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Meeting:	**PLANNING COMMITTEE**
Date:	**WEDNESDAY, 7 AUGUST 2019**
Time:	**2.00 PM**
Venue:	**COUNCIL CHAMBER - CIVIC CENTRE, DONCASTER ROAD, SELBY, YO8 9FT**
To:	**Councillors J Cattanach (Chair), I Chilvers, R Packham, P Welch, M Topping, K Ellis, D Mackay, M Jordan and J Mackman**

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. Minutes (Pages 1 - 8)

To confirm as a correct record the minutes of the Planning Committee meeting held on 10 July 2019.

5. Planning Applications Received (Pages 11 - 12)

5.1. 2017/0542/OUTM - Bowmans Mill, Selby Road, Whitley (Pages 13 - 46)

5.2. 2018/1387/FUL - Birchwood Lodge, Market Weighton Road, Barlby (Pages 47 - 88)

5.3. 2019/0031/FUL - Land South of Chapel View, Marsh Lane, Bolton Percy (Pages 89 - 112)

5.4. 2019/0109/FULM - Land Adjacent to Selby Road, Eggborough, Goole (Pages 113 - 136)

5.5. 2019/0434/ADV - Gowthorpe, Selby (Pages 137 - 150)

Janet Waggott

Janet Waggott, Chief Executive

Dates of next meetings (2.00pm)
Wednesday, 4 September 2019

Enquiries relating to this agenda, please contact Victoria Foreman on 01757 292046 or vforeman@selby.gov.uk.

Recording at Council Meetings

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

Minutes

Planning Committee

Venue:	Council Chamber - Civic Centre, Doncaster Road, Selby, YO8 9FT
Date:	Wednesday, 10 July 2019
Time:	2.00 pm
Present:	Councillor J Cattanach in the Chair Councillors I Chilvers, R Packham, P Welch, M Topping, K Ellis, D Mackay, M Jordan and J Mackman
Officers Present:	Martin Grainger, Head of Planning, Ruth Hardingham, Planning Development Manager, Kelly Dawson, Senior Solicitor, Rebecca Leggott, Senior Planning Officer, Mandy Cooper, Planning Officer, Yvonne Naylor, Principal Planning Officer, Jac Cruickshank, Planning Officer; and Dawn Drury, Democratic Services Officer
Press:	1
Public:	7

6 APOLOGIES FOR ABSENCE

There were no apologies for absence.

7 DISCLOSURES OF INTEREST

Councillor K Ellis declared a personal interest in agenda item 5.5 – 2019/0110/COU – Far Farm, Mill Lane, Ryther, as he stated, although he did not know the applicant, he knew the landowner. He informed the Committee in the interest of transparency and to avoid any perception of bias he would not take part in this item.

Councillor R Packham declared a personal interest in agenda item 5.1 – 2018/1431/FULM – Home Farm, Kirkby Wharfe, as he knew the applicant. Councillor Packham confirmed that he would leave the meeting during consideration of the application and would therefore not take part in the debate or vote.

Councillors I Chilvers, R Packham, P Welch, M Topping, K Ellis, D Mackay, M Jordan and J Mackman declared that they had received email representations from another Councillor in relation to agenda item 5.4 – 2018/1387/FUL Birchwood Lodge, Market Weighton Road, Barlby.

Councillor J Cattanach declared that he had received a representation in relation to agenda item 5.3 – 2017/0542/OUTM – Bowmans Mill, Selby Road, Whitley.

Councillor M Topping declared a personal interest in agenda item 5.4 – 2018/1387/FUL –Birchwood Lodge, Market Weighton Road, Barlby, as he was Chair of Cliffe Parish Council, who had made representations in relation to the application.

8 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Committee were notified that an appeal had been submitted concerning the planning application for Gascoigne Wood which had been rejected by the Committee on 20 March 2019. The Chair explained that it had been agreed by both the applicant and the Council that this would take the form of a Public Inquiry. Members would be informed of the date of the inquiry once it was confirmed.

The Chair informed the Committee that an officer update note had been circulated, and the order of the agenda had been adjusted to reflect the number of public speakers registered in relation to each application; however due to the applications to be considered he advised that he would like to remain flexible with the running order.

9 MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 5 June 2019.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 5 June 2019 for signing by the Chairman.

10 PLANNING APPLICATIONS RECEIVED

The Planning Committee considered the following applications:

10.1 2019/0110/COU - FAR FARM, MILL LANE, RYTHER

Councillor Keith Ellis did not take part in the debate or vote, as per his earlier declaration.

Application: 2019/0110/COU
Location: Far Farm, Mill Lane, Ryther

Proposal: Proposed change of use of land and buildings to that of a wedding venue including the creation of a total of 15 bedrooms for wedding guests, erection of 2 No lychgates, formation of a car park, demolition of some existing buildings, and formation of extension to accommodate 5 bedrooms, common room and kitchen to be constructed following the demolition of the pole barn

The Senior Planning Officer explained that the application was a proposed change of use of land and buildings to that of a wedding venue. Since the report had been written the Senior Solicitor had advised that the application required further discussions with the applicant, and it was therefore requested that the item be deferred.

It was proposed and seconded that the application be deferred, in order for further discussions with the applicant to take place.

RESOLVED:

To DEFER consideration of the application, in order to allow further discussions to take place with the applicant.

10.2 2017/0542/OUTM - BOWMANS MILL, SELBY ROAD, WHITLEY

Application: 2017/0542/OUTM
Location: Bowmans Mill, Selby Road, Whitley
Proposal: Outline to include access (all other matters reserved) for erection of up to 120 dwellings and associated car parking, garages, landscaping, open space and details of including demolition and removal of all structures, buildings and hard standing to facilitate future development

The Planning Officer presented the application which had been brought to the Committee as more than 10 letters of objection had been received contrary to the officer recommendations to approve the application.

The Committee noted that the application was for outline permission to include access (all other matters reserved) for erection of up to 120 dwellings and associated car parking, garages, landscaping, open space and details of including demolition and removal of all structures, buildings and hard standing to facilitate future development.

The Planning Officer cited new conditions which would need to be made to the application however it was noted that these conditions had not been listed on the officer update note.

Members expressed concern that they had not had sight of the new conditions, and highlighted that they had several concerns regarding objections raised within the report from the Landscape Consultant and the Conservation Officer amongst others. The Committee were of the opinion that the application should be deferred and a site visit arranged.

It was proposed and seconded that the application be deferred in order for a site visit to be undertaken.

RESOLVED:

To DEFER consideration of the application in order for the Committee to undertake a site visit for the reasons outlined above.

10.3 2018/1431/FULM - HOME FARM, KIRKBY WHARFE

As per his earlier declaration, Councillor Robert Packham left the room during consideration of this item.

Application: 2018/1431/FULM
Location: Home Farm, Kirkby Wharfe
Proposal: Proposed construction of 3 no. agricultural buildings including 2 no cattle sheds, 1 no tractor store and 1no. Straw store with hard standing external area and associated landscaping

The Principal Planning Officer presented the application which had been brought to the Committee as more than 10 letters of representation had been received in relation to the application.

The Committee noted that the application was for the proposed construction of 3 no. agricultural buildings including 2 no cattle sheds, 1 no tractor store and 1no. Straw store with hard standing external area and associated landscaping.

The Committee were informed that the scheme had been designed in full consultation between the applicant, agent and taking into account the comments of neighbours; the scheme would allow for the consolidation of Home Farm,

the Fold Yard and West Farms activities in one location.

Members noted that an additional condition had been proposed at paragraph 5.34 of the report, relating to lighting control, as per the officer update note.

In response to a question regarding silage, the Principal Planning Officer confirmed that the silage was stored on site, within close proximity to the barns. It was further confirmed that the grass cut was made into haylage not silage which was then wrapped in plastic bales for storage.

Members queried what preventative measures had been put in place for the leakage of slurry with the site lying partly within Flood Zone 2 and Flood Zone 3, the Principal Planning Officer stated that a Simple Calculation of Atmospheric Impact Limits from Agricultural Sources Assessment (SCAIL) had been submitted and that neither Natural England nor the Environment Agency had raised any concerns. It was also confirmed that there was a drainage scheme in place.

Paul Leeming, agent, spoke in support of the application.

Members considered the application in full and agreed that the application would support a rural business and the local economy, with the new buildings in character with the area, and located away from existing buildings; and therefore supported the officer's recommendation.

It was proposed and seconded that the application be approved.

RESOLVED:

To GRANT the application subject to the conditions set out at paragraph 9 of the report; and the additional condition relating to lighting control as set out in the officer update note.

Councillor Packham returned to the meeting.

10.4 2018/1170/FUL - ROSEGARTH, YORK ROAD, BARLBY

Application: 2018/1170/FUL
Location: Rosegarth, York Road, Barlby
Proposal: Proposed front and rear single storey extensions, raising of roof, changes to external

fenestration and façade treatment

The Planning Officer presented the application which had been brought back to committee following consideration at the 5 June 2019 meeting, where Members had resolved to DEFER the application in order for a site visit to undertaken.

The Committee noted that the application was for proposed front and rear single storey extensions, raising of roof, changes to external fenestration and façade treatment.

In relation to the officer update note, the Committee noted that a sunlight/daylight assessment had been submitted by the applicant's agent, which showed that the proposal would not result in significant overshadowing to neighbouring dwellings, however the assessment did not specify at what hour of day, or time of year the assessment had taken place.

Barbara Weatherill, resident, spoke in objection to the application.

Members agreed that the site visit had been very useful in terms of orientation of the site.

Members considered the application and agreed that the application site was within limits, there was nothing to identify it as unsustainable; and it was in accordance with the Development Plan.

It was proposed and seconded that the application be approved.

RESOLVED:

To GRANT the application subject to the conditions set out at paragraph 6 of the report, and the Officer Update Note.

10.5 2018/1387/FUL - BIRCHWOOD LODGE, MARKET WEIGHTON ROAD, BARLBY

Application: 2018/1387/FUL
Location: Birchwood Lodge, Market Weighton Road, Barlby
Proposal: Proposed erection of single storey extension to main workshop building, forming of new storage area, forming of new workshop and use of runway for any day of the week

The Senior Planning Officer presented the application which had been brought to the Committee as it has been called in by Councillor K Arthur and former Councillor J Deans on the following grounds:

- Impact on residential amenity of neighbouring properties
- The environmental impact of the proposal
- Intrusion into the openness of the countryside
- Noise pollution impacting on neighbouring properties
- The adverse visual impact of the proposal on neighbouring properties.

The Committee noted that the application was for the proposed erection of single storey extension to main workshop building, forming of new storage area, forming of new workshop and use of runway for any day of the week.

The Committee noted that since the report had been written, the applicant no longer wished to erect the single storey extension to the main workshop building, and in relation to the officer update note, the Committee heard that the note was for clarity only; there were no material changes to the report.

Members noted that the workshop would only be retained for a period of three years, allowing the applicant to meet the current business needs; and that the airstrip would not be used for the take-off or landing of aircraft on more than three days in any one week, furthermore, flight logs would be retained.

Members expressed concern over the times that the flights would commence, and questioned who would be responsible for policing the flight logs.

The Committee felt that in order to make the correct decision the report should be presented at a future Committee with all the updates and conditions included.

It was proposed and seconded that the application be deferred.

RESOLVED:

To DEFER consideration of the application until officers have made the report inclusive, to allow the Committee to have sight of all the amendments and

conditions.

The meeting closed at 3.10 pm.

SELBY DISTRICT COUNCIL

Planning Committee

Guidance on the conduct of business for planning applications and other planning proposals

1. The reports are taken in the order of business on the agenda, unless varied by the Chairman. The Chairman may amend the order of business to take applications with people registered to speak, first, so that they are not waiting. If the order of business is going to be amended, the Chairman will announce this at the beginning of the meeting.

2. There is usually an officer update note which updates the Committee on any developments relating to an application on the agenda between the publication of the agenda and the committee meeting. Copies of this update will be situated in the public gallery and published on the Council's website.

3. People wishing to speak at Planning Committee cannot hand out documentation to members of the Committee. Photographs may be handed out provided that a minimum of 20 copies have been delivered to the Council by 12 noon on the last working day prior to the meeting. You can contact the Planning Committee members directly. All contact details of the committee members are available on the relevant pages of the Council's website: https://democracy.selby.gov.uk/mgCommitteeMailingList.aspx?ID=135

4. Each application will begin with the respective Planning Officer presenting the report including details about the location of the application, outlining the officer recommendations and answering any queries raised by members of the committee on the content of the report.

5. The next part is the public speaking process at the committee. The following may address the committee for **not more than 5 minutes each**:

   (a) The objector
   (b) A representative of the relevant parish council
   (c) A ward member
   (d) The applicant, agent or their representative.

   NOTE: Persons wishing to speak on an application to be considered by the Planning Committee should have registered to speak with the Democratic Services Officer (contact details below) **by no later than 3pm on the Monday before the Committee meeting (this will be amended to the Tuesday if the deadline falls on a bank holiday).**

6. Seating for speakers will be reserved on the front row. Anyone registered to speak (e.g. Ward Members and those speaking on behalf of objectors, parish councils, applicants/agents or any other person speaking at the discretion of

the Chairman) should sit on the reserved front row of the public seating area. This is for ease of communication between the committee and the speaker, should any issues need to be clarified later in the proceedings; it is not an opportunity to take part in the debate of the committee.

7. Each speaker should restrict their comments to the relevant planning aspects of the proposal and should avoid repeating what has already been stated in the report. The meeting is not a hearing where all participants present evidence to be examined by other participants.

8. Following the public speaking part of the meeting, the members of the committee will then debate the application, consider the recommendations and then make a decision on the application.

9. The role of members of the planning committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons in accordance with the statutory planning framework and the Council's planning code of conduct.

10. For the committee to make a decision, the members of the committee must propose and second a proposal (e.g. approve, refuse etc.) with valid planning reasons and this will then be voted upon by the Committee. Sometimes the Committee may vote on two proposals if they have both been proposed and seconded (e.g. one to approve and one to refuse). The Chairman will ensure voting takes place on one proposal at a time.

11. This is a council committee meeting which is open to the public; however, there should be no disruption from the audience while the committee is in progress. Anyone disrupting the meeting will be asked to leave by the Chairman.

12. Recording is allowed at Council, committee and sub-committee meetings which are open to the public, subject to:

    a. The recording being conducted with the full knowledge of the Chairman of the meeting; and

    b. Compliance with the Council's protocol on audio/visual recording and photography at meetings, a copy of which is available on request. Anyone wishing to record must contact the Democratic Services Officer using the details below prior to the start of the meeting. Any recording must be conducted openly and not in secret.

13. The arrangements at the meeting may be varied at the discretion of the Chairman.

Contact
Vicky Foreman – Democratic Services Officer
Email: vforeman@selby.gov.uk
Telephone: 01757 292046

Items for Planning Committee

7 August 2019

Item No.	Ref	Site Address	Description	Officer	Pages
5.1	2017/0542/OUTM	Bowmans Mill, Selby Road, Whitley	Outline to include access (all other matters reserved) for erection of up to 120 dwellings and associated car parking, garages, landscaping, open space and details of including demolition and removal of all structures, buildings and hard standing to facilitate future development	MACO	
5.2	2018/1387/FUL	Birtchwood Lodge, Market Weighton Road, Barlby	Proposed erection of single storey extension to main workshop building, forming of new storage area, forming of new workshop and use of runway for any day of the week	RELE	
5.3	2019/0031/FUL	Land South of Chapel View, Marsh Lane, Bolton Percy	Proposed erection of three dwellings	YVNA	
5.4	2019/0109/FULM	Land Adjacent, Selby Road, Eggborough, Goole	Proposed erection of 25 no. dwellings, with a vehicular access road adjoining the previously approved application scheme 2017/1131/REMM	JETY	
5.5	2019/0434/ADV	Gowthorpe, Selby	Retrospective application for consent for 14 No lamp post banners throughout Selby town centre	RELE	

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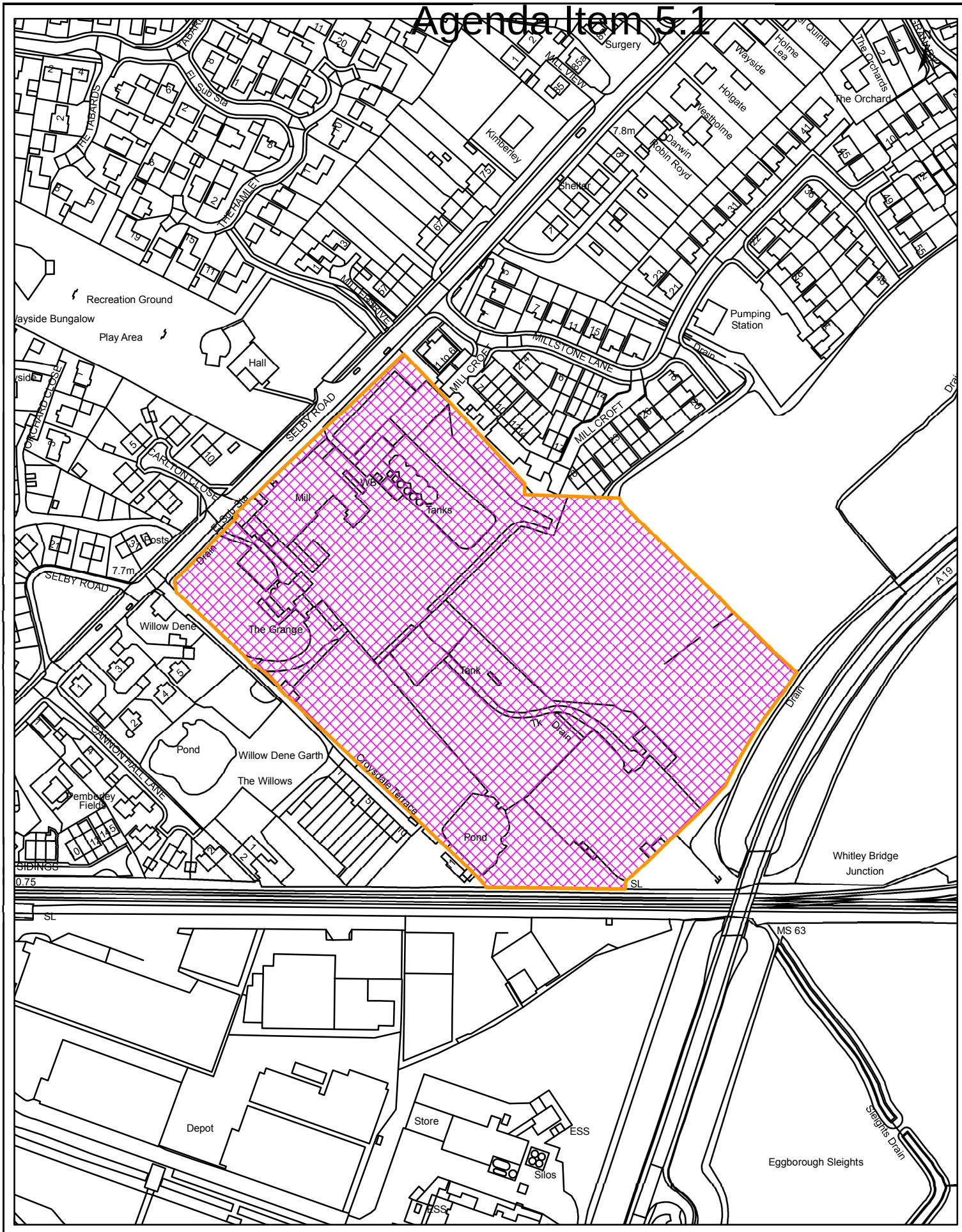

APPLICATION SITE

Bowmans Mill, Selby Road, Whitley
2017/0542/OUTM

1:2,500

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Key

- Application Boundary
- Main vehicular entrance
- Pedestrian/cycle access

BOWMAN'S FLOUR MILL, EGGBOROUGH | ILLUSTRATIVE LAYOUT

RECEIVED
05 May 2017
DEVELOPMENT MANAGEMENT

spawforths

CLIENT: Jas Bowman and Sons Ltd
SCALE: not to scale
DATE: 03_MAY_2017
REVISION: C- Issue for comment
FILE NAME: P0-MP-SPA-P4047-5IL-1000-0003
PSD-PR-STRATEGIC_PLAN_DETAIL_EGGBOROUGH_FINAL.PSD

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SELBY DISTRICT COUNCIL

Report Reference Number: 2017/0542/OUTM (8/37/97R/PA)

To: **Planning Committee**
Date: **10 July 2019**
Author: **Mandy Cooper (Planning Officer)**
Lead Officer: **Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2017/0542/OUTM	PARISH:	Eggborough Parish Council
APPLICANT:	Jas Bowman And Sons Ltd	VALID DATE: EXPIRY DATE:	9th May 2017 8th August 2017
PROPOSAL:	Outline to include access (all other matters reserved) for erection of up to 120 dwellings and associated car parking, garages, landscaping, open space and details of including demolition and removal of all structures, buildings and hard standing to facilitate future development		
LOCATION:	Bowmans Mill Selby Road Whitley Goole East Yorkshire DN14 0LQ		
RECOMMENDATION:	GRANT - SUBJECT TO THE COMPLETION OF A S106 AGREEMENT		

This application has been brought before Planning Committee as more than 10 letters of objection have been received contrary to the Officer recommendations to approve the application.

This application was brought to Planning Committee on 10 July 2019 where Members resolved to defer the application so a site visit could be undertaken.

1. INTRODUCTION AND BACKGROUND

The Site and Context

1.1 The application site is situated within the village of Eggborough approximately 7 miles southwest of Selby and 1.3 miles southwest of the Eggborough Power

Station. The site comprises the full extent of the Bowman's Mill site on the east side of Selby Road on the old road through the village. The site area is 4.86 hectares (12 acres) and comprises the three and five storey former flour mill and associated buildings and silos. The development would also include demolition of The Grange – a double fronted former residential property most recently used as offices to the south of the Mill and facing gated accesses off Selby Road. Additionally there are various ground works and tanks, sluice structures and hard standings to the rear of the frontage development as well as a large area of tree cover to the southern corner and to a lesser degree the northwest (frontage) and some undeveloped grass land to the southeast.

1.2 Also on the frontage, to the immediate west of the mill buildings, is The Grange, a late 19th century villa, set back in a mature garden with trees to the front and lawn to the rear. Adjoining the site to the immediate south is the access to Croysdale Terrace, a group of terraced properties facing north toward the south west limits of the application site and Willow Dene a group of six detached properties situated south west of the application site and fronting Selby Road. To the north is the Millstone Lane and Mill Croft residential development. A railway line and industrial area beyond to the southern corner and the A19 are situated beyond the southeast site boundary; with open fields dominating the wider landscape beyond. To the northwest side of Selby Road and opposite the site is the Village Hall and the Carlton Close residential development. For the most part, the topography of the land is consistently level but with unstable variations to the self-seeded woodland area to the south of the site.

1.3 The application site was originally submitted as part of the EGG/3 residential allocation in the Selby District Local Plan (SDLP). This was discounted by the Inspector during the adoption process of the Local Plan (under Modification No. 323), due to there being a current employment use on the site, indicating the land was not at that time available. This site therefore remains unallocated within the Local Plan.

The Proposal

1.4 The applications seeks outline planning permission to include access (all other matters reserved) for erection of up to 120 dwellings and associated car parking, garages, landscaping, open space and details of demolition and removal of all structures, buildings and hard standing to facilitate future development.

1.5 An indicative layout plan has been submitted with the application which demonstrates how the site could accommodate up to 120 dwellings.

Relevant Planning History

1.6 There is no planning history on this site that is considered relevant to the current proposal.

2. Consultations and Publicity

Initial consultations were made in April 2017, with a further consultation to relevant consultees in April 2019. All immediate neighbours were informed by letter, a site notice was posted, an advert placed in the local paper and statutory consultees notified.

2.1 **Landscape Consultant** – Objection in regards to:

- Not sufficient in landscape terms, no regard to local character and setting of High Eggborough village, or sufficient contribution to green infrastructure
- Removal of a number of mature trees within the site and along the road frontage, and lack of soft landscape and green infrastructure within the development.
- Proposed housing layout is very dense with limited real opportunity to incorporate soft landscape and street trees throughout site.
- Loss and reduction in established tree cover.
- Layout currently dominated by roads and parking.
- Housing with gardens and green space, orientated and set back from Selby Road is a distinctive local characteristic. Proposed layout is contrary to this.

The Landscape Consultant (LC) also makes a number of recommendations in regards to the indicative site plan and requests that the Public Open Space (POS) should be secured through a S106 agreement together with arrangements for long term maintenance and management.

2.2 Parish Council – Objections relating to:

- Sustainability of village; insufficient level of services to support extensive growth
- Concerns regarding development only having one means of access (now amended)
- Mixture of 2, 2.5 and 3 storey dwellings
- Risk of criminality yet proposing to put in pedestrian/cycle access points linking Croysdale Terrace and Millview. This could be a possible escape route for potential criminals and an ideal racetrack for budding BMX racers.
- Village cannot sustain this level of development especially with the reduction in services/facilities/infrastructure previously highlighted. This is only a village, not a town.

2.3 NYCC Highways Canal Road – NYCC Design Guidance suggests a development of this size requires a Transition Road access layout. An additional emergency access is desirable, sensible and easily delivered, but willing to concede on this emergency access.

2.4 Yorkshire Water Services Ltd – No objections but advisory comments as follows:

- FRA states that Foul water will discharge to public foul water sewer as sub-soil conditions do not support the use of soakaways. Sleights Drain exists near to the site -- connection subject to Environment Agency / Local Land Drainage Authority / Internal Drainage Board requirements

- Noted from the submitted Flood Risk Assessment that surface water is proposed to be drained to Sleights Drain. Please note further restrictions on surface water disposal from the site may be imposed by other parties.
- Strongly advised to seek advice/comments from the Environment Agency/Land Drainage Authority/Internal Drainage Board, with regard to surface water disposal from the site.

2.5 **Danvm Drainage Commissioners Shire Group Of IDBs** – Comments and recommendations relating to means of surface water disposal.

2.5 **Education Directorate North Yorkshire County Council** – A response was received prior to the introduction of the Community Infrastructure Levy (CIL) which replaces the requirement for developer contributions through a Section 106. On this basis, the Education Directorate has not been re-consulted.

2.6 **Environmental Health** – Recommendations made and conditions required in regards to air quality; dust and noise.

Air Quality:
Conditions recommended in relation to demolition and construction phase-Construction Environmental Management Plan Scheme to incorporate charging points for electric vehicles in garages and on driveways.

Noise/Odour:
Noted on site that noise from the mill operations to the south of the railway line were indistinguishable from the traffic noise from the M62 and local road network and hence no further request is made for a BS4142:2014 assessment. Eastern area of the site is subject to noise from the A19 to varying degrees. Noted that a sewage pumping station to be located on the amenity space area to the south of the site and the noise from this source has been raised as a possible issue by a current resident in the area. Conditions to be attached to control noise from traffic and noise and odour from pumping station.

2.7 **North Yorkshire Fire & Rescue Service** - No objection/observation to the proposed development. Further comment in relation to the suitability of proposed fire safety measures once the building control body submit a statutory Building Regulations consultation to the fire authority.

2.8 **Natural England** - Natural England has not assessed this application for impacts on protected species. The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Natural England advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

2.9 **North Yorkshire Bat Group** – Have reviewed the latest bat survey report and are now satisfied that the proposed development is unlikely to have a significant adverse impact on bats. No objection to this application.

2.10 **Historic England** - This is not something that HE would be consulted on as it doesn't affect the setting of any highly graded listed buildings or scheduled

monuments. However the original nineteenth-century mill buildings, The Grange and coach house could be considered to be locally important heritage assets.

2.11 **Yorkshire Wildlife Trust** - Trust satisfied with the level of surveys carried out and agrees with the North Yorkshire Bat Group that there is sufficient information to ensure no impact on bat populations. Conditions required which relate to a plan for the control of Himalayan Balsam; no impact on reptiles and the design and management of the habitats to be left on site. Suggestions under Mitigation section of Bat Survey Report by Wardell Armstrong from July 2017 should also be conditioned, in particular the design of a sensitive lighting scheme, installation of bat boxes and woodland management along with the culvert design.

