

Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY, 6 NOVEMBER 2019**
Time: **2.00 PM**
Venue: **CIVIC CENTRE, DONCASTER ROAD, SELBY, YO8 9FT**
To: **Councillors J Cattnach (Chair), I Chilvers, R Packham,
P Welch, M Topping, K Ellis, D Mackay, M Jordan and
J Mackman (Vice-Chair)**

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 - 12)

To confirm as a correct record the minutes of the Planning Committee meeting held on 9 October 2019.

5. Planning Applications Received (Pages 15 - 16)

- 5.1. 2018/1139/FUL - Jubilee Cottage, 13 Main Street, Thorganby (Pages 17 - 40)**
- 5.2. 2019/0582/FUL - Grange Farm, Fulham Lane, Womersley (Pages 41 - 56)**
- 5.3. 2019/0564/FUL - Hall Lane Stables, Hall Lane, Church Fenton (Pages 57 - 72)**
- 5.4. 2019/0602/COU - Railway Tavern, Station Road, Hensall (Pages 73 - 92)**

Appendix 1 to the report is exempt from publication by virtue of paragraph 3 in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended). If councillors wish to discuss information contained within the appendix it will be necessary to pass the following resolution to exclude the press and public:

In accordance with Section 100(A)(4) of the Local Government Act 1972, in view of the nature of the business to be transacted, the meeting be not open to the Press and public during discussion of the following item as there will be disclosure of exempt information as defined in Section 100(1) of the Act as described in paragraph 3 of Part 1 of Schedule 12(A) of the Act.

Janet Waggott

Janet Waggott, Chief Executive

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

Agenda Item 4



Minutes

Planning Committee

Venue: Council Chamber - Civic Centre, Doncaster Road, Selby, YO8 9FT

Date: Wednesday, 9 October 2019

Time: 2.00 pm

Present: Councillor J Cattnach in the Chair

Councillors I Chilvers, R Packham, P Welch, K Ellis, D Mackay, M Jordan and J Mackman (Vice-Chair)

Officers Present: Martin Grainger – Head of Planning, Ruth Hardingham - Planning Development Manager, Kelly Dawson – Senior Solicitor, Rachel Smith – Principal Planning Officer, Rebecca Leggott – Senior Planning Officer, Jenny Tyreman – Senior Planning Officer, Irma Sinkeviciene – Planning Officer, Victoria Foreman – Democratic Services Officer

Press: 1

Public: 22

16 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor M Topping.

17 DISCLOSURES OF INTEREST

Councillor K Ellis declared a pecuniary interest in agenda item 5.6 – 2019/0793/S73 - Old Forge Cottage, Main Street, Church Fenton as he was the applicant, and confirmed that he would leave the meeting during consideration thereof.

Councillor K Ellis also declared a personal interest in agenda items 5.8 – 2019/0110COU - Farm Farm, Mill Lane, Ryther and 5.9 – 2017/0736/REMM – Land South of Main Street, Church Fenton, Tadcaster. Councillor Ellis confirmed that he would remain in the meeting during consideration of these applications, but would not take part in the debates or votes.

18 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chair informed the Committee that an officer update note had been circulated, and that the order of the agenda had been adjusted to reflect the number of public speakers registered in relation to each application.

Members were also notified that application 2017/0736/REMM – Land South of Main Street, Church Fenton, Tadcaster would be considered first.

The Committee also noted that application 2019/0751/FUL – Unicorn Inn, Bondgate, Selby had been withdrawn from the agenda at the request of the applicant and as such would also not be considered at the meeting.

19 MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 7 August 2019.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 7 August 2019 for signing by the Chairman.

20 PLANNING APPLICATIONS RECEIVED

The Planning Committee considered the following applications:

20.1 2017/0736/REMM - LAND SOUTH OF MAIN STREET, CHURCH FENTON, TADCASTER

The Solicitor advised the Committee that further correspondence and representations had been received in relation to the application and as such, in order for the information to be properly considered, Officers were recommending that the application be deferred for consideration at a later date.

It was proposed and seconded that the application be deferred.

RESOLVED:

That consideration of application 2017/0736/REMM – Land South of Main Street, Church Fenton, Tadcaster be deferred to a later date in order for the additional information and representations received to be considered by Officers.

Councillor K Ellis did not take part in the debate or the vote on this item.

20.2 2018/1074/DOV - LAND TO THE NORTH OF WEELAND ROAD, EGGBOROUGH

Application: 2018/1074/DOV

Location: Land to the north of Weeland Road, Eggborough

Proposal: Request for a Deed of Variation to Section 106 agreement dated 27 September 2016 seeking a reduction in the proportion of affordable housing to be provided within scheme for up to 34 residential dwellings with all matters reserved except for access approved on appeal under reference 2016/0124/OUT

The Senior Planning Officer presented the application which had been brought to the Committee following consideration at the meeting on 24 April 2019, where Members had resolved to refuse the request and ask Officers to reconsider it with a view to the level of affordable housing being renegotiated with the applicant and the District Valuer.

The Committee noted that this was a request for a Deed of Variation to Section 106 agreement dated 27 September 2016, seeking a reduction in the proportion of affordable housing to be provided within the scheme for up to 34 residential dwellings with all matters reserved except for access approved on appeal under reference 2016/0124/OUT.

Members asked for confirmation that the proposed affordable units would be so in perpetuity, i.e. that the 30% discount would remain in the future as the houses were resold, and that the Community Infrastructure Levy (CIL) contribution from the developers was also still to be paid; Officers confirmed that both points were the case.

Mr Colin White, objector, spoke in objection to the application.

Councillor John McCartney of Kellington Parish Council, spoke in objection to the application.

Councillor Mary McCartney, Ward Member, spoke in objection to the application.

Sophie Bagley, agent, spoke in support of the application.

Members considered the request in full and expressed their frustration at the level of affordable housing being offered, but acknowledged the effect that government policy and the historic lack of five year land supply had had on the application before them. Some Members felt that delivering three affordable units was a preferable option to refusing the request altogether and potentially delivering none.

Officers clarified that as the request was for a deed of variation there was no right to appeal on the decision taken by the Committee, and explained the three year time limit for the delivery of scheme was to incentivise developers to build out as much of the scheme as possible in that time period.

It was proposed and seconded that the request be APPROVED.

RESOLVED:

To APPROVE the request for a Deed of Variation, and for delegation to be given to Officers to complete a Deed of Variation to the original Section 106 agreement for planning consent 2016/0124/OUT, to reduce the level of affordable housing from 40% affordable housing provision to provide 3 No. Discounted for Sale units each at 30% discount to market value. The variation would be time limited for a period of 3 years from the date of the decision.

20.3 2018/1387/FUL - BIRCHWOOD LODGE, MARKET WIGHTON ROAD, BARLBY

Application: 2018/1387/FUL

Location: Birchwood Lodge, Market Wighton Road, Barlby, Selby

Proposal: Proposed forming of new workshop and use of runway for any day of the week

The Senior Planning Officer presented the application for the proposed forming of a new workshop and use of the runway for any day of the week, which had been considered by the Committee on 7 August 2019, at which Members had resolved to defer the application so that a site visit could be undertaken, and to allow Officers to consider amendments to conditions.

It was explained that the amendments requested by Planning Committee to the conditions were as follows:

- That the workshop, Building A, as shown on plan reference 18114_P-004A should only be retained for a period of 2 years rather than 3.
- That the flight days should be restricted further to create a consistent weekly 'flight free' day.

It was considered that the request to amend the condition relating to the retention of the workshop building for 2 years rather than 3 was acceptable. Further discussions had been undertaken with the applicant and agent regarding restrictions on flights. The applicants had suggested the following:

- Limiting the use of the runway on a Sunday to a maximum of 10 days per calendar year, and a Saturday to 30 days per year, with restricted hours of 10.00 am to 4.00 pm subject to the applicant being able to use the runway for a maximum of 100 days, Monday to Friday, 7.30 am to 5.00 pm; which would virtually limit operations to the normal working week and standard working hours.

Following discussions with Planning Enforcement and Legal Services it was not considered that the suggested flight restrictions would be enforceable. Therefore, Officers had been unable to amend the conditions to restrict flights further.

However, Members acknowledged that should they be minded to restrict flights, it was considered a condition restricting flights to Monday to Saturday only would be enforceable, such as:

'The use of the airstrip shall be limited to Monday to Saturday within 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.'

In relation to the officer update note, Members noted that condition 12 had been amended to refer to 'Public Holidays' rather than 'Bank Holidays'. A copy of the flight log had also been provided, which included flights from March 2019 until 8 October 2019.

In response to a query, Officers justified the temporary permission for the workshop because the application was retrospective, required for business need and had been agreed by the applicants.

Michael McDonald, objector, spoke in objection to the application.

Councillor Karl Arthur, Ward Member, spoke in objection to the application.

Jonathan Forman, agent, spoke in support of the application.

Members considered the application in full and agreed that the site visit had been useful. It had been noted on the site visit that it had been tidy, and that most of the noise at the site had come from the nearby main road.

Some Members queried the safety of the access road and any ongoing planning enforcement in relation to the site, but Officers confirmed that these matters were not for consideration as part of the application.

The Committee agreed that further amendments to the days and times permitting flights should be made. It was proposed and seconded that condition 8 be amended as follows (**in bold**):

*'0.8 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 **Monday to Saturday and not at all on Sundays and Public Holidays.***

A vote was taken on the amendment and was carried.

It was proposed and seconded that the application be APPROVED with the amendment to condition 8 as set out above. A vote was taken on the amended proposal and was carried.

RESOLVED:

To APPROVE the application, subject to the conditions set out at paragraph 6 of the report, including amended condition 8 as set out below and the officer update note:

Condition 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 Monday to Saturday and not at all on Sundays and Public Holidays.

20.4 2019/0539/FUL - LAND ADJACENT TO 2 PROSPECT VILLAS, BARLOW COMMON ROAD, BARLOW

Application: 2019/0539/FUL

Location: Land Adjacent to 2 Prospect Villas, Barlow Common Road, Barlow

Proposal: Proposed erection of a building to be used for storage/workshop facility on land adjacent

The Planning Officer presented the application which had been brought to the Committee as 10 letters of representation had been received which raised material planning considerations, and Officers would otherwise determine the application contrary to these representations.

The Committee noted that the application was for the proposed erection of a building to be used as a storage/workshop facility.

Richard Borrows, agent, spoke in support of the application.

Some Members disagreed with the Officer's recommendation for refusal, emphasising the importance of supporting rural economic development and allowing the business in question to consolidate its storage and workshop facilities into one place for security.

However, other Members agreed with the Officer's recommendation and felt that the application should be refused, as it was an intrusion into the open countryside, and refusal had been recommended in line with the appropriate planning policies. Members were also reluctant to approve any application without first having seen detailed conditions.

An alternative recommendation was proposed and seconded that the Committee be MINDED TO APPROVE the application, subject to authority being delegated to Officers to draft conditions and bring these back to the next meeting of the Committee. A vote was taken on the alternative recommendation and was LOST.

It was proposed and seconded that the application be REFUSED.

RESOLVED:

To REFUSE the application for the reasons set out at paragraph 7 of the report.

20.5 2019/0110/COU - FAR FARM, MILL LANE, RYTHOR

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 lynchgates, 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 presented the application which had been brought back to the Committee following further discussions with the applicant to address concerns raised by legal.

The Committee noted that the application was for a 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 lynchgates, 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.

In relation to the officer update note, it was noted that the applicant's acoustic consultant had undertaken further discussions with the Council's Environmental Health Officer regarding the installation of an acoustic barrier; further comments had been provided by the EHO and were set out in the Officer Update Note for Members' information. As a result of the additional comments, Officers had advised the applicant that further works and discussions would be required.

Richard Borrows, agent, spoke in support of the application.

Members considered the application in full and acknowledged that the application had originally been

recommended for approval, but that there were still some issues that needed to be resolved, and as such, deferral rather than refusal would be more appropriate.

The Committee also suggested that a site visit would be helpful to Members.

It was proposed and seconded that the application be DEFERRED in order for further discussions to take place with the applicant, and for a site visit to be arranged.

RESOLVED:

To DEFER the application in order to allow further discussions with the applicant to take place, and for a site visit to be arranged.

Councillor K Ellis did not take part in the debate or the vote on this item.

20.6 2018/0931/EIA - STAYNOR HALL, ABBOTS ROAD, SELBY

Application: 2018/0931/EIA

Location: Staynor Hall, Abbots Road, Selby

Proposal: Section 73 application to vary condition 14 (drawings) of approval 2015/0580/EIA for reserved matters application for the erection of 44 dwellings, community facilities and retails units following outline approval 8/19/1011C/PA (CO/2002/1185)

The Principal Planning Officer presented the application which had been brought to the Committee because it was a subsequent application in terms of the EIA regulations.

The Committee noted that the application was a Section 73 application to vary condition 14 (drawings) of approval 2015/0580/EIA for reserved matters application for the erection of 44 dwellings, community facilities and retails units following outline approval.

In relation to the officer update note, the recommendation to approve the application had been revised in order that it was subject to a Deed of Variation to secure the affordable housing requirements under the existing Section 106. In addition, conditions 6, 11 and 23 had also been amended. The amended conditions related to opening hours of the retails units, noise insulation and hours of construction.

Members considered the application in full and acknowledged that comments from the Designing Out Crime Officer had been included in the previous application, and were pleased to see this application come forward.

The Committee were also pleased to note the electric car charging points in the application, and emphasised the importance of ensuring that sustainable elements such as electric car charging, solar panels and good broadband formed part of future developments in the district.

It was proposed and seconded that the application be APPROVED, subject to the revised recommendation and amended conditions.

RESOLVED:

To APPROVE the application subject to a Deed of Variation to secure the affordable housing requirements under the existing Section 106, and subject to the conditions set out at paragraph 7 of the report and the officer update note.

20.7 2018/1139/FUL - JUBILEE COTTAGE, 13 MAIN STREET, THORGANBY

Application: 2018/1139/FUL

Location: Jubilee Cottage, 13 Main Street, Thorganby

Proposal: Proposed construction of 1 No. dwelling on land to the rear of Jubilee Cottage

The Principal Planning Officer presented the application which had been brought to the Committee as Officers considered that although the proposal was contrary to the provisions of the Development Plan, there were material consideration which would justify approving the application.

The Committee noted that the application was for the construction of 1 dwelling on land to the rear of Jubilee Cottage.

In relation to the officer update note, there were a number of amendments to conditions as set out in the report, namely conditions 2, 4 and 11 relating to the position of the property from Main Street, drawings and slab levels.

Members considered the application in full and expressed concern regarding the proposed development in a secondary village and conservation area.

It was proposed and seconded that Members were MINDED TO REFUSE the application, and that further consideration of the application be deferred in order for reasons for refusal to be brought back to a future meeting of the Committee for consideration.

RESOLVED:

That Members were MINDED TO REFUSE the application, and that further consideration of the application be deferred in order for reasons for refusal to be brought back to a future meeting of the Committee for consideration.

Councillor K Ellis left the meeting at this point and did not return.

20.8 2019/0793/S73 - OLD FORGE COTTAGE, MAIN STREET, CHURCH FENTON

Application: 2019/0793/S73

Location: Old Forge Cottage, Main Street, Church Fenton

Proposal: Section 73 application for proposed erection of 1 No dwelling without complying with condition 15 of approval 2016/1384/FUL granted on 9 February 2017

The Senior Planning Officer presented the application which had been brought to the Committee as the previous application reference 2016/1384/FUL was considered by Planning Committee due to it being a departure from the Development Plan and the applicant being Councillor Keith Ellis.

The Committee noted that the application was for a Section 73 application for proposed erection of 1 No dwelling without complying with condition 15 of approval 2016/1384/FUL granted on 9 February 2017.

In relation to the officer update note, Members noted that the Selby District Council Flood Risk Sequential Test Developer Guidance Note was due to be updated in October 2019, and would remove the bullet point in paragraph 5.21 of the report which says “do not increase the net footprint of the building(s)”. On the basis of the updated Selby District Council Flood Risk Sequential

Test Developer Guidance Note, Officers confirmed that the sequential test would not be required in this instance as the proposals would be exempt.

The Committee acknowledged that the Council was also awaiting confirmation from the Environment Agency that the Flood Risk Assessment was acceptable; therefore, no decision could be made until the Local Planning Authority had receipt of this. On this basis Members were advised that the recommendation in Section 7 of the report should be amended to be minded to approve, unless objections were raised by the Environment Agency as a result of the outstanding consultation on the Flood Risk Assessment. It was also suggested that agreement was given to the Head of Planning to add any necessary conditions recommended by the Environment Agency, and subject to the conditions set out in the rest of the officer update note. Conditions 7 and 8 had been deleted, and conditions 1, 3 and 15 had been amended.

Members considered the application in full and asked questions relating to the footprint of the building and the additional flooding information to be submitted by the Environment Agency.

It was proposed and seconded that Members were MINDED TO APPROVE the application.

RESOLVED:

That Members were MINDED TO APPROVE the application, subject to no objections being raised by the Environment Agency as a result of the outstanding consultation on the Flood Risk Assessment, that authority be granted to the Head of Planning to add any necessary conditions recommended by the Environment Agency, and subject the conditions set out in paragraph 7 of the report, as amended by the officer update note.

The meeting closed at 4.43 pm.

