

complex, it is unlikely that the proposal would have a significant impact on archaeological deposits. The Historic Environment Records Officer therefore raises no objection to the proposal.

Legal Issues

4.31 Planning Acts

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

4.32 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.

4.33 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.

Financial Issues

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

5. CONCLUSION

5.1 The application seeks planning permission for the erection of an agricultural building for the storage of tractors and machinery. The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside.

5.2 The principle of the proposed development is considered to be unacceptable and contrary to Policies SP2 and SP13 of the Core Strategy and Policy EMP13 of the Selby District Local Plan. The supporting information sets out that the proposed building is required for the storage of vintage agricultural machinery, which the applicant repairs and maintains as part of his hobby. The proposed building would therefore be considered as an ancillary building to West Newlands Farm as a domestic property, as opposed to an agricultural building. It is therefore not considered that it has been demonstrated that the proposed building is necessary for agricultural purposes, and therefore the proposal does not accord with Policy EMP13 (1) of the Selby District Local Plan. Furthermore, the proposed building would not meet Policies SP2 or SP13 of the Core Strategy, as it would not be a new building of an appropriate scale which would contribute towards and improve the local economy or enhance or maintain the vitality of rural communities, and it would not bring about sustainable economic growth through local employment opportunities or expansion of businesses.

5.3 Notwithstanding the above, it is considered that the proposal is acceptable in respect of its design and impact on the character and appearance of the area, impact on residential amenity, impact on highway safety, nature conservation and protected species, flood risk and drainage, and archaeology.