2.12 **Designing Out Crime Officer** – A number of comments made in respect of the proposal. Suggestions made have followed the principles of 'Crime Prevention Through Environmental Design' (CPTED) and also have taken into account the results of analysis of Crime & Disorder. It is acknowledged that this is an Outline application and that the submitted drawings are indicative and the comments made have taken this into consideration and are reflected in any future design and layout submitted by the applicant.

2.13 **Stephanie Porter Vale of York CCG** – No response received.

2.14 **Public Rights Of Way Officer** – No response received.

2.14 **The Environment Agency (Liaison Officer)** – Advise that proposal falls outside the scope of issues the EA wish to be consulted on.

2.15 **SuDS And Development Control Officer** – Comments submitted in regards to exceedance flows and grit/oil interceptor in revised Flood Risk Assessment (FRA). Matters have been addressed in principle conditions are recommended for any planning approval.

2.16 **Waste and Recycling Officer** – No objections but advisory comments made in regards to presentation point and required dimensions; turning areas. Additional points raised in relation to indication of swept path diagram to show that waste collection vehicles will be able to turn safely with indication of dimensions required.

2.17 **NYCC Archaeology Officer** - Sufficient information has been provided in order for this application to be determined. It is recommended that mitigation and enhancement measures contained within the technical reports are secured via condition in order to ensure that the development is in accordance with local and national policy and legislation.

2.18 **Development Policy** – Confirms that the Council has a 5 year housing land supply but acknowledges that the existence of such cannot be a reason in itself for refusing a planning application and that an approval on this site would provide additional dwellings to the housing supply. Core Strategy Policies SP2 and SP4 seek to focus new development in the Market Towns and Designated Service Villages (DSVs), restricting development in the open countryside. Eggborough is defined in the Core Strategy as a Designated Service Village (DSV), which has some scope for additional residential and small scale employment to support rural sustainability. The area of this proposal for up to 120 dwellings is on land that is within, the defined Development Limits of Eggborough as marked on the Policies Map of the Local Plan.

2.19 **Conservation Officer** – It is advised that historic structures are retained and converted. An assessment of the convertible buildings should be carried out and the scheme revised. The layout of the proposed development should also be reassessed to take into account retention of existing structures. An innovative design is required for this site, unfortunately the current illustrative layout does not achieve this, it is very suburban and does not reflect the local distinctiveness of this site.

2.20 **Council's Urban Designer** - In summary there are opportunities to create an attractive new development but this site is important, not only for the village of Eggborough, but also as a point of arrival into the Selby district. Therefore quality and distinctive design (at least on the frontages) is very important here. In order for this scheme to be a success the mill should be retained, but at the very least The Grange and its associated structures, should be preserved and supported by new forms that are both distinctive and high quality and that contribute to the sense of place of the area.

2.21 **Council's Contaminated Land Consultants** – Satisfied that the Stage 2 investigation is compliant and agree with the report's recommendations and conclusions. Following an asbestos survey the Mill would need to be fully demolished which would allow further sampling to be carried out; in addition removal of fuel tank (and verification that remaining soils are clean) and bio-accessibility analysis will need to be carried out. This further investigation will need to be submitted for approval before the relevant condition can be fully discharged and then the remediation statement (amended if necessary) can be submitted for final approval from the planning authority.

2.22 **Neighbour Summary**

The proposal was publicised by site notice and press notice and direct neighbour notification. A number of letters of objection, support and comment have been received as follows:

Objections

Services

- Additional stress and pollution to the village – Eggborough has reached capacity due to a further 167 dwellings which have permission/are being built
- Impact on sewage system and surface water
- Limited space in existing school with little potential for additional children and Doctor's surgery is open for very limited times due to shortage of Doctors
- Additional populous would push Eggborough to the size of a town
- Overdevelopment of village has stretched resources and increased demand on already pressured system

Highways/Parking/Amenity

- Impact on highways due to additional vehicles; speeding vehicles and reduced bus service, along with poor rail services
- Level of vehicle activity would be too much for one access road

- Access on Croysdale Lane is in a poor state of repair because of potholes which is causing cracking to our property – additional dwellings and traffic will exacerbate this
- Proposal presents an opportunity to improve Croysdale Terrace access road
- Would impact on amenity of Croysdale Terrace (which is currently very quiet and with no traffic) because of the amount of additional through traffic and general disturbance
- If the lane is connected to Croysdale Terrace it will become a 'rat race' (run) for vehicles and pedestrians

Amenity/Noise

- Possible alternative of closing Croysdale Lane to traffic may cause issues in regards to anti-social behaviour

Design/Layout/Amenity

- Not in keeping with the feel of the village as the beautiful building to site frontage would be lost
- Overlooking to my property
- 120 houses is excessive in light of recent developments
- Part of Bowman's Mill and all of the Grange should be retained as is a huge part of the village due to several generations of families being employed there

Disturbance

- Siting of pumping station close to No. 11 Croysdale Terrace is unacceptable as there is already a lot of noise from adjacent industrial estate and there is potential for additional noise from this in addition to potential odour. 15m easement would be given to residents of the site but not to me.
- Position of play area raises concerns
- Access to a Public Open Space via an opening in the existing brick wall directly opposite No. 10
- Local policing teams unable to control increasing levels of anti-social behaviour – further funding and services are needed first

Drainage

- Pond on site which helps with absorption of rainwater would be lost and would impact on surface water

Comments

Trees/Ecology

- Potential bat roost within the site
- Trees and hedges to boundaries and within site should remain as they support a range of wild life including mammals, birds, insects, butterflies and amphibians
- Black Poplars a native and declining tree are found in the grounds
- Pond also supports a lot of wildlife including Water Hens, Coots, Frogs, Toads and Grass Snakes

General

- Expects good affordable housing
- Given local resources and snagging /completion issues with 'The Granary' development require confirmation that the build will not proceed until this is completed and that the level of local services can cope with additional demands
- Should the development be approved would expect works to be carried out with consideration for existing residents at reasonable times and consistent with industrial units

Support

- Excited at the prospect of Bowman's Mill being kept.

3 SITE CONSTRAINTS AND POLICY CONTEXT

1 Constraints

3.1 The site is not within a Conservation Area, nor are there any Listed Buildings on site. There are no known areas of archaeological interest within the site. There are no Tree Preservation Orders (TPOs). The site is located within Flood Zone 1 in regards to flood risk.

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

3.2 The National Planning Policy Framework (February 2019) replaces the NPPF published in March 2012. The Framework does not change the status of an up to date development plan and where an application conflicts with such a plan, permission should not usually be granted (para 12). This application has been considered against the 2019 NPPF.

Selby District Core Strategy Local Plan

3.3 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
SP7 Managing Housing Land Supply
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

3.4 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework:

"213. ……existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, 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)."

3.5 The relevant Selby District Local Plan Policies are:

ENV1 Control of Development
ENV2 Environmental Pollution and Contaminated Land
ENV28 Archaeology
RT2 Open Space Requirements
T1 Development in Relation to Highway
T2 Access to Roads

Other Policies/Guidance

3.6 The following are considered relevant:

- Affordable Housing Supplementary Planning Document 2013
- Developer Contributions Supplementary Planning Document March 2014

4. APPRAISAL

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

- Principle of Development
- Landscape, Design and Visual Impact
- Non-Designated Heritage Assets
- Residential Amenity
- Highway Impact
- Ground Conditions
- Ecology
- Flood Risk, Drainage, Climate Change and Energy Efficiency
- Affordable Housing
- Recreational Open Space
- Education, Waste & Recycling
- Other Matters

Principle of Development

4.1 The proposal is for outline permission to include access (all other matters reserved) for the erection of up to 120 dwellings and associated car parking, garages, landscaping, open space and details of demolition and removal of all structures, buildings and hard standing to facilitate future development. An indicative layout plan has been submitted which demonstrates how the site could accommodate up to 120 dwellings.

4.2 Policy SP1 of the Selby District Core Strategy SDCS) 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 11 of the new National Planning Policy Framework (NPPF). Paragraph 12 of the NPPF re-emphasises that the Development Plan is the starting point for decision-making, adding that where a planning application conflicts with an up-to-date Development Plan it should not usually be granted, unless there are material considerations which outweigh policy (para. 47). Paragraph 38 of the NPPF encourages the approval of applications for sustainable development where possible and Paragraph 59, aims to support the Government's objective of significantly boosting the supply of housing by bringing forward a variety of land for development.

4.3 Core Strategy Policies SP2 and SP4 direct the majority of new development to the Market Towns and Designated Service Villages (DSVs), restricting development in the open countryside. This approach accords with the advice in paragraph 78 of the NPPF which advises that housing should be located where it would enhance and maintain the vitality of rural communities and identify opportunities to grow, particularly where such development supports existing local services.

4.4 The proposed site is unallocated in the Core Strategy but it is within the Development Limits of Eggborough. In the Core Strategy settlement hierarchy, Eggborough and Whitley have been identified as Designated Service Villages, where there is scope for additional residential development and small scale employment growth to support rural sustainability.

4.5 Policy SP4 allows for conversions, replacement dwellings, redevelopment of previously developed land, and an appropriate scale of development on Greenfield land (including garden land and conversions/redevelopment of farmsteads).

4.6 The Core Strategy seeks to ensure that the level of housing growth is equal with that of employment and job growth with the aim of creating sustainable communities. Policy SP4 reflects the National Planning Policy Framework (NPPF) by identifying acceptable types of residential development within the different settlement types in regards to windfall (non-allocated) sites. The preamble to Policy SP4 specifically states that restrictions on housing growth in DSVs (as well as the Principal Towns) will be relaxed and therefore enabling appropriate scale development on Greenfield sites with the aim of sustaining their roles in every sense.

4.7 This proposal would involve the redevelopment of Previously Developed Land (PDL) comprising the Bowman's Flour Mill and associated hardstanding areas together with the development of an area of Greenfield land. Consideration should therefore be given as to whether the scale of development on Greenfield land is of an appropriate scale. The full extent of the red line of the application site extends to a total of 4.86 hectares.

4.8 Officers can confirm that approximately 60% of the site comprises the derelict flour mill with associated hard standings, with more derelict buildings beyond the mill, to the south. Other areas comprise of previous uses which are partially covered by trees and include a former bone mill and railway and both areas equate to approximately 3.15 hectares of land. The land has never been remediated in regards to localised contamination from its former uses as a railway, bone mill and flour mill and associated development. The majority of the woodland area to the south comprises open pockets of unstable land and results in the trees being of relatively poor quality. In addition, there are two tall brick structures (approx. 4m

high) still standing within the wooded area, with a number of loose bricks compacted within the soil at the base of many of the tree trunks and roots, which in many cases are exposed.

4.9 Officers consider that at Reserved Matters stage a scheme could come forward which would make efficient use of Previously Developed Land and would also include areas of green open space which would be in compliance with Policy SP4 of the Core Strategy.

4.10 It is important to note that whilst the site was formerly used for employment, it was not allocated as such in the Local Plan. A statement accompanies the submission which advises that there is no reasonable prospect of the site being used for employment purposes. This includes options considered by the applicant to utilise the existing site to build new business premises and the steps taken to sell the business - which was put on the open market as a going concern with no offers put forward.

4.11 Furthermore, the proposal would effectively restore this brownfield site with plans in place to deal with both contamination and the unstable land and would result in the added benefits of improving biodiversity, landscape character and appearance of the site as a whole. On this basis, the proposal would provide wider public benefits which go beyond the provision of housing. The NPPF in paragraph 118 supports the remediation and mitigation of despoiled, degraded, derelict, contaminated and unstable land, where appropriate. Officers consider that the redevelopment of this site would have such environmental benefits.

Landscape, Design and Visual Impact

4.12 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. In addition Policy SP8 of the Core Strategy requires an appropriate housing mix to be achieved. Paragraph 125 of the NPPF states a requirement of plans setting out a clear design vision in order that applicants have a fixed vision on what is acceptable. Paragraph 127 (e) of the NPPF highlights the importance of sites having an appropriate mix of development (including green and other public space).

4.13 The application is outline with layout, appearance, scale and landscaping reserved for future consideration. Notwithstanding this the indicative layout plan has been submitted which illustrates how the applicant considers the site could accommodate up to 120 dwellings with provision for internal access roads and parking provision. The character and appearance of the local area is varied comprising a wide range of house types, development forms and materials. In the immediate area however there are several properties adjacent to the proposed development to the northeast, which are set back from the main frontage onto Selby Road. The Planning Statement advises that whilst the submitted layout plan is indicative with details to be included at Reserved Matters stage, it indicates that there would be up to 120 residential dwellings which would be up to a maximum of three-storey.

4.14 Having regard to landscaping of the scheme a preliminary Arboricultural Report and Arboricultural Impact Assessment has been submitted with the application. The Assessment advises that all of the trees within the site were inspected from ground level but no climbed inspections or decay detection surveys were undertaken.

4.15 The Council's Principal Landscape Architect has made extensive and detailed comments in regards to the proposal, some of which refer to the overall layout of the scheme as well as the landscaping.

4.16 With regards to landscaping this would be considered under a Reserved Matters application but it is noted that parts of the site particularly to the south and northwest areas benefit from substantial tree coverage. Unfortunately, many of these trees are of poor quality due to the uneven and unstable nature of the land. Any proposed landscaping scheme should however ensure that as many of the trees are retained (where possible) and a high quality landscaping scheme to compensate for the loss of any trees within the site is included. Officers consider that the site boundaries have an extensive level of additional indigenous tree and hedgerow planting which would assist in mitigating the visual impact of the development as well as improving the landscape quality of the locality.

4.17 Officers consider that suitable provision for landscaping could be provided for the development as part of the Reserved Matters application and a layout could be achieved which would result in an appropriate level of green infrastructure and landscaping across the site. On this basis it is considered the proposal is in accordance with Policy ENV1 (4) of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

Non-Designated Heritage Assets

4.18 Paragraph 197 (NPPF) refers to the impact of development on non-designated heritage assets and taking into account such assets when determining an application. It advises that a balanced judgement is required with regards to the scale of harm or loss and the significance of the heritage asset.

4.19 The applicants have submitted a Heritage Statement which describes the existing buildings within the site. The mill buildings are the most dominant and comprise of two 19th century brick built, buildings which are separated by the existing site access road. The Assessment makes reference to the proposal advising that there are no designated heritage assets within the site itself.

4.20 The Conservation Officer refers to the NPPF advising that the impact of development on existing non-designated heritage assets should be considered. In addition, the Conversation Officer raises concerns in regards to the demolition of the buildings which have historic and local interest.

4.21 The Council's Urban Design Officer's response reiterates the Conservation Officers' comments and advises that the scheme should attempt to '*reinforce the distinctiveness'* of the Selby district. The response highlights that this site is something of a '*Gateway*' into the district, hence why design quality would be so important and stipulates that if the former mill buildings were converted (flats/apartments) and The Grange retained, this could create a strong impression of what the district has to offer.

4.22 The applicants have commissioned consultants Cushman & Wakefield to undertake a viability appraisal which has confirmed that the site is not within an established area of demand for apartments. Cushman and Wakefield further advise that £ per sq m revenues would need to be discounted from the revenues advisable for traditional housing. In addition, they have advised that the base costs of refurbishing the existing mill and coach house would be higher than the cost of new

build development and as such would further adversely impact on existing viability already presented to the District Valuer. Given this evidence submitted by the applicant, Officer's on balance consider that it would not be viable for these mill buildings to be retained as part of the proposed scheme.

4.23 An Archaeological Desk-based Assessment of the site has been undertaken to assess any potential archaeological and heritage implications and impacts of the application proposals.

4.24 The geophysical survey and trial trenching to the north of the site suggest that there are medieval settlement remains in close proximity to the site. The cartographic evidence suggests that the settlement did not extend this far in the medieval period. Cropmarks and wider settlement activity linked to the Iron Age and Roman periods suggest this was a relatively compact landscape at the time and it is not possible to categorically rule out the presence of remains of this period surviving within the site. Any remains of this period are likely to be of local or regional significance. The report considers however the previous uses of the site which have resulted in extensive disturbance, particularly regarding the Corn and Bone Mill, associated infrastructure and ponds.

4.25 The North Yorkshire County Council Archaeologist having viewed the submitted Assessment advises that the existing mill building is a heritage asset of local interest and that an historic building recording condition is included should permission be granted. Subject to implementation of the condition, it is considered that the proposal is acceptable in this regard.

4.26 The NPPF requires that a balanced judgement be made regarding the possible impact of development on the significance of a non-designated asset and having regard to the scale of any harm and the significance of the asset. Clearly the development would result in the loss of the non-designated assets, which is regrettable. However Officers do consider that that there are clear benefits in the development of overall scheme such as restoring this brownfield site. Given the nature of the assets concerned it is considered that, on balance, any harm to the non-designated assets would be outweighed by the benefits of the proposal to the full extent of the site and an appropriately worded planning condition would be included in an approval in order to secure the mill building's recording.

Residential Amenity

4.27 Policy in respect to impacts on residential amenity and securing a good standard of residential amenity are provided by SDLP Policies ENV1 (1) and ENV2 and Paragraph 127(f) of the NPPF which encourages the creation of places which are safe, inclusive and accessible, promoting well-being '*with a high standard of amenity.'* As the application is in outline form, layout and the consequent impact on neighbouring properties will be a matter for future consideration. However, given the land available and the applicants anticipated mix of detached and semi-detached houses, there is no reason to think that an acceptable layout that respects existing properties cannot be achieved on the site. Furthermore, the indicative layout plan generally demonstrates that acceptable separation distances could be achieved between the existing and proposed dwellings in order to ensure that a good level of amenity is maintained.

4.28 The Council's Environmental Health Officer (EHO) has been consulted on the proposals and provided comments in regards to air quality and noise. The EHO has

advised that the submitted Air Quality Assessment (AQA) predicts that impacts arising from the development would not result in unacceptable risks from air pollution. The EHO has therefore recommended conditions are attached to any permission granted in relation to the demolition and construction phase through a Construction Environmental Management Plan.

4.29 In respect of noise across the site, the submitted AQA advises that this is dominated by road noise from traffic on Selby Road and there is also the industrial area beyond the rail track. The EHO also noted on site that noise from the mill operations to the south of the railway line were indistinguishable from the traffic noise from the M62 and local road network and hence no further request is made for a BS4142:2014 assessment.

4.30 It has also been highlighted in the EHO response that the eastern area of the site is subject to noise from the A19 to varying degrees. The EHO has recommended that in order to adequately protect the residents from noise a scheme is put forward to protect the new residential properties from traffic and pumping station noise specifically and that a Construction Environmental Management Plan (CEMP) condition is required.

4.31 The comments, concerns and objections from existing adjacent residents in regards to noise and general disturbance, are material considerations but as the application includes an indicative layout plan, other than the access details, none of the other specifics of the scheme are under consideration at this stage. The matters raised are matters that will be considered at RM stage.

4.32 Subject to acceptable detailed plans at Reserved Matters stage and conditions attached to any permission granted, Officers consider that the proposal would not result in any significant impact on neighbouring properties in accordance with Policy ENV1 (1) of the Selby District Local Plan and SP19 (k) of the Core Strategy and the provisions of the NPPF.

Highway Impact

4.33 Policy in respect to highway safety and capacity is provided by SDLP Policies ENV1 (2), T1 and T2 and Core Strategy Policy SP15. The aims of these policies accord with paragraph 108 (b) of the NPPF states that development should ensure that safe and suitable access can be achieved for all users to a site. In addition paragraph 109 which advises that development should only be refused (on highway grounds) where it would result in an unacceptable impact on highway safety.

4.34 Objections from neighbours refer to through traffic onto Croysdale Terrace and the impact on residents along this lane. An access is shown linking the proposal site to Croysdale Terrace but this is to facilitate pedestrian and cycle traffic only and the outline proposal is to consider means of access only and that the site plan is indicative. Further objections from neighbours advise that the levels of vehicle activity would be too much for one access. Objections relating to the state of Croysdale Terrace should be reported to the Highways Section but if the road is not adopted then residents would be responsible for its maintenance and repair and therefore a civil matter.

4.35 A Transport Assessment was submitted (now updated following comments from NYCC Highways) with the proposal which measures the impact of the development traffic on the local highway network, including detailed modelling of key junctions. The junctions modelled are as set out in the scoping discussions held with North Yorkshire County Council (NYCC) Highway Officers. This also includes access options including public transport, cycle routes and pedestrian facilities.

4.36 The design includes a new junction onto Selby Road which would be sited between and opposite Carlton Close and the Village Hall car park. In addition a 2m wide pedestrian access would continue within site. Due to unresolved matters in regards to the access, a further re-consultation was sent to the County Highways Officer (NYCC). This Officer stated that there should be no private drives taken from the main access. Amendments have however, been made to the access, which are now deemed to be acceptable and which would not have an adverse impact on the highway network or compromise highway safety. As such the proposal is acceptable in highway terms and accords with Policies T1, T2 and ENV1, in addition to the NPPF.

Ground Conditions

4.37 Paragraph 178 (a) of the NPPF states that development sites should be suitable for the proposed use taking account of ground conditions and risks arising from unstable land and contamination.

4.38 Following comments from the Contaminated Land Consultant (CLC) on the Phase I Preliminary Risk Assessment (PRA) which advised that the submitted information did not provide risk assessment with risk classifications to show potential risks from each contaminant pathway. A Stage 2 Geo-Environmental Report dated 8th June 2019 was submitted. The application site has been divided into five districts: Area A-former corn mill and underground tank; Area B-rough ground with railway tracks, ash deposited; Area C-office building, including pond and electric substation; Area D-dense woodland, historic pond; Area E-fields (undeveloped). Targeted sampling has been carried out in these distinct areas, thirty trial pits were excavated, four cable percussive boreholes drilled to circa 9m depth and eight window samples which were analysed for metals, inorganics, speciated PAH (poly aromatic hydrocarbons – ashy deposits); TPH (total petroleum hydrocarbons – oil/fuel deposits);, phenols and asbestos. Elevated determinants were subject to leachability analysis and visually contaminated material for TPH and BTEX (petrol and diesel deposits).

4.39 All areas except C contained various levels of a mixture of contaminants including asbestos, lead and arsenic. However a Contamination Remediation Statement is included within the ARP Stage 2 Geo-Environmental Report. Remedial measures refer to 0.6m clean cover soils (underlain by a break layer) to soft Areas A and B, removal of below ground tank and associated impacted material from Area A, 0.6m clean cover soils in soft areas on Area D and either removal of topsoil from Area E or retention in POS areas only (subject to arsenic bio-accessibility). Further sampling and testing is recommended within building footprints of the existing mill

following demolition. The Remediation Statement may need to be revised, depending on this further investigation/sampling.

4.40 The CLC's comments advise that the Stage 2 Geo-Environmental Report is compliant and agrees with the recommendations and conclusions. But adds that further sampling to be carried out following the demolition of the Mill; in addition removal of fuel tank (and verification that remaining soils are clean) and bio-accessibility analysis will need to be carried out. This further investigation will need to be submitted for approval before the relevant condition can be fully discharged and then the remediation statement (amended if necessary) can be submitted for final approval from the planning authority. Conditions are recommended ensuring a more in-depth Preliminary Risk Report is submitted for review and designed in accordance with the appropriate technical guidance. Subject to appropriate conditions, the proposals are considered to be acceptable and in accordance with paragraph 178 (a) of the NPPF with respect to contamination.

Ecology

4.41 Protected Species include those protected under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration. Relevant policies in respect of nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 of the Core Strategy which accord with paragraph 170 of the NPPF.

4.42 Point d) of Paragraph 170 (NPPF) recognises the need for the planning system to contribute to and enhance the natural and local environment by recognising the wider benefits of ecosystems and minimising impacts on and providing net gains in relation to biodiversity.

4.43 The application site is not a formal or informal designated protected site for nature conservation; known to support, or be in close proximity to any site supporting protected species or any other species of conservation interest.

4.44 The application is accompanied by a Bat Survey Report undertaken by Wardell Armstrong and dated 17th July 2017.

4.45 Yorkshire Bat Group has advised there are no objections to the development which concurs with Yorkshire Wildlife Trust who recommend a number of conditions. These relate to the control of Himalayan Balsam; plans to ensure no impact on reptiles and design and management of habitats to be left on site. In addition, Mitigation, Compensation and Enhancement as referred to in the Bat Survey Report which would be conditioned, particularly design of light sensitive lighting scheme; installation of bat boxes and woodland management and culvert design.

4.46 A Breeding Bird Survey Report (July 2017) accompanies the proposal which identifies various breeding birds observed on the site. The report makes

recommendations for ecological enhancement through the provision of at least twenty bird nest boxes as well as a single Barn Owl pole mounted nest box sited within the retained woodland area, which would be secured by condition. It is considered that such conditions would provide net gains in relation to biodiversity which will be further enhanced by a strategic landscape proposal around the site. 4.45 As such the proposal accords with Policy ENV1(5) (SDLP); Policy SP18 (SDCS) and the advice contained within the NPPF.

Flood Risk, Drainage, Climate Change and Energy Efficiency

4.47 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. Criterion d) of Policy SP15 (SDCS) applies in respect of ensuring development is located which avoids flood risk areas. Footnote 50 in relation to paragraph 164 states that an assessment is required for sites of 1ha or more, particularly where (in this instance) development would introduce a more vulnerable use.

4.48 A neighbour objection received in regard to the impact of the proposed development on the existing sewage system is noted.

4.49 The full extent of the application site is situated within Flood Zone 1, and therefore being at low risk in regards to flooding. The submitted Flood Risk Assessment (FRA) advises that surface water would be incorporated within the site and storage would be via a below ground concrete storage tank, situated to the southern end of the site and below the larger area of Public Open Space. Due to the site topography and shallow connection points, a pumped system would be required for both foul and surface water. Part of the existing woodland rendered unstable by rooting into remains of the former bone mill located in this area would be removed to accommodate the tank. The FRA adds that in the unlikely event that overland flood flows result, flow would be routed via the site roads to the low points within the site; area of Public Open Space and watercourse.

4.50As infiltration is not an option, surface water would discharge into Sleights Drain (with foul water discharging to the public sewer in Croysdale Terrace) and the Internal Drainage Board's (IDB) consent would be required for this. The IDB have also made a number of recommendations with regards to surface water and in respect of the water flow for permeable and impermeable areas.

4.51 Following the submission of an updated FRA, the Sustainable Urban Drainage Officer (SUDs) advises that matters relating to urban creep and designing for exceedance (flow routing) have been addressed in principle. The SUDs officer advises however that the proposed grit/oil interceptor is unlikely to meet adoption requirements and that the details would need to be approved by the Local Authority. A condition requiring surface water drainage details is referred to in the response. Therefore Officers consider the proposal acceptable in regards to flood risk and drainage providing appropriate conditions are attached to any permission granted.

4.52 With respect to energy efficiency, the supporting Energy Statement demonstrates that the proposed enhanced fabric specification reduces average Energy Demand on the site by a total of 11.36% over the 2013 Building Regulations. In order to comply with the specific requirements of Policies SP15 and SP16 of the Core Strategy which require that 10% of total predicted energy should be from renewal, low carbon or decentralised energy sources or improved energy efficiency through design of building, a condition should be imposed in order to ensure compliance with Policies SP15 and SP16 of the Core Strategy and the relevant advice in the NPPF.

Affordable Housing

4.53 Policy SP9 of the Core Strategy and the accompanying Affordable Housing Supplementary Planning Document (adopted on 25 February 2014) sets out the affordable housing policy context for the District. Policy SP9 outlines that for schemes of more than 10 units (or sites of 0.3 ha or more) the Council should negotiate for on-site provision of affordable housing up to a maximum of 40% of the total amount of new dwellings on all market housing sites.

4.54 A Viability Assessment has been submitted with the proposal which has been viewed by the District Valuation Surveyor (DVS) and shows an inadequate margin of profit due in part to the abnormal costs on this site, which currently equates to the provision of a null contribution. The applicant has however confirmed that that they are agreeable to reassessing the level of affordable housing provision at Reserved Matters stage with a view to submitting a policy-compliant scheme. The proposals are therefore considered acceptable with respect to affordable housing provision having regard to CS Policy SP9 and subject to the satisfactory completion of a Section 106 Agreement.