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

Agenda Item 5

Items for Planning Committee

6 November 2019

Item No.	Ref	Site Address	Description	Officer	Pages
5.1	2018/1139/FUL	Jubilee Cottage, 13 Main Street, Thorganby	Proposed construction of 1 No. dwelling on land to the rear of Jubilee Cottage	RASM/ RUHA	17-40
5.2	2019/0582/FUL	Grange Farm, Fulham Lane, Womersley	Proposed conversion and extension of existing barn to form 1No. dwelling	JETY	41-56
5.3	2019/0564/FUL	Hall Lane Stables, Hall Lane, Church Fenton	Section 73 application for erection of 3 blocks of 7 No. stables with tack room, erection of indoor riding area, construction of outdoor riding area and vehicle park and siting of a mobile home for the variation of conditions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of approval 2009/0565/FUL allowed on appeal on 01 April 2011	MACO	57-72
5.4	2019/0602/COU	Railway Tavern, Station Road, Hensall	Proposed change of use of public house to retail shop and tea room	GAST	73-90

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Agenda Item 5.1



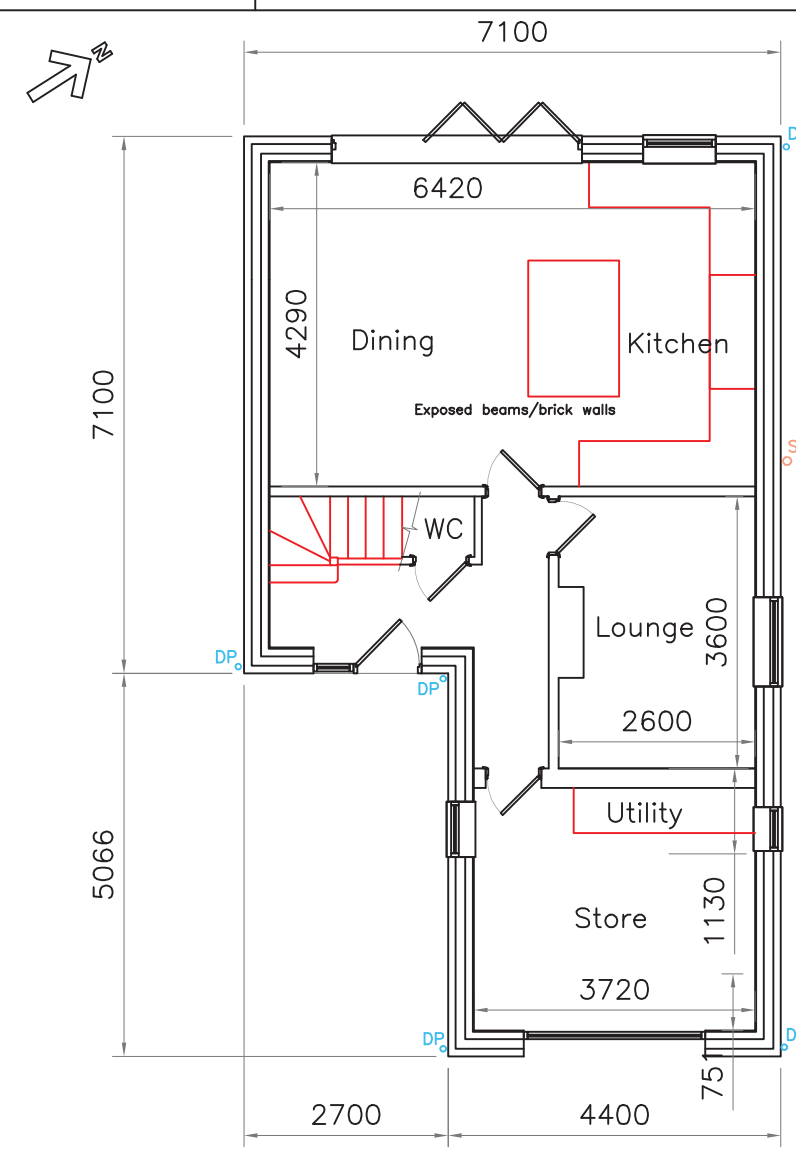
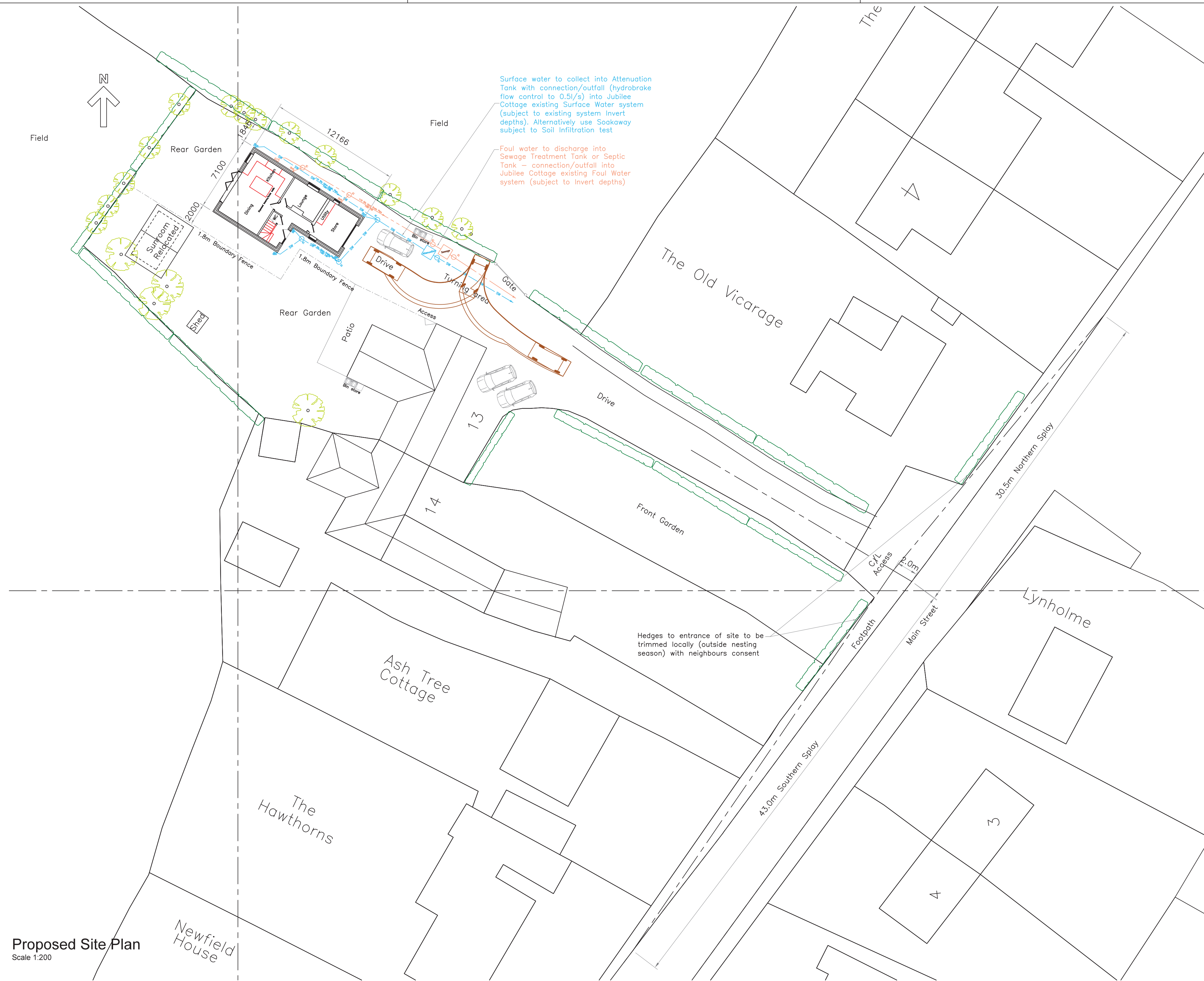
APPLICATION SITE

Jubilee Cottage, 13 Main Street, Thorganby
2018/1139/FUL

1:2,500

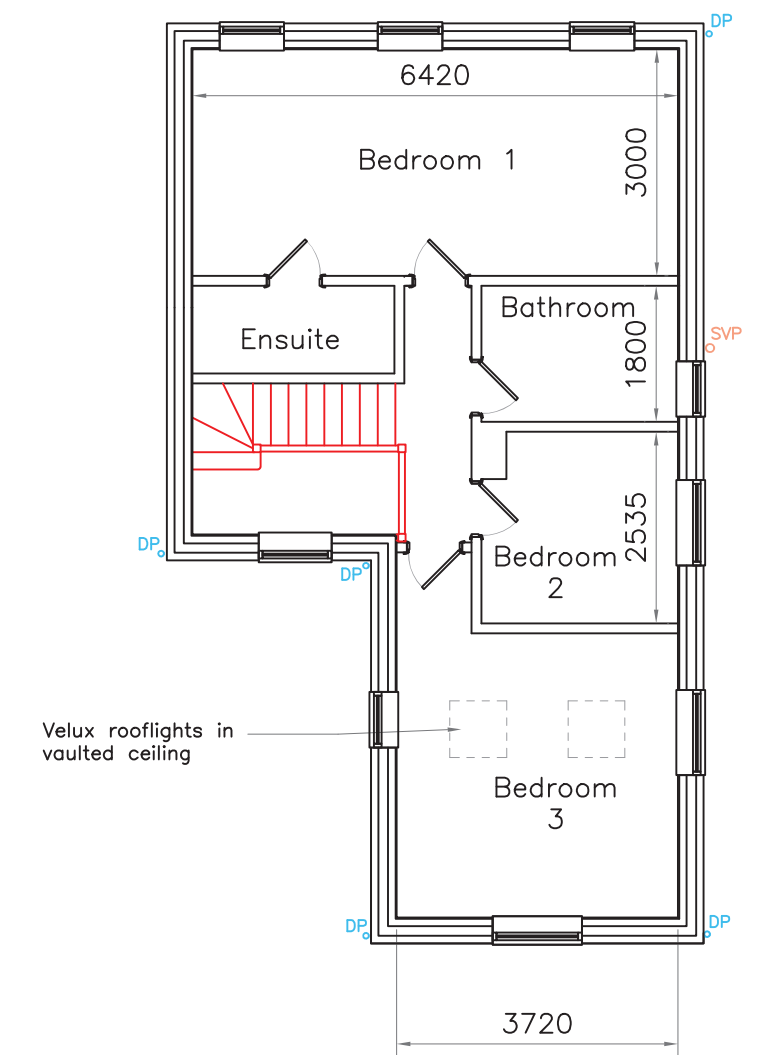


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Proposed Ground Floor Plan

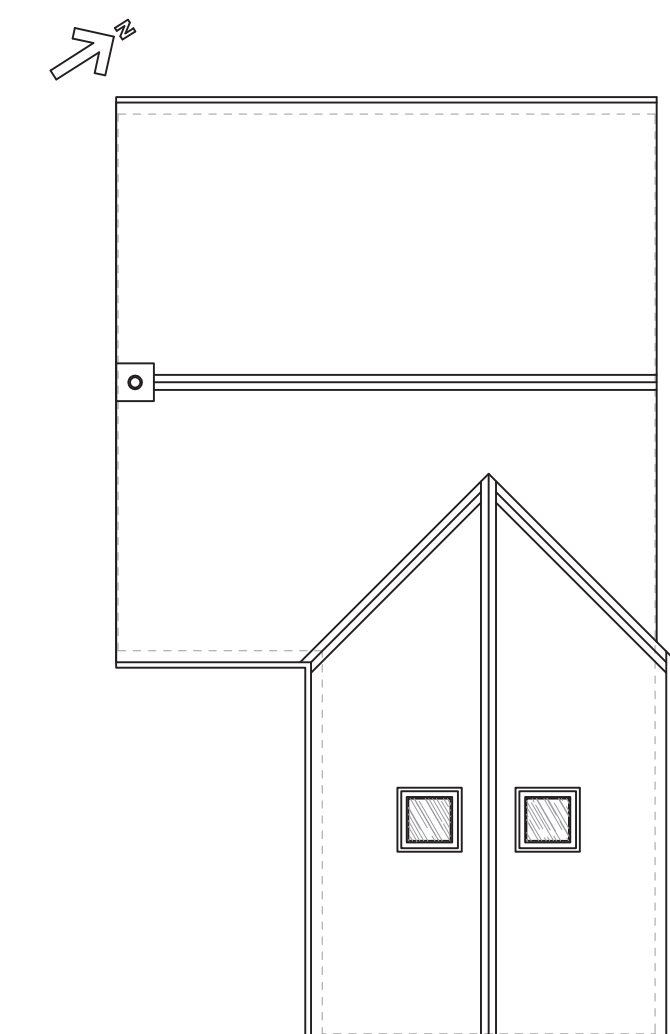
Scale 1:100



Proposed First Floor Plan

Scale 1:100

AMENDED DRAWING



Proposed Roof Plan

Notes:

1. All coursework shown indicative only.
 2. This drawing is for Planning Application purposes only.
 3. All dimensions to be confirmed by builder during setting out, prior to construction.
 4. All brickwork opening sizes to be verified with window and door dimensions. Builder to allow for fit up tolerances.
 5. Do not scale off this drawing.
 6. All boundaries shown have been assumed from site visit.
- Refer to Title Deeds for true boundary information.
- | | | |
|---|----------|---|
| F | 27.09.19 | Car turning added |
| E | 25.06.19 | Layout revised to Planning Officer comments |
| D | 01.04.19 | Layout revised to Planning Officer comments |
| C | 06.11.18 | Visibility Splays added |
| B | 09.10.18 | Scales revised |
| A | 05.10.18 | Boundary line removed |

Rev.	Date	Description
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Drawings prepared by: Kevin Bristowe

SIZE MATTERS
Technical Design Ltd.

36 Top Lane Copmanthorpe York YO23 3JJ

Tel: 01904 709023

Mob:
email: info@sizefec.co.uk

PLANNING APPLICATION

Proposed Arrangement

New build dwelling to rear of,
Jubilee Cottage, 13 Main Street, Thorganby,
York YO19 6DB
for Mr Chris Garland

Scale 1:100/1:200	Checked By:	
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Scale 1:100/1:2
Drawing No.

JUB/002

ev

F



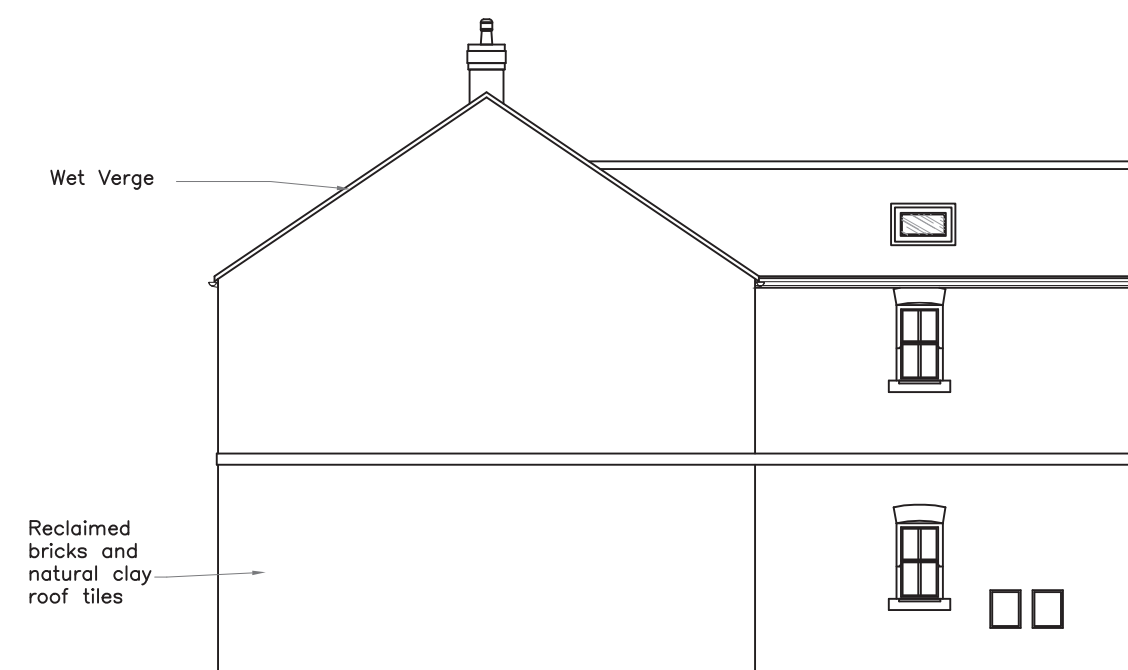
Proposed East Elevation (Front)
Scale 1:100



Proposed West Elevation (Rear)
Scale 1:100



Proposed North Elevation (Side)
Scale 1:100



Proposed South Elevation (Side)
Scale 1:100

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Report Reference Number 2018/1139/FUL

To: Planning Committee
Date: 6 November 2019
Author: Rachel Smith (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/1139/FUL	PARISH:	Thorganby Parish Council
APPLICANT:	Mr Chris Garland	VALID DATE: EXPIRY DATE:	10th October 2018 5th December 2018
PROPOSAL:	Proposed construction of 1 No. dwelling on land to the rear of		
LOCATION:	Jubilee Cottage 13 Main Street Thorganby York North Yorkshire YO19 6DB		
RECOMMENDATION:	REFUSE		

1. INTRODUCTION AND BACKGROUND

- 1.1 This application has been brought before Planning Committee following consideration at the 9th October 2019 where Members made a minded to decision to refuse the application subject to the application being deferred for detailed reasons for refusal to be considered.
- 1.2 The previous Officer report is included in Appendix 1.

2 RECOMMENDATION

- 2.1 The Officer's recommendation is that the application is refused for the following reasons:
- 01 The site lies within the development limits of a secondary village which is a less sustainable location. The proposed development would result in backland development to the rear of other properties, and would not constitute the 'filling of a small linear gap in an otherwise built up frontage', or any of the other categories of

development identified as acceptable in Secondary Villages in Policy SP4(a). The development is therefore contrary to Policy SP4 (a) and consequently Policy SP2A(b), of the Core Strategy.

02 The development is out of keeping with the character of the village by increasing the depth of built form. Furthermore, having regard to the Duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 it is not considered that the development will preserve or enhance the character or appearance of Thorganby Conservation Area. This is by virtue of the relationship of the dwelling with surrounding properties that is out of keeping with the urban grain of the area. It is not considered that the public benefits associated with the erection of the dwelling would outweigh the harm identified. As such the development is contrary to Policies SP19 of the Core Strategy, and Policy ENV25 of the Selby District Local Plan and section 16 of the NPPF.

03 The poor juxtaposition between the proposed dwelling and Jubilee Cottage would result in harm to the amenities of future and existing occupiers. As such the development is contrary to Policy ENV1 of the Selby District Local Plan and Section 12 of the NPPF.

4 Legal Issues

4.1 Planning Acts

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

4.2 Human Rights Act 1998

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

4.3 Equality Act 2010

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

5 Financial Issues

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

6 Background Documents

Planning Application file reference 2018/1139/FUL and associated documents.