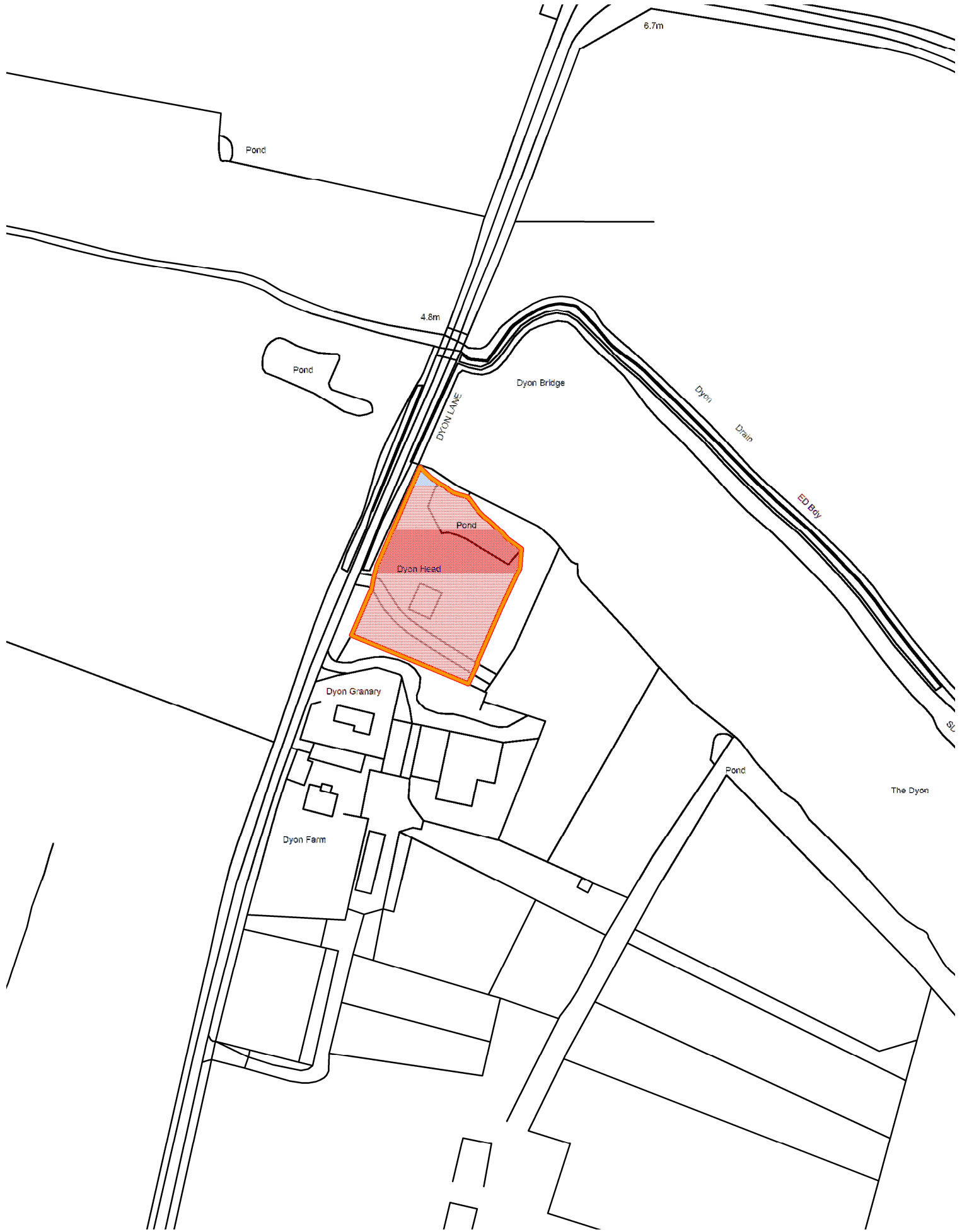
6. RECOMMENDATION

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

01. The proposed development would be located within the open countryside wherein national and local policies seek to protect it for its own intrinsic beauty, wildlife and landscape value. The proposal is considered unacceptable in principle as the applicant has failed to demonstrate that the proposed building is necessary for agricultural purposes. Furthermore, the proposed building would not contribute towards and improve the local economy or enhance or maintain the vitality of rural communities, and it would not bring about sustainable economic growth through local employment opportunities or expansion of businesses. The proposals are therefore contrary to Policy EMP13 of the Selby District Local Plan, Policies SP2 and SP13 of the Core Strategy and the advice contained within the NPPF.

Contact Officer: Jenny Tyreman, Planning Officer

Appendices: None



APPLICATION SITE

Item No: 2017/0230/FUL

Address: Dyon Head, Dyon Lane, South Duffield

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To: Planning Committee
Date: 6th September 2017
Author: Diane Wilson (Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/0230/FUL (8/17/62G/PA)	PARISH:	Cliffe Parish Council
APPLICANT:	Mrs Jill Kelly	VALID DATE: EXPIRY DATE:	6th March 2017 1st May 2017
PROPOSAL:	Section 73 application to remove condition 4 (Agricultural occupancy) of approval 8/17/62/PA Outline application for the erection of a farm bungalow at Dyon House Farm South Duffield.		
LOCATION:	Dyon Head Dyon Lane South Duffield Selby North Yorkshire YO8 6TQ		
RECOMMENDATION	REFUSE		

This application has been brought before Planning Committee due to there being 20 letters of support received contrary to the Officer recommendation for refusal.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site comprises of a detached dwelling set within an established garden of Dyon Head Bungalow, the dwelling is constructed of timber cladding and a pantile roof. The boundary of the garden consists of an established hedgerow of hawthorne and leylandii and a variety of trees and shrubs. Access is gained from Dyon Lane which serves Dyon Head Bungalow and Dyon Farm.

The Proposal

- 1.2 The application seeks consent to remove Condition 4 on Planning Approval 8/17/62/PA relating to the requirement for the property (Dyon Head Bungalow) to be occupied by a person employed in agriculture.
- 1.3 The Condition states that “The occupation of the dwelling shall be limited to a person solely or mainly employed in the locality in agriculture as defined in Section

290(1) of the Town and Country Planning Act 1971, or in forestry (including any dependents of such a person residing with him) or a widow or widower of such a person". The noted reason for the condition is that the development would be unacceptable unless justified by the local agricultural need.