Public Open Space

4.55 Policy RT2 of the Selby District Local Plan requires proposals for new residential development comprising 5 or more dwellings to provide recreational open space. Policy SP19 criterion e) (SDCS) is the relevant policy on open space which provides that development should incorporate new and existing landscaping. Policy RT2 (SDLP) criterion c) sets the threshold for the provision of open space and residential developments of 50 dwellings or more, provision within the site is normally required, unless there are deficiencies elsewhere within the settlement which allows for both on and off-site provision. The Supplementary Planning Document for Developer Contributions and Policy RT2 states a requirement at the minimum standard of provision as suggested by the National Playing Fields Association (NPFA) of 2.4 hectares (ha) per 1,000 population would be required. The average occupancy rate being 2.5 persons per dwelling which equates to 60sqm of open space per dwelling to be provided on site albeit at this outline stage it is not possible to assess the amount of open space required.

4.56 With regards to existing provision Eggborough there is a current total of three areas of outdoor recreation space and the submitted plans indicate that the main area of ROS would be located to the southern corner of the site, adjacent to the A19 and adjoining the Pontefract railway; with a smaller area to the western corner, part of which fronts Selby Road. The total provision demonstrated equates to 9,216sqm (0.9216 ha). The plans are however indicative, therefore this could change significantly at Reserved Matters stage. It is considered however that the indicative layout demonstrates that a policy compliant level of POS could be provided on site.

4.57 Should the application be approved, POS would be secured and provided in perpetuity by way of a Section 106 Agreement which complies with policies RT2 and SP19.

Education, Waste & Recycling

4.58 Concerns have been raised by a resident with regards to the existing capacity of the local school which the objector states has little potential for additional children.

4.59 Previously, funding for additional education facilities were secured through a Section 106 Agreement. The Community Infrastructure Levy (CIL) is a relatively recent tariff system which has replaced this method where local authorities charge on new development in their area by setting a charging schedule based on floor area.

4.60 With respect to Waste and Recycling a contribution of £65 per dwelling would be required and this would therefore be secured through a Section 106 Agreement. The Council's Waste and Recycling Officer in their response also makes recommendations in regards to the within site road layout. Such details would be further scrutinised at Reserved Matters stage.

Other Matters

4.61 A number of objections and general comments have been submitted by neighbours surrounding and adjacent to the site.

4.62 One resident advises that there would be further pressure on the doctor's surgery which is only open in the morning. The surgery is indeed open between 8.30am and 12.45pm Monday to Friday. It is likely however that these hours are based on local demand and such comments are not a material consideration in regards to the principle of this development.

4.63 Objections from neighbouring residents which are critical of the indicative, submitted layout plan and retention of Bowman's Mill are duly noted. In addition, objections relating to overlooking are purely conjecture. A letter has also been received from a resident who is thrilled at the prospect of the Mill being retained. Unfortunately however, this is unlikely to form part of any future scheme as refurbishment would be too costly.

5. CONCLUSION

5.1 The application site comprises a Brownfield site (with an associated Greenfield element) which is no longer in use, currently derelict and degrading. The site is located within the Development Limits of Eggborough which is a Designated Service Village (DSV) and would not result in external expansion of the settlement. Furthermore, a material consideration to this decision is that the development and remediation of this derelict site would provide wider public benefits, which go beyond the provision of housing.

5.2 Paragraph 119 of the NPPF highlights the importance of local planning authorities taking a proactive role in ensuring land suitable for development is brought forward. The proposed development, due to its location and scale would read as a natural extension to the village in part due to the existing surrounding residential sites and would result in an appropriate addition. Whilst in outline the proposal takes into consideration the impact on the immediate locality in terms of highway safety, which has been achieved. The proposal could, subject to an appropriate site layout, scale, appearance and landscaping, achieve a successful form of development which respects the local character and form. On this basis and subject to the submission of acceptable details, the principle of development is accepted.

5.3 The proposal would therefore accord with the overall aims of the Core Strategy and Local Plan in regards to achieving sustainable patterns of growth and the general principles relating to sustainable development contained within the NPPF.

6. Recommendation

6.1 That the proposal is GRANTED subject to a Section 106 Agreement and subject to the following conditions:

01. No development shall commence until details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") have been submitted to and approved in writing by the local planning authority.

Reason: To ensure compliance with Section 91 of the Town and Country Planning Act 1990 as amended.

02. Application for the approval of the reserved matters shall be made to the local planning authority before the expiration of two years from the date of this permission.

Reason: To ensure compliance with Section 91 of the Town and Country Planning Act 1990 as amended.

03. The development hereby permitted shall be begun before the expiration of one year from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved..

Reason: In the interests of amenity having regard to Plan Policy ENV1.

04. The development hereby permitted shall be carried out in accordance with the following approved and dated plans and documents:

0000-0003 Rev B - Location Plan as received on 18.05.2017
001/Rev 2 – Access details (amended) as received on 03.06.2019
Arboricultural Report & Arboricultural Assessment dated 05.05.2017
Stage 2 Geotechnical Report (Ref: JBS/01r1 dated 08.06. 2018)
Preliminary Ecological Appraisal (May 2017) prepared by Wardell Armstrong (November 2016)
Bat Survey Report prepared by Wardell Armstrong (July 2017)
Bird Survey Report prepared by Wardell Armstrong (July 2017)
Flood Risk Assessment 70027703-FRA-001 Revision 1 dated 04.05.2017

Reason: For the avoidance of doubt.

05. A) No demolition/development shall 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. 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 secured.

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

06. Prior to construction, 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;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

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

07. Prior to construction, 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.

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

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

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

09. In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

10. No development shall commence in relation to approved reserved matters for any dwelling 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) The proposed highway layout including the highway boundary
(b) Dimensions of any carriageway, cycleway, footway, and verges
(c) Visibility splays
(d) The proposed buildings and site layout, including levels
(e) Accesses and driveways
(f) Lining and signing
(g) Traffic calming measures
(h) All types of surfacing (including tactiles), kerbing and edging.

(2) Full highway construction details including:

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

(3) Details of all proposed street lighting.

The development of each individual plot shall thereafter only be carried out in full compliance with the approved drawings and details.

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

11. Development shall not commence in respect of each of the approved reserved matters phases until a Construction Management Plan to include the following:

- Hours of construction working
- On-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway
- On-site materials storage area capable of accommodating all materials required for the operation of the site
- Mitigation and monitoring in respect to the construction works relating to that part of the site including any construction works to its access.

The approved plan shall be implemented throughout the construction phase of that part of the site to which the plan relates.

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

12. Development shall not commence in relation to the approved reserved matters until the following drawings and details have been submitted to and approved in writing by the Local Planning Authority:

- A swept path diagram which shows that waste collection vehicles will be able to turn safely.

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

13. No development shall take place on site until a Method Statement for the removal and eradication of from the site to include the following:

- Location(s) of Himalayan Balsam
- Methods to destroy and eradicate Himalayan Balsam

has been submitted and approved in writing by the Local Planning Authority.

Reason: This pre-commencement condition is imposed in accordance with policies ENV1 (SDLP) and SP19 (SDCS) and in the interests of biodiversity.

14. No development shall take place on site until details of a hard and soft landscaping scheme to provide for the following:

- Structural screen planting to boundaries with A19 and the railway, with the option to incorporate an acoustic barrier as necessary.
- Protect and enhance hedgerows to the northeast boundary incorporating rural boundary fencing treatment where appropriate (rather than close boarded fencing).
- Street trees, soft landscape and Public Open Space (POS) along key access roads (the current strategy is not adequate). Sufficient space should be given to accommodate soft landscape and larger street trees.
- Retention and rebuilding of the garden brick boundary wall and entrance feature along Selby road frontage and Croysdale Terrace

has been submitted to and approved in writing by the Local Planning Authority. The scheme shall indicate species, plant and tree sizes and proposed numbers/densities and shall be carried out as approved within the first planting season following the first occupation of the development or the completion of the development whichever is the sooner. Any plants or trees which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason: This pre-commencement condition is imposed in accordance with policies ENV1 (SDLP) and SP19 (SDCS) and in the interests of the visual amenities of the area.

15. The applicant shall install a three pin 13 amp electrical socket in the garage of each dwelling which is in a suitable location to enable the charging of an electric vehicle using a 3m length cable.

Note: Any socket provided must comply with BS1363 or an equivalent standard, Building Regulations and be suitable for charging electric vehicles.

Reason: In the interests of sustainable development

16. The applicant shall install a three pin 13 amp external electrical socket which is suitable for outdoor use. The socket shall be located in a suitable position to enable the charging of an electric vehicle on the driveway using a 3m length cable.

Note: Any socket provided must comply with BS1363, or an equivalent standard, Building Regulations and be suitable for charging electric vehicles. Sockets should also have a weatherproof cover and an internal switch be provided inside the property to enable the socket to be turned off.

Reason: In the interests of sustainable development.

17. No development shall take place until there has been submitted to, and approved in writing by the Local Planning Authority a scheme to protect the new residential properties from traffic noise. The scheme shall detail the noise levels to affect the properties and the mitigation measures to be employed to reduce the noise to acceptable levels. The agreed scheme shall be implemented throughout the life of the development.

Reason: In the interests of neighbour amenity.

18. No development, including demolition, shall take place until there has been submitted to and approved in writing by the Local Planning Authority a Construction Environmental Management Plan. The Plan shall include details of how noise, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated.

The construction of the development shall be completed in accordance with the approved Plan unless any variation has been approved in writing by Local Planning Authority. Measures may include, but would not be restricted to:

i) On site wheel washing,
ii) restrictions on use of unmade roads,
iii) agreement on the routes to be used by construction traffic,
iv) restriction of stockpile size (also covering or spraying them to reduce possible dust),
v) targeting sweeping of roads,
vi) minimisation of evaporative emissions and prompt clean up of liquid spills,
vii) prohibition of intentional on-site fires and avoidance of accidental ones,
viii) control of construction equipment emissions and proactive monitoring of dust.
ix) The plan should also provide detail on the management and control processes.

Reason: To protect the amenity of the area, the environment and local residents from noise, vibration and pollution.

19. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme to control odour and noise from the pumping stations to be located on the site. The scheme shall detail the odour and noise emissions from the pumping stations, impact on residential properties and mitigation to be implemented.

The agreed scheme shall be implemented throughout the life of the development.

Reason: In the interests of sustainability and residential amenity.

20. 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 run-off 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 (subject to minimum practicable flow control). 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).

Reasons: 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.

21. The development shall be carried out in accordance with the details shown on the submitted Flood Risk Assessment (prepared by WSP - Report 70027703-FRA-001 Revision 1 dated 04/05/2017),unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interest of satisfactory and sustainable drainage

22. The development hereby permitted shall be implemented in strict accordance with the mitigation measures specified in pages 21-22 of Section 4.5 (Mitigation, Compensation and Enhancement) of the submitted Bat Survey Report prepared by Wardell Armstrong (July 2017) and pages 29-32 of Section 4 of the Preliminary Ecological Appraisal (May 2017) prepared by Wardell Armstrong (November 2016).

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010.

23. The development hereby permitted shall be implemented in strict accordance with the mitigation measures specified in pages 15-16 of Sections 5 & 6

(Mitigation, Compensation and Enhancement) of the submitted Breeding Bird Survey Report prepared by Wardell Armstrong (July 2017).

Reason: To ensure that all wild birds are protected having regard to the Wildlife and Countryside Act 1981 (as amended) and the requirements of the National Planning Policy Framework (NPPF).

24. Prior to occupation of the dwellings hereby approved, details of a reduction of energy consumption of 10% across the development as a whole shall be secured through a combination of a 'fabric first' approach and renewable or low-carbon energy sources; and agreed with the local planning authority. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be first submitted to and approved in writing by the Local Planning Authority. Works shall thereafter be implemented in accordance with the approved details and maintained and retained thereafter.

Reason: n the interests of sustainability, climate change; improving resource efficiency and carbon reduction through reduced energy consumption.

25. No construction works shall take place on site outside of the hours of 8am to 6pm Monday to Friday, 9am to 1pm Saturday or at all on Sundays or Bank Holidays.

Reason: In the interests of the residential amenities of the area and in order to comply with Policy ENV1 of the Selby District Local Plan.

INFORMATIVES

Foul Drainage - A mains connection has been proposed for foul drainage disposal. The applicant/agent is advised that, prior to determination, it is necessary to ensure there is capacity in both the receiving sewer and sewage treatment works to accommodate the discharge proposed. Please contact the sewerage undertaker, to attain this information. If capacity is not available, an alternative means of foul drainage disposal may need to be explored or improvement works to resolve the capacity issue secured as part of the planning permission.

Surface Water - No obstructions within 9 metres of the edge of a watercourse are permitted without Consent from the IDB.

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

Outfall - The landowners consent will be required for the construction of a new outfall structure and consent from the IDB would be required should surface water

be discharged to a watercourse and would be restricted to 1.4 litres per second per hectare or greenfield run-off.

Himalayan Balsam - It is an offence under Section 14 of the Wildlife and Countryside Act 1981 to allow Himalayan Balsam into the wild. Due to the rapid invasion of this species and potential harm to indigenous species a suitable method of control and eradication will be required. If the eradication involves the use of chemicals close to a waterway, you are advised to contact the Environment Agency before undertaking any such works: www.gov.uk/government/organisations/environment-agency

7. Legal Issues

7.1 Planning Acts

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

7.2 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.

7.3 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

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

Background Documents

7.5 Planning Application file reference 2017/0542/OUTM and associated documents.

Contact Officer:
Mandy Cooper, Principal Planning Officer
mcooper@slby.gov.uk

Appendices:
None

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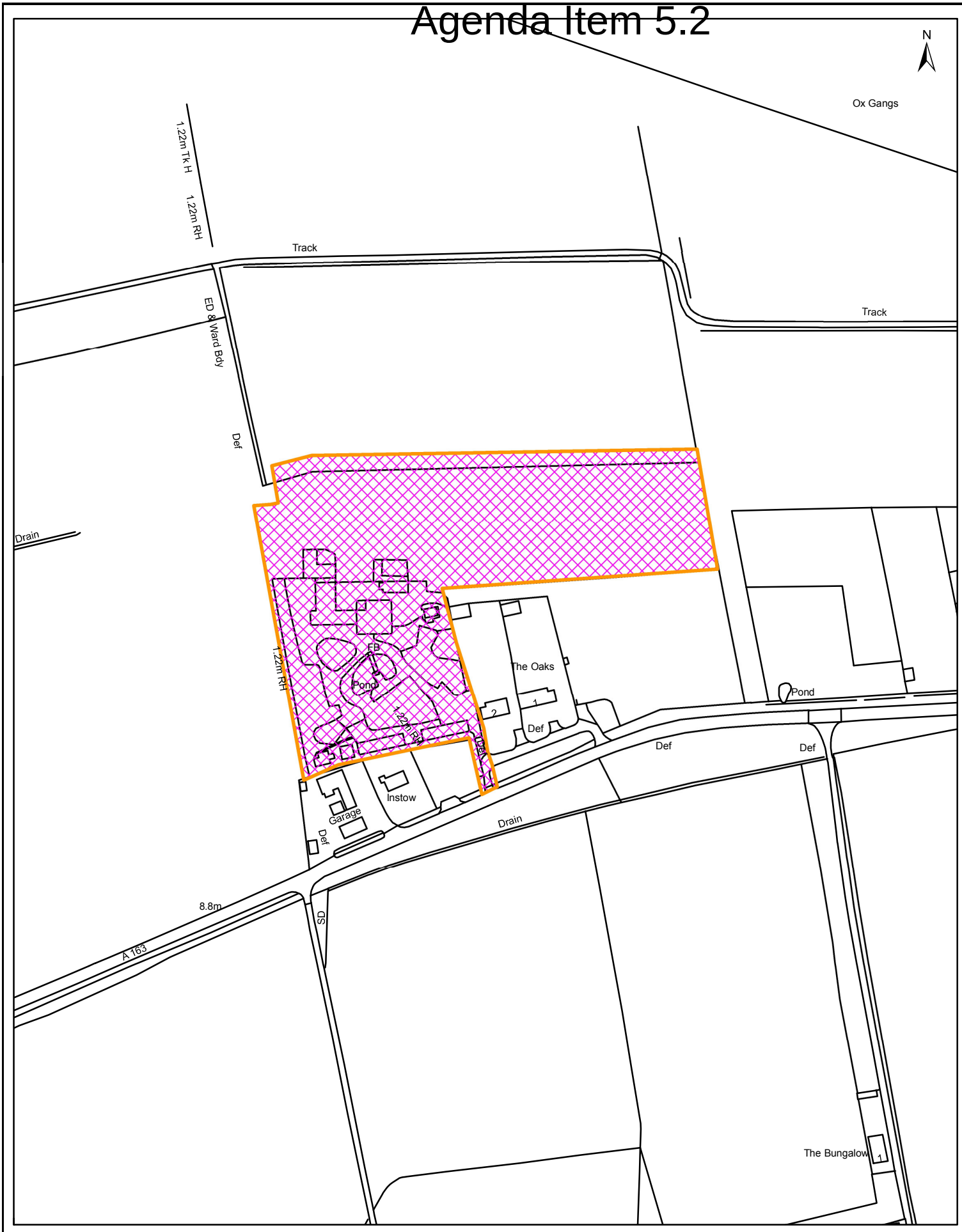

APPLICATION SITE

2018/1387/FUL

Birchwood Lodge, Market Weighton Road, Barlby

1:2,500

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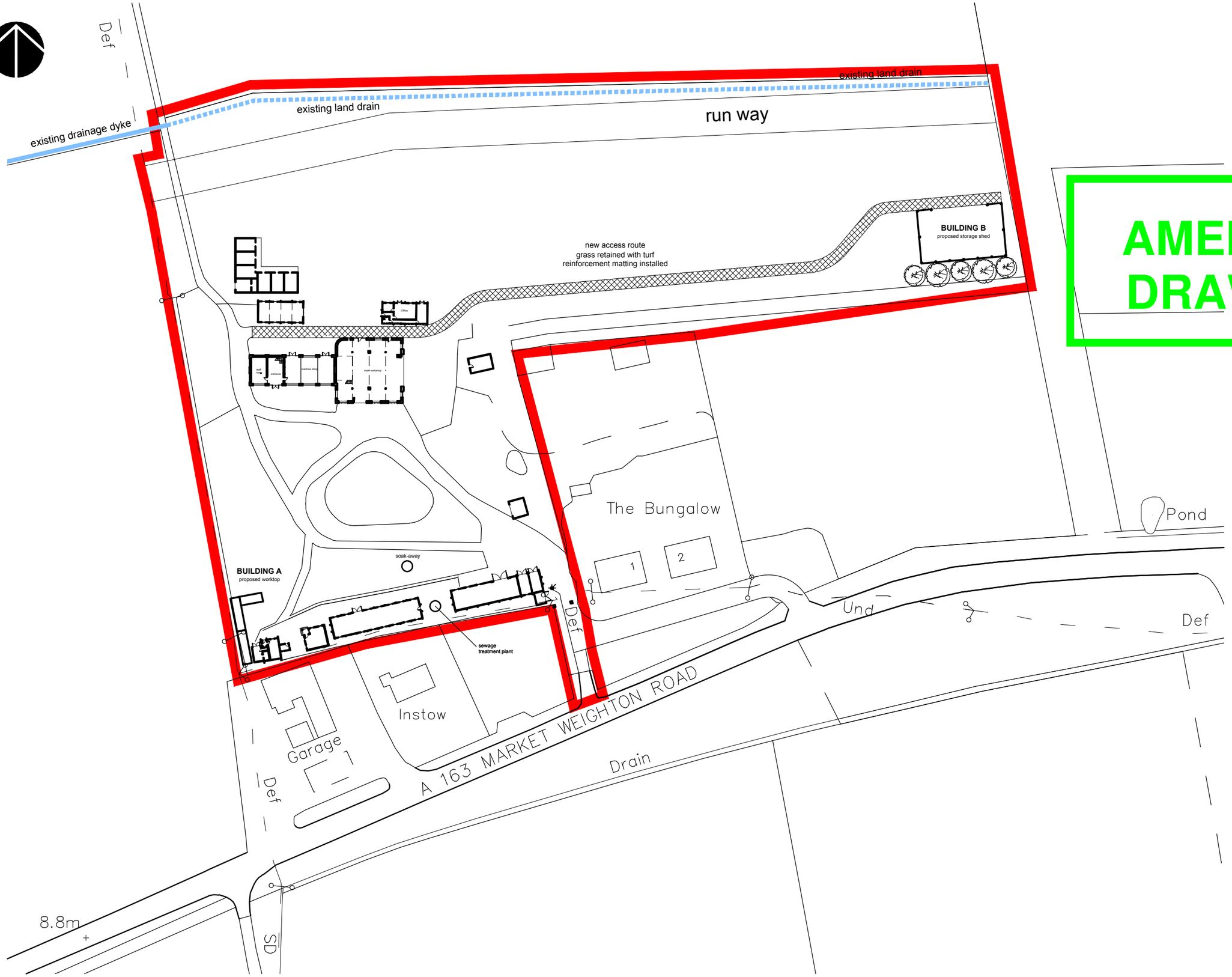

SITE PLAN - 1:1000

NOTES
Do not scale from this drawing. Only figured dimensions are to be taken from this drawing.
The contractor must verify all dimensions on site before commencing any work or shop drawings.
The contractor must report any discrepancies to the Architect before commencing work. If this drawing exceeds the quantities taken in any way, the Architect is to be informed before the work is initiated.
Work within The Construction (Design and Management) Regulations 1994 is not to start until a Health and Safety Plan has been produced.

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Rev.	Description	By	Date	Chd	Chd Date
A	Remove extension	TD	Jan19		
C	Updated design	TD	28-05-19		

AMENDED DRAWING

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

TITLE:
PROPOSED SITE PLAN

SCALE:	DWG. STATUS:	DRAWN:	DATE:
1:1000 @ A3	PLANNING	TD	Sep 2018

PROJECT NO:	DRAWING NO:	REVISION:
18-114	P-001	C

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Report Reference Number: 2018/1387/FUL

To: **Planning Committee**
Date: **10 July 2019**
Author: **Rebecca Leggott (Senior Planning Officer)**
Lead Officer: **Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2018/1387/FUL	PARISH:	Cliffe Parish Council
APPLICANT:	Condor Projects Ltd	VALID DATE: EXPIRY DATE:	11th December 2018 5th February 2019
PROPOSAL:	Proposed erection of single storey extension to main workshop building, forming of new storage area, forming of new workshop and use of runway for any day of the week		
LOCATION:	Birchwood Lodge Market Weighton Road Barlby Selby North Yorkshire YO8 5LE		
RECOMMENDATION:	APPROVE		

This application has been brought back to Planning Committee with the updated officer report to incorporate all amendments to conditions. Furthermore, the 10 July 2019 Committee Report for application reference, 2018/1387/FUL has been attached as Appendix 1 and the decision notice for application reference, 2016/0141/COU for the proposed change of use to form a grass runway has been attached to the report as Appendix 2.

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 land to the north east of Birchwood Lodge. The application site is surrounded by existing buildings at Birchwood Lodge to the west, a grass run-way (granted 2 year temporary planning permission under application

reference 2016/0141/COU) to the north, with open fields beyond, open fields to the east and residential properties to the south.

The Proposal

1.3 The application form describes the proposals as the proposed erection of single storey extension to main workshop building, forming of new storage area (Building B), forming of new workshop (Building A) and use of runway for any day of the week.

1.4 Following discussions with the applicant and agent the applicant no longer wishes to erect the single storey extension to the main workshop. However, the application is still to consider the forming of a new storage area (Building B), the forming of a new workshop (Building A) and the use of the runway.

1.5 In terms of the existing use of the application site, this has permission for a mixed use development by Condor Projects Ltd, mix of uses comprising B1/B2/B8. The site also has permission for the managers dwelling and for disabled accommodation. In addition, the site has been previously granted permission for a 2 year temporary change of use to form a grass runway, which expired on 9th March 2019.

1.6 Further to this, from a site visit it is noted that the proposals are part retrospective. During a site visit it was evident works had commenced on the workshop building (Building A). In addition to this a new storage area had been created. However, it should be noted that following discussions with the applicant and agent the proposals for the storage area have been amended and are not retrospective, as it is intended that the existing unlawful storage area will be removed.

1.7 The proposed new storage area (Building B) and the proposed new workshop (Building A) would be accessed from an existing vehicular access from Market Weighton Road.

Planning History

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

- Retrospective application 2007/0408/FUL for the retention of livery stables was approved on 25 May 2007.

- Application 2012/0248/COU for a proposed change of use of existing buildings for use by Condor Projects Ltd (mix of uses comprising B1/B2/B8) following the demolition of some existing buildings was approved on 21 May 2012.

- Application 2012/0926/DPC for the discharge of condition 2 (materials) of approval 2012/0248/COU for the change of use of existing buildings for use by Condor Projects Ltd (mix of uses comprising B1/B2/B8) following the demolition of some existing buildings was Part Discharged on 23 November 2012.

- Application 2013/0349/DPC for the discharge of condition 2 (materials) to substitute previously approved materials of approval 2012/0248/COU for the change of use of existing buildings for use by Condor Projects Ltd (mix of uses comprising B1/B2/B8) following the demolition of some existing buildings was Discharged on 8 May 2013.

- Application 2014/0959/FUL for the proposed conversion of existing building to form manager's dwelling and conversion of existing building to disabled living accommodation was Approved on 12 March 2015.

- Application 2015/0763/FUL for the proposed erection of 2m high fence was approved on 11 September 2015.

- Application 2015/0768/FUL for the proposed conversion of building to allow disabled accommodation (amendment to previously approved application 2014/0959/FUL) was approved on 9 December 2015.

- Application 2016/0141/COU for the proposed change of use to form grass runway was approved on 9 March 2017. It should be noted that this permission had a time limit of 2 year. This expired on 9th March 2019.

- Application 2017/0528/FUL for the proposed construction of hanger/storage building was refused on 10 November 2017.

2. **Consultation and Publicity**

2.1 **Civil Aviation Authority - Aerodromes** – No response within the statutory consultation period.

2.2 **North Yorkshire Bat Group** - No response within the statutory consultation period.

2.6 **Cliffe Parish Council** – The Parish Council have raised strong objections to the proposed development. The concerns raised relate to the anticipated frequency of aircraft taking off and landing on the runway as no figures are specified within the application and the confirmation of the operational hours of the runway.

2.8 **County Ecologist** – NYCC Ecology have raised no objections to the proposed development and have stated that the information provided is satisfactory and conclude that there are unlikely to be any impacts upon legally protected species due to the scale, type and location of the development.

2.9 **Barlby and Osgodby Parish Council** - Object to the extensions and increased flying hours, the site is becoming a small industrial estate and causing loss of amenity to neighbouring properties.

2.10 **Environmental Health** – Environmental Health have raised no objections to the proposed development subject to a number of conditions and have provided the following comments, the applicant has submitted an updated Noise Impact Assessment (NIA) prepared by Blue Sky Acoustics, dated 28/1/19, reference 182/10/2019. The NIA considers the likely impact on residential amenity in terms of national policies and guidance which are

relevant to the proposed development. The NIA concludes that the proposed use of the grass runway will not exceed the Lowest Observable Adverse Effect Level (LOAEL). That conclusion is based on the existing restriction imposed by conditions attached to decision no: 2016/0141/COU continuing with the exception that the runway can be used on any day.

Therefore the Environmental Health Officer has raised no objections subject to conditions 02, 04, 05 and 06 of decision no: 2016/0141/COU remaining attached and that condition 03 of decision no: 2016/0141/COU is amended to allow the runway to be used between the hours of 08:00 and 17:00 on any day.

2.11 **NYCC Highways Canal Rd** – NYCC Highways have raised no objections to the proposed development.

2.12 **Yorkshire Water** – Yorkshire Water have raised no objections to the proposed development.

2.13 **Selby Area Internal Drainage Board** – The IDB have raised no objections to the proposed development. However, the IDB have commented that the ground conditions may be unsuitable for soakaways. Further to this the IDB have suggested a number of conditions to be attached to any permission granted: (1) If the surface water were to be disposed of via a soakaway system, (2) If surface water is to be directed to a mains sewer system, (3) If the surface water is to be discharged to any watercourse within the Drainage District, (4) No obstructions within 7 metres of the edge of a watercourse and (5) Consent be required from the IDB for surface water discharge into ANY watercourses in, on, under or near the site requires CONSENT from the Drainage Board.