Contact Officer:

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Appendices: Appendix 1 – Previous Officer Report (considered at Committee on 9 October 2019)



Report Reference Number 2018/1139/FUL

To: Planning Committee
Date: 9 October 2019
Author: Rachel Smith (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/1139/FUL	PARISH:	Thorganby Parish Council
APPLICANT:	Mr Chris Garland	VALID DATE: EXPIRY DATE:	10th October 2018 5th December 2018
PROPOSAL:	Proposed construction of 1 No. dwelling on land to the rear of		
LOCATION:	Jubilee Cottage 13 Main Street Thorganby York North Yorkshire YO19 6DB		
RECOMMENDATION:	Minded to Grant subject to the completion of a planning obligation		

This application has been brought before Planning Committee as Officers consider that although the proposal is contrary to the provisions of the Development Plan there are material considerations which would justify approving the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located within the developments of Thorganby which is identified as a Secondary Village in the Core Strategy. It is within Thorganby Conservation Area.
- 1.2 The application site comprises part of the garden to Jubilee Cottage. The existing dwelling, together with its immediate attached neighbour is set back approximately 22m to the rear of Main Street.

The Proposal

- 1.3 Permission is sought in full for the erection of a two storey dwelling. The proposed dwelling will be set approximately 30m to the rear of Main Street. Whilst located to the rear, the proposed dwelling will not be directly behind Jubilee Cottage and therefore from the street the front of the proposed dwelling will be visible to the side of Jubilee Cottage. As submitted the design of the dwelling had a gable to the front that was approximately 11m in length, together with a hipped roof to its frontage. As a result of comments made by officers, revised plans were received which reduced the front extension to 5m, and also revised the design to include a gable to the front and revised the fenestration. The dwelling will be constructed from reclaimed bricks with a natural clay pantile roof.
- 1.4 Access to the dwelling will be via the existing driveway to Jubilee cottage. Comments were however raised by the Highway Authority that the necessary sight lines would include land outside the control of the applicant. As a result of this the applicant submitted a revised ownership certificate (certificate B), and served notice on the neighbouring occupier over which the sight lines would cross.

Relevant Planning History

- 1.4 The following historical application is considered to be relevant to the determination of this application.

Application Number: 2007/0671/FUL. Erection of a two storey extension to the side and rear and a double garage with office/ancillary accommodation, Address: Jubilee Cottage, 13 Main Street, Thorganby, York, North Yorkshire, YO19 6DB. Decision: Permitted. Decision Date: 16-AUG-07

Application Number: 2007/1353/FUL: Amendment to approved application 8/12/114/PA (2007/1353/FUL) for the erection of a two storey extension to the side and rear (roof height to be increased from that approved). Address: Jubilee Cottage, 13 Main Street, Thorganby, York, North Yorkshire, YO19 6DB. Decision: Permission granted. Decision Date: 27-DEC-07

Application Number: 2015/0816/OUT. Outline planning application for construction of 1no. new dwelling on land to the rear of Address: Jubilee Cottage, 13 Main Street, Thorganby, York, North Yorkshire, YO19 6DB, Decision: Permission granted. Decision Date: 13-NOV-15

2. CONSULTATION AND PUBLICITY

2.1 Conservation Officer –

Comments on original application:

The development does not preserve or enhance the character or appearance of the Conservation Area, it is contrary to Local Plan policy ENV25, Core Strategy policies SP18 and 19 and the NPPF as the development would cause less than substantial harm to the significance of the designated heritage asset of Thorganby CA. The new development would require a new design and form following an assessment of the character of the area.

2.2 Comments on the revised plans:

The proposed development is located to the rear of Jubilee Cottage on Main Street in Thorganby. It is located within the Thorganby Conservation Area. Jubilee Cottage is set back from the road frontage and is of a traditional built construction of red brick and pantile roof. Its simple form and traditional appearance contributes to the character and appearance of the Thorganby Conservation Area. The proposed development has been re-designed to reflect the local character and building form by reducing the front projection and simplifying the openings. The materials are proposed to be brick to match those found on Jubilee Cottage and clay pantiles to match Jubilee Cottage. This approach will enable the development to sit comfortably within its surroundings. It is advised that conditions are imposed in relation to materials, (including lintels, sills, eaves and ridge), and boundary treatment. No development shall commence until the detailed design of the boundary treatment has been submitted to and approved in writing by the Local Planning Authority.

- 2.3 The development will not cause harm to the significance of the designated heritage asset of the Thorganby Conservation Area and meets the requirements of the NPPF section 16. In particular paragraph 200 which states that new development within Conservation Areas should enhance its significance. Proposals that preserve those elements of significance that make a positive contribution to the asset should be treated favourably. The development will also preserve the character of the conservation area as required by the Planning (Listed Buildings and Conservation Areas) Act 1990 and Local Plan policy ENV25.

2.4 County Ecologist – Comments on initial plans

Under Article 6(3) of the Habitats Directive (92/43/EEC), an appropriate assessment is required where a proposed development is likely to have a significant effect upon a European site. Regulations 61 and 62 of the Habitat Regulations relate to the assessment of proposals in proximity of European designated sites. The planning application for Jubilee Cottage has been screened in relation to the Habitat Regulations Assessment. These are sequential and it is only necessary to proceed to the next stage if likely significant effects cannot be ruled out on this basis. The screening of the site has taken into account the location of this site and the nature and scale of the proposed development in relation to the Lower Derwent Valley Special Protection Area, Special Area of Conservation, Ramsar site and component Sites of Special Scientific Interest. Taking account both of direct impact and indirect effects (e.g. noise, lighting, dust), it is not expected that any significant adverse effects on the features for which the Lower Derwent Valley is designated. As no likely significant effect is expected, no further assessment is required. It is assumed that foul water discharge will be of sufficient standard so as not to impair surface water quality in any receiving watercourse. There are some concerns about the impact on what appear to be mature hedgerow trees on the north-eastern boundary of the plot. The supporting statement submitted by the applicant states that, "Hedging and trees to the existing boundary will be retained, and only be trimmed back to suit requirements of the build". There have been other sites in Thorganby where bats and/or Barn Owls have been an issue and we would welcome an indication of the wildlife interest of any affected trees including potential or actual use by bats and Barn Owls. This information needs to be provided prior to determination in case of impacts on protected species. We assume that standard tree protection conditions will be conditioned.

Comments on revised plans

There isn't anything which alters previous comments provided; the main concern being that if mature trees in the north-eastern boundary of the site need to be cut back as part of the development, these will first need to be checked for the presence of bats and Barn Owls. If the trees are to be retained intact, or if only minor pruning is required, no ecology surveys are required.

2.5 NYCC Highways

2.6 Comments on original submission

Pre-application discussions were had with the applicant and it was determined that the required visibility splays of 2 metres by 43 metres could not be achieved. Given the geometry of the highway it would be acceptable for the northern splay to be reduced. However the southern splay should achieve a 2 metre by 43 metres visibility splay. This is not possible without encroaching on neighbouring land if the visibility splay is not protected through a legal agreement the Highway Authority would have to review their support of this application.

2.7 Comments on revised plans

Confirm that the Highway Authority has no objections to the proposed development but would recommended that the previously recommended conditions are applied in relation to Visibility. Details of Access, turning and parking. Together with informatives in respect of maintaining turning and parking areas free from obstruction, and prevention of mud on the road.

2.8 Land Use Planning Yorkshire Water Services Ltd - No comments on this application.

2.9 The Ouse & Derwent Internal Drainage Board – No objections subject to conditions attached to any permission granted.

2.10 Parish Council – Comments made in relation to the initial plans.

(i) The submitted application proposes to erect a large building on a small plot of land and is therefore too overpowering and not in keeping with the surrounding properties.

ii) Foul sewage is to be connected to the main sewer which Yorkshire Water openly admits is already over capacity.

iii) The Parish Council object to inappropriate development in back gardens/infill.

iv) This site was not identified by Selby District Council as an area of possible development within the village, nor is it an area denoted on the Brownfield Sites Register.

v). The site is not sympathetic to the local character.....and the surrounding developed environment (para 127 (c) - NPPF).

vi). Any decision should take into account the desirability of maintaining an area's prevailing character and setting (including residential gardens) - para 122 (d) - NPPF.

Parish Council comments in relation to the revised Plans - No views received.

2.11 Neighbour publicity

All immediate neighbours were informed by letter, and a site notice was erected and an advert placed in the local press. No neighbour letters received.

3 SITE CONSTRAINTS

Constraints

- 3.1 The application site is located within the development limits for Thorganby, and is within Thorganby Conservation Area. It lies within Flood Zone 1, which has a low probability of flooding. The site does not contain any protected trees and there are no statutory or local landscape designations. Whilst it does not lie in an area protected for nature conservation it is within the vicinity of the Lower Derwent Valley Special Protection Area, Special Area of Conservation, and Derwent Ings SSSI which lie across the road to the south east.

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. On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies .
- 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
SP4 - Management of Residential Development in Settlements
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
ENV25 - Development in Conservation Areas

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 Policy SP1 of the Selby District Core Strategy Local Plan (2013) outlines that when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Paragraph 12 of the NPPF (2019) re-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.

- 5.3 The application site lies within the development limits of Thorganby which is identified as Secondary village within the Core Strategy. Policy SP2A(b) states that *'Limited amounts of residential development may be absorbed inside Development Limits of Secondary Villages where it will enhance or maintain the vitality of rural communities and which conforms to the provisions of Policy SP4 and Policy SP10.'*

Reference to Policy SP10 relates to Rural Housing Exception sites, and from the commentary that accompanies Policy SP2, it is not intended that all housing that complies within the criteria in Policy SP4 should be limited to 'rural affordable housing'.

- 5.4 Policy SP4 a) includes that:

'In Secondary Villages –conversions, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built up residential frontages, and conversions/redevelopment of farmsteads

- 5.5 The previous outline permission (2015/0816/OUT) granted consent for one dwelling when the Council could not demonstrate a deliverable 5 year supply of housing land and was therefore determined when the tilted balance in favour of sustainable development was engaged. However this consent expired during the course of this application, 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 The commentary to Policy SP4 states that it provides *'greater clarity about the way proposals for development on non-allocated sites will be managed, by identifying the types of residential development that will be acceptable in different settlement types. (para 4.55)* The development of the land would result in a dwelling to the rear of existing properties and therefore would not constitute *'the filling of a small linear gap in an otherwise built up residential frontage.'* Therefore it follows that the development does not fall within any of the categories of development identified as acceptable in Secondary Villages in Policy SP4 (a) and is therefore contrary to both Policy SP4(a) and Policy SP2A(b) of the Core Strategy.
- 5.7 In considering what material considerations apply that might indicate against a refusal on policy grounds, the following matters are considered relevant.

(i) Sustainability

The site lies inside of the defined Development Limits of Thorganby, which is a Secondary Villages as defined in the Core Strategy and is considered to be less sustainable than Designated Service Villages. Taking account of the NPPF, paragraph 38 states that: *'Decision-makers at every level should seek to approve applications for sustainable development where possible.'* At paragraph 59 it includes that to support the Government's objective of significantly boosting the supply of housing, it is important that a sufficient amount and variety of land can come forward where it is needed. The Framework goes on to state (in para 68) that small and medium sized sites can make an important contribution to meeting the housing requirements of an area. And at paragraph 78 it includes that to promote sustainable development in rural area, housing should be located where it will

enhance or maintain the vitality of rural communities, and further that Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.

In terms of services provided as of December 2018 the services include;

- 1 village hall
- 1 public house
- 2 Hotel/ Guest House/B & B
- 1 Nursery/ Pre-School Group
- 1 Playing Field/ Play Ground
- Bus service operating 3 times a day.

(ii) Site characteristics

5.8 Policy SP2 A (b) identifies that limited amounts of residential development may be absorbed within the development limits of Secondary Villages. Policy SP4 goes on to identify the types of development that this may refer to. Within para 4.55 it states that it is intended to support development on the most sustainable locations, in a way which strikes a balance between maintaining the vitality and longer term sustainability of all settlements whilst avoiding the worst excesses of garden grabbing particularly in smaller settlements. Whilst it is noted that dwellings in this part of Thorganby lie predominantly close to the road frontage, numbers 13 and 14 are set significantly back behind extensive gardens. The proposed dwelling would lie to the side of number 13, and set further back from the Main Street than Jubilee Cottage, when viewed from the road it, relates visually to 13 and 14. Crucially there are no other dwellings between the application site and the main road. When viewed from the road frontage, the degree of set back of 13 and 14 Main Street is such that the proposed dwelling would look aligned with those existing dwellings and therefore to all intents and purposes would 'appear as a small gap site'. This is a particular set of circumstances that would not therefore be readily replicated elsewhere in Thorganby or indeed in other secondary villages. The development only relates to one dwelling, and will retain an acceptable level of garden for the existing dwelling. As such it is considered that it is the type of limited development that policy SP2A(b) and SP4.

5.9 In support of the principle of the development the site is located within the development limits of Thorganby and to all intents and purposes is a small gap site. It is considered that the level of service weighs in favour of a conclusion that in terms of access to local facilities, the site can be considered as being reasonably sustainable. Taking this into account together with, the reference in paragraph 78 of the NPPF to promoting sustainable development in rural areas where it will enhance or maintain the vitality of rural communities, and in particular the identified locational characteristics of the site, the proposed development accords with the spirit of the policy when looked at in the round with the NPPF. It is therefore not considered that the development of the site would harm the strategy for the supply of housing in the Core Strategy, and the material considerations identified would outweigh the lack of compliance with that part of policy SP4 which requires such sites to be small gap sites in a *linear frontage*. It is therefore considered that such factors constitute the material considerations that would outweigh the lack of compliance with that part of SP4 and consequently SP2A (b) identified. It is still necessary, however, to consider whether those other matters of acknowledged interest still weigh in favour of the development or not.

Impact on Heritage Assets

- 5.10 The site lies within Thorganby Conservation Area. Paragraph 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 includes a general duty that *'special attention shall be paid to the desirability of preserving or enhancing the character and appearance of the Conservation Area'*. Relevant policies in respect to the impact of development in the Conservation area include Policy ENV25 of the Selby District Local Plan and Policies SP18 and SP19 of the Core strategy.
- 5.11 The previous application on the site made reference to 'Thorganby: A review of the Special Architectural and Historic Interest of the village'. It identified that the character of the village is mainly comprised of its predominantly linear layout and the materials used in its buildings is predominantly brick. It further referred to the lack of a strong building line, with some housing set close to the back of the highway, and others with a generous front garden. It then identified that the site is set back from Main Street and would not be readily visible from view other than neighbouring properties, and *'Given the layout of the village it is considered that the proposal, by virtue of its location, would have a neutral impact on the character and form of the village'*. The Heritage section concluded that the proposal would preserve the character, appearance and significance of Thorganby conservation Area.
- 5.12 The NPPF at par 189 requires that applicants describe the significance of any heritage asset affected. The application is accompanied by a Heritage Statement that concludes that the development will not impact on any listed buildings or areas of archaeological sensitivity and has taken account of the character of Thorganby Conservation area. The supporting statement also advises that the revised design takes account of the comments of the Conservation Officer. When the current application was submitted, it included details of a dwelling that accorded with the plan submitted as indicative with the outline application. Because details of design were reserved it carried little weight other than to provide some demonstration of how a dwelling could be accommodated on the site. During consideration of the current application, officers raised concern that the design of the dwelling was inappropriate and out of keeping with this part of the conservation area. This included an overly large front extension together with a hipped roof. Following discussions with officers revised plans were received that reduced the length of the front extension, revised the design to a gable to accord with the immediate neighbouring dwellings, and showed a traditional wet verge, reclaimed bricks and traditional window proportions. It is considered that the revised plans are a significant improvement and will result in a dwelling that relates well in terms of proportions and detailing to the character of the area, and consequently the significance of the Conservation Area. It is however considered that permitted development rights should be removed to ensure that any alterations or extensions that might otherwise be approved required an assessment of the impact on the character of the Conservation Area.
- 5.13 Having regard to the Duty under the Planning (Listed Buildings and Conservation Areas) Act 1990 and the requirements of Policy ENV25 it is considered that the development will preserve the significance of the Conservation area and having identified no harm, meets the requirements of the NPPF section 16. In particular paragraph 200 which states that new development within Conservation Areas should enhance its significance. Proposals that preserve those elements of significance that make a positive contribution to the asset should be treated favorably.

Layout and Character Assessment

- 5.14 This part of Thorganby is essentially linear, with dwellings predominantly close to the road frontage. However nos. 13 and 14 provide an unusual set of circumstances in that whilst they front the Main Street, they have a generous front garden, and as such are set well back from the street. The proposed dwelling would be to the side of 13 Main Street. Whilst it would be further in the site, it would relate to the existing dwellings in terms of scale and orientation. Crucially there are no other properties between the dwellings and the street frontage, and from the street frontage the dwelling would not be out of kilter with those dwellings to the south west. Whilst the dwelling will utilise the existing access to Jubilee Cottage it is considered wide enough to accommodate cars associated with both properties. In view of this the development would not fall into what is commonly described as 'backland development'.
- 5.15 In terms of design, there were significant concerns regarding the scale and design of the dwelling as submitted. However the revised plans have addressed the concerns raised, and it is considered that the proposed dwelling is of an appropriate scale and includes a gable frontage that is not dissimilar to 14 Main Street. Furthermore the dwelling will have traditional windows and will be constructed from reclaimed bricks and natural clay roof tiles. It is therefore concluded that the dwelling will result in a good design that respects the character of the streetscene. As such it accords with Policy ENV1(1) and (4) of the Selby District Local Plan, Policy SP19 Design Quality of the Core Strategy and Section 12 of the NPPF in relation to achieving well designed places.

Residential Amenity

- 5.16 The proposed dwelling will share an access with Jubilee Cottage, and will provide turning to the front of that dwelling. The dwelling will have some impact on the existing amenities of the occupiers of Jubilee Cottage due to impact on outlook and intervisibility between first floor windows. However the gable of the proposed dwelling that has a bedroom window at first floor level is offset from the immediate rear of Jubilee cottage, with the other window on the front of the proposed dwelling only associated with a landing as any intervisibility will be limited. It is also considered that overshadowing will be limited due to the orientation of the proposed dwelling in relation to the existing house, and the main outlook to the rear of 13 Main Street will be maintained. There will be some impact due to the additional vehicular movements, but given the scale of the development and the proposed boundary treatment it is not considered that will have a significant adverse impact. The cars for the proposed dwelling will be screened from Jubilee Cottage by a 1.8m high boundary fence. The turning area will also be separate.
- 5.17 In relation to neighbouring occupiers, the relationship and orientation in relation to 14 Main Street is such that any impact will be negligible. Furthermore there is a separation distance of approximately 40m between the front of the proposed dwelling and the rear of the nearest neighbour to the south east, The Old Vicarage, as such there will be little impact on their existing amenities. It is however considered that permitted development rights that relate to extensions and outbuildings should be removed to ensure that any alterations or extensions that might otherwise be approved require an assessment of the impact on the existing amenities of neighbouring occupiers.