Relevant Planning History

- 1.3 The following historical applications are considered to be relevant to the determination of this application.
- 1.3.1 2016/0297/FUL (Withdrawn - 15.07.2016) Section 73 application to remove condition 2 (Agricultural occupancy) of approval CO/1979/04928 (8/17/62A/PA) Approval of reserved matters for the erection of a bungalow
- 1.3.2 CO/1999/0570 (Application not Progressed - 08.05.2000) Removal of condition 4 (agricultural occupancy clause) attached to app 8/17/62a/pa dated 5th July 1978
- 1.3.3 CO/1979/04928 (Permitted 01.08.1979) Approval Of Reserved Matters For The Erection Of A Bungalow

2.0 CONSULTATION AND PUBLICITY

The relevant consultees are summarised below:

- 2.1 Parish Council
No objections were raised in relation to the above application.
- 2.2 Chris Clubley & Co (Surveyors acting on behalf of SDC)
Have confirmed that "Having reviewed the information available, it is clear that this is a very genuine case in that for the Bramley Family and in relation to Dyon Head Farm, there is no longer a need for this restricted property and at present it represents a burden which they wish to offload. What the Council should satisfy themselves of is whether the marketing program has been rigorous enough to flush out any qualifying candidates to purchase the property at a realistic price". They have therefore advised that "Although admittedly the pool of potential purchasers for Dyon Head Bungalow is very small considering the restriction and condition, it is our opinion that there are some holes within the marketing strategy whereby a potential purchaser may have been missed. Our suggestion is that the property is further marketed for a period of six months, including a sale board and advertising in the Yorkshire Post Country Week".
- 2.3 The application has been advertised by site notice and neighbour letter, resulting in 2 letters of objection and 20 letters of support which are summarised below:

Support

- There is not enough affordable housing in the village.
- Farming is now run by big businesses therefore there is no need for the restriction to continue.
- The plot is no longer suitable as an agricultural home.
- It needs to be occupied as it has stood empty for a long period of time.

- The lifting of the condition would allow more interest and result in the property to be sold.
- The condition was imposed some 30 years ago when the economics of farming in that locality were quite different.
- The property is falling in to disrepair and neglect creating an eyesore in the open countryside.

Objections

- Objection to the removal of the condition given the agents refused to accept offers making various excuses about the property along with misinterpretation from the sellers.
- The marketing exercise has been designed to appear to comply with the requirements for the removal of the condition while not been an honest effort to sell the property due to the inflated and unrealistic guide price.
- The sale price has been inflated and is not a true market value and the property should be survey by a RICS Surveyor.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

3.1 The site lies outside the defined development limits of South Duffield and therefore is within the open countryside.

3.2 The site is within Flood Zone 2 and 3.

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

3.3 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "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". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.

3.4 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.

3.5 Selby District Core Strategy Local Plan

There are no Core Strategy Policies relevant to this application.

3.6 Selby District Local Plan

There are no Local Plan Policies relevant to this application.

4.0 APPRAISAL

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

1. Basis of the Application
2. Justification for the removal of the Condition
3. Other Matters

Basis of the Application

4.2 Presently there are no explicit planning policies at a national or local level in relation to the removal of agricultural occupancy conditions. Notwithstanding, this Paragraph 206 of the NPPF and Paragraph 003 of the Planning Practice Guidance indicates that a planning condition should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.” The NPPF Paragraph 186 states that “local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development” along with Paragraph 187 of the NPPF which states that “local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible.

4.3 The planning system seeks to restrict new isolated housing in the countryside except in special circumstances such as the essential need for a rural worker to live permanently at or near the place of their work. This is embodied within Paragraph 55 of the NPPF.

4.4 The application site is located outside the defined development limits of South Duffield within an area of open countryside. The application site comprises of a detached dwelling set back from Dyon Lane which is currently linked to Dyon House Farm.

4.5 This planning application seeks to remove the agricultural occupancy condition which was attached to the main dwelling, when planning consent was approved on the 5th July 1978 under ref: 8/17/62/PA, Condition 4 states that:

The occupation of the dwelling shall be limited to a person solely or mainly employed in the locality in agriculture as defined in Section 290 (l) of the Town and Country Planning Act 1971 or in forestry (including any dependants of such a person residing with him) or a widow or widower of such a person).

The reason for this condition was that ‘The development hereby approved would be unacceptable unless justified by the local needs of agriculture.’