2.14 **The Ouse & Derwent Internal Drainage Board** – The internal drainage board have raised no objections to the proposed development in principle. However, the IDB have made a number of comments. In summary the IDB have requested further information relating too:

- The Sustainable Drainage System which is proposed.
- Providing sufficient information in order to demonstrate that the drainage strategy would decrease the volume and rate of surface water being discharged from the site.
- Details of run off rates.

The IDB have suggested a number of conditions to be attached to any permission grated as follows: (1) Drainage Works to be Agreed, (2) Restricted rate of discharge, (3) Evidence of Existing Surface Water Discharge, (4) Sustainable Drainage System – SUDS (Combined Systems) and (5) Surface Water to Adjacent Watercourse. Further to this a number of informatives have been suggested, as follows: (1) Surface Water Adjacent Watercourse, (2) Consent – Outfall and (3) Consent – Discharge.

2.15 **Natural England** – Natural England have raised no objections to the proposed development subject to a number of conditions: (1) All flights will be conducted under CAA e-conditions and a minimum altitude of 1000m will be maintained for any flights within 1km of the Lower Derwent Valley SPA / Ramsar site and (2) Flights will take place on no more than 100 days per year

We have no objection to this additional planning application if our suggested conditions are also applied in this case.

2.16 **Neighbour Summary** - All immediate neighbours were informed by letter, a site notice was erected and an advert placed in the local press. It is noted that 3 letters of objection were received. In summary these raise concerns for:

- Noise disturbance, increased vehicle movement and disturbance from testing aeroplanes;
- Traffic and highway safety, due to increased vehicle movements. Including concerns for the ownership of the access track running in front of 1 & 2 the Oaks;
- Overlooking and loss of privacy, due to increased visitors to the site;
- Over development of the site;
- Lack of visual amenity;
- Loss of views of the open countryside and limited screening by the willow trees in place;
- Boundary treatments causing issues such as attracting wasps;
- Burning rubbish on site;
- Flying outside of hours;
- Development in the green belt; and
- Health implications of the pollution generated by the site.

It should be noted that the application site is not located within the green belt. In addition concerns relating to burning rubbish and wasps are not for consideration within this application.

The access track in front of 1 and 2 the Oaks has been removed from the redline boundary and the application in response to the concerns raised regarding ownership.

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. The application site is located within Flood Zone 1.

Policy Context

3.2 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.

3.3 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.

3.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.

3.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

"213……existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, 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)."

3.4 The principal Core Strategy Local Plan 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

3.5 Policy SP1 of the Core Strategy outlines that *"..when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.."* and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF in relation to the presumption in favour of sustainable development and decision taking.

3.6 Development in the countryside is limited in SP2 to the replacement or extension of existing buildings, the re-use preferably for employment and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy.

3.7 Policy SP19 promotes high quality design and provides that development proposals should have regard to local character, identity and context including being accessible to all.

Selby District Local Plan

3.8 The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- EMP2 – Location of Economic Development
- EMP9 – Expansion of Existing Employment Uses in Rural Area
- 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:

- Principle of 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

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 11 of the NPPF.

4.4 Policy SP15 (B) of the Core Strategy 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 EMP9 of the Selby District Local Plan relates to the expansion of existing employment uses in rural areas and sets out that proposals for the expansion and/or redevelopment of existing industrial and business uses outside development limits and established employment areas, as defined on the proposals map are acceptable in principle, subject to four criteria which will be assessed later in this report.

4.10 The application is for the retrospective forming of a new storage area (Building B), the part retrospective forming of a new workshop (Building A) and the proposed use of the runway for any day of the week. The proposed building would be used in association with the existing use of the site which has permission for B1/B2/B8. The site is currently occupied by Condor Aviation, the applicant states within the submitted documents that Condor Aviation are, the leading company in the UK for experimental aircraft and are among the world leaders in the use of radial engines in sport aircraft. The information submitted in support of the application sets out that the proposals would create a further 10 jobs on site.

4.11 In terms of the need for the proposals the applicant has advised that the aircrafts need to be stored inside, as opposed to outside, as the aircraft are either fabric covered or of composite and would be damaged by weather if they were to be stored outside during the winter.

4.12 In respect of the proposed new storage building (B), this would be located to the far east of the site would consist of a timber clad portal frame building with green corrugated metal sheeting on the top. This would measure, 23 metres in width by 14 metres in depth and would have an eaves height of 3 metres and ridge height of 3.8 meters from the existing ground floor level. This would replace an existing unlawful building constructed from 4 shipping containers.

4.13 In respect of the part retrospective workshop (A), this would be sited to the South West corner of the site. This would be in an area to the rear of an existing commercial garage outside the application site and would be a combination of three green corrugated metal containers. These would be joined in an L- shaped form to measure a maximum of 18.4 metres in width by 8.6 metres in depth and would have a ridge and eaves height of 3 metres above the existing ground floor level.

4.14 In respect of the proposed use of the run way any day of the week. Following consultations restrictions would be imposed to state that the flights could occur on a maximum of 100 days of the year, with a no fly zone of 1000ft. Further to this, working hours would be imposed for flights only for use between the hours of 08:00 and 17:00 on any day.

4.15 Where the proposed scheme may be acceptable in principle it would be required to meet the policy tests set out in in Local Plan Policy EMP9 (1), (2), (3), (4) and all other relevant local and national policy tests.

4.16 The impact on acknowledged interests against the above policy tests is considered in the following parts of the report, including the issue of scale.

Design and Impact on the Character and Appearance of the Area

4.17 Relevant policies in respect of design and impact on the character of the area include Policies ENV1 (1) and (4) and EMP9 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy. Significant weight should be attached to the Local Plan Policies ENV1 and EMP9 as they are broadly consistent with the aims of the NPPF. Relevant policies within the NPPF, which relate to design, include paragraphs 124, 127, 128, 130 and 131.

4.18 The application site is located outside the defined developments of any settlement and is therefore located within the open countryside. The application site comprises land to the north east of Birchwood Lodge. The application site is surrounded by existing buildings at Birchwood Lodge to the west, a grass run-way (granted temporary planning permission under application reference 2016/0141/COU) to the north, with open fields beyond, open fields to the east and residential properties to the south.

4.19 The proposals are for the forming of a new storage area (B), the part retrospective forming of a new workshop and the proposed use of the runway for any day of the week.

4.20 The comments of the occupiers of the neighbouring properties in relation to the part retrospective development have been noted.

Proposed New Storage Area (Building B)

4.21 In respect of the proposed new storage building (B), in terms of appearance and scale it is noted that the scheme would be relatively large in footprint and the height of the proposed development is relatively low with a ridge height of 3 metres. However, the proposals would reflect the character and appearance of the area as it would be designed to look like a typical agricultural outbuilding. Therefore the proposed development would be appropriate to the locality. Further to this, the materials to be used in the construction of the proposed scheme would be simple and traditional materials, as detailed on the proposed elevations, drawing No. 18-114 P-005 A.

4.22 While the building would be visible in views from Market Weighton Road, by reason of its limited height and being situated to the rear of an existing fence, it is considered that these views would not have any significant adverse impact on the character and appearance of the surrounding area. Whilst a location closer to the existing buildings would be desirable, the location is in part for the operational reasons in relation to manoeuvring the aircraft and in part to address concerns raised by neighbours. Furthermore, having regard to the context of the site, it is not considered that the proposal would be unduly visually intrusive within the open countryside.

4.23 In terms of landscaping and boundary treatments, all existing boundary treatments are to be retained as seen on site. Details of an additional scheme of landscaping could be secured by way of condition.

4.24 In considering the proposals for the new storage area it is considered that this would comply with criteria 3 of Policy EMP9 relating to high standard of design.

Retrospective Workshop (Building A)

4.25 In respect of the part retrospective workshop (A), this is suitably located on the site within the main cluster of buildings and set against the western boundary of the site. Further to this the materials to be used in the construction of the proposed scheme would be green painted metal shipping containers.

4.26 There would be limited views of the building from outside of the site due to the siting of a number of existing oak trees. It is noted that the retrospective building would be within close proximity to these trees. However, given the building would be located on an area of already compacted ground as stated within the supporting statement submitted by the applicant it is not considered that there would be an significant adverse impacts on these oak trees.

4.27 In considering the part retrospective workshop (A), whilst there are limited views of the proposed development, it is not considered that its design would reflect the character and appearance of the area by reason of its design. The applicant has advised that the development is necessary for the existing business on the site. It is therefore recommended that permission for this building be limited to a 3 year period to enable consideration of a more appropriately designed building which would be of a higher design standard in order to comply with criteria 3 of Policy EMP9.

4.28 In considering the proposal for the temporary workshop (A) area it is considered that this would not comply with criteria 3 of Policy EMP9. However, it should be noted that the proposed development is required to support an existing business in line with policy SP13C of the Selby District Core Strategy and paragraphs 83 and 84 of the NPPF. Therefore, for these reasons and the business need this could be conditioned to be a temporary permission for 3 years.

Retrospective use of the Runway

4.29 In respect of the proposed use of the runway, the grass landing strip was originally created under Permitted Development Rights and has a nominal impact on the character and appearance of the area. In terms of its visual impact, the proposed airfield is well integrated into the landscape and is not harmfully prominent, intrusive or incongruous in its setting. Therefore, it is considered to be acceptable and would not have a detrimental impact on the character of the area.

4.30 In considering the proposal for the use of the runway it is not considered that this would have any impacts in terms of the character and appearance of the area.

4.31 Having regard to the above, it is considered that the proposed scheme would have an acceptable siting, design and appearance 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 EMP9 of the Selby District Local Plan, Policy SP19 of the Core Strategy and policies within the NPPF.

Impact on Residential Amenity

4.32 Relevant policies in respect to impact on residential amenity include Policies ENV1 (1) and (4) and EMP9 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy. In respect of the NPPF it is noted that one of the Core Principles of the framework is to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

4.33 The comments of the occupiers of the neighbouring properties in relation to the impacts of the proposed development on residential amenity are noted.

4.34 In respect of the proposed new storage building (B), given the size, siting and design of the proposed building and its relationship to neighbouring residential properties, while the proposed building would be visible from neighbouring properties, given the separation distance of 90 metres it is considered that the proposal would not have an oppressive appearance when viewed from any neighbouring residential properties. Further to this any visual impact is further reduced by the low scale of the buildings the existing fence and the planting that has taken place.

4.35 In respect of the part retrospective workshop (A), given the size, siting and design of the building and its relationship to neighbouring residential properties, the building is not visible from neighbouring properties and given the separation distance of 34 metres it is considered that the proposal would not have an oppressive appearance when viewed from any neighbouring residential properties.

4.36 In terms of the use for the storage and workshop buildings it is not considered that they would introduce any new uses on the site given the existing permission for B1/ B2/ B8. Though it is considered reasonable to condition no external storage.

4.37 In respect of the proposed use of the runway given the size, siting and design of the proposal and its relationship to neighbouring residential properties, there are no physical changes as this is a grassed runway. Furthermore, given the separation distance of 107 metres it is considered that the grass runway would not be visible from any neighbouring residential properties.

4.38 Overall given the siting of the proposed scheme and surrounding residential properties, it is considered that the proposal would not result in any adverse effects of overshadowing so as to have any adverse effects on the amenities of the occupiers of any neighbouring properties.

4.39 In addition, the Environmental Health Officer has been consulted on the proposals. The Environmental Health Officer initially raised concerns regarding the noise impacts of the development and the necessary mitigation measures. However, following additional information submitted by the applicant, Environmental Health have raised no objections subject to the following conditions being attached to any permission granted: (1) Take- off

or landing aircraft speed and distance, (2) airstrip use not more than 3 days per week, (3) Not more than 4 landing and take-off manoeuvres per day, (4) flights to take place on not more than 100 days per year and (5) Working hours 08:00- 17:00 any day.

4.40 Further to the above a condition could be attached to any planning permission granted, restricting the use of the runway as such, in the interests of the amenities of neighbouring properties.

4.41 Subject to the aforementioned condition, 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 EMP9 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained with the NPPF.

Impact on Highway Safety

4.42 Policies in relation to highway safety are Policies ENV1 (2), T1 and EMP13 (3) of the Local Plan and Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF

4.43 The comments of the neighbouring properties are noted.

4.44 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 have raised no objections to the proposed development.

4.45 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 EMP9 (1) of the Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Nature Conservation and Protected Species

4.46 Relevant policies in respect of nature conservation and protected species include Policies ENV1 (5) and EMP9 (2) of the Selby District Local Plan and Policy SP18 “Protecting and Enhancing the Environment” of the Core Strategy.

4.47 Significant weight should be attached to Local Plan Policies ENV1 and EMP9 as they are broadly consistent with the aims of the NPPF, specifically section 15. “Conserving and enhancing the natural environment”.

4.48 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.

4.49 A Great Crested Newt Survey undertaken by Wold Ecology Ltd, dated July 2017, has been submitted with the application. The survey states that two ponds have been identified within 500 metres of the application site and that no known great crested newts populations were recorded within 500 metres of the application site. Further, the survey sets out that the surrounding

arable landscape significantly hampers great crested newt dispersal into the area, without the aid of humans. In conclusion, Wold Ecology does not recommend any further great crested newt survey work at the site and do not suggest any mitigation measures.

4.50 It should be noted that NYCC Ecology have been consulted on this application. However, the county ecologist has raised no objections to the proposed development.

4.51 Having regard to the above, it is considered that the proposed development is acceptable in respect of nature conservation and protected species and is therefore in accordance with Policies ENV1 (5) and EMP9 (2) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

Flood Risk and Drainage

4.52 The application site is located within Flood Zone 1, which has a low probability of flooding.

4.53 In terms of drainage, the submitted application form states that surface water would be disposed of via sustainable drainage system. However, no details of this have been supplied. Further to this, no details have been provided in terms of foul water drainage.

4.54 The Ouse and Derwent Internal Drainage Board and Yorkshire Water have been consulted on the proposals. The Ouse and Derwent Internal Drainage Board have advised that they have no objections to the proposals subject to a condition requiring drainage works to be agreed, amongst other conditions. It is considered the attaching the condition requiring drainage works to be agreed as part of any planning permission is sufficient for the purposes of this application.

5. Conclusion

5.1 This type of development for the expansion of an existing business use is supported by the NPPF and in development plan policy and EMP9 of the Core Strategy. Though it is noted that the part retrospective workshop would not accord with criteria (3) of Policy EMP9, it is considered acceptable in all other respects. Therefore, it is considered reasonable to condition this as temporary for a period of 3 years to allow for an improved design to be submitted. Furthermore, it is considered that the NPPF is a material consideration and in line with Paragraph 83 and 84 of the NPPF relating to the expansion of all types of business in rural areas and the recognition of business and community needs in rural areas would be acceptable.

5.2 Furthermore, it is noted that the proposed development is considered to propose economic benefits through the creation of 10 new jobs. Therefore, the proposals provide some economic benefits to the rural community and economy.

5.3 Therefore subject to the conditions set out below, this application complies with the up to date Framework guidance and with, principally SDLP Policy

EMP9 and compliance with the conditions would create a scheme in compliance with the development plan.

6. Recommendation

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

01. Notwithstanding the proposed 'Building A proposed workshop' as shown on plan reference 18-114 P-001 C 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 – 18-114 S-002 A
Existing Site Plan – 18-114 S-001 A
Proposed Site Plan - 18114_P-001 C
Proposed Workshop Floor Plan and Elevations - 18114_P-004A
Proposed Storage Area Floor Plan and Elevations - 18114_P-005A

Reason:
For the avoidance of doubt.

03. Building A as shown on plan reference, 18114_P-004A shall only be retained for a period of 3 years and shall only be used as a workshop and shall not at any time be used for any other purpose. There after the building shall be removed from the site.

Reason:
In the interest of residential amenity and in order to comply with Policies ENV1 and EMP9 of the Selby District Local Plan.

04. The development relating to Building B here by approved as shown on the proposed plans shall only be used for the storage of aircraft and shall not at any time be used for the maintenance or repair of aircraft, or for any other purpose. Furthermore, there shall be no external storage of air craft parts within the application site.

Reason:
In the interest of residential amenity and in order to comply with Policies ENV1 and EMP9 of the Selby District Local Plan.

05. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as stated on drawing numbers 18114_P-004A and 18114_P-005A . Only the approved materials shall be utilised.

Reason:

In the interests of visual amenity and in order to comply with Policies ENV1 and EPM9 of the Selby District Local Plan.

06. A scheme of landscaping and boundary treatment should be submitted to and approved by the local planning authority prior to the development first being brought into use. There after the scheme of landscaping shall be maintained for a period of 5 years.

Reason:
In the interests of visual and residential amenity and in order to comply with Policies ENV1 and EPM9 of the Selby District Local Plan.

07. A scheme of drainage should be submitted to and approved by the local planning authority prior to the development first being first brought into use. This should include details of discharge rates, the existing surface water discharge and details of the Sustainable Drainage System – SUDS (Combined Systems) and any surface water to adjacent watercourse.

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

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

Reason:
To protect the residential amenity of the area.

9. Flights shall take place on no more than 100 days per year of which the airstrip shall not be used for the take-off or landing of aircraft on more than 3 days in any one week. The number of landing and take-off manoeuvres shall not exceed a total of 4 manoeuvres in any one day. Furthermore, flight logs shall be retained and made available upon request.

Reason:
To protect the residential amenity of the area.

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

Reason:
To ensure aviation safety.

11. A minimum altitude of 1000m shall be maintained for any flights within 1km of the application site, Lower Derwent Valley SPA/Ramsar and Humber Estuary SPA/Ramsar site, except during landing and take-off.

Reason:
To protect the Lower Derwent Valley SPA/Ramsar and Humber Estuary SPA/Ramsar site and to protect residential amenity.

7. Legal Issues

7.1 Planning Acts

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

7.2 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.

7.3 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.

7.4 **Financial Issues**

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

7.6 **Background Documents**

7.7 Planning Application file reference 2018/1387/FUL and associated documents.

Contact Officer:
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rleggott@selby.gov.uk

Appendices:

Appendix 1: 10th July 2019 Committee Report for application reference 2018/1387/FUL

Appendix 2: Decision Notice for application reference 2016/0141/COU

Report Reference Number 2018/1387/FUL

To: **Planning Committee**
Date: **10th July 2019**
Author: **Rebecca Leggott (Senior Planning Officer)**
Lead Officer: **Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2018/1387/FUL	PARISH:	Cliffe Parish Council
APPLICANT:	Condor Projects Ltd	VALID DATE: EXPIRY DATE:	11th December 2018 5th February 2019
PROPOSAL:	Proposed erection of single storey extension to main workshop building, forming of new storage area, forming of new workshop and use of runway for any day of the week		
LOCATION:	Birchwood Lodge Market Weighton Road Barlby Selby North Yorkshire YO8 5LE		
RECOMMENDATION:	APPROVE		

This application has been brought before Planning Committee as it has been called in by Cllr Arthur and Cllr Deans on the following grounds:

- Impact on residential amenity of neighbouring properties
- The environmental impact of the proposal
- Intrusion into the openness of the countryside
- Noise pollution impacting on neighbouring properties
- The adverse visual impact of the proposal on neighbouring properties

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 land to the north east of Birchwood Lodge. The application site is surrounded by existing buildings at Birchwood Lodge to the west,

a grass run-way (granted 2 year temporary planning permission under application reference 2016/0141/COU) to the north, with open fields beyond, open fields to the east and residential properties to the south.

The Proposal

1.3 The application form describes the proposals as the proposed erection of single storey extension to main workshop building, forming of new storage area (Building B), forming of new workshop (Building A) and use of runway for any day of the week.

1.4 Following discussions with the applicant and agent the applicant no longer wishes to erect the single storey extension to the main workshop. However, the application is still to consider the forming of a new storage area (Building B), the forming of a new workshop (Building A) and the use of the runway.

1.5 In terms of the existing use of the application site, this has permission for a mixed use development by Condor Projects Ltd, mix of uses comprising B1/B2/B8. The site also has permission for the managers dwelling and for disabled accommodation. In addition, the site has been previously granted permission for a 2 year temporary change of use to form a grass runway, which expired on 9th March 2019.

1.6 Further to this, from a site visit it is noted that the proposals are part retrospective. During a site visit it was evident works had commenced on the workshop building (Building A). In addition to this a new storage area had been created. However, it should be noted that following discussions with the applicant and agent the proposals for the storage area have been amended are not retrospective, as it is intended that the existing unlawful storage area will be removed.

1.7 The proposed new storage area (Building B) and the proposed new workshop (Building A) would be accessed from an existing vehicular access from Market Weighton Road.

Planning History

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

- Retrospective application 2007/0408/FUL for the retention of livery stables was approved on 25 May 2007.

- Application 2012/0248/COU for a proposed change of use of existing buildings for use by Condor Projects Ltd (mix of uses comprising B1/B2/B8) following the demolition of some existing buildings was approved on 21 May 2012.

- Application 2012/0926/DPC for the discharge of condition 2 (materials) of approval 2012/0248/COU for the change of use of existing buildings for use by Condor Projects Ltd (mix of uses comprising B1/B2/B8) following the demolition of some existing buildings was Part Discharged on 23 November 2012.

- Application 2013/0349/DPC for the discharge of condition 2 (materials) to substitute previously approved materials of approval 2012/0248/COU for the change of use of existing buildings for use by Condor Projects Ltd (mix of uses comprising B1/B2/B8) following the demolition of some existing buildings was Discharged on 8 May 2013.

- Application 2014/0959/FUL for the proposed conversion of existing building to form manager's dwelling and conversion of existing building to disabled living accommodation was Approved on 12 March 2015.

- Application 2015/0763/FUL for the proposed erection of 2m high fence was approved on 11 September 2015.

- Application 2015/0768/FUL for the proposed conversion of building to allow disabled accommodation (amendment to previously approved application 2014/0959/FUL) was approved on 9 December 2015.

- Application 2016/0141/COU for the proposed change of use to form grass runway was approved on 9 March 2017. It should be noted that this permission had a time limit of 2 year. This expired on 9th March 2019.

- Application 2017/0528/FUL for the proposed construction of hanger/storage building was refused on 10 November 2017.

2. **Consultation and Publicity**

2.1 **Civil Aviation Authority - Aerodromes** – No response within the statutory consultation period.

2.2 **North Yorkshire Bat Group** - No response within the statutory consultation period.

2.6 **Cliffe Parish Council** – The Parish Council have raised strong objections to the proposed development. The concerns raised relate to the anticipated frequency of aircraft taking off and landing on the runway as no figures are specified within the application and the confirmation of the operational hours of the runway.

2.8 **County Ecologist** – NYCC Ecology have raised no objections to the proposed development and have stated that the information provided is satisfactory and conclude that there are unlikely to be any impacts upon legally protected species due to the scale, type and location of the development.

2.9 **Barlby and Osgodby Parish Council** - Object to the extensions and increased flying hours, the site is becoming a small industrial estate and causing loss of amenity to neighbouring properties.

2.10 **Environmental Health** – Environmental Health have raised no objections to the proposed development subject to a number of conditions and have provided the following comments, the applicant has submitted an updated Noise Impact Assessment (NIA) prepared by Blue Sky Acoustics, dated 28/1/19, reference 182/10/2019. The NIA considers the likely impact on residential amenity in terms of national policies and guidance which are

relevant to the proposed development. The NIA concludes that the proposed use of the grass runway will not exceed the Lowest Observable Adverse Effect Level (LOAEL). That conclusion is based on the existing restriction imposed by conditions attached to decision no: 2016/0141/COU continuing with the exception that the runway can be used on any day.

Therefore the Environmental Health Officer has raised no objections subject to conditions 02, 04, 05 and 06 of decision no: 2016/0141/COU remaining attached and that condition 03 of decision no: 2016/0141/COU is amended to allow the runway to be used between the hours of 08:00 and 17:00 on any day.

2.11 **NYCC Highways Canal Rd** – NYCC Highways have raised no objections to the proposed development.

2.12 **Yorkshire Water** – Yorkshire Water have raised no objections to the proposed development.

2.13 **Selby Area Internal Drainage Board** – The IDB have raised no objections to the proposed development. However, the IDB have commented that the ground conditions may be unsuitable for soakaways. Further to this the IDB have suggested a number of conditions to be attached to any permission granted: (1) If the surface water were to be disposed of via a soakaway system, (2) If surface water is to be directed to a mains sewer system, (3) If the surface water is to be discharged to any watercourse within the Drainage District, (4) No obstructions within 7 metres of the edge of a watercourse and (5) Consent be required from the IDB for surface water discharge into ANY watercourses in, on, under or near the site requires CONSENT from the Drainage Board.

2.14 **The Ouse & Derwent Internal Drainage Board** – The internal drainage board have raised no objections to the proposed development in principle. However, the IDB have made a number of comments. In summary the IDB have requested further information relating too:

- The Sustainable Drainage System which is proposed.
- Providing sufficient information in order to demonstrate that the drainage strategy would decrease the volume and rate of surface water being discharged from the site.
- Details of run off rates.

The IDB have suggested a number of conditions to be attached to any permission grated as follows: (1) Drainage Works to be Agreed, (2) Restricted rate of discharge, (3) Evidence of Existing Surface Water Discharge, (4) Sustainable Drainage System – SUDS (Combined Systems) and (5) Surface Water to Adjacent Watercourse. Further to this a number of informatives have been suggested, as follows: (1) Surface Water Adjacent Watercourse, (2) Consent – Outfall and (3) Consent – Discharge.

2.15 **Natural England** – Natural England have raised no objections to the proposed development subject to a number of conditions: (1) All flights will be conducted under CAA e-conditions and a minimum altitude of 1000m will be maintained for any flights within 1km of the Lower Derwent Valley SPA / Ramsar site and (2) Flights will take place on no more than 100 days per year

We have no objection to this additional planning application if our suggested conditions are also applied in this case.

2.16 **Neighbour Summary** - All immediate neighbours were informed by letter, a site notice was erected and an advert placed in the local press. It is noted that 3 letters of objection were received. In summary these raise concerns for:

- Noise disturbance, increased vehicle movement and disturbance from testing aeroplanes;
- Traffic and highway safety, due to increased vehicle movements. Including concerns for the ownership of the access track running in front of 1 & 2 the Oaks;
- Overlooking and loss of privacy, due to increased visitors to the site;
- Over development of the site;
- Lack of visual amenity;
- Loss of views of the open countryside and limited screening by the willow trees in place;
- Boundary treatments causing issues such as attracting wasps;
- Burning rubbish on site;
- Flying outside of hours;
- Development in the green belt; and
- Health implications of the pollution generated by the site.

It should be noted that the application site is not located within the green belt. In addition concerns relating to burning rubbish and wasps are not for consideration within this application.

The access track in front of 1 and 2 the Oaks has been removed from the redline boundary and the application in response to the concerns raised regarding ownership.

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. The application site is located within Flood Zone 1.

Policy Context

3.2 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.

3.3 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.

3.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.

3.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the 3implementation of the Framework -

> "213. …..existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, 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)."

3.4 The principal Core Strategy Local Plan 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

3.5 Policy SP1 of the Core Strategy outlines that *"when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework"* and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF in relation to the presumption in favour of sustainable development and decision taking.

3.6 Development in the countryside is limited in SP2 to the replacement or extension of existing buildings, the re-use preferably for employment and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy.

3.7 Policy SP19 promotes high quality design and provides that development proposals should have regard to local character, identity and context including being accessible to all.

Selby District Local Plan

3.8 The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- EMP2 – Location of Economic Development
- EMP9 – Expansion of Existing Employment Uses in Rural Area

- 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:

- Principle of 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

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 11 of the NPPF.

4.4 Policy SP15 (B) of the Core Strategy 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 EMP9 of the Selby District Local Plan relates to the expansion of existing employment uses in rural areas and sets out that proposals for the expansion and/or redevelopment of existing industrial and business uses outside development limits and established employment areas, as defined on the proposals map are acceptable in principle, subject to four criteria which will be assessed later in this report.

4.10 The application is for the retrospective forming of a new storage area (Building B), the part retrospective forming of a new workshop (Building A) and the proposed use of the runway for any day of the week. The proposed building would be used in association with the existing use of the site which has permission for B1/B2/B8. The site is currently occupied by Condor Aviation, the applicant states within the submitted documents that Condor Aviation are, the leading company in the UK for experimental aircraft and are among the world leaders in the use of radial engines in sport aircraft. The information submitted in support of the application sets out that the proposals would create a further 10 jobs on site.