- 5.18 It is therefore considered that whilst there will be some impact on the existing amenities of the applicants existing dwelling; it is not considered that such that it will have a significant adverse impact on their existing amenities. As such, the application accords with the requirements of Policy ENV1 (1) of the Selby district Local Plan.

Flood Risk Drainage and Climate Change

- 5.19 The revised plan demonstrated that Foul water will discharge to a Sewage Treatment Tank or septic tank, with surface water into an attenuation tank or soak away. Yorkshire Water Services have advised that they have no comments to make on the application. The Internal Drainage Board has stated that the development will enlarge the impermeable area on site and has the potential to increase the rate of surface water run-off from the site if this is not effectively constrained. It is recommended that any permission is conditioned upon details to demonstrate whether the proposed drainage proposals are acceptable, and that ground conditions are suitable for any soakaway.
- 5.20 In terms of Climate change, 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. 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 over and above that required by Building Regulations 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.

Highway Impact

- 5.21 The proposed development will utilise the existing access to Jubilee Cottage. The access is considered to be wide enough to accommodate vehicular movements associated with both properties. There are two parking spaces and a garage provided to the front of the dwelling. During consideration of the application as submitted, the Highway Officer advised that whilst there was no objection in principle to the development, the visibility splays would pass over land that was not in the applicant's control. Accordingly, the applicant submitted a revised plan that included the visibility splays and also signed ownership certificate B and 'served notice' on the ownership of the land in question. On this basis there is no Highway Authority objection subject to conditions. It will however be necessary to protect the splay through a legal agreement.

Ecology

- 5.22 The site does not lie within a protected area for ecology. Nevertheless it is within proximity to a number of European designated sites which are afforded protection under the Conservation of Habitats and Species Regulations 2017. This includes the Lower Derwent Valley Special Protection Area, the Lower Derwent Valley SAC Skipwith Common Special Area of Conservation. The Lower Derwent Valley SAC and SPA are also listed as the Lower Derwent Valley Ramsar site and is notified at a national level as Derwent Ings and the River Derwent Sites of Special Scientific

Interest. Under Article 6(3) of the Habitats Directive (92/43/EEC), an appropriate assessment is required where a proposed development is likely to have a significant effect upon a European site. Regulations 61 and 62 of the Habitat Regulations relate to the assessment of proposals in proximity of European designated sites. The stages of the Habitat Regulations Assessment are sequential and it is only necessary to proceed to the next stage if likely significant effects cannot be ruled out. The application has been screened on this basis, taking account of the location of this site and the nature and scale of the proposed development in relation to the Lower Derwent Valley Special Protection Area, Special Area of Conservation, Ramsar site and component Sites of Special Scientific Interest. Taking account both of direct impact and indirect effects (e.g. noise, lighting, dust) it is not considered that there will be any significant adverse effects on the features for which the Lower Derwent Valley is designated. As no likely significant effect is expected, no further assessment is required. Foul water discharge should be of a sufficient standard so as not to impair surface water quality in any receiving watercourse.

- 5.23 Concerns were initially expressed regarding potential for the impact on mature hedgerow trees on the north-eastern boundary of the plot. However the applicant has advised that any work will take place outside the bird nesting season and tree protection will be carried out. It is still considered appropriate however to add an informative that if the trees need to be cut back as part of the development, these will first need to be checked for the presence of bats and Barn Owls. Biodiversity enhancement in the form of Owl/Bat Boxes will be provided. It is considered that this accords with policy SP18 3(b) and (c), and paragraphs 170 and 175 of the NPPF.

Affordable Housing

- 5.24 Relevant policies in respect to affordable housing mix include Policy SP9 of the Core Strategy, the Affordable Housing SPD and section 5 of the NPPF. However the subsequent publication of the NPPF 2018 and 2019 is a material consideration. The NPPF sets out in 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). In the light of this it is not considered that affordable housing contributions should be sought on this application.

5.25 Other Matters

The Parish Council has not commented on the revised plans but have made an objection which includes the following points in respect to the original plans submitted:

1. The submitted application proposes to erect a large building on a small plot of land and is therefore too overpowering and not in keeping with the surrounding properties.
2. Foul sewage is to be connected to the main sewer which Yorkshire Water admits is already over capacity.
3. The Parish Council object to inappropriate development in back gardens/infill.

4. This site was not identified by Selby District Council as an area of possible development within the village, nor is it an area denoted on the Brownfield Sites Register.

5 The site is not sympathetic to the local character.....and the surrounding developed environment (para 127 (c) - NPPF).

6. Any decision should take into account the desirability of maintaining an area's prevailing character and setting (including residential gardens) - para 122 (d) - NPPF.

In terms of the size of the dwelling, and the impact on the character of the area, officers raised concerns regarding the scale and design of the proposed dwelling as submitted. Revised details were submitted and the revised plan took account of comments made. This has resulted in a significant reduction in the front extension from 11m to 5m. The design was also changed to reflect the more traditional approach of a gable with materials and window proportions that are in keeping with the character of the area.

In relation to Parish comments that the development relates to inappropriate development in back gardens/infill it is clarified in this report that whilst the proposed dwelling is set well back from many properties in this part Thorganby, the immediately adjacent dwellings are also set behind long front gardens. Given there is no other dwelling in front of the application site it is not considered that it falls into what is commonly considered to be backland development. The revisions to the design have resulted in a dwelling that relates better to the character of the immediate area and crucially is considered to preserve the character of the Conservation Area.

Policy in the Development Plan and the NPPF does not require sites to be specifically identified as 'an area of possible development. However it is noted that the site *does fall* within the development limits for Thorganby.

In terms of drainage, Yorkshire Water Services has advised that they have no comments to make on the application, and the Internal Drainage Board has not objected but has requested details.

6 CONCLUSION

6.1 The site lies within the development limits of a secondary village. Policy SP2A(b) identifies that limited development may be absorbed inside the Development limits where it will enhance or maintain the vitality of rural communities and which conform to the provisions of Policy SP4 and SP10. It is considered that the development of the site does not comply with any of the types of development identified in Policy SP4 a) as being acceptable therefore it fails to comply with policies SP2A (b) and Policy SP4 of the Core Strategy, and should therefore be refused unless material considerations indicate otherwise.

6.2 It has been demonstrated that such material considerations include particular locational characteristics identified. And indeed the development of the site will result in one dwelling that complies with some of the commentary in relation to those policies. Whilst the site is not the filling of a small linear frontage gap in an otherwise built up frontage, because of the location of the adjacent dwellings set behind long gardens it has many attributes of such development. Furthermore the

development of one dwelling will support the level of services that the village offers. and some limited weight to the previous approval on the site. It is further identified that the level of services that include a bus service are such that it is a reasonably sustainable location.

- 6.3 A further material consideration is the NPPF. This states in para 38 that decision makers should seek to approve applications for sustainable development where possible. Paragraph 59 identifies the Government's objective of significantly boosting the supply of housing. The Framework goes on to state (in para 68) that small and medium sized sites can make an important contribution to meeting the housing requirements of an area. And at paragraph 78 it includes that to promote sustainable development in rural area, housing should be located where it will enhance or maintain the vitality of rural communities, and further that Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.
- 6.4 The proposal in terms of the environmental impacts are considered acceptable In terms of ecology, taking account of both of direct impact and indirect effects (e.g. noise, lighting, dust) it is not considered that there will be any significant adverse effects on the features for which the Lower Derwent Valley is designated. As no likely significant effect is expected, no further assessment is required.
- 6.5 It is also considered that the proposal would preserve the character of the conservation area and be acceptable in terms of design, impact on the character of the area and neighbour amenity. Drainage can be addressed through a condition. It is not considered that the objections have raised any matters that would result in a conclusion that the application should be refused. In terms of Highway issues, visibility splays can be secured by a Section 106 agreement or unilateral undertaking.
- 6.6 Taking this into account and considering that all other matters are acceptable, it is not considered that approving the application would cause harm to the Council's strategy for the provision of housing. Accordingly, subject to recommended conditions and the completion of a legal agreement to secure the visibility splays the recommendation is one of minded to approve unless any consultation responses are received as a result of the re-advertisement of the application that raise issues not previously considered.

7 RECOMMENDATION

This application is one of **minded to approve** subject to a **legal agreement** to secure the visibility splays, and the conditions set out below.

This application is recommended to be

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:

Reason: For the avoidance of doubt.

03. No development above foundation level shall commence until details of the materials to be used in the construction of the exterior walls and roof(s) (including lintels, sills, eaves and ridge), of the proposed development have been submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

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

04. No development of a building/s shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including roofing, cladding and render) to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.

Reason: In the interests of visual amenity, and in order to preserve the character of Thorganby Conservation Area.

05. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any equivalent Order following the revocation and re-enactment thereof (with or without modification), the dwelling hereby approved shall not be altered or extended, and no buildings or structures shall be erected within its curtilage.

Reason: In order to prevent overdevelopment of the site, to ensure that satisfactory provision of outdoor amenity space for the dwelling house is maintained and to safeguard the amenities of the occupiers of adjacent dwellings in accordance with Policy ENV1 of the Selby District Local Plan.

06. Prior to the occupation of the dwelling hereby permitted, a landscaping scheme for the application site and boundary treatments to be retained and erected within the application site shall be submitted to and approved by the Local Planning Authority. The landscaping scheme shall be carried out in its entirety within the first planting and seeding season following the occupation of the dwelling. 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 of similar size and species. All boundary treatments shall be implemented in full accordance with the approved details prior to the occupation of the dwelling and thereafter shall be retained as such for the lifetime of the development.

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

07. The construction of the dwelling shall not commence) until splays are provided giving clear visibility of 30.5 metres measured along the centre line of the northern splay and 43 metres to the southern channel line of the carriageway of the major road (Main Street) from a point measured 2 metres down the centre line of the access road. The eye height will be 1.05 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

An explanation of the terms used above is available from the Highway Authority.

Reason: In accordance with policy T1 of the Selby district local Plan and in the interests of road safety.

08. Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:

- b. vehicular, cycle, and pedestrian accesses
- c. vehicular and cycle parking
- d. vehicular turning arrangements
- e. manoeuvring arrangements

The proposals shall cater for all types of vehicles that will use the site. The parking standards are set out in the North Yorkshire County Council publication 'Transport Issues and Development - A Guide' available at www.northyorks.gov.uk.

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

09. No part of the development shall be brought into use until the approved vehicle access; parking, manoeuvring and turning areas approved under condition number 08 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 Policy T1 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.

10. Existing boundary trees and hedgerows to be retained shall be protected by tree protection fencing and ground protection in accordance with BS 5837:2012 Trees in relation to design, demolition and construction. If any work is required to cut back these trees, other than minor pruning, it will be necessary to provide an ecological survey together with any necessary mitigation, carried out by a qualified ecologist to demonstrate that there are no bats or barn owls occupying the trees or hedging prior to the commencement of any such works. Any such works should be

carried out in accordance with BS 3998 (British Standard Recommendations for Tree Work 1989

Reason: In the interests of tree protection and ecological maintenance.

11. Details of biodiversity enhancement shall be provided in the form of bat and owl boxes. Details of which shall first be submitted to and approved in writing by the local Planning Authority. Thereafter the dwelling shall not be occupied until such approved works are carried out on site.

Reason: In the interests of enhanced biodiversity.

12. Notwithstanding the submitted details, development shall not commence until a scheme detailing foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. Principles of sustainable urban drainage shall be employed wherever possible. Where surface water is to drain to soakaway, the submitted details shall include confirmation of a satisfactory percolation test in accordance with BRE 365 to determine the suitability of the soakaway for surface water drainage. Should these tests indicate that the soakaway is not acceptable then details of alternative drainage for surface water either to a watercourse or to mains sewer shall be submitted to and approved in writing by the Local Planning Authority. If foul drainage is to drain to the Yorkshire Water surface water sewer in Main Street written evidence of consent from Yorkshire Water Services along with confirmation that the sewer has sufficient capacity to handle the discharge shall be provided. Only the approved scheme shall be implemented.

Reason: To prevent the increased risk of flooding; to ensure the provision of adequate and sustainable means of drainage in the interests of amenity in accordance with Policy SP15 of Selby Core Strategy.

13. Prior to the commencement of such works on site, precise details of all windows including materials, method of opening, depth of reveal, and profile of glazing bars shall be submitted to, and approved in writing by the local Planning authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: In the interests of preserving the character of the Conservation Area.

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 2018/1139/FUL and associated documents.

Contact Officer:

Rachel Smith (Principal Planning Officer)

rsmith@selby.gov.uk

Appendices: None

Agenda Item 5.2



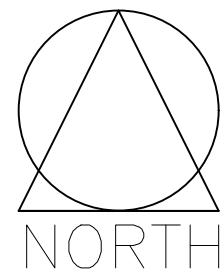
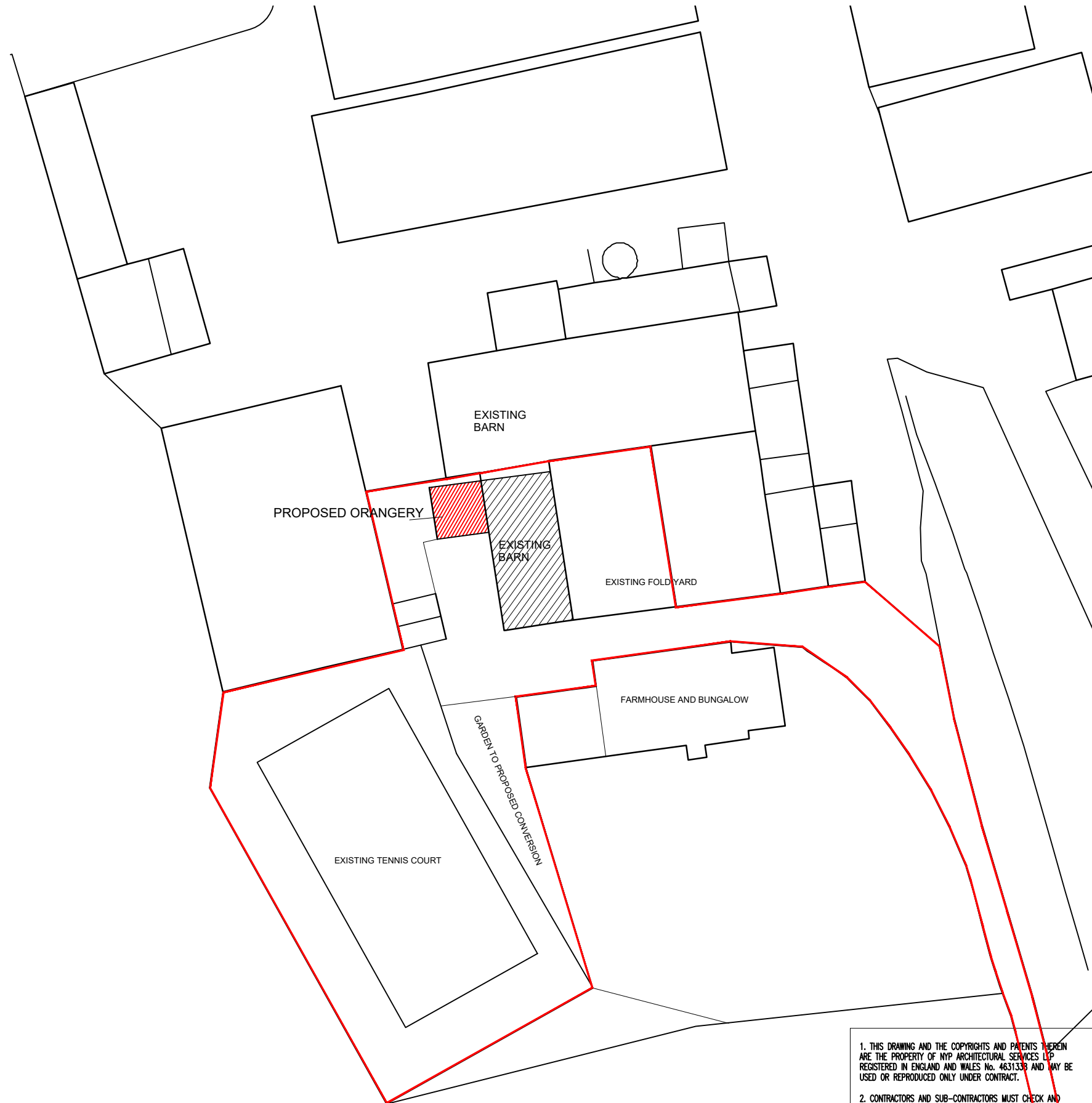
APPLICATION SITE

Grange Farm, Fulham Lane, Womersley
2019/0582/FUL

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Project. GRANGE FARM FULHAM LANE WOMERSLEY		Client.	
Drawing Title. SITE PLAN AS PROPOSED		Date. MAY 2019	Scale. 1:500 @ A3
Ref. 05-58	Dwg. No. 202	Rev.	

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Report Reference Number: 2019/0582/FUL

To: Planning Committee
Date: 6 November 2019
Author: Jenny Tyreman (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0582/FUL	PARISH:	Womersley Parish Council
APPLICANT:	Mrs W Haigh	VALID DATE: EXPIRY DATE:	14th June 2019 9th August 2019
PROPOSAL:	Proposed conversion and extension of existing barn to form 1No. dwelling		
LOCATION:	Grange Farm Fulham Lane Womersley Doncaster South Yorkshire DN6 9BW		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as the proposal is contrary to the requirements of the development plan (namely Criterion 1 of Policy H12 of the Selby District Local Plan) but it is considered 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 the defined development limits of any settlements and is therefore located within the open countryside. The application site is also located within the Green Belt.
- 1.2 The application site comprises a stone built agricultural building, an area of hardstanding which currently forms part of a farmyard and a tennis court. The application site is located within an existing agricultural site operated by G Haigh and Sons, thus the site is surrounded by agricultural buildings to the north, east and

west, and the existing farmhouse to the south. Open agricultural fields surround the farm complex.