4.6 The Town and Country Planning Act 1947 defines agricultural as:

“Agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the

production of food, wool, skins or fur or for the purpose of its use in the farming of land), the use of land as grazing land , meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes and 'agricultural' shall be constructed accordingly”

- 4.7 In order to gain a full understanding of the history of the site, the value of the property and the market evidence the Council sought an independent review from Agricultural Land Consultants, Chris Clubley & Co.
- 4.8 In reviewing the case they have confirmed that the dwelling was originally justified to allow the applicants family to semi retire whilst keeping a hand in the farming business run in association with Dyon House Farm. At the time Dyon House Farm was a mixed 100 acre holding rearing cattle and sheep and growing cereals and crops.
- 4.8 Since the bungalow was built, agriculture has declined nationally and many traditional holdings have gone out of farming with the land being amalgamated with other larger holdings and the farmsteads being occupied by retirees or sold off to lifestyle buyers. Dyon House Farm itself applied for an agricultural occupancy to be removed in 2010 and was approved under planning reference 2010/0946/FUL. It is believed that Dyon House Farm has since diversified into equestrian related activities / operations.

Justification for the removal of the Condition

- 4.9 Agricultural workers occupancy conditions are only imposed where a dwelling is permitted in a location where a dwelling would not normally be allowed but also where it has been demonstrated that there is an essential need for the dwelling to serve agriculture.
- 4.10 At the time of the original planning permission the site was not within defined development limits of South Duffield and as such it was considered necessary to impose the occupancy condition given that an open market dwelling would not be acceptable in this location.
- 4.11 The application to seek to remove the Condition is accompanied by a Planning Statement which advises that Dyon Bungalow was erected as a retirement dwelling for farmers on their holding and sited close to the main farm house Dyon House Farm. At the time Consent 8/17/62/PA considered there was no requirement for applicants to meet a financial or functional tests, which was required at a later stage post the consent being issued. Any applications made for such dwellings today would only be required under the NPPF to demonstrate a functional case to support a new agricultural dwelling in the open countryside.
- 4.12 In this context the submitted Planning Statement argues that Dyon House Farm has survived as an independent unit to date by the selling of land and diversifying into equestrian related activities. In addition it notes that the holding now extends only to some 12 ha and there is no agricultural need for a second dwelling.
- 4.13 In advising the Council, Chris Clubley & Co have acknowledged that the bungalow appears to be separate from any agricultural holding, and as such have advised

that the Council must “satisfy itself that there is no requirement to support any ongoing farming activities in the locality”. As such they have advised the Council that in order to test this position then the property needs to have been exposed to the market at a suitable price to reflect with the occupancy restriction in place so as to allow prospective purchasers to identify themselves.

- 4.14 Chris Clubley & Co have advised that “It is considered that a suitable purchaser for Dyon Head Bungalow would be someone employed in agriculture in the locality of the City of York, to the north, the River Derwent to the east, and the River Ouse to the west and south” and they also advise that it is unlikely that the purchaser could satisfy the criteria from an enterprise run from the property alone and therefore would have to be employed in or running an agricultural enterprise nearby.
- 4.15 As part of the assessment Chris Clubley & Co have undertaken their own research in terms of how the property has been marketed. They have advised the Council that it is generally accepted that in order to demonstrate no genuine need for a property with a restriction it is actively marketed for a minimum of 12 months, which includes advertising in relevant press, a for sale board and online advertising.
- 4.16 In terms of the marketing of the property the advice of Chris Clubley & Co is that the property has been available for sale for approximately nine months from July 2016 to March 2017, thus missing what are arguably the prime selling months for mainstream property. They have also noted that they found that a sale board had been erected but had blown down and it was unclear how long the board had been erected for. It is also understood that the property was made available online via Rightmove and the Stephenson’s website. However Chris Clubley & Co have stated that at the time of reviewing the case for the Council the property was not available on line. It is acknowledged that the property was advertised locally during the Autumn 2016, Chris Clubley & Co have advised that there is no indication that it had been advertised in the local farming press known as the Yorkshire Post Country Week supplement.
- 4.17 In terms of the asking price for the property Chris Clubley & Co have advised the Council that they would have expected the property, given the agricultural occupancy condition, to achieve a sales figure around 25% - 30% below market value. As such they have suggested that as Dyon Head Bungalow presents a rare opportunity to redevelop a residential house, given that as it stands the property is considered to be uninhabitable, it is considered that an unrestricted value of the property to be worth in the region of £120,000 to £130,000 could be achieved. Chris Clubley & Co suggest that properties subject to an agricultural occupancy clause usually achieve figures of approximately 25% - 30% below market value. Therefore the Clubley & Co report suggests that a figure of £84,000 - £91,000 would accurately reflect the value of Dyon Head Bungalow. The report concludes that the asking price of £100,000 is reasonable with an expectation that a sale may be agreed.
- 4.18 Having regard to the report the Council commissioned by Clubley & Co, the marketing strategy and evidence within the submitted Planning Statement, together with the neighbour objection letters received, there is considered to be some discrepancy in terms of whether the property has been marketed to its full potential. Notwithstanding some interest by potential purchasers for Dyon Head Bungalow the evidence submitted with the planning application has failed to demonstrate that the