4.11 In terms of the need for the proposals the applicant has advised that the aircrafts need to be stored inside, as opposed to outside, as the aircraft are either fabric covered or of composite and would be damaged by weather if they were to be stored outside during the winter.

4.12 In respect of the proposed new storage building (B), this would be located to the far east of the site would consist of a timber clad portal frame building with green corrugated metal sheeting on the top. This would measure, 23 metres in width by 14 metres in depth and would have an eaves height of 3 metres and ridge height of 3.8 meters from the existing ground floor level. This would replace an existing unlawful building constructed from 4 shipping containers.

4.13 In respect of the part retrospective workshop (A), this would be sited to the South West corner of the site. This would be in an area to the rear of an existing commercial garage outside the application site and would be a combination of three green corrugated metal containers. These would be joined in an L- shaped form to measure a maximum of 18.4 metres in width by 8.6 metres in depth and would have a ridge and eaves height of 3 metres above the existing ground floor level.

4.14 In respect of the proposed use of the run way any day of the week. Following consultations restrictions would be imposed to state that the flights could occur on a maximum of 100 days of the year, with a no fly zone of 1000ft. Further to this working hours would be imposed for flights only for 7.30 and 17.00 Monday to Friday and 8.00 to 17.00 Saturday and Sundays.

4.15 Where the proposed scheme may be acceptable in principle it would be required to meet the policy tests set out in in Local Plan Policy EMP9 (1), (2), (3), (4) and all other relevant local and national policy tests.

4.16 The impact on acknowledged interests against the above policy tests is considered in the following parts of the report, including the issue of scale.

Design and Impact on the Character and Appearance of the Area

4.17 Relevant policies in respect of design and impact on the character of the area include Policies ENV1 (1) and (4) and EMP9 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy. Significant weight should be attached to the Local Plan Policies ENV1 and EMP9 as they are broadly consistent with the aims of the NPPF. Relevant policies within the NPPF, which relate to design, include paragraphs 124, 127, 128, 130 and 131.

4.18 The application site is located outside the defined developments of any settlement and is therefore located within the open countryside. The application site comprises land to the north east of Birchwood Lodge. The application site is surrounded by existing buildings at Birchwood Lodge to the west, a grass run-way (granted temporary planning permission under application reference 2016/0141/COU) to the north, with open fields beyond, open fields to the east and residential properties to the south.

4.19 The proposals are for the forming of a new storage area (B), the part retrospective forming of a new workshop and the proposed use of the runway for any day of the week.

4.20 The comments of the occupiers of the neighbouring properties in relation to the part retrospective development have been noted.

Proposed New Storage Area (Building B)

4.21 In respect of the proposed new storage building (B), in terms of appearance and scale it is noted that the scheme would be relatively large in footprint and the height of the proposed development is relatively low with a ridge height of 3 metres. However, the proposals would reflect the character and appearance of the area as it would be designed to look like a typical agricultural outbuilding. Therefore the proposed development would be appropriate to the locality. Further to this, the materials to be used in the construction of the proposed scheme would be simple and traditional materials, as detailed on the proposed elevations, drawing No. 18-114 P-005 A.

4.22 While the building would be visible in views from Market Weighton Road, by reason of its limited height and being situated to the rear of an existing fence, it is considered that these views would not have any significant adverse impact on the character and appearance of the surrounding area. Whilst a location closer to the existing buildings would be desirable, the location is in part for the operational reasons in relation to manoeuvring the aircraft and in part to address concerns raised by neighbours. Furthermore, having regard to the context of the site, it is not considered that the proposal would be unduly visually intrusive within the open countryside.

4.23 In terms of landscaping and boundary treatments, all existing boundary treatments are to be retained as seen on site. Details of an additional scheme of landscaping could be secured by way of condition.

4.24 In considering the proposals for the new storage area it is considered that this would comply with criteria 3 of Policy EMP9 relating to high standard of design.

Retrospective Workshop (Building A)

4.25 In respect of the part retrospective workshop (A), this is suitably located on the site within the main cluster of buildings and set against the western boundary of the site. Further to this the materials to be used in the construction of the proposed scheme would be green painted metal shipping containers.

4.26 There would be limited views of the building from outside of the site due to the siting of a number of existing oak trees. It is noted that the retrospective building would be within close proximity to these trees. However, given the building would be located on an area of already compacted ground as stated within the supporting statement submitted by the applicant it is not considered that there would be an significant adverse impacts on these oak trees.

4.27 In considering the part retrospective workshop (A), whilst there are limited views of the proposed development, it is not considered that its design would reflect the character and appearance of the area by reason of its design. The applicant has advised that the development is necessary for the existing business on the site. It is therefore recommended that permission for this building be limited to a 3 year period to enable consideration of a more appropriately designed building which would be of a higher design standard in order to comply with criteria 3 of Policy EMP9.

4.28 In considering the proposal for the temporary workshop (A) area it is considered that this would not comply with criteria 3 of Policy EMP9. However, it should be noted that the proposed development is required to support an existing business in line with policy SP13C of the Selby District Core Strategy and paragraphs 83 and 84 of the NPPF. Therefore, for these reasons and the business need this could be conditioned to be a temporary permission for 3 years.

Retrospective use of the Runway

4.29 In respect of the proposed use of the runway, the grass landing strip was originally created under Permitted Development Rights and has a nominal impact on the character and appearance of the area. In terms of its visual impact, the proposed airfield is well integrated into the landscape and is not harmfully prominent, intrusive or incongruous in its setting. Therefore, it is considered to be acceptable and would not have a detrimental impact on the character of the area.

4.30 In considering the proposal for the use of the runway it is not considered that this would have any impacts in terms of the character and appearance of the area.

4.31 Having regard to the above, it is considered that the proposed scheme would have an acceptable siting, design and appearance 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 EMP9 of the Selby District Local Plan, Policy SP19 of the Core Strategy and policies within the NPPF.

Impact on Residential Amenity

4.32 Relevant policies in respect to impact on residential amenity include Policies ENV1 (1) and (4) and EMP9 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy. In respect of the NPPF it is noted that one of the Core Principles of the framework is to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

4.33 The comments of the occupiers of the neighbouring properties in relation to the impacts of the proposed development on residential amenity are noted.

4.34 In respect of the proposed new storage building (B), given the size, siting and design of the proposed building and its relationship to neighbouring residential properties, while the proposed building would be visible from neighbouring properties, given the separation distance of 90 metres it is considered that the proposal would not have an oppressive appearance when viewed from any neighbouring residential properties. Further to this any visual impact is further reduced by the low scale of the buildings the existing fence and the planting that has taken place.

4.35 In respect of the part retrospective workshop (A), given the size, siting and design of the building and its relationship to neighbouring residential properties, the building is not visible from neighbouring properties and given the separation distance of 34 metres it is considered that the proposal would not have an oppressive appearance when viewed from any neighbouring residential properties.

4.36 In terms of the use for the storage and workshop buildings it is not considered that they would introduce any new uses on the site given the existing permission for B1/ B2/ B8. Though it is considered reasonable to condition no external storage.

4.37 In respect of the proposed use of the runway given the size, siting and design of the proposal and its relationship to neighbouring residential properties, there are no physical changes as this is a grassed runway. Furthermore, given the separation distance of 107 metres it is considered that the grass runway would not be visible from any neighbouring residential properties.

4.38 Overall given the siting of the proposed scheme and surrounding residential properties, it is considered that the proposal would not result in any adverse effects of overshadowing so as to have any adverse effects on the amenities of the occupiers of any neighbouring properties.

4.39 In addition, the Environmental Health Officer has been consulted on the proposals. The Environmental Health Officer initially raised concerns regarding the noise impacts of the development and the necessary mitigation measures. However, following additional information submitted by the applicant, Environmental Health have raised no objections subject to the

following conditions being attached to any permission granted: (1) Take- off or landing aircraft speed and distance, (2) airstrip use not more than 3 days per week, (3) Not more than 4 landing and take-off manoeuvres per day, (4) flights to take place on not more than 100 days per year and (5) Working hours 08:00- 17:00 any day.

4.40 Further to the above a condition could be attached to any planning permission granted, restricting the use of the runway as such, in the interests of the amenities of neighbouring properties.

4.41 Subject to the aforementioned condition, 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 EMP9 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained with the NPPF.

Impact on Highway Safety

4.42 Policies in relation to highway safety are Policies ENV1 (2), T1 and EMP13 (3) of the Local Plan and Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF

4.43 The comments of the neighbouring properties are noted.

4.44 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 have raised no objections to the proposed development.

4.45 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 EMP9 (1) of the Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Nature Conservation and Protected Species

4.46 Relevant policies in respect of nature conservation and protected species include Policies ENV1 (5) and EMP9 (2) of the Selby District Local Plan and Policy SP18 “Protecting and Enhancing the Environment” of the Core Strategy.

4.47 Significant weight should be attached to Local Plan Policies ENV1 and EMP9 as they are broadly consistent with the aims of the NPPF, specifically section 15. “Conserving and enhancing the natural environment”.

4.48 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.

4.49 A Great Crested Newt Survey undertaken by Wold Ecology Ltd, dated July 2017, has been submitted with the application. The survey states that two ponds have been identified within 500 metres of the application site and that no known great crested newts populations were recorded within 500 metres

of the application site. Further, the survey sets out that the surrounding arable landscape significantly hampers great crested newt dispersal into the area, without the aid of humans. In conclusion, Wold Ecology does not recommend any further great crested newt survey work at the site and do not suggest any mitigation measures.

4.50 It should be noted that NYCC Ecology have been consulted on this application. However, the county ecologist has raised no objections to the proposed development.

4.51 Having regard to the above, it is considered that the proposed development is acceptable in respect of nature conservation and protected species and is therefore in accordance with Policies ENV1 (5) and EMP9 (2) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

Flood Risk and Drainage

4.52 The application site is located within Flood Zone 1, which has a low probability of flooding.

4.53 In terms of drainage, the submitted application form states that surface water would be disposed of via sustainable drainage system. However, no details of this have been supplied. Further to this, no details have been provided in terms of foul water drainage.

4.54 The Ouse and Derwent Internal Drainage Board and Yorkshire Water have been consulted on the proposals. The Ouse and Derwent Internal Drainage Board have advised that they have no objections to the proposals subject to a condition requiring drainage works to be agreed, amongst other conditions. It is considered the attaching the condition requiring drainage works to be agreed as part of any planning permission is sufficient for the purposes of this application.

5. Conclusion

5.1 This type of development for the expansion of an existing business use is supported by the NPPF and in development plan policy and EMP9 of the Core Strategy. Though it is noted that the part retrospective workshop would not accord with criteria (3) of Policy EMP9, it is considered acceptable in all other respects. Therefore, it is considered reasonable to condition this as temporary for a period of 3 years to allow for an improved design to be submitted. Furthermore, it is considered that the NPPF is a material consideration and in line with Paragraph 83 and 84 of the NPPF relating to the expansion of all types of business in rural areas and the recognition of business and community needs in rural areas would be acceptable.

5.2 Furthermore, it is noted that the proposed development is considered to propose economic benefits through the creation of 10 new jobs. Therefore, the proposals provide some economic benefits to the rural community and economy.

5.3 Therefore subject to the conditions set out below, this application complies with the up to date Framework guidance and with, principally SDLP Policy

EMP9 and compliance with the conditions would create a scheme in compliance with the development plan.

6. Recommendation

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

01. Notwithstanding the proposed 'Building A proposed workshop' as shown on plan reference 18-114 P-001 C 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 – 18-114 S-002 A
Existing Site Plan – 18-114 S-001 A
Proposed Site Plan - 18114_P-001 C
Proposed Workshop Floor Plan and Elevations - 18114_P-004A
Proposed Storage Area Floor Plan and Elevations - 18114_P-005A

For the avoidance of doubt.

03. Building A as shown on plan reference, 18114_P-004A shall only be hereby approved as shown on the proposed plans shall only be retained for a period of 18 months and shall only be used as a workshop and shall not at any time be used for any other purpose. There after the building shall be removed from the site.

Reason: In the interest of residential amenity and in order to comply with Policies ENV1 and EPM9 of the Selby District Local Plan.

04. The development relating to Building B shall be here by approved as shown on the proposed plans shall only be used for the storage of aircraft and shall not at any time be used for the maintenance or repair of aircraft, or for any other purpose. Furthermore, there should be no external storage air craft parts within the application site.

Reason: In the interest of residential amenity and in order to comply with Policies ENV1 and EPM9 of the Selby District Local Plan.

05. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as stated on drawing numbers 18114_P-004A and 18114_P-005A . Only the approved materials shall be utilised.

Reason:
In the interests of visual amenity and in order to comply with Policies ENV1 and EPM9 of the Selby District Local Plan.

06. A scheme of landscaping and boundary treatment should be submitted to and approved by the local planning authority prior to the development first being brought into use. There after the scheme of landscaping shall be maintained for a period of 5 years.

Reason:
In the interests of visual and residential amenity and in order to comply with Policies ENV1 and EPM9 of the Selby District Local Plan.

06. A scheme of drainage should be submitted to and approved by the local planning authority prior to the development first being first brought into use. This should include details of discharge rates, the existing surface water discharge and details of the Sustainable Drainage System – SUDS (Combined Systems) and any surface water to adjacent watercourse.

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

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

Reason:
To protect the residential amenity of the area.

10. Flights shall take place on no more than 100 days per year of which there shall be no more than 3 flight days in any one week. There shall be no more than 4 landing and take-off manoeuvres on any one day. Furthermore, flight logs shall be retained.

Reason:
To protect the residential amenity of the area.

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

Reason:
To ensure aviation safety.

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

Reason:
To protect the Lower Derwent Valley SPA/Ramsar and Humber Estuary SPA/Ramsar site and to protect residential amenity.

7. Legal Issues

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

7.2 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.

7.3 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.

7.4 **Financial Issues**

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

7.6 **Background Documents**

7.7 Planning Application file reference 2018/1387/FUL and associated documents.

Contact Officer: Rebecca Leggott, Senior Planning Officer

Appendices: None

Decision no: 2016/0141/COU
(8/17/312G/PA)

TOWN AND COUNTRY PLANNING ACT 1990
NOTICE OF DECISION

NOTICE OF DECISION OF PLANNING AUTHORITY ON APPLICATION FOR PERMISSION TO CARRY OUT DEVELOPMENT

This decision does **not** constitute approval under the Building Regulations
Please read notes at the end of this notice

Condor Projects Ltd
c/o Mr John Howlett
John Howlett Planning
45 Windmill Rise
York
North Yorkshire
YO264TU

The above named council being the Local Planning Authority for the purposes of your application dated 11 February 2016 in respect of the following:

Proposal: Proposed change of use to form grass runway

Location: Birchwood Lodge, Market Weighton Road, Barlby

have considered your said application and have **GRANTED** permission in accordance with the application drawings and particulars subject to the following conditions and reasons:

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

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

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

Reason:
To protect the residential amenity of the area.

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

Reason:
To protect the residential amenity of the area.

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

Reason:
To protect the residential amenity of the area.

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

Reason:
To protect the residential amenity of the area.

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

Reason:
To protect the residential amenity of the area.

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

Reason:
To ensure aviation safety.

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

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

09. The grass runway, hereby approved, shall not be used for more than a maximum of 100 days in any one calendar year as an airstrip, and the owners/occupiers shall maintain an up-to-date register of the names of all the users of the airstrip, and the dates, times and number of taking off and landing manoeuvres per calendar year. The owners/occupiers shall make this information available at all reasonable times to the Local Planning Authority.

There shall be no use of the airstrip or customers/members of the public on the site outside the hours of (17:00pm in the evening) and (08:00am in the morning) from Mondays to Fridays, nor at any time on Saturday, Sundays and Bank or Public Holidays.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

10. The development hereby permitted shall be carried out in accordance with the following approved plans:
- Landing/Taking off P-104 Rev AB
- Landing/Taking off P-104 Rev AC
- Location Plan P-104 Rev A

Reason:
For the avoidance of doubt.

INFORMATIVES:

01. INFORMATIVE:
The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. 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:

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

J. Cokeham.

Mr J Cokeham
Head of Strategic Planning, Policy & Economic Development

Date: 9 March 2017

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

- If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice [reference], then if you want to appeal against your local planning authority's decision on your application you must do so within 28 days of the date of this notice.

- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.

- If this is a decision to refuse planning permission for a minor commercial application and you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

- Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk/pcs.

- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

Purchase Notice

If either the Local Planning Authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by carrying out any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with Part VI of the Town and Country Planning Act 1990.

Compensation

In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on referral of the application to him.

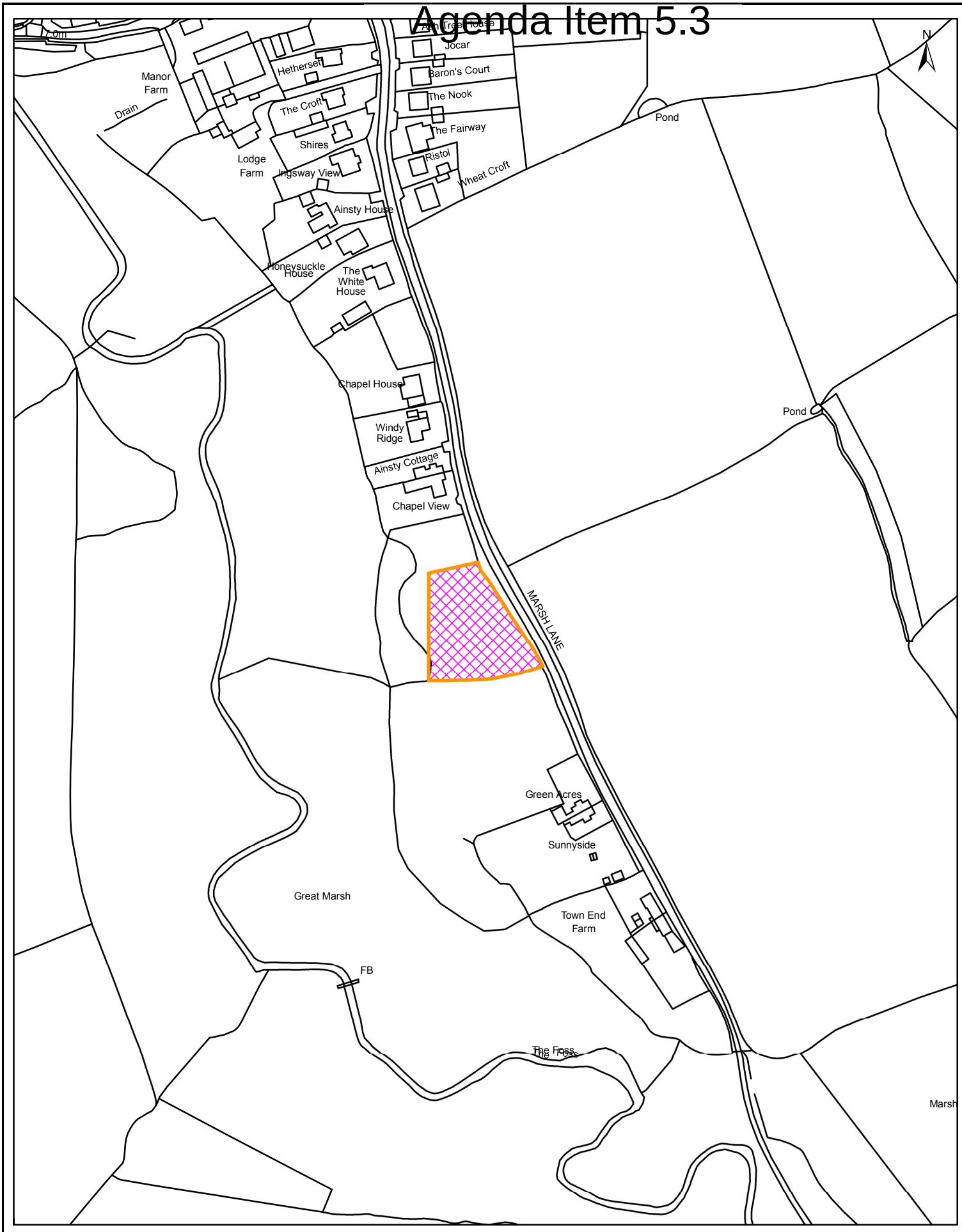
These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990.

Circular 10/82 - Access for the disabled

Section 76 of the Town and Country Planning Act 1990 places a duty on local planning authorities to draw the attention of developers to the relevant provisions of The Chronically Sick and Disabled Persons Act 1970. These sections cover buildings or premises to which the public are to be admitted and to offices, shops, railway premises and factories. These sections require any person providing such premises to make provision, where reasonable and practicable, for the means of access, parking and sanitary conveniences to meet the needs of disabled people.

NOTE

No consent, permission or approval hereby given absolves the applicant from the necessity of obtaining the approval, under Building Regulations, of the District Council in whose area where the site of the proposed development is situated; or of obtaining approval under any other Bye-Laws, local Acts, orders, regulations and statutory provisions in force; and no part of the proposed development should be commenced until such further approval has been obtained.



APPLICATION SITE

Land south of Chapel View, Marsh Lane, Bolton Percy
2019/0031/FUL

1:2,500

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LOCATION PLAN - 1/1250

SITE PLAN - 1/200

NOTES:
This drawing should not be scaled.
The contractor is to verify all dimensions and conditions on site and report any discrepancies to the Architect immediately.
This drawing is to be read in conjunction with all relevant documents and drawings
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www.ntarc.co.uk

SCALE BAR 1:200

0m 2 5 10

SCALE BAR 1:1250

0m 10 5 10

LOCATION PLAN KEY

- Flood Zone
- Chapel View property
- Chapel View residential garden land

SITE PLAN KEY

- Existing Drainage
- Proposed Drainage
- Water Resource Management (Rainwater Harvesting System)

REV	DATE	DESCRIPTION	DRN	CHKD
A	03.11.2017	CONNECTION TO MAIN DRAIN NOT NEEDED SEPTIC TANK AND DRAINAGE FIELD ADDED	EJH	NT
B	26.04.2018	RAINWATER HARVESTING SYSTEM ADDED NEW KEY TO LATION AND SITE PLAN ADDED	EJH	NT
C	11.02.2019	DRAINAGE CONNECTION ALTERED FOLLOWING ADVICE FROM YORKSHIRE WATER	BSG	NT

KEY PLAN:

NEIL TOMLINSON
Architects

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HORSESHOE WHARF, 6 CLINK STREET, LONDON, SE1 9FD

DRAWING STATUS:
FOR PLANNING

CLIENT:
DAVID AND JULIA TOMLINSON

PROJECT:
Land South of Chapel View, Marsh Lane, Bolton Percy

DATE:	SCALE:	DRAWN BY:	CHECKED BY:
February '19	AS INDICATED@A1	BSG	NT

DRAWING TITLE:
PROPOSED
LOCATION AND SITE PLANS

CONFIDENTIAL

DRAWING NUMBER:
TNH002-08-20-SP-001

REVISION:
C

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Report Reference Number: 2019/0031/FUL

To: **Planning Committee**
Date: **7 August 2019**
Author: **Yvonne Naylor (Principal Planning Officer)**
Lead Officer: **Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2019/0031/FUL	PARISH:	Bolton Percy Parish Council
APPLICANT:	Mr David Tomlinson	VALID DATE: EXPIRY DATE:	6th February 2019 3rd April 2019
PROPOSAL:	Proposed erection of three dwellings		
LOCATION:	Land South Of Chapel View Marsh Lane Bolton Percy York		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee as it is recommended for refusal but 10 letters of support have been received.

1. INTRODUCTION AND BACKGROUND

Site and Context

1.1 The site is at the southern edge of the village. The site currently exists as (approximately) 2,600 sqm plot of land to the west of Marsh Lane. The site currently exists as an undeveloped plot of land part of which at the southern end is utilised by for log storage. The eastern, southern and western edges of the site are bordered by hedgerow and trees.

The Proposal

1.2 Full planning permission is sought for 3 dwellings utilising a shared single access to serve all 3 plots from Marsh Lane. There would be one 4 bedroom house and two 3 bedroom 'cottages'. Two would face the Lane whilst the third would be positioned facing into the site with side elevation to the lane. Parking and turning areas would be provided within the site and each dwelling would have gardens to the side and rear.

1.3 The site arrangement is stated by the applicant to be reminiscent of the 'loose courtyard plans' of the traditional small farmstead with the proposed building cluster intended to respect the linear development of buildings along Marsh Lane whilst also adopting the irregularity of some open space and some building elements slightly set back from this line to give an overall broken linear form, in keeping with the rural grain of buildings within the Lane.

1.4 The materials are intended to reflect the local vernacular chosen with walls of 'York Handmade Old Clamp' brickwork, roof tiles in red clad interlocking pan tiles with red clay half round ridge tiles and the use of Green Oak framing and featherboard for the garaging and porches alongside white painted box sash windows. In addition the submitted information confirms that the driveways and yard would generally be pea shingle gravel with York Stone patios and pathway detailing.

Relevant Planning History

1.3 Application Number: 2017/0411/FUL (Alt Ref: 8/78/122/PA) for the erection of three dwellings at the same site was refused by the Council following Committee consideration in January 2018 for the following reasons:-

01 The proposal for 3 dwellings is not considered to be appropriate to the size and role of Bolton Percy, a settlement, which is secondary Village in the Core Strategy. There are already extant approvals on smaller sites for a total of 9 dwellings and capacity for further residential development already exists in the village. The expansion of the village beyond the development limits would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. The proposal does not fall within any of the categories of development set out in Policy SP2 (c) would therefore conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth.

02 The site is outside the development limits of Bolton Percy and the proposed scheme does not fall within any of the acceptable forms of development included in Policy SP2 (c) of the CS. It would be a substantial encroachment into a Greenfield site in the open countryside and would not represent a natural rounding off to the settlement. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village.

03 The layout and form of the development would not reflect the existing layout and form of nearby development and would result in a harsh urban appearance dominated by frontage hardstanding and parking areas which would be at odds with the existing form, layout and character with the other dwellings on Marsh Lane due to position and scale of the dwellings and the singles access with scale and position of the hard standing at the front of the site.

The decision notice was dated the 10th January 2018 and the decision was not challenged by the Applicants via an Appeal.

2. CONSULTATION AND PUBLICITY

2.1 **Bolton Percy Parish Council** – note that their comments are the same as on the earlier application (2017/0411/FUL), comments summarised as follows:-

- The proposal is on Greenfield site and is outside the village envelope. This could set a president for future developments.
- The access road to the site is a narrow single track lane with no passing places, with no line of site for oncoming traffic.
- The already problems with sewage in this area still applies. Sewage overflowing from manholes which these properties would have to be connected. These manholes are situated behind the properties on Marsh Lane and overlook the Ings, which floods when the River Wharfe is high, and can stand there for many weeks.
- If this development goes ahead there would be major problems with site vehicles/deliveries getting to site which would involve them parking on this narrow lane to unload, thus blocking it to residents and emergency vehicles.
- this is not an appropriate style of development and out of character with the other properties in this rural lane, and with the size and number of bedrooms would dominate the landscape.
- the number of extra cars which would have to use this quiet lane, including deliveries of oil etc. (minimum of 6 and possibly more) which will be required in this rural village.

2.2 **SDC Development Policy** - Have advised that that the application should be considered against both the saved policies in the adopted 2005 Selby District Local Plan (SDLP) and the 2013 Selby District Core Strategy (CS). The key issues which should be addressed are:

- Impact on the Council's Housing Land Strategy
- The Principle of Development
- Previous Levels of Growth and the Scale of the Proposal
- Relation of the Proposal to the Development Limit
- Impact on Nature Reserve

Further comments were sought from SDC Development Policy in relation to the additional information on the site and the arguments that the site is previously developed land. In response the Development Policy Officer confirmed that "Regardless of how this issue is determined in the decision, this consideration is not material to the principle of development (as admitted by the applicant in their supplementary statement) and so does not change the Planning Policy Team's advice on this application".