The Proposal

- 1.3 The application seeks full planning permission for the conversion and extension of an existing stone built barn to form 1No. dwelling.
- 1.4 It is noted that there is an extant planning permission for the conversion of the existing stone built barn to form 1No. dwelling, therefore the assessment of this application will mainly focus on the addition of the extension to the west side. The proposed extension would be constructed from an oak frame with glazing between posts and a roof covering to match the existing barn. The proposed extension would measure a maximum of 5.9 metres by 5.6 metres and would have a pitched roof with eaves to a height of 2.5 metres above ground floor level and ridge to a height of 3.8 metres above ground floor level.

Relevant Planning History

- 1.5 The following historical applications are considered to be relevant to the determination of this application.
- 1.6 An application (reference CO/1995/1074) for the proposed erection of a conservatory to the front elevation was granted on 27 November 1995.
- 1.7 An application (reference CO/1996/0191) for the demolition of existing garage and erection of two storey extension to existing farm offices to provide new garage, store, kitchen and toilet accommodation on the ground floor with offices over was granted on 29 April 1996.
- 1.8 An application (reference 2018/0954) for an existing lawful development certificate for a tennis court linked to existing farmhouse was granted on 09 October 2018.
- 1.9 An application (reference 2019/0088/FUL) for the proposed conversion of existing barn to form 1No. dwelling was granted on 05 April 2019.
- 1.10 A discharge of condition application (reference 2019/0500/DOC) for the discharge of condition 04 (materials) of approval 2019/0088/FUL - Proposed conversion of existing barn to form 1No. dwelling is pending consideration (case officer: SOKI).

2. CONSULTATION AND PUBLICITY

- 2.1 **Parish Council** – No response within statutory consultation period.
- 2.2 **NYCC Highways** – No objections, subject to a condition relating to the provision of the approved access, parking and turning areas.
- 2.3 **Yorkshire Water Services Ltd** - No response within statutory consultation period.
- 2.4 **Neighbour Summary** - All immediate neighbours were informed by neighbour notification letter and a site notice was erected. No letters of representation have been received as a result of the advertisement of the application.

3 SITE CONSTRAINTS

Constraints

- 3.1 The application site is located outside the defined development limits of any settlements and is therefore located within the open countryside. The application site is also located within the Green Belt.
- 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 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 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.
- 4.5 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)."

Selby District Core Strategy Local Plan

- 4.6 The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development

SP2 – Spatial Development Strategy
SP3 – Green Belt
SP5 – The Scale and Distribution of Housing
SP9 - Affordable Housing
SP15 – Sustainable Development and Climate Change
SP18 – Protecting and Enhancing the Environment
SP19 – Design Quality

Selby District Local Plan

4.7 The relevant Selby District Local Plan Policies are:

ENV1 – Control of Development
ENV2 – Environmental Pollution and Contaminated Land
H12 – Conversion to Residential Use in the Countryside
T1 – Development in Relation to the Highway Network
T2 – Access to Roads

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

The Principle of the Development

- 5.2 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. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.
- 5.3 The application site is located outside the defined development limits of any settlements and is therefore located within the open countryside. The application site is also located within the Green Belt.
- 5.4 Policy SP2A (c) of the Core Strategy states that *"Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances."*

- 5.5 The proposal would result in the re-use and extension of an existing building and would therefore comply with Policy SP2A (c) of the Core Strategy.
- 5.6 Policy SP2A (d) of the Core Strategy states *“In Green Belt, including villages washed over by the Green Belt, development must conform with Policy SP3 and national Green Belt policies”*.
- 5.7 Policy SP3B of the Core Strategy states *“In accordance with the NPPF, within the defined Green Belt, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted”*.
- 5.8 The decision making process when considering proposals for development in the Green Belt is in three stages, and is as follows: -
- a) It must be determined whether the development is appropriate or inappropriate development in the Green Belt.
 - b) If the development is appropriate, the application should be determined on its own merits.
 - c) If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which clearly outweigh the presumption against it.
- 5.9 The guidance within the NPPF paragraph 145 states *“A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt”* and sets out a number of exceptions including [amongst other things] *“the extension or alteration of a building provided the building does not result in disproportionate additions over and above the size of the original building”*. Paragraph 146 of the NPPF states that *“Certain other types of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it”* including [amongst other things] *“the re-use of buildings provided that the buildings are of permanent and substantial construction”*.
- 5.10 As demonstrated under the extant planning permission, reference 2019/0088/FUL, the proposed conversion of the existing brick built agricultural building would represent the re-use of a building which is of permanent and substantial construction, in accordance with paragraph 146 of the NPPF. Furthermore, the proposed extension, as shown on drawing no's. 401 and 402A, given its size and scale in relation to the existing building to be converted, would not result in a disproportionate addition over and above the size of the original building in accordance with paragraph 145 of the NPPF.
- 5.11 The proposal would therefore be appropriate development in the Green Belt and comply with Policies SP2A (d) and SP3B of the Core Strategy and national policy contained within the NPPF.
- 5.12 Policy H12 of the Selby District Local Plan specifically relates to conversion to the conversion of rural buildings to residential use in the countryside and sets out that such proposals would be acceptable in principle subject to a number of criteria.
- 5.13 Criterion (1) of Policy H12 allows proposals for the conversion of rural buildings to residential uses provided *“it can be demonstrated that the building, or its location, is unsuited to business use or that there is no demand for buildings for those purposes in the immediate locality”*. The proposal does not meet this criteria and is

therefore contrary to the requirements of the development plan. However, the approaches taken by Policy SP2A(c) and Paragraph 79 of the NPPF are significantly different to that taken in Policy H12 as they do not require the more onerous tests set out in H12 (1), with SP2A(c) merely expressing a preference for employment uses where proposals involve the re-use of a building, and paragraph 79 of the NPPF merely setting out that the re-use of redundant or disused buildings would be acceptable in the countryside. It is therefore considered that Policy H12 of the Selby District Local Plan should be given limited weight due to the conflict between the requirements of Criterion (1) of the policy and the less onerous approach set out both in the Core Strategy and within the NPPF.

- 5.14 Notwithstanding the above, Criterion (3) and (4) of Policy H12 require that *“the building is structurally sound and capable of re-use without substantial rebuilding”* and *“the proposed re-use or adaptation will generally take place within the fabric of the building and not require extensive alteration, rebuilding and/or extension”*.
- 5.15 In terms of Criterion (3), it is noted that a structural report has been submitted with the application. This is the same structural report that was submitted with the previous application, reference 2019/0088/FUL, which was granted planning permission earlier this year and remains extant. From a site visit it is noted that the condition of the building remains the same as when the previous application was assessed and determined. The structural report suggests that the building is structurally sound and capable of reuse without substantial rebuilding. On this basis and having regard to the extant planning permission, reference 2019/0088/FUL, it is considered that the proposal would comply with Criterion (3) of Policy H12.
- 5.16 In terms of Criterion (4), the proposals would involve the construction of an extension to the west side elevation of the building to be converted. The proposed extension would be constructed from an oak frame with glazing between posts and a roof covering to match the existing barn. The proposed extension would measure a maximum of 5.9 metres by 5.6 metres and would have a pitched roof with eaves to a height of 2.5 metres above ground floor level and ridge to a height of 3.8 metres above ground floor level. Read in the context of the building to be converted, it is considered that the proposals would not result in an extensive alteration or extension, and aside from the extension, the proposals would generally take place within the fabric of the existing building. On this basis, it is considered that the proposal would comply with Criterion (4) of Policy H12.
- 5.17 The remaining criteria of Policy H12 relate to the impacts of the proposed conversion and extension and will therefore be assessed later in this report.
- 5.18 Having regard to the above, the proposal would be acceptable in principle and represent appropriate development in the Green Belt in accordance with Policies SP1, SP2 and SP3 of the Core Strategy, Policy H12 (3) and (4) of the Selby District Local Plan and national policy including paragraph 79 of the NPPF.

Design and Impact on the Character and Appearance of the Area

- 5.19 The application site comprises a stone built agricultural building, an area of hardstanding which currently forms part of a farmyard and a tennis court. The application site is located within an existing agricultural site operated by Haigh G and Sons, thus the site is surrounded by agricultural buildings to the north, east and west and the existing farmhouse to the south. Open agricultural fields surround the farm complex.

- 5.20 In terms of the conversion of the existing stone built barn, this would be carried out as per the extant planning permission, reference 20169/0088/FUL. The main alterations would be the re-use of a number of existing openings to form windows and doors and the introduction of a number of new openings both within the elevations to form windows and the roof in the form of roof lights. These alterations were considered acceptable in respect of design and impact on the character and appearance of the area under the extant planning permission, reference 20169/0088/FUL, and are similarly considered to be acceptable in respect of design and impact on the character and appearance of the area under the current application.
- 5.21 In terms of the proposed extension, this would have the same form as the barn and would be constructed from an oak frame with glazing between posts and a roof covering to match the existing barn. As such, it is considered the proposed extension would have an acceptable design in relation to the converted barn and would satisfactorily integrate into the proposed dwelling.
- 5.22 Having regard to the above, it is considered that the proposals would not have a significant or detrimental impact on the character and appearance of the area in accordance with Policies ENV1 (1) and (4) and H12 (5) of the Selby District Local Plan, Policies SP4 and SP19 of Core Strategy and national policy contained within the NPPF.

Impact on Residential Amenity

- 5.23 The proposed dwelling would be sited to the north west of the existing farmhouse, comprising Grange Farm and Grange Farm Bungalow.
- 5.24 Given the nature of the proposals, for the conversion and extension of an existing building, and having regard to the size, scale, siting and design of the proposed extension, it is not considered that the proposals would result in any significant adverse effects in terms of overshadowing or oppression between the existing and proposed dwellings. Furthermore, given the location of windows in the proposed dwelling, it is not considered that the proposals would result in any significant adverse effects of overlooking between the existing and proposed dwellings.
- 5.25 In terms of the provision of amenity space for the proposed dwelling, it is considered that the proposal would enable the provision of an adequate amount of useable external amenity space for the occupiers of the proposed dwelling, which would include a tennis court. Furthermore, the existing dwellings would retain an adequate amount of useable external amenity space for the occupiers of those dwellings.
- 5.26 The Council's Environmental Health Officer was consulted in relation to the previous planning application at the site (reference 2019/0088/FUL) and their comments remain relevant to the current application. The Environmental Health Officer noted that the applicant acknowledges that any future occupant of the proposed dwelling would be subject to noise and disturbance from farming activities on the wider site. However, they also note that the applicant has advised that the proposed dwelling would be occupied by a family member who runs the farm business and that as such the occupants would accept limited residential amenity as it is part of the business. On this basis, the Council's Environmental Health Officer raises no objections to the proposals, subject to a suitably worded condition

requiring the occupation of the dwelling to be limited to a person or persons solely or mainly working or last working at Grange Farm. Such a condition was attached to the previous extant planning permission, reference 2019/0088/FUL, and could be attached to any new planning permission granted.

- 5.27 Subject to the aforementioned condition, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policies ENV1 (1) and H12 (5) of the Selby District Local Plan and national policy contained within the NPPF.

Impact on Highway Safety

- 5.28 The proposed dwelling would be accessed from an existing vehicular access from Fulham Lane and would benefit from an area of hardstanding for parking, turning and maneuvering to the east of the dwelling.
- 5.29 NYCC Highways have been consulted on the proposals and have not raised any objections, subject to a condition relating to the provision of the approved access, parking and turning areas. Such a condition was not recommended to be attached to the previous planning permission, reference 2019/0088/FUL, and given the nature of the site, which has sufficient space for parking, turning and manoeuvring, it is not considered this condition would be reasonable or necessary.
- 5.30 Having regard to the above, it is considered that the proposal would be acceptable in terms of highway safety in accordance with Policies ENV1 (2), H12 (7), T1 and T2 of the Selby District Local Plan and national policy contained within the NPPF.

Flood Risk and Drainage

- 5.31 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 5.32 In terms of drainage, the submitted application form sets out that surface water drainage would be disposed of via soakaway, but does not state how foul drainage would be disposed of. No objections have been raised by any consultees in relation to drainage and it is noted that no drainage related conditions were considered reasonable or necessary to attach to the extant planning permission at the site.
- 5.33 Having regard to the above, it is considered that the proposals are acceptable in terms of flood risk and drainage.

Nature Conservation and Protected Species

- 5.34 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2017. The presence of protected species is a material planning consideration.
- 5.35 The application has been supported by a Bat Survey Report undertaken by Middleton Bell Ecology, dated 25 September 2018. This Bat Survey Report was assessed by NYCC Ecology under the consideration of the previous planning application, reference 2019/0088/FUL, earlier this year and the report is considered to be sufficiently up-to-date to support the current application. NYCC Ecology advised *“Whilst the building is shown to have moderate potential for roosting bats and there is evidence that the barn has been used in the past by small numbers of*

bats, the recent surveys have confirmed that there are currently no active bat roosts. I am therefore satisfied that the proposed works to redevelop the barn into a domestic dwelling will not have a detrimental impact upon the favourable conservation status of the species in the local area”.

- 5.36 In terms of recommendations/enhancements, the submitted Bat Survey Report sets out that in order to enhance the ecological value of the site, it is suggested that tree sparrow boxes are installed as part of the proposed development. The report recommends that three boxes are fastened high on gables or under the eaves. NYCC Ecology have advised *“With regards to nesting birds the redevelopment of the barn will lead to the loss of nesting sites for swallow and house sparrow. Whilst compensation is proposed for house sparrow there are no measures currently proposed to compensate for the loss of swallow nesting sites. If possible compensatory nest provision should also be made for swallows”.* As per the previous planning permission, reference 2019/0088/FUL, an informative can be attached to any planning permission granted relating to nesting birds.
- 5.37 Having regard to the above, it is considered that the proposals 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, national policy contained within the NPPF, the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2017.

Land Contamination

- 5.38 The application has been supported by a Phase 1 Desk Study Report. This was assessed under the previous planning application, reference 2019/0088/FUL, where no objections were raised to the proposals in respect of contaminated land, subject to a condition relating to the reporting of any unexpected contamination.
- 5.39 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

- 5.40 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 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District.
- 5.41 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”.*

- 5.42 The application proposes the creation of one dwelling on a site which has an area of less than 0.5 hectares, such that the proposal is not considered to be major development as defined in Annex 2 of the NPPF. It is therefore considered that having had regard to Policy SP9 of the Core Strategy, the Affordable Housing SPD and the advice contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

6 CONCLUSION

- 6.1 The application seeks full planning permission for the conversion and extension of an existing stone built barn to form 1No. dwelling.
- 6.2 The application is considered to be acceptable in principle and represent appropriate development in the Green Belt in accordance with Policies SP1, SP2 and SP3 of the Core Strategy, Policy H12 (3) and (4) of the Selby District Local Plan and national policy including paragraph 79 of the NPPF. Policy H12 (1) of the Selby District Local Plan is given limited weight as the approaches taken by Policy SP2A(c) and Paragraph 79 of the NPPF are significantly different to that taken in Policy H12 as they do not require the more onerous tests set out in H12 (1).
- 6.3 Furthermore, having assessed the proposals against the relevant policies, it is considered that the proposals are acceptable in respect of their 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 and affordable housing.

7 RECOMMENDATION

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

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

Reason:

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

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

05-58-06 – Location Plan

05-58-02B – Proposed Site Plan

401 – Proposed Floor Plans

402A – Proposed Elevations

Reason:

For the avoidance of doubt.

03. Notwithstanding the provisions of Class A to Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) no extensions, garages, outbuildings or other structures shall be erected, nor new windows, doors or other openings inserted other than those hereby approved.

Reason:

In order to ensure that the character and appearance of the surrounding area is protected in the interests of residential amenity having had regard to Policies ENV1 and H12 of the Selby District Local Plan.

04. The occupation of the dwelling shall be limited to a person or persons solely or mainly working, or last working, at Grange Farm, Fulham Lane, Womersley, or a widow or widower of such a person or persons, and to any resident dependants.

Reason:

To ensure the agricultural activities at Grange Farm are not curtailed by future occupiers on the grounds of complaints due to noise, disturbance, odour or any other aspect of farming operations and because the existing agricultural activities would result in a lack of adequate residential amenity for future occupiers not employed on the farm.

05. 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.

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

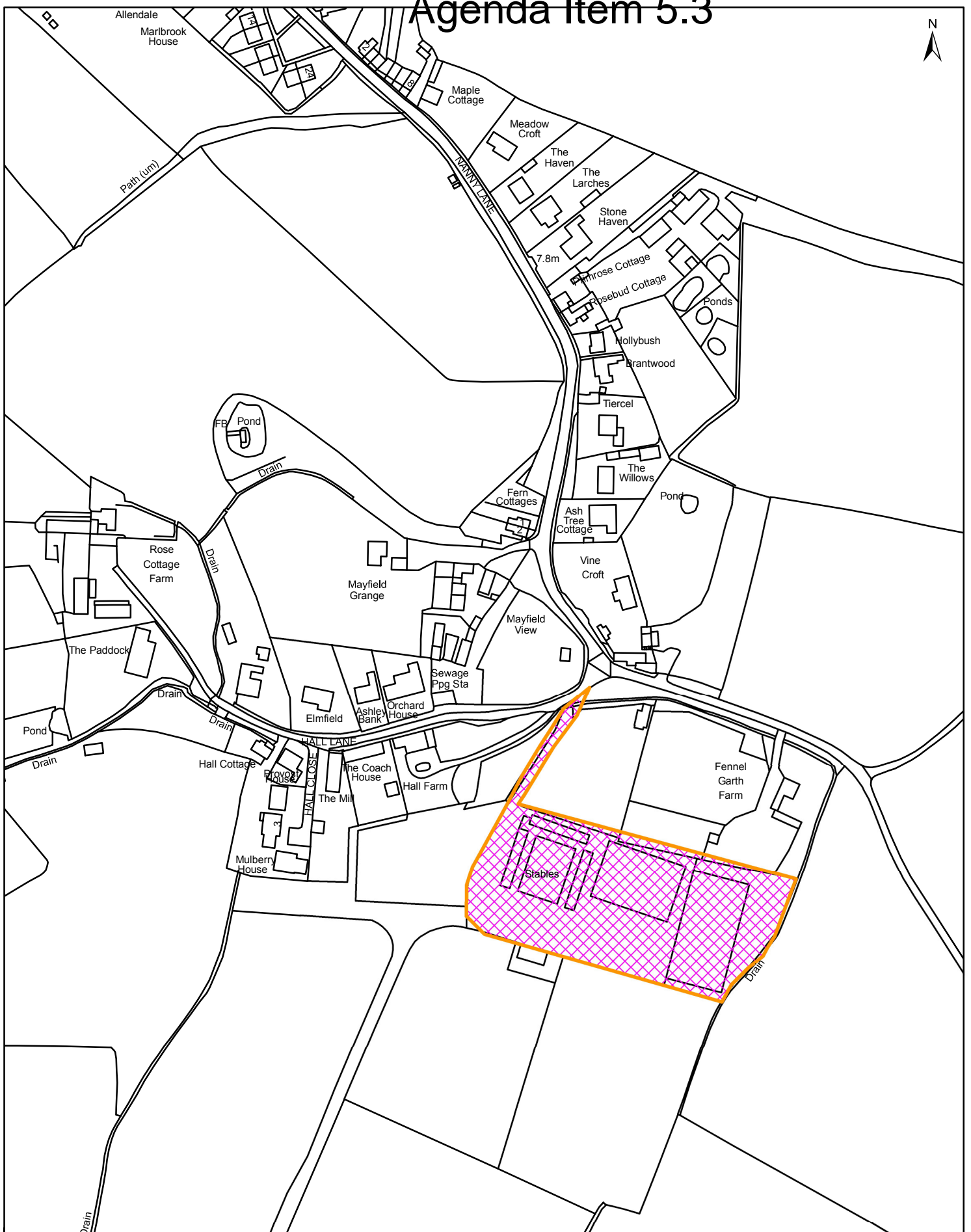
Planning Application file reference 2019/0582/FUL and associated documents.