property has been marketed for a continuous period of at least 12 months. It is considered that the property should be marketed to its full potential, and for a longer period, which includes a sale board and advertising in an appropriate newspaper to underpin the case for the removal of the condition and such marketing should be fully evidenced within any further submissions for removal of Condition 4.

Other Matters

- 4.19 Objection letters have been received by interested parties who wish to purchase the property raising concerns in terms of the selling price. It is considered that the selling price and overage clause suggested within the Chris Clubley & Co report is for the applicant to discuss with their legal solicitors and the Estate Agent chosen to sell the property and is not a matter to be considered within this planning application. Notwithstanding figures being discussed within the Chris Clubley & Co assessment on behalf of the Council it is considered that matters of sale prices and overage clauses are not relevant in the determination of this application and are solely a matter for the applicant and the estate agent.

Legal Issues

- 4.20 Planning Acts: This application has been considered in accordance with the relevant planning acts.
- 4.21 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.
- 4.22 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.

Financial Issues

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

5.0 CONCLUSION

- 5.1 Planning permission was granted on the 5th July 1978 ref 8/17/62/PA for a detached bungalow and was subject to Condition 4 which restricted the occupancy for the purposes for the owner to be employed in agriculture. This application seeks permission for the removal of Condition 4 which would result in the building becoming an independent dwelling house.
- 5.2 Paragraph 187 of the NPPF states that the local planning authority should sort means to find a positive solution in the determination of applications. Through commissioning Chris Clubley & Co to advise the Council on the marketing strategy evidence put forward by the agent it is considered that the local planning authority have sort means to find a positive solution, and to positively deliver sustainable development as outlined in Paragraph 186 of the NPPF. In advising the Council Chris Clubley & Co have noted that they consider that there is a clear genuine case

for the condition to be removed. Notwithstanding the case for the condition to be removed the report further states that there are some holes in the marketing strategy.

- 5.3 As such, Officers consider that the case made by the Applicants for the removal of the agricultural occupancy Condition 4 does not fully demonstrate that the property cannot be sold with the noted Condition, and that there remains a clear need for additional marketing to establish whether there is any demand for the property with the Condition 4 in place. Until such marketing is undertaken it is considered that that the applicants have failed to demonstrate that the Condition has outlived its usefulness.
- 5.4 In addition, notwithstanding figures being discussed within the Chris Clubleys & Co Report it is considered that these matters of sale prices and overage clauses are not considered to be a relevant as part of this application. As this matter is considered to be between the applicant and the estate agent and are not considered to be relevant to this application.
- 5.5 Therefore having regard to all of the above the proposal is considered to be unacceptable in accordance with the advice contained in the NPPF 186, 187, 203 and PPG 003.

6.0 Recommendation

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

- 01 The Marketing Strategy and Evidence within the submitted Planning Statement, as received on the 6th March 2017, to support the removal of Condition 4 on 8/17/62/PA has failed to demonstrate that Dyon Head Bungalow has been marketed effectively and thus has failed to demonstrate that Condition 4 should be removed. As such the proposal is considered to be unacceptable when considered against the advice contained in the NPPF (paragraphs 186,187, 203) and Planning Policy Guidance (Paragraph 003).

Contact Officer: Diane Wilson Planning Officer

Appendices: None