2.3 **Yorkshire Water** – advised that if planning permission is to be granted, the following conditions should be attached in order to protect the local aquatic environment and YW infrastructure:

- separate systems of drainage for foul and surface water on and off site in the interest of satisfactory and sustainable drainage
- No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority to ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the foul sewer network

It is noted in their response that from the submitted planning application surface water is proposed to be drained to SUDs, so Yorkshire Water assumes that surface

water will not discharge to public sewer as such development of the site should take place with separate systems for foul and surface water drainage. The separate systems should extend to the points of discharge. Foul water domestic waste should discharge to the 150 mm diameter public foul sewer recorded in crossing the site.3. On the Statutory Sewer Map, there is a 150 mm diameter public foul sewer recorded to cross the site. It is essential that the presence of this infrastructure is taken into account in the design of the scheme. However, in this instance, due to the pipe's small diameter YWS would look for a "build over" to be controlled by Requirement H4 of the Building Regulations 2000 and no protective condition is required. A proposal by the developer to alter/divert a public sewer will be subject to YW requirements and formal procedure in accordance with Section 185 of the Water Industry Act 1991.

2.4 **Ainsty Internal Drainage Board** – confirmed that the site sits close / within the Boards District and assets adjacent to the site include The Foss and Town Field Dyke; noting that these watercourses are known to be subject to high flows during storm events. Confirmed would wish to see a sustainable design solution to drainage to mimic surface water flows and that consideration should be given to whether the surface water arrangements from the site are to connect to a public or private asset (watercourse or sewer) before out-falling into a watercourse or, to outfall directly into a watercourse in the Board area.

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

Recommends use of a conditions that requires drainage works to be agreed in consultation with the Internal Drainage Board and this scheme thus to be implemented before the development is brought into use.

Also note a series of criterion to be considered in designing these systems and for the testing of soakaways, in the interest of ensuring a satisfactory means of drainage and to reduce the risk of flooding

2.5 **Natural England** –advised that based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected sites or landscapes. Natural England's advice on other natural environment issues is set out below Bolton Percy Ings Site of Special Scientific Interest Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

2.6 **NYCC Ecology –** Initial comments on the application raised concerns in terms of the age of the assessment and the structure of the report. So although it was accepted that the site was probably of low value ecologically there is a need for an updated assessment and clearer defined mitigation / conclusions within the Report to define between recommendations necessary to ensure compliance with planning policy and more generic good practice guidance.

Following receipt of an updated Ecology Report prepared by (Wold Ecology, dated May 2019, the County Ecologist advised that “In terms of protected species, a small population of Great Crested Newt (GCN) is known to occur in a pond about

170 metres north of the nearest boundary of the application site. The ecology report concludes that whilst there is a small risk of encountering individual newts on the application site, the proposed development would not compromise the viability of the local GCN population. Moreover, adherence to a Method Statement included within the ecology report would minimise risks to individuals of this species. This revises a previous assessment which concluded that a European Protected Species licence would be required; we understand this is due to a review of the distances involved, which changes the likely risk level. In relation to these conclusions" On this basis advised that:

- agree that the proposed development would not jeopardise the favourable conservation status of the local GCN population, so complies with the requirements of the Conservation of Habitats & Species Regulations 2017.
- The decision on how best to ensure compliance with the protection of individual animals under the Wildlife & Countryside Act 1981 (as amended) is ultimately a matter for the applicant to discuss with their ecological advisor. We agree that the Method Statement represents a reasonable level of effort to minimise risks.
- would still like to see a hibernaculum created to compensate for the potential loss of terrestrial habitat, though we accept that the distance between the application site and the GCN pond, together with the small size of the GCN population, reduce the potential significance of any habitat loss.
- No potential bat roosting habitat was identified within the application site and the ecology report concluded that the site "is not considered integral to the favourable population status of local bat populations". This seems a reasonable conclusion.
- The habitats present within the application site are generally of low nature conservation value and do not require compensation apart from any hedgerow removal, which should be compensated for by a proportionate amount of native-species planting, either within the proposed development or off-site. This is referred to in the ecology report but we are unclear how this requirement has been incorporated into the design of the scheme.

Thus the County Ecologist advised that they "would not expect the proposed development to have any significant impact on Bolton Percy Ings Site of Special Scientific Interest (SSSI) due to the distance between the sites. Great Marsh is a former Site of Importance for Nature Conservation (SINC) adjoining the application site but was de-designated after it was re-surveyed in 1998, as it no longer met the criteria for SINC selection. The nature conservation value of the former SINC would be influenced primarily by agricultural practices and small scale development on adjoining land would be unlikely to have a significant impact on any remaining interest".

The County Ecologist has also noted that in the initial comments it was suggested that the Report should distinguish between recommendations necessary to ensure compliance with planning policy and more generic good practice guidance. This hasn't really been achieved. In this context they have advised that should Selby District Council be minded to grant permission for this application, we recommend conditions along the following lines, based on the findings of the ecological assessment:

- The development should adhere to the Great Crested Newt Method Statement set out in section 7.8.5 of the ecology report (Wold Ecology, May 2019)
- The development should adhere to the advice provided in section 7.9 of the ecology report in relation to birds. This includes timing of vegetation clearance and provision of nest boxes.
- External lighting should not shine directly onto adjoining grassland, hedgerow and woodland habitats likely to be used by foraging bats.

2.7 **Campaign To Protect Rural England (North Yorkshire)** – noted objection to the application although notes acknowledges the applicant's attention to detail in this matter and welcomes the proactive approach which is in line with the principles contained in the National Planning Policy Framework. In summary the objection is noted as being on the basis that:

- This current application is therefore considered as a re-application with very little differences between the previous proposal and the current scheme
- The site is currently used by a tree surgeon for the storage of wood and as such is considered to be undeveloped
- Any historic buildings on the site - predating 1940 which were smaller in size than that considered by these proposals are considered irrelevant in planning terms. In line with policy provisions
- The proposals are within the open countryside and there is no apparent 'need' for the proposals and the proposals are therefore contrary to National and Development Plan policy
- The application site is not within the adopted development limits for Bolton Percy, therefore, is contrary to SP2. Policy SP4 details the exceptional circumstances as to when development in the open countryside would be permitted, however, the proposals do not constitute any of these circumstances as they do not relate to an economic need or established agricultural business within the vicinity, therefore, the proposal is not inconformity with Policy SP4.
- The scheme is not 100% affordable housing so it cannot be considered to be acceptable as a rural exception site.
- There is no apparent need for the development in terms of housing numbers / supply arguments
- The site is not infill development
- CPRE North Yorkshire have been contacted by members who are concerned about the access arrangements for the proposed development. The applicant has proposed to retain the existing access from the site directly from Marsh Lane and create a courtyard effect within the development site. Marsh Lane is a single track road with designated passing points, which can lead to congestion problems at particular times of the year. Whilst there has been no objection to the proposals on Highways Grounds, members are concerned that the approval of three large additional dwellings at this particular location will serve to increase localised issues further
- Members have contacted CPRE North Yorkshire with concerns relating to foul sewerage flooding on the site and potential risk of contamination. Concerns relate to a perceived worsening of the current situation should an additional three dwellings be approved at this location. Should they be so minded as to approve this application, the Council would need to be satisfied that these issues have been taken into account and that any health and safety issues relating to issues with sewerage have been resolved and would not lead to an

increased risk to existing occupants of the village and future occupants of this site.

- Members have contacted CPRE North Yorkshire raising concerns in terms of impact on heritage assets and note that the proposal lays to the south of the existing Bolton Percy Conservation Area. There are also a number of Listed Buildings within the village which should be assessed and although it is considered that the site as proposed, will not cause a detrimental impact on the Conservation Area or other assets within winter periods and potential mitigation measures are incorporated into the design stage as required prior to determining the application
- Consider that the proposed design of the proposal is aesthetically pleasing and that the architect has paid attention to local character and styles. The fact that the proposals are seeking to accommodate the needs of future occupiers in different stages of life is welcomed. Whilst the positive merits of these should be taken into account in the planning balance,

2.8 **North Yorkshire Bat Group** – no response received in the statutory consultation period.

2.9 **NYCC Highways –** recommends conditions on any consent relating to**:**

- Private Access/Verge Crossings: Construction Requirements
- Visibility Splays of 60 metres measured along both channel lines of the major road (Marsh Lane) from a point measured 2 metres down the centre line of the access road.
- Construction Management Plan

2.10 **Contamination Consultant** – Advised that the Phase 1 Report shows that the site is currently used for the cutting and sorting of timber, with areas of burning / bonfires present onsite and an old well/ pump in the north eastern corner. The site was previously occupied by buildings (thought to be residential properties) and ponds, but by 1950 these were no longer recorded. No landfill sites or past industrial activities are listed within 250m.The report concludes that made ground could be present due to the past use of the site, including the potential infilling of the ponds, and the more recent timber works. As such advises that there is a “low to moderate geotechnical risk and a very low contamination risk have been identified at the site” and that the “report recommends that a Phase 2 investigation, comprising the installation of mini percussion boreholes and associated soil sampling and ground gas / groundwater monitoring, is carried out”.

As such although it is noted that the Phase 1 report provides a good overview of the site's history, setting and its potential to be affected by contamination. However, in my opinion the contamination risk is more likely to be moderate (rather than very low), due to the potential presence of made ground and the evidence of burning / bonfires”.

In this context a series of conditions are suggested:

- Investigation of Land Contamination Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application)
- Submission of a Remediation Scheme
- Verification of Remedial Works

- Reporting of Unexpected Contamination

2.11 **Neighbour Summary -** All immediate neighbours were informed by letter, a site notice was erected and an advert placed in the press. The application received over 10 letters of support and submissions from a further 5 people / bodies in objection.

The comments in **objection** can be summarised as follows:

Principle of Development

- The application is the same as the 2017/0411/FUL and should be refused as in direct conflict with the Core Strategy and there have been no material changes in the strategy documents.
- The site is contrary to Policy SP2A(c) of the Core Strategy
- The Council has a 5 year housing land supply so the Core Strategy should not be ignored
- The site is outside the development limits of the village so it is not infill
- The site is rural in character and allow development on the site would set a precedent
- Housing should be directed to other places including designated service villages and there is no need for development in this rural area
- Residents have advised us that there were no houses or buildings or structure remains on the site and maps don't support any assertion that there have been
- A former occupier of Chapel House used to plough the land and plant with vegetables and potatoes
- The site is not unsightly it is rural and open countryside
- Only change since last application was considered is that there have been developments completed in the village envelope
- The development is not needed given that the Council has a 5 year housing land supply, the noted cases in the applicants submission are not applicable
- The site is outside the development limit which was defined through a local plan process and as such this is the basis that the Council has for the definition of development limits and that should be what is used for basis for assessing the application
- The applicants have made no meaningful attempt to provide any case or evidence with regard the contribution that it may be able to make to the vitality of the rural community and compliance with Policy SP2 and SP4 of the Core Strategy
- None of the information provided by the applicants could be considered to be sufficient to either individuality or cumulatively outweigh the clear conflict with the adopted development plan

Previously Development Land

- Never seen any buildings on the site (lived in village since 1974)
- Having considered the PDL Statement now submitted with the application it is noted that this case was not made previously made in anyway and the now submitted information not only misinterprets the conclusions of officers on the last application in terms of PDL / abandonment and the Officer at that stage considered that the historic development of the site does not have relevance to the assessment of the principle of development
- The definition of PDL in the NPPF relates to a visual assessment of the appearance of the site within the surrounding landscape, the attempt by the

applicants to make the usability of the site relevant to this issue is incorrect application of the test and needs to be completely set aside by Officers

- In making their case the Agent has confused the difference between curtilage and planning units, and provide a dual case that the site is both developed and part of the built up area of the village - whilst also claiming the site is a "rural garden" that does not therefore form on the exclusions within the NPPF - the reference to the rural garden is not borne out by the facts as neither sites forms part of the curtilage of a lawful dwelling
- The applicants cant reasonably seek to "have their cake and eat it", and their representations in support of both legs of their argument provide no reasonable assistance to the Officer tasked with determining the proposal
- The applicants has misinterpreted the NPPF definition and the definition of development within S55 of the Planning Act
- The Authority needs to take a view on the lawful use of the site which would require consideration of an application for Certificate of Lawful Use or Development and no such application is in place
- The PDL Statement is not a "sworn" statement and provides little new information and in reality demonstrates more the lawful use of the site
- The remains of any physical development on the site has been almost entirely removed and erased and the site has blended with its surroundings
- There is no living memory evidence of any housing on the site

Design

- The new homes will not complement the character or enhance the streetscape
- Would suburbanise what is a genuine unspoilt narrow country lane
- The applicants implies that the development will help bridge the gap between existing houses but he has allocated the boundary of Chapel View to be extended increasing that gap and thus resulting in a flaw in his argument
- The layout does not reflect the building line / character of the area and the garages are close to the road

Ecology

- The site is a haven for wildlife and habitat
- The survey information should be updated (noted in comments pre- submission of the updated survey)

Other

- The site is not a sustainable location there is no shop / school or functioning pub in the village and the development would result in car journeys to access services.
- The development will not result in spending the village just further afield so there is no local benefit
- There are already access and congestion problems on Marsh Lane which is a single track without designated passing places and the development would increase pressure on this rural road
- The noted bus service is daytime only and there is threat of its withdrawal
- The Information supplied with the application is inadequate
- There has not been any fly tipping on the site and the submitted photos purporting to be fly tipping are actually galvanised tanks that was there to cap off an old unground well in the adjoining garden area of the adjacent property

- The Council should verify that those registering support for the scheme have indeed written the letters

The comments in **support** can be summarised as follows:

Principle of Development

- Up to the 1950's this site had residential units on it and much of the solid foundations still exist, it is not green belt and has never been agricultural – it should be considered to be brownfield
- The site has been left too long, weed ridden and untidy
- The site is previously developed land with no agricultural history it will not set a precedent for further housing
- Development will enhance the village and contribute to the vitality of the community
- Development limits don't make the site outside the village – it is a dead end road and the site is in the township
- SDC have approved other sites outside the development limits on PDL because it was seen as sustainable development and not just because of the 5 year housing land supply
- The houses represent sustainable development for Bolton Percy

Design

- The development is well thought out and will only be an asset to the village
- The units are designed by an architect and are of a high quality

Other

- Will not impinge on sewerage system
- Highways and the IDB have supported the scheme
- Would provide much needed smaller housing in the village for people wanting to downsize and stay in the village

3 SITE CONSTRAINTS

Constraints

3.1 The site lies outside the development limits of Bolton Percy, a Secondary Village in the Core Strategy. To the west the land slopes sharply down towards Great Marsh which is within Flood Zone 3. However, the application site and falls within Flood Zone 1.

4 POLICY CONSIDERATIONS

4.1 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.

4.2 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.

4.3 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.

4.4 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

"213…..existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this ***Framework. Due weight*** *should be given to them, 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)."*

Selby District Core Strategy Local Plan

4.5 The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development
SP2 - Spatial Development Strategy
SP5 - The Scale and Distribution of Housing
SP9 - Affordable Housing
SP18 - Protecting and Enhancing the Environment
SP19 - Design Quality

Selby District Local Plan

4.6 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
T1 - Development in Relation to Highway
T2 - Access to Roads

Other Policies/Guidance

- Five Year Supply Guidance Note for Applicants January 2017
- Affordable Housing Supplementary Planning Document, 2013
- Developer Contributions Supplementary Planning Document March 2007

5 APPRAISAL

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

1. The Principle of Development on the Site for Residential Use
2. Character and form of the area and the village.
3. Highways

4. Residential amenity
5. Nature conservation and protected species
6. Flood risk, drainage and climate change.
7. Land Contamination
8. Affordable housing
9. Other Matters

Principle of the Development

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

4.3 Policy SP2 of the CS sets out the long term spatial direction for the District and provides guidance for the proposed general distribution of future development across the District. The settlement hierarchy is ranked on the Principle Town of Selby, Local Service Centres, Designated Service Villages and smaller villages. The CS identifies Bolton Percy as a 'secondary village'. Policy SP2 sets out that a limited amount of residential development may be absorbed inside Development Limits of secondary villages where it would enhance or maintain the vitality of rural communities and which confirm to Policy SP4 of the Core Strategy.

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. The site lies outside the development limits of Bolton Percy village. The proposal does not constitute any of the forms of development set out under SP2A(c). In light of the above policy context the proposals for residential development are contrary to Policy SP2 of the Core Strategy.

4.5 At the time of writing this report, the Council can confirm that they have a five year housing land supply. 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 and the tilted balance presumption in favour of sustainable development does not apply.

4.6 As such, substantial weight to the conflict with the development plan (and the related conflict with the intentions of the Framework) should be given in this case. This full proposal for 3 dwellings is on land that is outside of the defined Development Limits of Bolton Percy as defined in the adopted development plan. The proposal is therefore contrary to Policy SP2A(c) of the Core Strategy. The proposal should therefore be refused unless material considerations indicate otherwise.

<u>Sustainability and levels of growth</u>

4.7 Paragraph 197 of the NPPF sets out the presumption in favour of sustainable development in determining applications. Paragraph 150 of the NPPF sets out that

Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities. Development that does not accord with an up to date plan will not normally constitute sustainable development.

4.8 When assessing the impacts of a housing scheme the effects on the settlements character, infrastructure capacity (including schools, healthcare and transport) and sustainability must also be considered.

4.9 In terms of sustainability, Bolton Percy is one of the smallest, least sustainable rural settlements in the district. The Core Strategy Background Paper No. 5 'Sustainability Assessment of Rural Settlements' ranks settlements to consider their relative sustainability using four indicators. These include size, basic local services, accessibility and local employment. The threshold for the survey was based on size of settlement with the smallest group having populations between 600 and 1100 (grouped 5th out of 5 ranges of settlements size). Bolton Percy falls below this level with a population of just over 300. Therefore Bolton Percy ranks well below the four categories of settlement identified across the district in terms of size and in this respect is one of the least sustainable settlement locations in the district. Added to this Bolton Percy lacks any of the four basic local services (shop, post office, school, and doctors) used as indicators of sustainability. The village is over 6km from the nearest local service of Tadcaster. It does have a pub and there is a bus stop with only limited services. However, future residents would be reliant on car use for access to shops, services, facilities and employment. The most likely location or satisfying these requirements would be Tadcaster, York or Selby. The nearest primary school is Appleton Roebuck. As such there would be a negative impact in terms of the environmental aspect of the proposals and this would weigh against the development.

4.10 In terms of levels of growth, CS policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability. This policy does not set a minimum target for individual Secondary Villages, but did set a minimum dwelling target for Secondary Villages as a whole of 170 dwellings. This target reflected planning permissions at that time (April of 2011), which have all been built out. Secondary Villages as a whole have already exceeded their minimum dwelling target set by Policy SP5 and it should also be noted that SP2 of the CS does not require Secondary Villages to accommodate additional growth through allocations.

4.11 According to the Councils statistics, to date, Bolton Percy has seen 0 (gross) dwellings built in the settlement since the start of the Plan Period (0 net) in April 2011 and has extant gross approvals for 9 dwellings (9 net), giving a gross total of 9 dwellings (9 net). However, from a recent site visit, it is understood that 2 dwellings have recently been completed. Taking into account the minimum dwelling target in Policy SP5, the scale of this individual proposal, at 3 dwellings, is not considered to be appropriate to the size and role of a settlement designated as a Secondary Village, when considered in isolation. In terms of the cumulative impact, it would amount to 16 dwellings total since the start of the plan period. Additional growth in the secondary villages is not a requirement of the CS; moreover, the target for the secondary villages as a whole has already been reached.

4.12 The spatial strategy of the CS envisages only "limited" amounts of development "inside development limits" in secondary villages where it would enhance or maintain the vitality of rural communities. This proposal is outside the development limits, is not considered to constitute previously developed land as there are no

remaining structures on the site from previous residential use and as such it is considered greenfield despite the submissions made by the Applicants and as such due to its scale and location would be an unsustainable level of housing development for the village which fundamental undermines of the spatial strategy. The proposal involves a part of a larger Greenfield site outside of the development limits and no acceptable justification for the development has been put forward. It would therefore conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth.

Impact of the Development on the character and form of the area and the village

4.13 Residential development in the village is contained within very clear and defined boundary limits set by the extent of the existing housing which flanks both sides of Marsh Lane on the south side of the village. Marsh Lane is narrow and rural in character. The existing housing development extends further south on the west side of the lane than the east in a ribbon form of dwellings fronting the road. Beyond the last house known as Chapel View there are no further dwellings and the narrow lane beyond this point is characterized by high hedges on either side enclosing open undeveloped land. The land on the west of the lane slopes sharply down away from the road towards a Site of Nature Conservation (SINC) which encompasses the Marsh areas along the Foss. On the East side of Marsh Lane, the last house is Wheat Croft beyond which is the open pastoral setting to the village which is part of the wider agricultural landscape round the village.

4.14 The proposed development would result in a substantial visual change in the landscape context as a result of the projection of the development into the currently undeveloped site. Due to its size and position it would not represent a natural rounding off. It would represent a further ribbon extension of the dwellings beyond Chapel View projecting the development of the village even further south into this rural lane. Moreover, there would be a gap between the application site and the development limits which are drawn close to the side elevation of Chapel View. There is no clear boundary to the side garden of Chapel View with shrub planting to the side leading out to a large area of mown grass merging in with this application site. As such there would be an intervening parcel of land outside of the development limits for which the land use is unclear.

4.15 It is noted that there are further dwellings to the south including Green Acres, and Sunnyside (a pair of semi-detached dwellings) and Town End Farm. However, these are well beyond the development limits of the village and are sporadic isolated dwellings in the countryside. This development would expand the settlement southwards, creating an additional block of development encroaching and jutting out into the rural open countryside location beyond the development limits at this southern end of the village. There is hedgerow to the road frontage and to the southern boundary of the application site. However, there are no clearly defined boundaries on the north or west sides. The proposal would create a new harsh urban development within a substantial open area of land which would not create a new logical or defensible edge to the settlement.

4.16 In terms of the layout, a single access is proposed onto Marsh Lane. Whilst this meets Highway requirements it results in a layout which is dominated by a substantial single joint area of hardstanding and parking at the front. This would create a harsh appearance at odds with the existing form, layout and character with

the other dwellings on Marsh Lane which have individual accesses with small areas of hard-standing and landscaped front gardens.

4.17 The applicants comments are noted that the site arrangement is reminiscent of the 'loose courtyard plans' of the traditional small farmstead with the proposed building cluster intended to respect the linear development of buildings along Marsh Lane whilst also adopting the irregularity of some open space and some building elements slightly set back from this line to give an overall broken linear form, in keeping with the rural grain of buildings within the Lane. However, overall the development is considered to be a harmful encroachment into undeveloped rural land beyond the development limits of the village.

4.18 The applicants have submitted information in support of the application referencing historical maps and noting comments from long standing residents of the area. However, the historical development on the site as shown on the maps provided do indicate the presence of two small buildings with small curtilages which bear no comparison to the extent of development now proposed or the extent of the curtilage area now proposed. Moreover, these buildings have long since gone and the site has reverted back to Greenfield and is therefore not previously developed land when considering against the NPPF definition As such they have no relevance to the assessment of the principle of development on this site today.

4.19 Overall it is considered that the development, due to its scale, location and extent would be a substantial encroachment into open countryside and does not represent a natural rounding off to the settlement. Moreover, the layout form and design of the scheme would not reflect the existing character layout and form of development in the village. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village contrary to the aims of Policies SP1, SP18 and SP19 of the SDCSLP, ENV 1 of the SDLP and with the NPPF.

Impact on Highway Safety

4.20 Policies ENV1 (2), of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements. Policy T1 of the Local Plan relate to consideration of the highways impacts of development. Policy T1 notes that development should be well related to existing highways networks and will only be permitted where existing roads have adequate capacity otherwise off site highways works may be required.

4.21 The scheme shows a single access from Marsh Lane which then serves the dwellings and NYCC Highways raise no objections to the scheme subject to a series of conditions.

4.22 Having had regard to the above it is considered that the scheme is acceptable and would not harm road safety conditions in accordance with policies of the Local Plan and the NPPF.

Impact on Residential Amenity

4.23 Policy ENV1 (1) requires that the District Council take account of "The effect upon… the amenity of adjoining occupiers". It is considered that policy ENV1 (1) of the Selby District Local Plan should be given significant weight as one of the core principles of the NPPF is to ensure that a good standard of residential amenity is

achieved in accordance with the emphasis within the NPPF. In addition, Policy ENV2A states that "Proposals for development which would give rise to, or would be affected by, unacceptable levels of noise, nuisance, contamination or other environmental pollution including groundwater pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme"

4.24 One of the twelve core planning principles of the NPPF is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. The key considerations in respects of residential amenity are considered to be the potential of the proposal to result in overlooking, overshadowing and overbearing.

4.25 The layout plan is spacious with adequate levels of privacy and amenity provided for future occupants without impacting on the living conditions of the occupants of nearby dwellings. The distance between the proposed dwellings and existing properties is more than the required minimum.

4.26 It is therefore considered that the scheme is an appropriate design with respect to residential amenity which would ensure that no significant detrimental impact is caused to existing residents through overlooking, overshadowing or creating an oppressive outlook in accordance with policy ENV1(1) of the Local Plan and the NPPF.

Nature Conservation and Protected Species

4.27 Policy ENV1(5) states that proposals should not harm acknowledged nature conservation interests, or result in the loss of open space of recreation or amenity value, or which is intrinsically important to the character of the area. These policies should be given significant weight as they are consistent with the NPPF. 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.

4.28 The application site is not on or near a formal designated protected site. However, it is in close proximity to a locally designated SINC. An Ecology Report has been submitted with the application dated May 2019 and it is accepted that the site is of low ecological value by the County Ecologist with defined mitigation.

4.29 The County Ecologist has also advised that they would not expect the development to have any significant impact on the Bolton Percy SSSI due to the distance to the site, and given the Great Marsh (following reassessment) is no longer a SINC and any impact would be unlikely to have any significant impact. As such the County Ecologist has noted no objection and advised the Council that the development if supported should be required to adhere with the GCN Method Statement at Section 7.8.5, section 7.9 in relation to birds and that all external lighting should not shine onto the adjoining grassland, hedgerow or woodland habitats likely to be used as foraging bats.

4.30 On balance it is considered that the Applicants have demonstrated to the satisfaction of the consultees that the impacts on protected species and habitats subject to the noted conditions.

Flood Risk, Drainage and Climate Change

4.31 Relevant policies in respect to drainage, climate change and flood risk include Policy ENV1(3) of the Local Plan and Policies SP15 and SP16 of the Core Strategy.

4.32 The application site is located in Flood Zone 1, which comprises land assessed as having a less than 1:1000 annual probability of flooding. It is therefore low risk and is considered to be at a low probability of flooding.

4.33 Although there are local objections and concerns about local flooding, the application is accompanied by a Flood Risk Assessment which examines potential flood risk as above and considers the options for Surface water drainage and Foul water drainage. The scheme would attenuate surface water flows to restrict the flow of water to greenfield rate. Yorkshire Water and the IDB raise no objections subject to a series of conditions and informative which could be attached.

4.34 In terms of climate change then the Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate meet 8 criteria set out within the policy. 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. Therefore having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.

4.35 It is considered that subject to conditions the scheme is acceptable and accord with the noted Policies of the Local Plan and Core Strategy and the NPPF in terms of flood risk, drainage and climate change.

Land Contamination

4.36 Relevant policies in respect of land contamination include Policy ENV2 of the Selby District Local Plan and Policy SP19 “Design Quality” of the Core Strategy

4.37 The Council’s Contamination Consultant has reviewed the submitted information and has advised that the Phase 1 Report shows that the site is currently used for the cutting and sorting of timber, with areas of burning / bonfires present onsite and an old well/ pump in the north eastern corner. The site was previously occupied by buildings (thought to be residential properties) and ponds, but by 1950 these were no longer recorded. No landfill sites or past industrial activities are listed within 250m. They have also noted that the report concludes that made ground could be present due to the past use of the site, including the potential infilling of the ponds, and the more recent timber works. As such advises that there is a “low to moderate geotechnical risk and a very low contamination risk have been identified at the site” and that the “report recommends that a Phase 2 investigation, comprising the installation of mini percussion boreholes and associated soil sampling and ground gas / groundwater monitoring, is carried out”. In this context although it is noted that the Phase 1 report provides a good overview of the site's history, its setting and its potential to be affected by contamination there is likely to be moderate (rather than very low), due to the potential presence of made ground and the evidence of burning / bonfires” and a series of conditions are suggested.