Contact Officer:

Jenny Tyreman (Senior Planning Officer)

jtyreman@selby.gov.uk

Appendices: None



APPLICATION SITE

Hall Lane Stables, Hall Lane, Church Fenton
2019/0564/FUL

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Report Reference Number 2019/0564/FUL

To: Planning Committee
Date: 6 November 2019
Author: Mandy Cooper (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0564/FUL	PARISH:	Church Fenton Parish Council
APPLICANT:	Mr S Hudson & Ms R Harrison	VALID DATE: EXPIRY DATE:	6th June 2019 5th September 2019
PROPOSAL:	Section 73 application for erection of 3 blocks of 7 No. stables with tack room, erection of indoor riding area, construction of outdoor riding area and vehicle park and siting of a mobile home for the variation of conditions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of approval 2009/0565/FUL allowed on appeal on 01 April 2011		
LOCATION:	Hall Lane Stables Hall Lane Church Fenton Tadcaster North Yorkshire LS24 9RN		
RECOMMENDATION:	APPROVE		

This application has been brought before Planning Committee as more than 10 letters of representation have been received which raise material planning considerations and officers would otherwise determine the application contrary to these recommendations. It has also been requested by Cllr. Musgrave.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The proposal site is accessed off Hall Lane and located to the south east of the settlement of Church Fenton, beyond the Development Limits. For the purposes of the Development Plan, the site is situated in the open countryside.

- 1.2 To the northwest of the stables is Hall Farm (100m) and a number of residential properties; northeast is Kennel Garth Farm (50m) and to the west at an approximate distance of 150m (minimum) are a number of residential properties.
- 1.3 The site comprises of a modern, purpose built yard which offers full and part livery, set within a 30 acre site and includes an indoor arena and outdoor manege, both with sand and fibre surfaces. There are 21 masonry built stables with separate tack, feed and rug rooms. To the immediate west of the stables is a large agricultural storage building and paddocks extend around the site to the south east, southwest and south and are separated with timber post and rail fencing.
- 1.4 Beyond the stables to the west at a distance of 90m is a midden (which is manure storage area) surrounded by a low (1m high) bund. This is used for soiled bedding and waste from the horses.
- 1.5 Planning permission was granted for a livery yard in 2011 (2009/0565/FUL) on Appeal, along with a dwelling in 2016 (2015/0908/FUL).

The Proposal

- 1.6 The proposal is for a Section 73 application for erection of three blocks of seven No. stables with tack room, erection of indoor riding area, construction of outdoor riding area and vehicle parking and siting of a mobile home for the variation of conditions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of approval 2009/0565/FUL allowed on appeal on 01 April 2011.
- 1.7 The proposal relates to allowing for additional horses as condition 11 restricts numbers to 21 and the applicant wishes to increase numbers to 27.
- 1.8 The livery has successfully retained its customers, some of whom now have two horses rather than just one. It would be impractical to place an additional horse at another livery, hence the proposed increase to 27. Additionally, the applicants have recently started to breed their own horses, resulting in more than when the appeal was considered.
- 1.9 The applicants have five horses of their own – three of which are foals between the ages of one and five which will be sold at age four. Once sold however and if breeding is successful, they will be replaced by other foals, which is one reason for the applicants seeking to change condition 11.
- 1.10 As this application would result in a new permission, it is essential that all conditions are reviewed to reflect the circumstances on the site. The agent has supplied a comprehensive Planning Statement which refers to each condition from the original decision notice and clarifies the reason for the application and deletion of conditions as follows:

CONDITION	COMMENT
1. Time Limit (three years)	Delete as no longer necessary – development built within 3 years of approval
2. Approved Plans: SH01A, SH01, SH02, SH03, SH04 & SH05	Replace with: The development hereby permitted shall be retained in accordance with the following plans/drawings listed below:

	UKS6693 – External floodlighting for manege
3. Materials and finish	Delete as no longer necessary – <i>discharged under 2011/0590/DPC</i>
4. Surface Water Drainage	Delete as no longer necessary – <i>discharged under 2011/0590/DPC</i>
5. Soft Landscaping	Delete as no longer necessary – <i>discharged under 2011/0590/DPC</i>
6. Boundary treatment	Delete as no longer necessary – <i>discharged under 2011/0590/DPC</i>
7. External lighting	Replace with: The arena shall not be illuminated except in accordance with the details shown in the lighting scheme received by the Local Planning Authority on 24.10.2019.
8. No development shall take place until a detailed scheme for the disposal of fouled bedding and manure and for the control of odour and flies has been submitted to and approved in writing by the local planning authority. The scheme shall thereafter be implemented as approved.	<i>discharged under 2011/0590/DPC</i> Replace with: The approved scheme for the disposal of fouled bedding (as received on the 01.06.2019 and approved under 2011/0590/DPC) and manure and for the control of flies shall be operated for the duration of the approved use.
9. Tied caravan	Delete as no longer necessary – <i>Tied dwelling to replace caravan under approval 2015/0908/FUL.</i>
10. Notification to local authority of the first occupation of the first of the loose boxes and removal of residential caravan within three years of date of permission and restoration of site.	Delete as no longer necessary.
11. At no time shall the number of horses stabled at the development hereby permitted exceed 21. Other than a maximum of three horses at any one time, the stabled horses shall be kept there on a full-time livery or part-livery basis only; the term 'livery' being taken for this purpose as meaning the provision of facilities for and the supervision and care of, horses that are not the property of the proprietor, in return for remuneration or reward. Horses shall at no time be offered for hire at the development hereby	Replace with: At no time shall the number of horses stabled at the development hereby permitted exceed 27. Other than a maximum of six horses at any one time, the stabled horses shall be kept there on a full-livery or part-livery basis only; the term 'livery' being taken for this purpose as meaning the provision of facilities for and the supervision and care of, horses that are not the property of the proprietor, in return for remuneration or reward. Horses shall at no time be offered for hire at the development hereby permitted for supervised riding on or off the site.

	permitted for supervised riding on or off the site.	
12.	No competitive equestrian event, including shows or gymkhanas, shall be held at the site, or on the adjoining land in the same ownership and any training of riders undertaken shall be restricted solely to riders who are owners of horses kept at the horse livery and training centre hereby permitted. Such training shall only take place between 9.00 and 19.00 Mondays to Fridays and between 10.00 and 18.00 on Saturdays, Sundays and Bank holidays. Within the outside arena, no more than two riders shall be trained at any one time.	Retain with no modifications.

Relevant Planning History

- 1.11 The following historical application is considered to be relevant to the determination of this application:

2009/0565/FUL,AltRef: 8/62/232/PA,Description: Erection of 3 blocks of 7No. stables with tack room, erection of indoor riding area, construction of outdoor riding area and vehicle park and siting of a mobile home, Land To Rear Fennel Farm,Hall Lane, Church Fenton, Tadcaster, North Yorkshire, LS24 9RN, Decision: REF: 26-MAY-10 ALLOWED ON APPEAL: 01.04.2011

2011/0590/DPC,AltRef: 8/62/232A/PA,Description: Discharge of conditions 3(materials), 4(surface drainage), 5(landscaping), 6(boundary treatments), 7(lighting) & 8(fouled bedding) of appeal approval APP/N2739/A/2134309 (2009/0565/FUL) for the erection of 3 blocks of 7No. stables with tack room, erection of indoor riding area, construction of outdoor riding area and vehicle park and siting of a mobile home,Address: Land To Rear Fennel Farm,Hall Lane,Church Fenton,Tadcaster, Decision: CONDP: 27-JUL-11

2015/0908/FUL,AltRef: 8/62/23B/PA,Description: Proposed erection of a dwelling and garage for essential rural worker,Address: Hall Lane Stables,Hall Lane,Church Fenton,Tadcaster, Decision: PER: 05-MAY-16

2016/0615/DOC,AltRef: 8/62/23C/PA,Description: Discharge of condition 04 (materials) of approval 2015/0908/FUL Erection of a dwelling,Address: Hall Lane Stables,Hall Lane,Church Fenton,Tadcaster,Decision: COND: 22-JUL-16

2. CONSULTATION AND PUBLICITY

- 2.1 **Selby Area Internal Drainage Board** – The applicant should ensure that any existing or proposed surface water discharge system has adequate capacity for any increase in surface water run-off to the area. A number of conditions/informatives recommended.

- 2.2 Environmental Health** – No objections.
- 2.3 Enforcement Team** – No response received.
- 2.4 NYCC Highways Canal Rd** - There are no local highway authority objections to the Section 73 as none of the Conditions are highway related.
- 2.5 Yorkshire Water Services Ltd** – No response received.
- 2.6 Parish Council** - Application was considered by the Parish Council at its meeting on 20th June 2019 when it was resolved to OBJECT on the following grounds:
- Intensification of use leading to an increase in activity and traffic to the detriment of local residential amenity. When this proposal was granted on Appeal the Inspector stated that "Provided the intensity of use of the proposed development were to be limited to that which, on the basis of the evidence before me, I would reasonably anticipate to be associated with the operation proposed, I do not consider that there would be significantly harmful conflict with the intentions of the relevant Local Plan Policy..."
 - Consent was limited to 21 horses to support that reasoning. This proposal represents a substantial increase which fails to recognise the impact on local amenity.
 - Paragraph 6.6 of the supporting statement confirms that an expansion has already taken place without planning consent. This provides little comfort that the operation is being operated in accordance with the current and any future consent and leads to concerns that control of this expanded proposal may require enforcement action which is time consuming and does little to protect local residents.
 - It is impossible to understand the changes proposed to conditions 7 and 8 as there is no information available as part of the application regarding the "approved schemes" referred to. It should not be possible to determine this application without this information being publicly available.
- 2.7 Publicity/Neighbour Summary** – All immediate neighbours were informed directly by letter, a site notice was posted outside the site

15 letters of objection were received stating:

- Does not represent a minor amendment given number of horses to be stabled
- Impact on residential amenity due to noise and increase in traffic
- Special regard to be given to existing condition 8 regarding waste disposal – increase should see amendments to location, scale and removal of manure bund which would adversely impact on residential amenity
- Information provided is insufficient
- Neighbour consultation is inadequate
- Applicant already in breach of the conditions relating to original planning permission
- Location of existing (manure) bund has a negative impact on me and my family which would worsen if more manure disposed of
- Odour from manure is so strong we are unable to use our garden and it triggers migraines; breathing and mental wellbeing problems

- Windows in my home are taped up to prevent smells; children unable to play in garden; washing not hung out and dried indoors – environmental impact due to tumble dryer use
- Location and scale of manure heap does not comply with condition 8 of permission as the size was increased in 2017
- Midden is not in position specified and has been extended (2017) so instead of being 10m by 10m it is 32m by 9m and having a larger surface area
- Heavy traffic from more horse boxes in Church Fenton which is already subjected to many lorries through centre of village and roads are not suitable
- Would like confirmation that other conditions are being met
- Business operation starts (circa 7am); reference to quad moving manure to midden; traffic to and from site
- Existing planning allows for a maximum of 21 horses on site and there are currently 27
- Lighting shines continuously into neighbours garden on Nanny Lane
- This is a residential area and should be kept as such
- Relocate the manure bund as it is impacting on residential amenity of locals

and 1 letter of support stating the following:

- Planning and environmental issues raised in regard to the midden have been thoroughly investigated by Selby District Council (SDC) following persistent and repeated complaints which were ultimately found to be baseless
- Dimensions deemed to be acceptable and located in the position as a requirement of the planning approval
- Residential properties allowed despite SDC being aware of midden and each and every resident of new properties purchased were aware of its presence
- Environmental Health Officers have fully investigated the alleged hazards including flies and concluded there is no hazard
- Lucky to live in a rural environment which as a consequence there will be livestock and crops and agricultural traffic
- Any increase in traffic would be minimal and less so than traffic generated by multi-car households and other agricultural and commercial traffic in the locality
- Hall Lane Stables is a small local business providing a valuable local commodity
- Myself and others benefit from keeping our horses here and the unit is ranked as one of the highest livery yards in the country as assessed by the British Horse Society on an annual basis
- Supporting local businesses is a key part of the local and strategic plans as communities cannot thrive without them
- Provides employment to local residents and trade to shops and pubs
- Ensures considerable open, green space remains well maintained and thereby enhancing the character of the countryside

3 SITE CONSTRAINTS

- 3.1 The application site is located outside the Development Limits of Church Fenton. The site is located in Flood Zone 2. The land is potentially contaminated. The site is not situated within a Conservation Area nor is it close to a Listed Building.

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. On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 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
SP13 Scale and Distribution of Economic Growth
SP15 Sustainable Development and Climate Change
SP18 Protecting and Enhancing the Environment
SP19 Design Quality

Selby District Local Plan

- 4.6 The relevant Selby District Local Plan Policies are:

EMP9 Expansion of Existing Employment Uses in the Countryside
ENV1 Control of Development
T1 Development in Relation to the Highway Network

5 APPRAISAL

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

- Principle of the Development
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage
- Other Matters

5.2 Principle of Development

- 5.3 Section 73 of the Town and Country Planning Act 1990 '*determination of applications to develop land without conditions previously attached*' permits an application to remove a planning condition(s) or to vary a planning condition(s) following the grant of planning permission.
- 5.4 Application is made to the local planning authority, who may either refuse the application, grant the application to remove or vary conditions unconditionally, or grant the application to remove or vary conditions, but with further conditions attached.
- 5.5 A section 73 application can only be made if the time within which the development was required to begin has not expired without the development commencing. In this case the permission has been established for a number of years (approximately eight).
- 5.6 The section 73 application process can also be used to make '*minor-material amendments*' to a planning permission, that is, amendments '*...whose scale and nature results in a development which is not substantially different from the one which has been approved.*'
- 5.7 A specific '*non-material amendment*' application process came into effect in October 2009, but no new process was introduced for minor-material amendments, and so these applications are still submitted using the existing section 73 procedure.
- 5.8 In this instance an application (2009/0565/FUL) refused by the local authority on the 26.05.2010 was Allowed on Appeal for the development (APP/N2739/A/10/2134309) on the 12.01.2011, therefore all matters previously considered were considered to be policy compliant. However, the applicant wishes to increase the amount of stabling available which would therefore require an amendment to condition 11 of the permission.
- 5.9 Whilst some of the conditions are ongoing for the lifetime of the development; a large extent were pre-commencement and all have now been discharged and complied with. On this basis, the applicant has taken the opportunity to remove these conditions through this proposal and modify the conditions which have been discharged, where relevant.
- 5.10 Policy has changed since the granting of planning permission in respect of the adoption of the Selby District Core Strategy (CS) on 22.10.2013 which on adoption replaced a number of 'saved' Selby District Local Plan (SDLP) policies. Additionally,

the introduction (and updates) to the National Planning Policy Guidance (NPPF) in March of 2012 which replaced Planning Policy Statements (PPS) requires the proposed modification to the permission to be assessed against the updated policies and guidance.

- 5.11 The proposal was assessed against policies ENV1, RT9 and EMP7 – Employment Development in the Countryside (SDLP) of which policy EMP7 has now been deleted. Policy ENV1 is however still of relevance and which states that proposals for new development shall be permitted providing a good quality of development is achieved and taking account of (amongst other reasons) 1) character of the area and amenity of adjoining residents and 2) the sites relationship to the highway network, including means of access and car parking. Policy RT9 is also relevant and specifically relates to stables and the keeping of horses and states that development will be permitted providing (amongst other things) buildings do not detract from the character and appearance of the rural environment; sited at a distance from the nearest dwelling in the interests of residential amenity; 3) adequate provision to be made for storage and disposal of soiled bedding material and 4) would not create conditions prejudicial to highway safety which can adversely affect local amenity.
- 5.12 Whilst the changes to condition 11 involve six additional stables (under a separate application) these have been constructed within an existing building which houses the indoor arena, therefore there would be no additional visual impact on the character of the open countryside from these changes. Furthermore, the stables are situated to the south elevation of the building and at a minimum distance of 80m from the nearest residential property.
- 5.13 Part C of policy SP13 of the Core Strategy replaces policy EMP7 (SDLP) and states that sustainable development in rural areas which brings economic growth through local employment should be supported which (amongst other things) includes: 1) re-use of existing buildings; 2) redevelopment of existing and former employment sites/commercial premises; 3) diversification of...and other land based rural businesses; 4)other small scale rural development; 5) ...supporting development and expansion of local facilities in accordance with policy SP14. Section D of policy SP13 adds that development should be sustainable and appropriate in scale and type to its location; not harm the character of the area and seek a good standard of amenity. The proposal seeks to vary condition 11 in order to provide for a small expansion to what is an established and successful business. The change would be minimal and would not encroach into the open countryside, nor would there be any detrimental or adverse impacts on neighbour amenity or highway safety. Policy EMP9 (SDLP) however has been retained and therefore still applies to the development in regards to the expansion of existing businesses outside development limits; subject to matters relating to highway safety; impact on character and appearance of the area; design and no loss of the best agricultural land being acceptable.
- 5.14 The above considerations comply with the NPPF at paragraph 83, and paragraph 84 expands on this advising that existing sites which meet local and business needs in rural areas are often beyond or adjacent to existing settlements and sites which are well related to existing settlements should be encouraged where suitable opportunities exist. Therefore in regards to re-visiting updated policy, the proposal is still very much compliant.
- 5.15 As such the only consideration of this application is in relation to the conditions of the approval and the impact the proposed variation would have. Therefore key to the determination of this application is whether a new planning consent for the

development with the proposed variation to Condition 11 as detailed in paragraph 1 would be contrary to the provisions within the development plan or whether there are reasonable grounds for refusal if these conditions were retained in their present form.

5.16 Impact on Residential Amenity

- 5.17 Following the approval of the midden (which is a manure storage area) under 2011/0590/DPC, a scheme for the conversion of existing farm buildings to the north of the midden was approved (2011/0767/COU) in addition to the construction of a housing development of five properties at a later date (2012/0903/OUT and 2014/0629/REM) properties. Objection letters have been received from adjacent householders in regards to the existing midden. This does not however form part of the proposal but it is reasonable to respond and address along with other objections as follows:
- 5.18 The position of the midden was approved under a Discharge of Conditions application (condition 8) of: 2011/0590/DPC on 27.07.2011 and this was prior to the approval of the nine dwellings immediately north of the bunded area. The dimensions of the midden (bunded manure storage area) do not strictly accord with the scheme approved (10m by 10m by 1.5m high) instead the dimensions are 20m by 7m by 1m high. However, the storage is below the agreed volume of 150 cubic metres at 140 cubic metres.
- 5.19 Numerous studies of and visits (seven - collectively) to the midden have been undertaken by Environmental Health Officers (EHO) and Planning Enforcement Officers where it has been concluded that it is not causing a statutory nuisance. Furthermore, whilst it was acknowledged that there was a minor breach in regards to the dimensions, Planning Enforcement Officers concluded that there is no justification for action to be taken. Furthermore, claims that the midden is impacting on the health of an objector have been investigated by the EHO and such claims have been proven to be completely unfounded.
- 5.20 This application does not involve operational development but the Planning Statement advises that despite the increase in horses, the midden would simply be emptied as soon as current levels of the agreed volume are reached, should this be sooner than the existing situation.
- 5.21 In regards to operations on site, there are no time restrictions only in respect of the training of owners whose horses have livery at the premises (up to two at a time) between the following times:
- Monday to Friday: 9.00 and 19.00
 - Saturdays, Sundays & Bank Holidays: 10.00 and 18.00
- 5.22 The Council's Environmental Health Officer (EHO) has been consulted on the proposals and initially was under the misconception that all conditions were to be changed. In reality, the only condition this application affects is condition 11. However, as a substantial period of time has passed since the proposal was allowed on appeal, almost all of the conditions have now been complied with and have therefore outlived their purpose. There are also slight changes to the wording of condition 8 (manure disposal) in order to retain the scheme as approved. With regards to the lighting scheme (condition 7), this was not formally approved on the original Discharge of Conditions application (2011/0590/DPC) as the EHO at that

time sought additional information. The EHO informally agreed the scheme at a later date but this was never officially discharged. The agent has submitted details of the scheme which has been in force for some eight or nine years, which the EHO has advised he has nothing to add to his previous comments (no objection) on the basis that there have been no complaints.

- 5.23 Subject to the amended conditions, it is considered that the amenities of the adjacent residents would be preserved in accordance with Policies ENV1 and RT9 of the Selby District Local Plan and policy contained within the NPPF.

5.24 Impact on Highway Safety

- 5.25 Local Plan policy RT9 expects horse related development to not “*create conditions prejudicial to highway safety.*” There would be no alterations to the existing access and the proposal would not intensify the use of the site due to the majority of horses being either added by those who currently already use the livery or by the applicants themselves for young foals.
- 5.26 Objections received state that there would be an increase in heavy traffic from additional horse boxes, for which the roads are unsuitable. Low levels of additional traffic associated with the proposal are anticipated and therefore would not have an adverse impact on the existing highway.
- 5.27 NYCC Highways have been consulted on the proposals and have advised that they have no objections to the proposed development as the conditions are not highway related.
- 5.28 On this basis, the proposal is acceptable in regards to highway safety in accordance with Policies ENV1, RT9, T1 and T2 of the Selby District Local Plan and national policy contained within the NPPF.

5.29 Flood Risk and Drainage

- 5.30 The Internal Drainage Board (IDB) has included a number of recommendations, conditions and informatives in the response. The proposal is however for the variation of the relevant conditions and does not include any operational development, therefore it is considered unnecessary to incorporate such conditions as part of this proposal. A separate submission for the stables has been received by the LPA which is currently being validated and such conditions would be included with any permission, should that be the case.

5.31 Other Matters

- 5.32 There are a number of general objections which haven't been addressed in the above sections and responses to are provided below:
- It is not a requirement to provide the Notice of Decision for the application to which this is linked (2009/0565/FUL) but in order to inform the general public and consultees a copy of this has been made available on Public Access
 - In regards to neighbour notification, consultations have been undertaken in accordance with the regulations, including the placing of a site notice on Hall Lane.
 - Objectors have raised planning enforcement matters relating to the original approval (midden) which do not form part of the application for consideration

- The variation of condition 11 would not result in a substantial increase in numbers of horses by allowing up to six more.
- In terms of lighting, if complaints of light spill are received by the Environmental Health Officer, this matter would be considered under the terms of the Environmental Protection Act 1990 Statutory Nuisance provisions.
- As referred to in Section 5.16 of the report, the applicant is not in breach of any conditions as matters have previously been addressed and resolved.
- Landscaping in regards to condition 5 involved a mixed species hedge to the south east boundary of the stable/arena areas; cherry tree to the central area of the stable block; In addition to a 1.8m acoustic timber fence to the boundary which separates the site from Fennel Garth Farm to the north

6 CONCLUSION

- 6.1 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the change to condition 11 is acceptable and would not have a detrimental effect on the character and appearance of the area, the residential amenity of the occupants of neighbouring properties and highway safety beyond that accepted under the original approval.

7 RECOMMENDATION

This application is recommended to be **GRANTED** in accordance with the following conditions:

01. The development hereby permitted shall be retained in accordance with the following plans/drawings listed below:

SH01A – Location plan
 SH01 – Site Layout
 SH02 A – Indoor Arena
 SH03 - Stable block floor plans and elevations
 SH04 – Typical section through stable block / proposed site plan
 SH05 – Typical section of outdoor arena
 UKS6693 – External floodlighting for manege

Reason: For the avoidance of doubt

02. The arena shall not be illuminated except in accordance with the details shown in the lighting scheme received by the Local Planning Authority on 24.10.2019

Reason: In the interests of neighbour amenity, to prevent light spillage into the open countryside and in accordance with Policy ENV1 of the Local Plan.

03. The approved scheme (under Discharge of Condition (No.8) application ref: 2011/0590/DPC) for the disposal of foul bedding and manure and for the control of odour and flies shall be operated for the duration of the approved use.

Reason: In the interests of residential amenity and to minimise the risk of pollution in accordance with Policy ENV1 of the Local Plan.

04. At no time shall the number of horses stabled at the development exceed 27. Other than a maximum of 6 horses at any one time, the stabled horses shall be kept there on a full livery or part livery basis only; the term livery being taken as meaning the provision of facilities for, and the supervision and care of horses that are not the property of the proprietor, in return for remuneration or reward. Horses shall at no time be offered for hire at the development hereby permitted for supervised or unsupervised riding on or off the site.

Reason: In the interests of residential amenity in accordance with Policy ENV1 of the Local Plan.

05. No competitive equestrian events, including shows or gymkhanas shall be held at the site, or on the adjoining land in the same ownership and any training of riders undertaken shall be restricted solely to riders who are owners of horses kept at the livery and training centre hereby permitted.

Such training shall only take place between the hours of:

9.00am and 7.00pm Monday to Friday
and between the hours of 10.00am to 6.00pm on Saturdays, Sundays and Bank Holidays.

Within the outside arena no more than two riders shall be trained at any one time.

Reason: In the interests of residential amenity in accordance with Policy ENV1 of the Local Plan.

INFORMATIVES

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 Paragraph 38 of the NPPF.

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

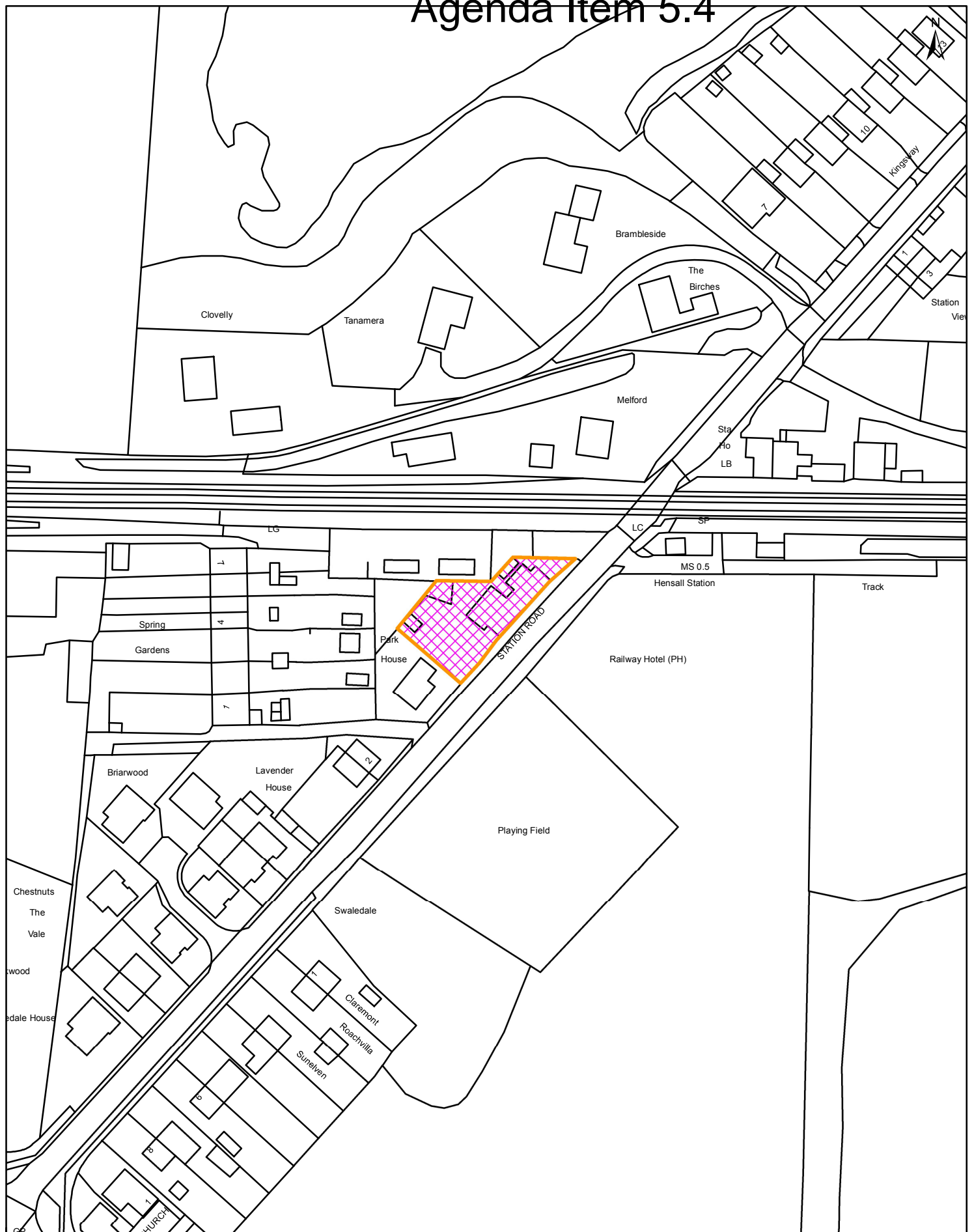
Planning Application file reference 2019/0564/FUL and associated documents.

Contact Officer:

Mandy Cooper (Principal Planning Officer)

mcooper@selby.gov.uk

Appendices: None



APPLICATION SITE

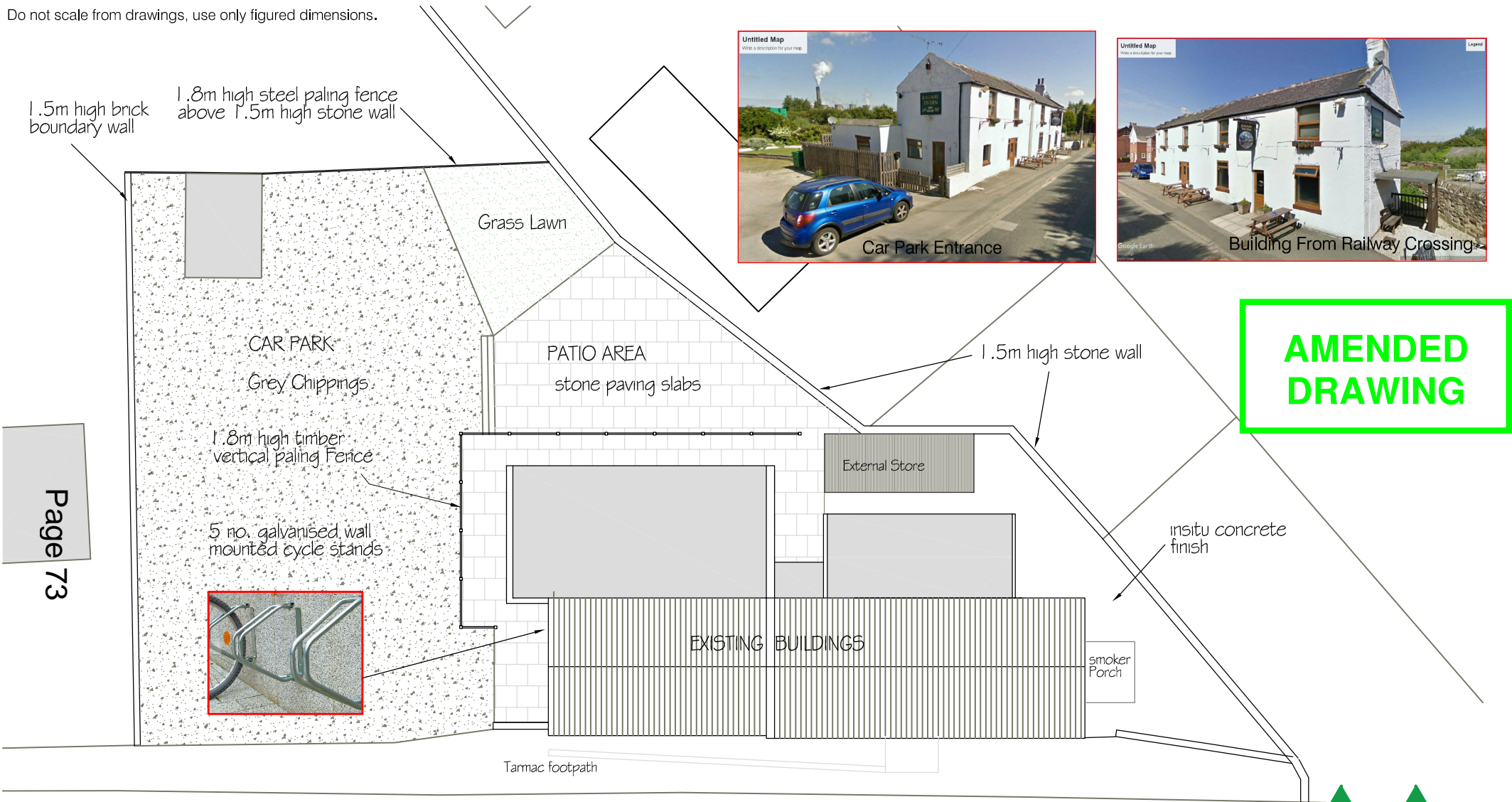
Railway Tavern, Station Road, Hensall
2019/0602/COU

1:1,250



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Do not scale from drawings, use only figured dimensions.



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AMENDED
DRAWING



BLOCK PLAN 1.200

STATION ROAD

Project **Proposed Change of Use
The Railway Tavern.
Station Road. Hensall.
East Yorkshire
DN14 0QJ**

Drawing
Block Plan
Scale 1.200@A4
Date June 2019

AREALarchitect
Michael Cooper Dipl.Arch RIBA
The Mission. Bridge Lane.
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Report Reference Number: 2019/0602/COU

To: Planning Committee
Date: 6 November 2019
Author: Gareth Stent (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0602/COU	PARISH:	Hensall Parish Council
APPLICANT:	KBJ Models	VALID DATE:	19th June 2019
		EXPIRY DATE:	14th August 2019
PROPOSAL:	Proposed change of use of public house to retail shop and tea room		
LOCATION:	Railway Tavern Station Road Hensall Selby North Yorkshire DN14 0QJ		
RECOMMENDATION:	GRANT		

APPENDIX 1 TO THIS REPORT IS NOT FOR PUBLICATION.

Appendix 1 contains exempt information under paragraph 3 of schedule 12A to the Local Government Act 1972 as amended.

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

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is the Railway Tavern public house, Station Road, Hensall. The premises are situated south of the main settlement and south of the railway line with residential dwellings to the south and west and Station Road to the east. To the east and opposite is small recreational open space area with open countryside beyond.

- 1.2 The Railway Tavern a traditional looking rural public house tavern that sits on the road side. The building has a narrow span, simple design features, with two more modern flat roof extensions to the rear (west elevation). The building has a slate roof and a white rendered finish. The premises have a loosely surfaced car park to the south adjacent to Park House, which is a modern detached dwelling.