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

Recreational Open Space

4.39 Policy RT2 of the Selby Local Plan deals with the provision of recreational open space and this should be afforded significant weight in addition to the Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and the NPPF. However, as Policy RT2 only requires recreational open space to be provided for schemes of 5 or more dwellings, no provision is required in respect of the proposal. The application is therefore acceptable without a contribution for recreational open space and is therefore in accordance with Policies RT2 of the Local Plan, Policy SP9 of the Core Strategy and the NPPF.

Affordable Housing

4.40 Core Strategy Local Plan Policy SP9 alters the threshold for a maximum of 40% on site provision to 10 dwellings or more or site area of 0.3 hectares and for 1 - 9 dwellings a 10% contribution is required. In this context it is considered that limited weight should be afforded to the Developer Contributions SPD (2007) in respect of affordable housing and that substantial weight should be attributed to policy SP9 of the Core Strategy Local Plan and the accompanying Affordable Housing SPD. 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.

Other Matters arising from Consultations

4.41 A series of other issues have been raised in comments on the application. These are assessed in the following section.

4.42 Objectors have noted that the applicants should be making a submission for a Certificate of Lawfulness for the scheme. No submission is before the Council for such a certification and therefore although these comments are noted this is not for consideration.

4.43 Objectors have questioned the status of the statement by the Applicants on the PDL status of the site, noting reference to this being a “sworn statement”. The PDL Supporting Statement was submitted in support of the application and as such has been accepted as part of the case in support of the application and there is no requirement for a sworn statement.

6 CONCLUSION

6.1 The site is outside the development limits of Bolton Percy and the proposed scheme does not fall within any of the acceptable forms of development included in Policy SP2 (c) of the CS. It would be a substantial encroachment into a Greenfield site in the open countryside and would not represent a natural rounding off to the settlement. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village.

6.2 Moreover, the layout and form of the development would not reflect the existing layout and form of nearby development and would result in a harsh appearance at odds with the existing form, layout and character with the other dwellings on Marsh Lane due to position and scale of the dwellings and the singles access with scale and position of the hard standing at the front of the site.

6.3 The proposal for 3 dwellings is not considered to be appropriate to the size and role of Bolton Percy, a settlement, which is secondary Village in the Core Strategy. There are already extant approvals on smaller sites for a total of 9 dwellings and capacity for further residential development already exists in the village. The expansion of the village beyond the development limits would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. The proposal does not fall within any of the categories of development set out in Policy SP2 (c) would therefore conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth.

7 RECOMMENDATION

This application is recommended to be REFUSED on the following grounds:-

01 The proposal for 3 dwellings is not considered to be appropriate to the size and role of Bolton Percy, a settlement, which is secondary Village in the Core Strategy. There are already extant approvals on smaller sites for a total of 9 dwellings and capacity for further residential development already exists in the village. The expansion of the village beyond the development limits would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. The proposal does not fall within any of the categories of development set out in Policy SP2 (c) would therefore conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth.

02 The site is outside the development limits of Bolton Percy and the proposed scheme does not fall within any of the acceptable forms of development included in Policy SP2 (c) of the CS. It would be a substantial encroachment into a Greenfield site in the open countryside and would not represent a natural rounding off to the settlement. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village.

03 The layout and form of the development would not reflect the existing layout and form of nearby development and would result in a harsh urban appearance dominated by frontage hardstanding and parking areas which would be at odds with the existing form, layout and character with the other dwellings on Marsh Lane due to position and scale of the dwellings and the singles access with scale and position of the hard standing at the front of the site.

8 Legal Issues

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

8.2 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.

8.3 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.

9 Financial Issues

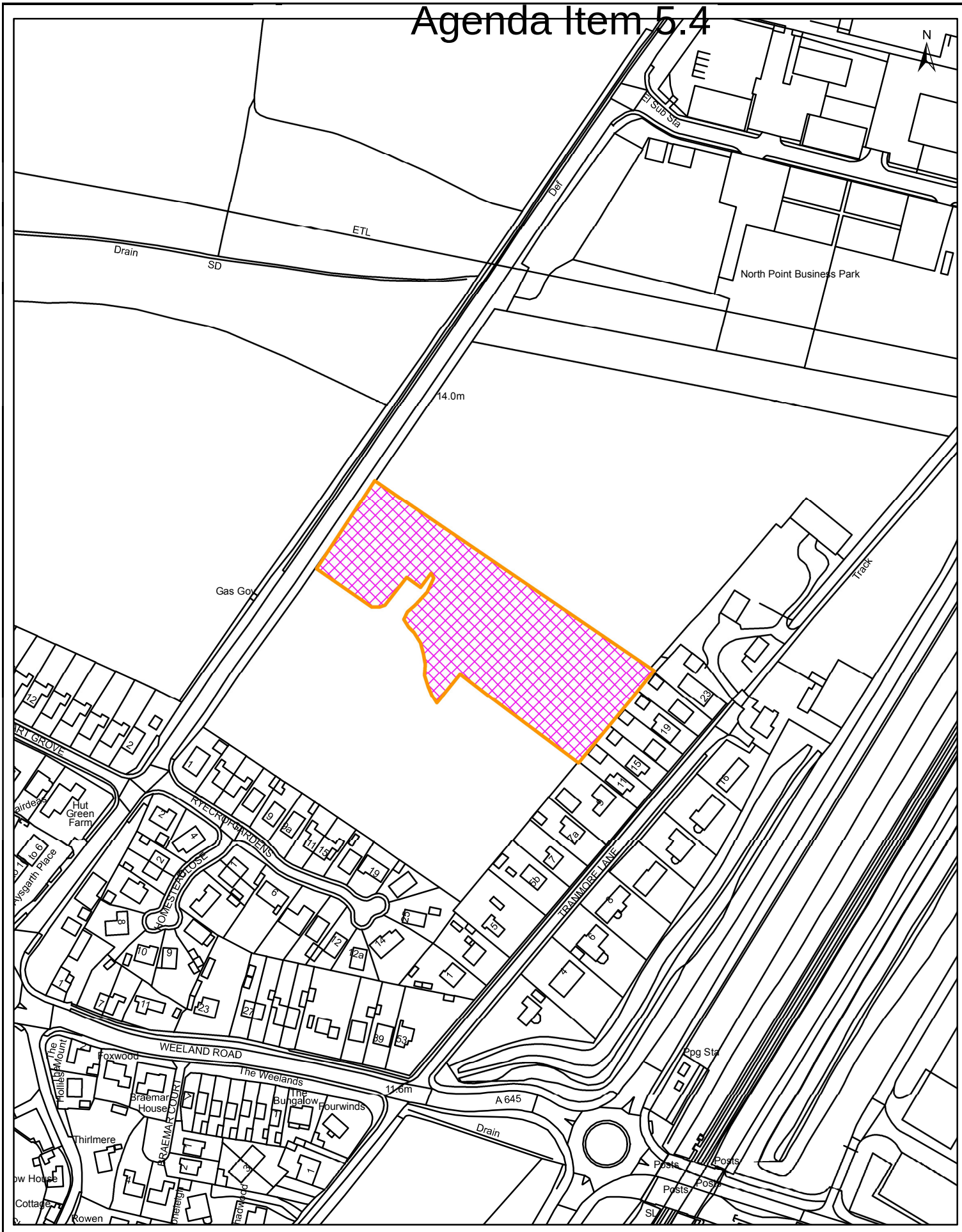
Financial issues are not material to the determination of this application.

10 Background Documents

Planning Application file reference 2019/0031/FUL and associated documents.

Contact Officer:
Yvonne Naylor, Principal Planning Officer
ynaylor@selby.gov.uk

Appendices:
None



APPLICATION SITE

2019/0109/FULM

Land adjacent to Selby Road, Eggborough

1:2,500

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SCHEDULE OF ACCOMMODATION

2no.	Type E	3 Bed Houses
2no.	Type G (Bardale)	3 Bed Houses
15no.	Type H (Stonesdale)	3 Bed Houses
6no.	Type I (Silverdale)	4 Bed Houses

Overall Total 25 Dwellings

House Type Key

- House Type E
- House Type G
- House Type H
- House Type I

Hard Surface Key

- 0.5m hard margin, 4.5m core, 2m service verge Block Pavior Access Court
- Private Drive
- 2m Footpath

Soft Landscape Key

- Proposed Tree
- Proposed Shrubbery

REVISIONS

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COUNTRYSIDE
Places People Love

Residential Development
at
Selby Road, Eggborough

PROPOSED SITE
LAYOUT PLAN

Drawn: JD Scale: 1:500 @ A2
Date: JAN 19 Checked: NW

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Dwg No: 506/01(02)002 #

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Report Reference Number: 2019/0109/FULM

To: **Planning Committee**
Date: **7 August 2019**
Author: **Jenny Tyreman (Senior Planning Officer)**
Lead Officer: **Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2019/0109/FULM	PARISH:	Eggborough Parish Council
APPLICANT:	Countryside Properties PLC	VALID DATE: EXPIRY DATE:	6th February 2019 8th May 2019
PROPOSAL:	Proposed erection of 25 no. dwellings, with a vehicular access road adjoining the previously approved application scheme 2017/1131/REMM		
LOCATION:	Land Adjacent Selby Road Eggborough Goole East Yorkshire		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as the proposed development is a departure from the Development Plan, but there are material considerations which would justify approval of the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

1.1 The application site is located outside, but immediately adjacent to, the defined development limits of Eggborough (which is a Designated Service Village as identified in the Core Strategy) and is therefore located within the open countryside in policy terms.

1.2 The application site comprises an area of open undeveloped grassland and forms part of a wider site which has planning permission for the residential development of 76 dwellings (under planning permission references 2015/0356/OUT and 2017/1131/REM). Development has commenced on the southern part of the wider site such that to the south of the application site residential development currently being constructed; to the east of the application site are existing residential

properties fronting Tranmor Lane; to the west of the application site is Selby Road, beyond which is open undeveloped grassland; while to the north of the application site is open undeveloped grassland.

The Proposal

1.3 The application seeks full planning permission for the proposed erection of 25 dwellings and an associated access road on land adjacent to Selby Road, Eggborough.

1.4 The application site forms part of a wider site which has planning permission for the residential development of 76 dwellings (under planning permission references 2015/0356/OUT and 2017/1131/REM). The 25 dwellings and access road proposed under the current application would effectively replace 25 dwellings and an access road granted planning permission under the previous applications, such that 76 dwellings would still be provided across the wider site.

1.5 This application has materialised as a result of an issue over the land ownership of a sliver of land to the northern boundary of the wider site. Under the current application, the red line boundary to the north has been re-aligned to overcome the issue of the land ownership, which has meant that the 25 dwellings and access road in this part of the site have needed to be re-aligned. This is considered to be a material amendment to the previously approved scheme and as such a full planning application has been submitted. The full planning application needs to be re-assessed against the policies of the Development Plan, taking into account any material considerations.

Relevant Planning History

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

1.7 An outline application (reference: 2015/0356/OUT) for a residential development with all matters reserved for future consideration was granted on 1 December 2015.

1.8 A reserved matters application (reference: 2017/1131/REMM) relating to access, appearance, landscaping, layout and scale of approval 2015/0356/OUT for a residential development was granted on 12 March 2018.

1.9 A non-material amendment application (reference: 2018/0488/MAN) to planning permission reference 2017/1131/REMM, a reserved matters application relating to access, appearance, landscaping, layout and scale of approval 2015/0356/OUT for a residential development was granted on 25 May 2018.

1.10 A discharge of condition application (reference: 2018/0490/DOC) relating to conditions 5 (TPO), 7 (highways), 9 (Surface Water), 10 (Access), 11 (Visibility Splays), 12 (Visibility Splays), 13 (Highways), 15 (Surface Water), 16 (access, Parking, Manoeuvring & turning), 18 (off-street Parking), 20 (Construction Method Statement) & 21 (Noise) of approval 2017/1131/REMM, a reserved matters application relating to access, appearance, landscaping, layout and scale of approval 2015/0356/OUT for a residential development was granted on 25 September 2018.

1.11 A discharge of condition application (reference: 2018/0491/DOC) relating to conditions 5 (Surface Water) and 9 (Drainage) of approval 2015/0356/OUT, an outline application for a residential development with all matters reserved for future consideration was granted on 25 September 2018.

1.12 A section 73 application (reference: 2018/1013/OUT) to vary condition 11 (energy) of approval 2015/0356/OUT, an outline application for a residential development with all matters reserved for future consideration is pending consideration.

2. CONSULTATION AND PUBLICITY

2.1 **Parish Council** – No objections. However, Councillors would request that a suitably worded condition regarding the addition of a youth/recreational shelter is attached to any planning permission granted. The youth/recreational shelter would allow teenagers to congregate in one place and would provide protection from the weather.

2.2 **Development Policy** – Provided comments on: (1) Impact on the Council's Housing Land Strategy; (2) The Principle of Development; (3) Previous Levels of Growth and the Scale of the Proposal; (4) Relation of the Proposal to the Development Limit.

2.3 **Landscape Consultant** – No objections, subject to provision of the following additional information and minor adjustments, some of which could be secured by condition:

- Detailed hard and soft landscaping scheme.
- Details for the Public Open Space and arrangements for ongoing maintenance and management, in perpetuity (see previously agreed S106 Agreement).
- Tree protection measures for trees and hedgerows to be retained (including TPO tree ref. 5/2002).
- The eastern site boundary fence adjoining open countryside should be adjusted to be a rural boundary fence planted with native hedgerow (not 1.8m close boarded fence).

2.4 **Environmental Health** – It is noted that the applicant has submitted a Noise Assessment carried out by BWB dated by 04 January 2018. The results of this assessment, which is now over 16 months old, has been considered. The assessment only considers noise from one activity on the nearby North Point Business Park, Layher, which is operational during the daytime only. The Business Park now has a number of other activities including two companies which are transport based one of which is known to operate on a 24 hour basis. It is considered that the assessment therefore does not have sufficient information to determine the impact of noise from this Business Park on the residential amenity of the residents of the proposed dwellings.

It is noted that the noise from traffic in the area would also impact on the residential amenity in the private garden space and internal areas during the day and night. Mitigation measures are given in Section 5 of the Noise Assessment. (1) Private Garden Space - this incorporates a 1.8m high close boarded fence along the side of the gardens to the northern boundary to ensure that the resultant level in the private garden space meets the appropriate standard. This fence should have a surface mass of not less than 17kgm2 and shall be free from gaps and cracks. All joins to

post to be effectively sealed as shall the joint between the lower edge of the panels and the soil. The barrier shall be maintained throughout the life of the development. (2) Internal Noise Levels - the assessment has determined that appropriate internal noise levels will not be achieved during the day or night time due to noise from traffic without the need to keep windows closed. It is recommended that standard double glazing (4mm pane/12mm airgap/4mm pane) be installed with trickle vents sufficient to provide ventilation to rooms provided they offer a minimum of 32 dB.

However until the full impact of noise from the North Point Business Park is known, it cannot be agreed that the above mitigation is sufficient to prevent a loss of amenity.

2.5 **NYCC Highways** – No objections, subject to fourteen conditions relating to: (1) detailed plans of road and footway layout; (2) construction of roads and footways prior to occupation of dwellings; (3) discharge of surface water; (4) construction requirements of private access/verge crossings; (5) visibility splays; (6) pedestrian visibility splays; (7) approval of details for site works in the highway; (8) completion of works in the highway before occupation of dwellings; (9) detailed plan of ditch to be piped; (10) provision of approved access, parking and turning areas; (11) conversion of garages to habitable rooms; (12) highway condition survey; (13) travel plan; and (14) construction management plan.

2.6 **Yorkshire Water Services** - No objections, subject to two conditions relating to: (1) the provision of separate systems of drainage for foul and surface water on and off site; (2) approval of a scheme for surface water drainage prior to commencement of development.

2.7 **Danvm Drainage Commissioners Shire Group Of IDBs** - If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year. If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow. If the surface water is to be discharged to any watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission and would be restricted to 1.4 litres per second per hectare or greenfield runoff. No obstructions within 9 metres of the edge of a watercourse are permitted without Consent from the IDB. If surface water or works are planned adjacent to a Main River within the Drainage District, then the Environment Agency should be contacted for any relevant Permits.

2.8 **SuDS And Development Control Officer** – No response within statutory consultation period.

2.9 **Waste And Recycling Officer** – No objections. As there are more than four properties the developer will be required to purchase the waste and recycling containers for this development.

2.10 **Natural England** – No comments.

2.11 **North Yorkshire Bat Group** – No response within statutory consultation period.

2.12 **Designing Out Crime Officer** – No comments.

2.13 **North Yorkshire Fire & Rescue Service** – No objection/observation.

2.14 **Stephanie Porter Vale Of York CCG** – No response within statutory consultation period.

2.15 **Public Rights Of Way Officer** – No response within statutory consultation period.

2.16 **Education Directorate North Yorkshire County Council** – No contribution to be sought.

2.17 **HER Officer** – No objections.

2.18 **Neighbour Summary** - All immediate neighbours were informed by neighbour notification letter, a site notice was erected and an advert placed in the local press. One letter of representation has been received as a result of this advertisement, which gives support to the provision of a youth/teenager shelter within the proposed development.

3 SITE CONSTRAINTS

Constraints

3.1 The application site is located outside, but immediately adjacent to, the defined development limits of Eggborough (which is a Designated Service Village as identified in the Core Strategy) and is therefore located within the open countryside in policy terms.

3.2 The application site is located within Flood Zone 1, which has a low probability of flooding

4. POLICY CONSIDERATIONS

4.1 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.

4.2 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.

4.3 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.

4.4 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

"213...existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, 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)."

Selby District Core Strategy Local Plan

4.5 The relevant Core Strategy Policies are:

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

Selby District Local Plan

4.6 The relevant Selby District Local Plan Policies are:

ENV1 – Control of Development
ENV2 – Environmental Pollution and Contaminated Land
T1 – Development in Relation to the Highway Network
T2 – Access to Roads
RT2 – Open Space Requirements for New Residential Developments

5. APPRAISAL

5.1 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
- Flood Risk and Drainage
- Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing
- Recreational Open Space
- Waste and Recycling
- Other Issues

The Principle of the Development

5.2 The application site is located outside, but immediately adjacent to, the defined development limits of Eggborough (which is a Designated Service Village as identified in the Core Strategy) and is therefore located within the open countryside in policy terms.

5.3 On 10 August 2018, the Director of Economic Regeneration & Place formally endorsed an updated five year housing land supply methodology and resultant housing land supply as set out in the 2018-2023 - 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 (Policy 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.

5.4 Paragraph 12 of the NPPF emphasises that the development plan is the statutory starting point for decision-making, adding that where a planning application conflicts with an up-to-date development plan permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

5.5 The previous outline planning permission covering the wider site (reference 2015/0356/OUT) was granted when the Council could not demonstrate a deliverable 5 year supply of housing land and was therefore determined without the relevant Local Plan policies being given any weight as they were considered to be out of date. However, the outline planning permission expired in December 2018 and so the principle of development for this proposal must be considered again but this time with the full range of Local Plan housing land supply policies carrying full weight.

5.6 Policy SP2A(c) of the Core Strategy states *"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."*

5.7 The proposal does not meet Policy SP2A(c) as it is not for rural affordable housing needs and there are no special circumstances. The application should therefore be refused unless material considerations indicate otherwise.

5.8 One such material consideration is that there is an extant reserved matters planning permission for the residential development of the site, under reference 2017/1131/REMM. While the current application only relates to part of that wider site, the 25 dwellings and access road proposed under the current application would effectively replace 25 dwellings and an access road granted under the aforementioned reserved matters application, such that 76 dwellings would still be provided across the wider site. The 25 dwellings and access road in this part of the

site have been re-aligned to overcome an issue relating to the land ownership of a slither of land to the northern boundary of the site, however, the general layout of the development, type, scale and appearance of the dwellings, landscaping and access would remain very similar to the approved scheme. This represents a fall-back position of significant weight.

5.9 Having regard to the aforementioned fall-back position, it is considered that although the proposal is a departure from the development plan, the fall-back position represents a material consideration which would justify approval of the application.

Design and Impact on the Character and Appearance of the Area

5.10 The application site comprises an area of open undeveloped grassland and forms part of a wider site which has planning permission for the residential development of 76 dwellings (under planning permission references 2015/0356/OUT and 2017/1131/REM). Development has commenced on the southern part of the wider site such that to the south of the application site residential development currently being constructed; to the east of the application site are existing residential properties fronting Tranmor Lane; to the west of the application site is Selby Road, beyond which is open undeveloped grassland; while to the north of the application site is open undeveloped grassland.

5.11 The application site forms part of a wider site which has planning permission for the residential development of 76 dwellings (under planning permission references 2015/0356/OUT and 2017/1131/REM). The 25 dwellings and access road proposed under the current application would effectively replace 25 dwellings and an access road granted planning permission under the previous applications, such that 76 dwellings would still be provided across the wider site. As set out earlier in this report, this application has materialised as a result of an issue over the land ownership of a sliver of land to the northern boundary of the wider site. Under the current application, the red line boundary to the north has been re-aligned to overcome the issue of the land ownership, which has meant that the 25 dwellings and access road in this part of the site have needed to be re-aligned.

5.12 The general layout of the development, type, scale and appearance of the dwellings, landscaping and access as shown on the submitted plans would all remain very similar to the extant reserved matters application and are not considered to have any significant adverse impact on the character and appearance of the area.

5.13 Having regard to the above, it is considered that the proposal is acceptable and would not have a significant or detrimental impact on the character and appearance of the area. The proposal is therefore considered acceptable in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policies SP4 and SP19 of Core Strategy and national policy contained within the NPPF.

Impact on Residential Amenity

5.14 Given the size, siting and design of the proposed dwellings and their relationship to neighbouring residential properties outside the application site, it is not considered that the proposals would result in any significant adverse effects of overlooking, overshadowing or oppression on the residential amenities of any neighbouring residential properties outside the application site. While the proposals would have

an effect on views from existing neighbouring properties fronting Tranmor Lane, this is not a material consideration which can be taken into account in the determination of this application.

5.15 Given the layout, scale, appearance and landscaping of the proposed dwellings, it is not considered that the proposals would result in any adverse effects of overlooking, overshadowing or oppression on the residential amenities of any residential properties within the application site. Furthermore, the proposed dwellings would each benefit from an adequate amount of useable external amenity space for the occupiers of the proposed dwelling.

5.16 The comments of the Council's Environmental Health Officer are noted, wherein concerns are raised regarding the potential for future occupiers of the proposed dwellings to be subject to noise and disturbance from surrounding land uses. However, it is noted that under the reserved matters planning permission (reference 2017/1131/REMM) the Council's Environmental Health Officer raised similar concerns and advised that additional monitoring should be carried out at the northern boundary of the site to determine the impact of the business park on the residential amenities of the future occupiers of the proposed dwellings. This was conditioned to be undertaken prior to the commencement of development at the site, along with a requirement for the development to be carried out in accordance with mitigation measures set out within the report, including the provision of an acoustic fence along part of the northern boundary of the site and the provision of double glazing to properties. Under discharge of condition application reference 2018/04920/DOC pursuant to the aforementioned reserved matters application (which was determined in September 2018), the applicants provided further information on how the business park operates and following consideration of this information by the Council's Environmental Health Officer, they confirmed that they did not require any further information in relation to this issue and would not object to this condition being discharged.

5.17 Having regard to the Environmental Health Officers comments in relation to the discharge of condition application pursuant to the reserved matters application (which represents a fall-back position), it is considered that no further information is required to be submitted under the current application to demonstrate that the surrounding land uses would not have any significant adverse impact on the residential amenities of the future occupiers of the proposed dwellings. However, as with the reserved matters application, it would be considered reasonable and necessary to attach a condition requiring the development to be carried out in accordance with the noise mitigation measures set out in Section 5 of the submitted Noise Assessment undertaken by BWB Consulting Limited, dated January 2018.

5.18 The Council's Environmental Health Officer has also recommended a condition requiring a Construction Environmental Management Plan (including details of how noise, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated, to be submitted to and approved in writing by prior to the commencement of development). A condition requiring a Construction Management Plan was attached to the previous reserved matters application and covered issues of dust, but not noise. Having regard to the fall-back position, it is considered reasonable and necessary to attach a similarly worded condition to any planning permission grated regarding a construction management plan, which would cover dust, but not noise.

5.19 Having regard to the above, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policy ENV1 (1) of the Selby District Local Plan and national policy contained within the NPPF.

Impact on Highway Safety

5.20 The access to the wider site from Selby Road has been established through the reserved matters application. The application site would be accessed from the same position on Selby Road and would benefit from an internal access road culminating in a turning point. The proposed dwellings would be arranged around this access road. The general layout of the development including this access road would be very similar to the extant reserved matters application and would result in the same level of parking provision for each dwelling.

5.21 NYCC Highways have been consulted on the proposals and have not raised any objections, subject to a number of conditions. However, some of these conditions are not considered to be reasonable and necessary given the works that have already taken place in relation to the reserved matters application.

5.22 Subject to conditions relating to detailed plans of road and footway layout; construction of roads and footways prior to occupation of dwellings; discharge of surface water; construction requirements of private access/verge crossings; pedestrian visibility splays; provision of approved access, parking and turning areas; conversion of garages to habitable rooms; travel plan; and construction management plan it is considered that the proposal would be acceptable in terms of highway safety and is therefore in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and national policy contained within the NPPF.

Flood Risk and Drainage

5.23 The application site is located within Flood Zone 1, which has a low probability of flooding.

5.24 In terms of drainage, the submitted application form sets out that surface water would be disposed of via sustainable drainage systems, while foul sewage would be disposed of via mains sewer. Furthermore, a Drainage Strategy produced by Westleigh Partnerships Ltd, dated September 2017 has been submitted. The Local Lead Flood Authority, Yorkshire Water and the Shire Group of Internal Drainage Boards have been consulted on the proposals and have not raised any objections subject to a condition requiring further details of the proposed means of surface water drainage to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

5.25 It is noted that a similar condition was attached to the outline planning permission and has subsequently been discharged by the Local Planning Authority, however, as no details of this drainage strategy have been submitted with the current application, it is considered that a condition requiring further details of surface water drainage is reasonable and necessary in this instance.

Nature Conservation and Protected Species

5.26 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.

5.27 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.

5.28 Having regard to the above, it is considered that the proposal would not harm any acknowledged nature conservation interests or protected species and is therefore in accordance with Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and national policy contained within the NPPF.

Land Contamination

5.29 The application has been supported by a Geo-Environmental Site Assessment undertaken by RSK Environment Limited, dated November 2017. It is noted that the application site comprises an area of open undeveloped grassland, which has historically been used for grazing horses. The use of the application site remains unchanged from when the previous outline planning application (reference 2015/0356/OUT) was submitted, at which time the Council's Contaminated Land Consultant considered that the proposals were acceptable in respect of land contamination subject to a condition requiring the reporting of any unexpected contamination.

5.30 Having regard to the above, subject to the aforementioned condition it is considered that the proposal would be acceptable in respect of land contamination in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and national policy contained within the NPPF.

Affordable Housing

5.31 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) sets out the affordable housing policy context for the District. Policy SP9 states *"The Council will seek to achieve a 40%/60% affordable/general market housing ration within overall housing delivery. In pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40%of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings (or sites of 0.3ha) or more. On sites below the threshold, a commuted sum will be sought to provide affordable housing within the District."*

5.32 However, the NPPF is a material consideration and states at paragraph 63 - *"Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount". Major development is defined in Annex 2: Glossary as "For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more".*

5.33 The current application seeks full planning permission for the proposed erection of 25 dwellings and the submitted affordable housing plan (drawing no. 506/01(02)002F) demonstrates that three affordable housing units would be provided within the application site, which would all be intermediate. This would clearly not meet the requirements of Policy SP9 and the accompanying Affordable

Housing SPD, which requires provision of up to 40% affordable housing (subject to viability) and would not result in a policy compliant tenure split of 30 – 50% intermediate tenure and 50 – 70% social rent.

5.34 However, it should be taken into account that this application site forms part of a wider site which has planning permission for the residential development of 76 dwellings (under planning permission references 2015/0356/OUT and 2017/1131/REM). The 25 dwellings and access road proposed under the current application would effectively replace 25 dwellings and an access road granted planning permission under the previous applications, such that 76 dwellings would still be provided across the wider site. When the current application is looked at in the context of the wider site, the affordable housing plan (drawing no. 506/01(02)002F) demonstrates that 31 affordable housing units would be provided in total, 15 of which would be intermediate and 16 of which would be social rent. This would result in 40% affordable housing provision across the wider site with a policy compliant tenure split. The Council's Rural Housing Enabler has been consulted on the proposals and has not raised any objections having regard to the context of the current application in relation to the wider site.

5.35 The outline planning permission relating to the wider site (reference 2015/0356/OUT) was subject to a Section 106 Agreement, which required (amongst other things) the provision of 40% affordable housing at the site and for the location and layout of the affordable housing to be in accordance with an affordable housing plan. An affordable housing plan was approved under the reserved matters application. The affordable housing plan submitted under the current application amends the location of four of the affordable housing units, but the number and tenure split remain the same as previously approved. It is considered a Deed of Variation to the original Section 106 Agreement associated with the outline planning permission at the wider site can ensure the appropriate provision of affordable housing across the wider site (as per the submitted affordable housing plan, drawing no. 506/01(02)002F).

Recreational Open Space

5.36 Policy RT2 of the Selby District Local Plan requires proposals for new residential development comprising 5 or more dwellings to provide recreational open space at a rate of 60 square metres per dwelling.

5.37 The submitted layout plan demonstrates that a significant area of recreational open space would be provided within the application site, in excess of the requirements of Policy RT2 of the Selby District Local Plan. However, it should be taken into account that this application site forms part of a wider site which has planning permission for the residential development of 76 dwellings (under planning permission references 2015/0356/OUT and 2017/1131/REM). The 25 dwellings and access road proposed under the current application would effectively replace 25 dwellings and an access road granted planning permission under the previous applications, such that 76 dwellings would still be provided across the wider site. When the current application is looked at in the context of the wider site, the area of recreational open space provision is proportionate to the number of dwellings provided in terms of the requirements of Policy RT2 of the Selby District Local Plan.

5.38 The outline planning permission relating to the wider site (reference 2015/0356/OUT) was subject to a Section 106 Agreement, which required (amongst other things) the provision of recreational open space at a rate of 60m2 per

dwelling. The Section 106 Agreement also sets out the timing of the submission of details of the recreational open space, the timing of the provision of the recreational open space and details of the ongoing maintenance of the recreational open space. It is considered a Deed of Variation to the original Section 106 Agreement associated with the outline planning permission at the wider site can ensure the appropriate provision of recreational open space across the wider site and set out the timing of the submission of details of the recreational open space, the timing of the provision of the recreational open space and details of the ongoing maintenance of the recreational open space across the two planning permissions.

Waste and Recycling

5.39 The Council's Waste and Recycling Officer has been consulted on the proposals and has advised that they have no objections to the proposals in terms of waste and recycling.

5.40 The Council's Waste and Recycling Officer has however advised that for developments of 4 or more dwellings developers must provide waste and recycling provision at their own cost. It is noted that the Section 106 Agreement pursuant to outline planning permission reference 2015/0356/OUT contained a requirement for the developer to make a contribution to cover the cost of the waste and recycling provision, which was to be £65 per dwelling. It is noted that only 51 of the dwellings approved under the associated reserved matters application (reference 2017/1131/REMM) will be constructed, with the remaining 25 being constructed under this current application. A Deed of Variation to the original Section 106 agreement associated with the outline planning permission at the wider site could ensure that across the wider site, a waste and recycling contribution of £65 per dwelling was sought on a total of 76 dwellings – made up from 51 dwellings under the reserved matters application and 25 dwellings under the current application.

Other Issues

5.41 Policy SP16 of the Core Strategy states *"new residential developments of 10 dwellings or more or non-residential schemes of 1000m2 gross floor space or more, [are required to] provide a minimum of 10% of total predicated energy requirements from renewable, local carbon or decentralized energy sources".* A condition could be attached to any planning permission granted requiring such a scheme to be submitted in relation to the proposed development prior to the commencement of development.

5.42 The comments of the Parish Council and the neighboring property are noted regarding the request for the provision of a youth shelter. However, it is not considered reasonable or necessary to require the applicant to provide such a facility within the proposed development.

6. CONCLUSION

6.1 The application seeks full planning permission for the proposed erection of 25 dwellings and an associated access road on land adjacent to Selby Road, Eggborough.

6.2 In terms of the principle of the development, the application is contrary to Policy SP2A(c) of the Core Strategy. However, there is an extant reserved matters planning permission for the residential development of the site, under reference

2017/1131/REMM. While the current application only relates to part of that wider site, the 25 dwellings and access road proposed under the current application would effectively replace 25 dwellings and an access road granted under the aforementioned reserved matters application, such that 76 dwellings would still be provided across the wider site. The 25 dwellings and access road in this part of the site have been re-aligned to overcome an issue relating to the land ownership of a slither of land to the northern boundary of the site, however, the general layout of the development, type, scale and appearance of the dwellings, landscaping and access would remain very similar to the approved scheme. This represents a fall-back position of significant weight. Having regard to the aforementioned fall-back position, it is considered that although the proposal is a departure from the Development Plan, the fall-back position represents a material consideration which would justify approval of the application in principle.

6.3 In other respects, the proposed development would not have a detrimental effect on the character and appearance of the area, the residential amenity of the occupants of neighbouring properties, highway safety, flood risk and drainage, nature conservation and protected species or land contamination, subject to suitable conditions. Furthermore, the proposal would be acceptable in respect of the provision of affordable housing and recreational open space when the application is considered in the context of the wider site, which benefits from an outline and reserved matters approval. A Deed of Variation to the original Section 106 Agreement could enable these contributions to be provided across the wider site.

6.4 The proposed development is therefore considered to be acceptable having had regard to Policies ENV1, ENV2, T1, T2 and RT2 of the Selby District Local Plan, Policies SP1 SP2, SP4, SP5, SP8, SP9, SP15, SP16, SP18 and SP19 of the Core Strategy and national policy contained with the NPPF, which at Paragraph 12 makes provisions for decisions to depart from an up-to-date development plan where material considerations indicate that the plan should not be followed.

7. RECOMMENDATION

This application is recommended to be GRANTED subject to the completion of a Section 106 Agreement 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/surveys listed below:

506/01(02)001 A – Site Location Plan
506/01(02)003 – Existing Site Plan
506/01(02)002 – Proposed Site Layout Plan
506/01(02)002F – Affordable Housing Plan
506/01(02)026 A – Materials Layout Plan
506/01(02)008 B – Proposed Boundary Treatments
506/01(02)022 – House Type EE

506/01(02)024 – House Type HH
506/01(02)023 – House Type GG
506/01(02)013 – House Type E
506/01(02)014 – House Type G
506/01(02)015 – House Type H
506/01(02)016 – House Type I

Reason:
For the avoidance of doubt.

03. The development hereby permitted shall be carried out in accordance with the noise mitigation measures set out in Section 5 of the submitted Noise Assessment undertaken by BWB Consulting Limited, dated January 2018. Once implemented, these noise mitigation measures shall be retained and maintained as such for the lifetime of the development.

Reason:
In the interests of residential amenity and in order to comply with Policies ENV1 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

04. The landscaping scheme as shown on drawing no. 506/01(02)002 shall be carried out in its entirety within the first planting and seeding season following the occupation of the dwellings. All trees, shrubs and hedges and plants shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and any trees, shrubs, hedges, or plants which die, are removed, or become seriously damaged or diseased shall be replaced within the next available planting and seeding seasons with ones or similar size and species.

Reason:
In the interests of visual amenity and residential amenity and in order to comply with Policy ENV1 of the Selby District Local Plan and Policy SP19 of the Core Strategy.

05. The development hereby approved shall be carried out in accordance with a scheme for the protection of tree preservation order tree 5/2002, which shall have first been submitted to and approved in writing by the Local Planning Authority. No equipment, machinery or materials shall be brought onto the site for the purposes of development until the scheme is in place, and the scheme shall be kept in place until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area protectively fenced in accordance with this condition, fires shall not be lit, and ground levels within those areas shall not be altered, nor shall any excavation be made.

Reason:
To ensure that the development does not adversely impact on of tree preservation order tree 5/2002 and in order to comply with Policy ENV1 of the Selby District Local Plan.

06. There shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site, until the following drawings and details have been submitted to and approved in writing by the Local Planning Authority:

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

o the proposed highway layout including the highway boundary
o dimensions of any carriageway, cycleway, footway, and verges
o visibility splays
o the proposed buildings and site layout, including levels
o accesses and driveways
o drainage and sewerage system
o lining and signing
o traffic calming measures
o 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:
o the existing ground level
o the proposed road channel and centre line levels
o full details of surface water drainage proposals

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

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.

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 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.

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. 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.

09. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:

a. The access shall be formed with 6 metre radius kerbs, to give a minimum carriageway width of 5.5 metres, and the access road into the site shall be constructed in accordance with Standard Detail number A1.
b. Individual vehicle crossings to dwellings shall be constructed in accordance with the approved details and/or Standard Detail number E6.
c. Provision shall be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the Specification of the Local Highway Authority.
d. Provision of tactile paving in accordance with the current Government guidance.

All works shall accord with the approved details.

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.

10. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until visibility splays providing clear visibility of 2 metres x 2 metres measured down each side of the access and the back edge of the footway of the major road have been provided. The eye height will be 1.05 metre 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 the interests of road safety to provide drivers of vehicles using the access and other users of the public highway with adequate inter-visibility commensurate with the traffic flows and road conditions.

11. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas are available for use. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

    Reason:
    In accordance with Policies ENV1, T1 and T2 of the 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.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that 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.

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

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

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

    Reason:
    In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to establish measures to encourage more sustainable non-car modes of transport.

14. 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
d. reaction 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
h. HGV routing to avoid

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. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which shall first have been submitted to and approved in writing by the Local Planning Authority. If discharge into the public sewer is propose, the information shall include, but not be exclusive to:
    i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
    ii) the means by which the discharge rate shall be restricted to a maximum rate of 5 litres per second.

    Reason:
    In order to ensure that no surface water discharge takes place until proper provision has been made for its disposal.

16. In the event that unexpected contamination is found at any time when carrying out the approved development, 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.

17. No dwelling hereby permitted shall be occupied until a scheme to demonstrate that at least 10% of the energy supply of the development has been secured from renewable, local carbon or decentralized 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.

    Reason:

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

8. Legal Issues

8.1 Planning Acts

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

8.2 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.

8.3 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.

9. Financial Issues

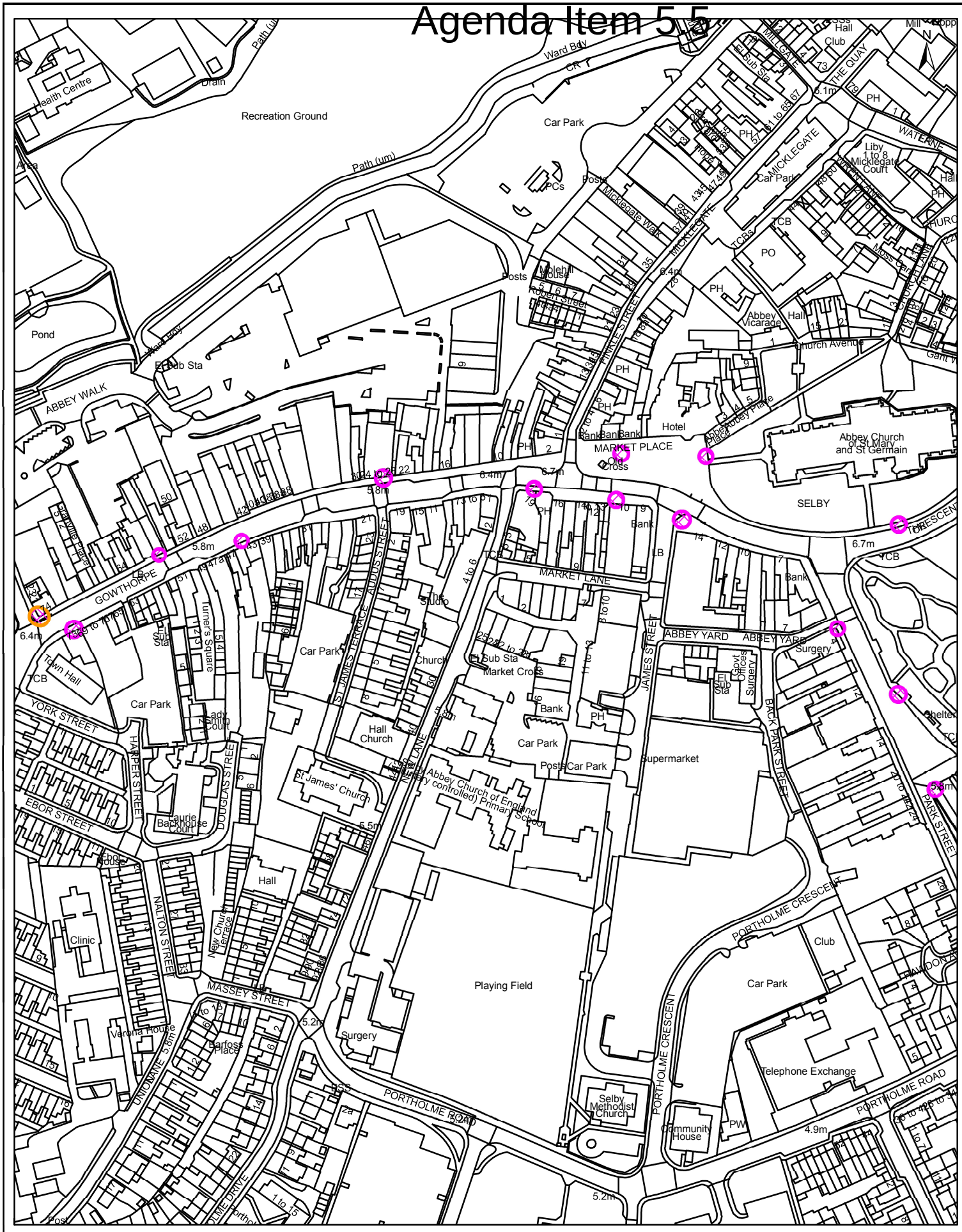
Financial issues are not material to the determination of this application.

10. Background Documents

Planning Application file reference 2019/0109/FULM and associated documents.

Contact Officer:
Jenny Tyreman, Senior Planning Officer
jtyreman@selby.gov.uk

Appendices:
None



APPLICATION SITE

2019/0434/ADV

Gowthorpe, Selby

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- Lamposts with Citrine Banner
- Lamposts with Lime Green Banner
- Lamposts with Magenta Banner
- Lamposts with Merlot Banner
- Lamposts with Teal Banner
- Lamposts with Violet Banner

AMENDED DRAWING

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Report Reference Number: 2019/0434/ADV

To: **Planning Committee**
Date: **7 August 2019**
Author: **Rebecca Leggott (Senior Planning Officer)**
Lead Officer: **Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2019/0434/ADV	PARISH:	Selby Town Council
APPLICANT:	Selby District Council	VALID DATE: EXPIRY DATE:	7th June 2019 2nd August 2019
PROPOSAL:	Retrospective application for consent for 14 No lamp post banners throughout Selby town centre		
LOCATION:	Gowthorpe Selby		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as this is an application by Selby District Council.

It should be noted that amended plans have been sent out for consultation of which the consultation period ends on the 6 August 2019. Therefore the recommendation to approve the proposed development is subject to no additional material considerations being raised through this consultation.

1. Introduction and background

Site and Context

1.1 The application site is located within the defined development limits of Selby, which is a Principle Town as identified in the Core Strategy.

1.2 The application site is located within the Selby Town Conservation Area and within the setting of a number of listed buildings.

The Proposal

1.3 The retrospective application is for consent for 14 No. lamp post banners throughout Selby town centre to be in place until 31st December 2019.

1.4 The banners are in support of a calendar of cultural/community and heritage events in celebration of Selby Abbey's 950th Anniversary.

1.5 Following discussions with the applicant the number of banners have been reduced from 20 banners to 14 banners and 6 of the banners have now been removed. The colour of a number of the banners has also been changed so as to preserve and enhance the surrounding heritage assets. Further to this, a number of the frames in which the banners are held have been reduced in length so as to not over hang the highway.

1.6 The application site consists of a number of lampposts along the main highway through Selby town centre. This consists of, the Crescent, Park Street, Market Cross and Gowthorpe.

Relevant Planning History

1.7 There are no historical applications which are considered to be relevant to the determination of this application.

2. Consultation and Publicity

2.1 **NYCC Highways Canal Rd –** NYCC Highways initially commented that, the banners which overhang the highway should have a 5.2 metre clearance from ground floor level.

Following discussions with the applicant the proposal has been amended with the frame which the banners are attached too has been reduced in size so as to ensure that the banners no longer over hang the highway.

Following receipt of the amended plans NYCC Highways have been consulted and have raised no objections

2.2 **Historic England –** Historic England have stated that they do not which to offer any comments on the proposed development. However, have advised that the local planning authority seek the views of the council's specialist conservation and archaeological advisers, as relevant.

Following receipt of the amended plans Historic England have been re consulted on the amended proposals and have until 6th August 2019 to provide comments.

2.3 **Parish Council -** Selby Town Council have raised no objections to the proposed development subject to consultation with neighbouring residents. Furthermore, it is noted that Selby Town Council have stated that the applicant should have made a planning application before the works were carried out.

Following receipt of the amended plans the Selby Town Council have been re consulted on the amended proposals and have until 6th August 2019 to provide comments

2.4 **Conservation Officer –** The Conservation Officer has raised concerns for the impacts the proposal will have on the surrounding heritage assets. Therefore, in order to be positive and proactive has suggested that a number of banners be removed and a number of the colours on the remaining banners be switched to

more conservative colours so as to reduce the impacts on the surrounding heritage assets.

Following discussions with the applicant the proposals have been amended with the number of banners being reduced from 20 banners to 14 banner and a number of the colours being altered so as to reduce any impacts on the surrounding heritage assets.

Following receipt of the amended plans the Conservation Officer has been consulted and has provided additional comments. In summary these acknowledge that a complete Heritage Statement has been submitted which provides a more details assessment of the assets and the impact. Furthermore, the number of banners have been reduced and some of the more garish colours are proposed to be removed. This will reduce the impact and harm caused to the significance of the designated heritage assets of Listed Buildings and the Selby Conservation Area.

However, the Conservation Officer has commented that the banners are still large and the frames will still project beyond the actual banner, this element of the proposal is still a concern and ideally the size and design of the frame should be improved to be more sympathetic in this sensitive location.

However, the Conservation Officer has concluded that it is considered that the development will still result in less than substantial harm. However as this proposal is for temporary permission, the harm will be removed once the banners and their frames are removed.

2.5 **Neighbour Summary** - All immediate neighbours were informed by letter, a site notice was erected and an advert placed in the local press. This has resulted in no letters of representation being received.

Following receipt of the amended plans all immediate neighbours have been re consulted on the amended proposals and have until 6th August 2019 to provide comments

3. Site Constraints and Policy Context

Constraints

3.1. The application site is located within the defined development limits of Selby, which is a Principle Town as identified in the Core Strategy.

3.2. The application site is located within the Selby Town Conservation Area and within the setting of a number of listed buildings. This includes the Grade I Listed, Church of St Mary and St Germain (Selby Abbey) and 36 other Grade II Listed Buildings along, the Crescent, Park Street, Market Cross, Finkle Street and Gowthorpe.

Policy Context

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.

3.4. 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. The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.

3.6. Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

3.7. "213. …..existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, 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 principal Core Strategy Local Plan Policies are:

- SP1 – Presumption in Favour of Sustainable Development
- SP2 – Spatial Development Strategy
- SP15 – Sustainable Development and Climate Change
- SP18 – Protecting and Enhancing the Environment
- SP19 – Design Quality

Selby District Local Plan

3.9. The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- ENV31 – Advertisement within Conservation Areas
- ENV32 - Advertisements and Listed Buildings
- T1 – Development in Relation to the Highway Network
- SEL/10 - Services and commercial uses in the Town Centre

4. Appraisal

The Town and Country Planning (Control of Adverts) Regulations 2011

3.10. Under the control of the Town and Country Planning (Control of Adverts) Regulations, the proposals within this application fall outside of any of the deemed consents and therefore an application has been made and assessed under these regulations.

3.11. The regulations require that local authorities shall exercise their powers under these regulation only in the interests of amenity and public safety, taking account of any material factors, and in particular;

A. In the case of amenity, the general characteristics of the locality, including the presence of any feature of historical, architectural, cultural or similar interest.

B. In the case of public safety:

i. The safety of any person who may use any road, railway, waterway dock, harbour or aerodrome;
ii. Whether any display of advertisements is likely to obscure, or hinder, the ready interpretation of any road sign, railway signal or aide to navigation by water or air.

3.12. It is considered that the main issues for consideration in the determination of this application are as follows:

iii. Visual Impact on the Character and Form of the Locality
iv. The Impact on Amenity and Highway Safety

Visual Impact on the Character and Form of the Locality

3.13. The application site is located within Selby development limits and is within the Selby Town Conservation Area. This application seeks advertisement for consent for 14 No. Banners in Selby Town Centre.

3.14. The retrospective proposal is for the advertisement of the celebrations surrounding the 950th Year anniversary of the Selby Abbey.

3.15. The banners are 2 meters in height and 0.6 metres in width with the bars which the banner is attached to extending 0.8 metres in width and the banners would be 1.2 square metres in area.

3.16. The banners are attached with fixtures to a number of lampposts with a minimum clearance from ground floor level at 3 metres and a maximum of 4 metres clearance from ground floor level. Furthermore, the text “Selby 950” on the banners is approximately a font size of 0.35 meters. The banners are made from PVC plastic of a variety of different colours, including:

- Citrine
- Lime Green
- Magenta
- Merlot
- Teal
- Violet

3.17. The application site is located within the Selby Town Conservation Area and within close proximity to a number of listed buildings. Therefore the proposed development has the potential to impact on a number of heritage assets.

3.18. The applicant has submitted an amended Heritage Statement. This document provides a more detailed assessment of the proposals.

3.19. In summary the Heritage Statement acknowledges that the proposals will cause some harm to the surrounding heritage assets identified at page 6 of the Heritage Statement. However, details have been provided in terms of the need for the banners and the public benefits involved through raising awareness and promoting the Selby 950 celebrations. Some of the benefits described include, Selby 950 events, regeneration of the high street, encouraging visitors, visible links through Selby town.

3.20. In terms of design the Heritage Statement considers that, the banners have been designed in such a way to minimise impacts on the surrounding heritage assets and the black fixings are subtle so as to be visually appropriate within the townscape.

3.21. Overall the heritage statement acknowledges that impacts the proposals will have on the surrounding heritage assets and overall design the Selby Town centre. However, despite some harm being identified the heritage statement considers that this harm is outweighed by the high quality design and public benefits provided through raising awareness of the Selby 950 celebrations.

3.22. The Planning, Listed Buildings and Conservation Act 1990 includes a general duty as respects listed buildings in the exercise of planning functions. In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The NPPF states in paragraph 193 that *'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation…'*

3.23. Given the above any harm albeit less than substantial would be required to be outweighed by the public benefits. It is noted from the information provided that the retrospective banners would provide public benefits in that they would be *'…in support of a calendar of cultural/community and heritage events in celebration of Selby Abbey's 950th Anniversary.'*

3.24. It is noted that the Conservation Officer raised concerns in relation the impacts the original retrospective banners would have on the surrounding heritage assets. However, through discussions with the applicant the proposals have been amended to reduce the number of banners from 20 banners to 14 banners. This includes amending the colour of one of the banners located directly south of the abbey to a more conservative 'Merlot' coloured banner.

3.25. Given the amendments to the proposals the impact on the character and appearance of the area and surrounding heritage assets will be reduce. Therefore, it is considered that the Conservation Officers concerns have been addressed. Though it is noted that the Conservation Officer has been consulted on the amended proposals and in summary has commented that given the number of banners have been reduced and some colour changes this will reduce the impact on surrounding heritage assets. Further to this, it is noted that the conservation officer has commented that the banners are large in 'size and design'.

3.26. In considering the design of the retrospective banners although there are a variety of colours these are simple in form and design. Furthermore, from a site visit it is

considered that the banners are of an acceptable size and scale within the context of the street scene.

3.27. Overall, in considering the amended scheme the retrospective application for advertisement consent would not be unduly intrusive or dominant in the street scene and would not have an adverse effect upon the character of the conservation area or the listed building. The proposal is considered to be acceptable in terms of visual amenity of the area. The proposal therefore accords Policies ENV1, ENV31 and ENV32 of the Selby District Local Plan and the advice contained within the NPPF.

The Impact on Amenity and Highway Safety

3.28. Policies in relation to highway safety are Policies ENV1 (2), T1 and EMP13 (3) of the Local Plan and Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF.

3.29. It is noted that a number of the banners are in close proximity to the highway. Having considered this in detail and from a site visit it is evident that a number of the banners over hang the highway and are coming into contact which high sided vehicles such as buses.

3.30. North Yorkshire County Council Highways have been consulted on the application and have commented that any banners which over hang the highway would need to have a clearance from ground floor level of 5.2 metres. Further to this any banners overhanging a footway would need to provide a 2.1 metre clearance.

3.31. Following discussions with the applicant the proposal have been amended so as to reduce the width of the fixings on the banners to ensure that the banners do not over hang the highway. The amended proposals have reduced the fixings so as to only protrude 0.8 metres from the lamppost. Further to this the banners provide a minimum of a 3 metre clearance and a maximum of a 4 metre clearance. The amended proposals would be secured by way of condition.

3.32. Having considered all the amended plans and additional information submitted it is considered that NYCC Highways concerns have been addressed. However, it is noted that NYCC Highway have been consulted on the amended plans and have raised no objections.

3.33. Subject to the aforementioned condition, having had 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 EMP9 (1) of the Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

4. Conclusion

4.1 The retrospective proposal for advertisement consent would not be unduly intrusive or dominant in the street scene and would not have an adverse effect upon the character of the conservation area or surrounding listed buildings. The proposal is considered to be acceptable in terms of visual amenity, amenity and highway safety. The proposal therefore accords Policies ENV1, ENV31 and ENV32 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

5. Recommendation

5.1 This application is recommended to be GRANTED, subject to the following conditions:

01.

i) The consent hereby granted is valid until 31st December 2019.

ii) All advertisements displayed, and any land used for the display of advertisements shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.

iii) Any hoarding or similar structure, or any sign, placard, board or device erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition to the reasonable satisfaction of the local authority

iv) Where any advertisement is required under the Town and Country Planning (Control of Advertisements) Regulations 2011 to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority, leaving the site in a safe, clean and tidy condition that will not endanger the public or impact the site's visual amenity.

Reason:
In order to comply with the provisions of the Town and Country Planning (Control of Advertisement) Regulations 2007.

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

- Location Plan 1:100, received 22.07.19
- Selby 950 Lamp Post Banner Guidelines: Lamp Post Style 1 and Lamp Post Style 2, received 22.07.19
- Specifications, received 22.07.19

Reason:
For the avoidance of doubt.

6. Legal Issues

Planning Acts

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

Human Rights Act 1998

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

Equality Act 2010

6.3 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

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

Background Documents

6.5 Planning Application file reference 2019/0434/ADV and associated documents.

Contact Officer:
Rebecca Leggott, Senior Planning Officer
rleggott@selby.gov.uk

Appendices:
None

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Glossary of Planning Terms

Community Infrastructure Levy (CIL):

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

Curtilage:

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

Environmental Impact Assessment (EIA):

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

National Planning Policy Framework (NPPF):

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

Permitted Development (PD) Rights

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

Previously Developed Land (PDL)

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

Planning Practice Guidance (PPG)

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

Recreational Open Space (ROS)

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

Section 106 Agreement

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

Site of Importance for Nature Conservation

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

Site of Special Scientific Interest (SSI)

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

Scheduled Ancient Monument (SAM):

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

Supplementary Planning Document (SPD)

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

Tree Preservation Order (TPO):

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

Village Design Statements (VDS)

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

SELBY DISTRICT COUNCIL

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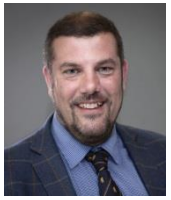

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