The Proposal

- 1.3 The proposal is for the change of use of the ground floor of the public house (A4) to a part retail shop (A1) and part tea room (A3). The upstairs will remain unaffected as this is the living accommodation for the occupiers of the building. There are also minor alterations to the north elevation and a new shop frontage proposed.
- 1.4 The internal configuration is currently a bar, lounge and dining area, with kitchen and toilets. The proposals plans to change the bar area to a tea room with 26 seats and change the former lounge and dining area to a retail shop and packaging room in the southern section of the building. An inter connecting door will allow passage through both premises. Upstairs is a lounge, kitchen and 2 bedrooms, which are to remain unchanged.
- 1.5 The change of use application is necessary as no permitted change exists for A4 uses to change into any other use, except mixed A3 /A4 uses where food is permitted.

Relevant Planning History

- 1.6 The majority of the history relates various alterations and extensions to the public house, except for 1980 permission to use part of the premises as a B&B.

CO/1977/18259 - Alterations & Extensions, Approved 20-JUL-77

CO/1975/18238- Internal Alterations & Front Porch, Approved 25-JUN-75

CO/1980/18260 - Erection Of Retaining Walls, Decision: PER, Officer: Decision Date: 22-MAY-80

CO/1977/18258, - Erection Of A Double Garage, Decision Date: 16-MAY-77

CO/1980/18261 - Use Of Part Of Premises For Bed & Breakfast & Extension To Car Park, Approved - 07-JUL-80.

2. CONSULTATION AND PUBLICITY

- 2.1 **Parish Council** – No response received.
- 2.2 **NYCC Highways Canal Rd** - There are no Local Highway Authority objections to the proposed development subject to a condition requiring the provision of cycle stands prior to the use becoming operational.
- 2.3 **Pland Use Planning Yorkshire Water Services Ltd** – No response.
- 2.4 **Danvm Drainage Commissioners Shire Group Of IDBs** – No objections.
- 2.5 **Environmental Health** - No objections.

- 2.6 **Conservation Officer** – No formal response, however suggested the shop frontage be simplified to reduce the impact of the proposed external changes.
- 2.7 **Network Rail** – no response received.
- 2.8 **Neighbour Summary**

The proposal was publicised by a site notice, press notice and direct neighbour notification of residents to the west and south. A total of 38 letters of objection were received and 32 letters of support.

It was brought to the Council's attention that several letters of support were from addresses in Bristol, London, Cleethorpes more locally from Knottingley. Several of the email addresses submitted all have the same email address. Some letters of support were from Hensall residents.

Members will therefore have regard to the origin of the persons commenting on the application in reaching their decision. All letters can be viewed online via the council's public access pages.

Cllr Mike Jordan – made a representation on and was concerned that the proposal wouldn't work and would eventually lead to housing.

Objections: A total of 38 objections were received.

Online petition created by a local resident - 233 signatures against at 7.10.19

Principal of the development

- The pub is part of village life and historically it has always been popular.
- Concern has been expressed that the current landlord has made the pub less inviting by reduced opening hours, removing the TV, pool tables, dart board, poor heating, turning hot water off in the toilets etc
- This is the only pub in the village and can be successful again.
- The people supporting the change of use seem to be people that have only moved here recently and use it as a commuting village.
- No need for a further tea shop as many exist in the local area.
- The village needs a traditional pub a place where locals can meet, socialise and discuss. Its closure would be detrimental to the local community.
- There may be a compromise with the current plans, to split the premises so the eating area could be a team room and the main bar area could remain a licensed premises. This would mean that the village still retains its pub.
- A café whilst still a meeting place wouldn't attract the same numbers of people.
- Residents are willing to make this a community pub by investing their own money.
- Over recent years the all the local sports teams and clubs have left the premises.

Future Use

- Residents are concerned that once the licence is taken away that there will be an ulterior motive i.e. that the actual building will be demolished and it will then be sold for development.

Concerns over the letters of support

- Many of the "support" letters are from the same email address and most don't live local to the village.

Support: A total of 32 letters were received.

(Including 1 from the owner of the pub).

Principal of the use.

- Many of the objectors do not use the pub and are living in the nostalgic past. If they did it would remain open.
- The change of use will bring a new dimension to the village, new business and create some new jobs, meeting place and be an asset to the village. There is another pub in the village that is not very well supported by the villagers.
- The owners are looking to retire so the pub will either be sold or boarded up which will have a negative impact on the village.
- The village would really benefit from a variety of social environments. The station itself is a beautiful example of its time and the tearoom could potentially draw more business to the village.
- The tea room would provide a different type of social environment for the less able.

3 SITE CONSTRAINTS

Constraints

- 3.1 The site lies within the settlement limits of Hensall, in flood zone 1 and has the potential to affect the setting of a Listed Building. The site is not within a Conservation Area.

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 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 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.
- 4.5 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).”

Selby District Core Strategy Local Plan

- 4.6 The relevant Core Strategy Policies are:
- Policy SP1: Presumption in Favour of Sustainable Development
 - Policy SP2: Spatial Development Strategy
 - Policy SP13 : Scale and Distribution of Economic Growth
 - Policy SP14 : Town centre and local services
 - Policy SP15: Sustainable Development and Climate Change
 - Policy SP18: Protecting and Enhancing the Environment
 - Policy SP19: Design Quality

Selby District Local Plan

- 4.7 **The relevant Selby District Local Plan Policies are:**

- Policy ENV1: Control of Development
- Policy T1: Development in relation to the Highway Network
- Policy T2: Access to Roads
- Policy S3: Retailing

Other Policies and guidance

- 4.8 NPPF 2019

5.0 APPRAISAL

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

1. Principle of the development
2. The loss of the public house & the creation of a shop & café.
3. Impact on the character and appearance of the area
4. Impact on residential amenity
5. Impact on the setting of the nearby Listed Building.

Principal

- 5.2 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.
- 5.3 Policy SP 2 of the Core Strategy sets out the long term spatial direction for the District and provides guidance for the proposed general distribution of the 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 Core strategy identifies Hensall as a 'secondary village'.
- 5.4 The site lies within the development limits of the settlement and is therefore acceptable in principle for development. Policy SP 13 criteria C of the Core Strategy states in rural areas, sustainable development which brings sustainable economic growth through local employment opportunities or expansion of business and enterprises will be supported including for example 1) the reuse of existing buildings and states in D) that in all cases development should be sustainable and appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.
- 5.5 Also the NPPF promotes 'the retention and development of local services and community facilities in rural areas, including public houses. At the same time it supports sustainable growth and expansion of all types of business and enterprises in rural area.'
- 5.6 Local Plan Policy S3 deals with proposals for local shops and other small scale A2, A3 type uses. Policy S3 A) supports the creation of local shops cafes and restaurants outside defined shopping centers providing they are within defined development limits, serve a local function, the scale would be appropriate to the locality, has satisfactory parking and access and the proposal would not have a significant effect on residential amenity or the character and appearance of the area.
- 5.7 Part B) of Policy S3 deals with the loss of existing facilities and states the loss of shops or a public house will not be permitted unless it can be demonstrated that there is alternative provision for a similar type of use within reasonable walking distance; or it can be shown that the business is no longer viable for retail purposes

within its existing use class, and that it has remained unsold or unlet for a substantial period of time, despite genuine and sustained attempts to market it on reasonable terms.

- 5.8 Core Strategy Policy SP14 equally supports local shops and services by resisting the loss of existing facilities and promoting the establishment of new facilities to serve the day to day needs of the community and planned growth of communities.
- 5.9 This application is unusual in that leads to the loss of a public house (Policy S3 B) but by default the creation of a retail and café facility (Policy S3 A). The application therefore needs to be considered against both policies S3B and S3A.

Loss of the public house

Alternative provision

- 5.10 Policy S3 B) states the loss of the Public house will not be permitted unless it can be demonstrated that there is alternative provision for a similar type of use within reasonable walking distance. This is because village pubs can often act as community facility and be a significant asset to the community in terms of meeting places, venues for community meetings and impact on the social well-being of the village.
- 5.11 To prevent facilities such as pubs being lost in small villages, the 2011 Localism Act introduced legislation whereby communities have the option of purchasing the facility known as the 'Community Right to Bid' or Asset of Community Value (ACV). Assets of Community Value enable certain community groups to express an interest in and potentially buy an asset that enhances the social wellbeing and interests of the local community. Officers can confirm that the Railway Tavern is not listed as an Asset of Community Value nor have any nominations been received to register it.
- 5.12 In terms of alternative provision this has to be a similar use within reasonable walking distance. Whilst the Railway Tavern is the only last remaining pub in the village, Hensall also has 'La Anchor' which is a bar/restaurant pizzeria. This is 1km to the north of the site and sits within the main village. A 1 km walk is considered as a reasonable walking distance and the bar/restaurant is inevitably closer to the main nucleus of residents that reside in the main part of the village. The bar/restaurant is also considered a similar use.
- 5.13 Equally the proposed A3 tea room use is a 'similar' use to that of a public house in that it will provide a meeting point for the community, albeit the space within the building is reduced by the A1 unit proposed. Therefore it is considered that alternative provision exists within a reasonable walking distance and therefore the loss of the pub meets the requirements of Policy S3 B) 1).

Viability of the current business

- 5.14 Policy S3 Part B) 2) requires as assessment of the viability of the business where applicants have to demonstrate the business is no longer viable for retail purposes within its existing use class.
- 5.15 The current landlord has owned the pub for around 11 years and over recent years states sales and activity has diminished. This has resulted in more sporadic opening hours (currently open Friday, Saturday and Sunday), and changes to the way the

pub has been run, simply because customers are not coming through the door. The owner states it is pointless keeping the doors open at times as the premises have to be heated, have lighting and this adds to the day to day running costs. This has been significantly commented on in the third party representations

- 5.16 The owners state they are having to subsidise the pub on a regular basis due to lack of trade. The owner has provided the council with evidence of its turnover in 2019 and monthly costs.
- 5.17 Having assessed this confidential information, officers are satisfied that the business as a public house is no longer viable. There are also significant renovations and remedial work required for the building, like damp proofing and roof repairs which are set to cost over £5000 and all of which would be at cost to the business and all identified in the surveys by the applicant prior to purchasing the premises.

Marketing of the Public House

- 5.18 The second test of the Policy S3 B 2) is for the applicant to demonstrate that the premises have remained unsold for a substantial period and genuine attempts to sell the property have been made. The owners of the pub have provided details of the marketing. The owners state they decided to put the word out in the village that the pub was going on the market with a view to anyone interested, community buy-out etc. in early 2018. There were no takers, so they contacted Ernest Wilson property agents and the first advert went in the Yorkshire Post on 21st June, 2018 at a sale price of £300,000. The property has continued to be advertised to date. The premises were also advertised in the Metro, Sheffield Star and on the web through Right Move at a cost of £2946 to date (as of 18th Sept 2019).
- 5.19 The owners accepted an offer of £227,500 from the current applicants of this planning application so considerably lower than the asking price. Officers are satisfied that the pub has been unviable as a current business and the 16 month marketing campaign is a substantial period to meet the requirements of Policy S3 B) 2).
- 5.20 Officers are therefore satisfied that the proposal meets both the requirement of Local Plan Policy S3B, in that alternative provision exists in the village within a reasonable walking distance (S3B 1) and the current business is unviable and reasonable attempts have been made to sell the property (S3B 2).

Creation of the shop and café

- 5.21 The proposed use shop café use is acceptable in principle, being small scale and within the development limits of the village. The café is intended to serve a local function and appropriate to the locality. A small shop and tea room is also the type of use readily seen in small rural villages and will have no detrimental impact on the character of the area. The remaining considerations of Policy S3 A) i.e. the impacts on highway safety, parking and residential amenity are discussed below:

Design and Impact on Character and Form

- 5.22 Selby District Local Plan Policy ENV1(1) requires development to take account of the effect upon the character of the area, with ENV1(4) requiring the standard of layout, design and materials to respect the site and its surroundings.

- 5.23 Policy SP19 requires that “Proposals for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside. Both residential and non-residential development should meet the following key requirements:
- a) Make the best, most efficient use of land without compromising local distinctiveness, character and form.
 - b) Positively contribute to an area’s identity and heritage in terms of scale, density and layout;
- 5.24 Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF which places great emphasis on good design.
- 5.25 The proposal includes 2 external changes. The first being the swapping of a window for a door, on the rear single storey extension. This has no material impact on the character of the building or wider area.
- 5.26 The second change involves adding a new shop frontage centered around the existing most southern doorway. This was amended on three occasions following discussions with officers, as the originally proposed shop frontage was too ornate and unbalanced the frontage. The revised design maintains the southern doorway and has a single shop window either side of the doorway. The fascia was reduced in scale and the pilasters removed from previous designs, making it much simpler in form and proportionate in scale. The revised design is not considered to have any significant impact on the character and appearance of the building.
- 5.27 In addition no objections were raised in the third party responses with regards to character or the appearance of the frontage. Officers did however suggest a more balanced frontage with two shop fronts i.e. one for the tea room and one for the shop to make the tea room use more inviting, however this was not considered possible by the applicants due to the structural openings within the building. This element may be reconsidered by the applicant in the future and would require a further planning permission.

Listed Building

- 5.28 When making a decision on all listed building consent applications or any decision on a planning application for development that affects a listed building or its setting, a local planning authority must 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.
- 5.29 The Conservation Officer was consulted on the application primarily because of the proximity of the Listed Former Station House to the northern side of the railway crossing. The proposed use and alterations to the building are not regarded to have any impact on the setting of this Listed Building due to the distances involved and therefore is compliant with Section 16 of the NPPF and sections 16 and 66 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1) which seeks to safeguard heritage assets.

Highways

- 5.30 Policies ENV1 (2), T1 and T2 of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements.
- 5.31 The premises have space for 6 off street car parking spaces in the roughly surfaced car park to the rear of the public house. This is to remain unaltered and will provide ample space for the tea room and retail premises proposed. The access has good visibility and the proposal raised no objections from the NYCC Highways Officer.
- 5.32 The proposal does show provision for 5 galvanised wall mounted cycle stands and a condition has been included in order that these are installed prior to the use becoming operational. The scheme is considered to be acceptable in highways terms and to accord with Policies ENV1 (2), T1 and T2 of the Local Plan and SP19 of the Core Strategy

Residential Amenity – including noise, odor and the use

- 5.33 Policies ENV1(1) of the Local Plan requires development to take account of the effect upon the amenity of adjoining occupiers and should be given significant weight. Significant weight should be attached to these policies as they are broadly consistent with the aims of the NPPF to protect residential amenity.
- 5.34 Policy "SP19 - Design Quality" of the Core Strategy outlines that proposals "for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regards to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside".
- 5.35 In addition, Policy ENV2 states development which would give rise to or would be affected by unacceptable levels of noise nuisance, contamination or other environmental pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme.
- 5.36 The pub due to its age will not have had opening hours controlled via a planning permission, however these will be the subject of a separate license. Notwithstanding this, the proposed opening hours of the premises are Mon-Fri 0900 -18:00hrs, Saturdays 09:00 -19:00 and Sundays and bank holidays 10:00 -19:00.
- 5.37 Therefore in comparison to a public house, the proposed use will open much earlier than a traditional 11 am opening of a pub, however will equally close much earlier i.e. 19:00hrs on an evening at weekends and 18:00 through the week. The hours are not unreasonable and are appropriate for this type of use.
- 5.38 The proposal is for an A1 use i.e. the shop and the latter part a tea room A3. The tea room has 6 covers and could seat around 26 people. The new owner plans to use the pubs existing kitchen facilities (used to make Sunday lunches) for any cooking required, however these will require relocation. The applicant has confirmed that they do not intend on using deep fat fryers and no objections have been raised by the Environmental Health Officer. A condition is suggested that in the event of food being fried on the premises, then extraction details will need to be submitted.

6.0 CONCLUSION

- 6.1 In considering the loss of a Public House Policy S3 B) requires it to be demonstrated that alternative provision for a similar type of use is within reasonable walking distance or that it can be shown that the business is no longer viable for retail purposes within the existing use class and that it has remain unsold for a substantial period of time, despite genuine and sustained attempts to market it on reasonable terms have been made.
- 6.2 It is considered that alternative similar provision exists in the village in the form of 'La Anchor,' which is a bar/restaurant pizzeria and within reasonable walking distance of the main population of the village. The proposed tea room use is also similar and can equally serve the local community. Secondly the application has demonstrated that the current business is unviable through the running costs versus turnover details received and that genuine attempts have been made to sell the property for a substantial period through the detailed marketing details received since first advertised in June 2018 (16 months).
- 6.3 The proposed use is small scale, appropriate to its setting and will serve a local need. The use has adequate parking and will not create harm to highway safety, or have a significant adverse effect on residential amenity or the character and appearance of the area. National and Local Policies encourage new enterprises in rural villages that support the community.
- 6.4 The proposed external changes are not considered to cause harm to the character and appearance of the street scene or setting of the nearby Listed Building. On this basis the proposal is recommended for approval subject to condition.

7.0 RECOMMENDATION

- 01.This application is recommended to be GRANTED subject to the following conditions:

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 not be carried out otherwise in complete accordance with the approved plans and specifications.

CBMJ19PE.1 Proposed Elevations Rev C
CBMJ19 PP.1 Proposed Ground Floor Plans Rev A
CBMJ19BP.1 Block Plan Rev A
CBMJ19 LP.1 Location Plan

Reason;

To ensure that no departure is made from the details approved and that the whole of the development is carried out, in order to ensure the development accords with Policy ENV1.

03. A wall mounted cycle parking stands as shown on the submitted details (CBMJ18BP.1 Rev A) shall be installed prior to the use hereby approved becoming operational and shall remain in place for the lifetime of the use. The cycle parking area shall not be used for any purpose other than the parking of cycles.

Reason:

To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

04. No cooking or frying (other than warming up of food), shall take place until a scheme for the removal of cooking odours, including details of the position, design, height and materials of any extractor, has been submitted to and be approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before cooking first commences, and shall thereafter be retained. Any equipment shall be operated and maintained in accordance with the manufacturer's instructions.

Reason:

To safeguard the amenity of the locality, having had regard to Policy ENV1 of the Selby District Local Plan.

05. The uses hereby approved shall not be open for customers between the hours of :

Monday to Friday 09:00 -18:00

Saturday 09:00 -19:00

Sundays and Bank Holidays. 10:00 - 19:00

Reason:

In the interests of residential amenity, having had regard to Policy ENV1 of the Selby District Local Plan.

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 2019/0602/COU and associated documents.

Appendices:

Appendix 1 – CONFIDENTIAL - Details of the 2019 takings relating to paragraph 5.16 of the Committee Report

Contact Officer:

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Agenda Annex

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.

Planning Committee 2019-20



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