



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY, 5 FEBRUARY 2020**
Time: **2.00 PM**
Venue: **CIVIC CENTRE, DONCASTER ROAD, SELBY, YO8 9FT**
To: **Councillors J Cattanach (Chair), I Chilvers, R Packham, P Welch, M Topping, K Ellis, D Mackay, M Jordan and J Mackman (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 - 4)

To confirm as a correct record the minutes of the Planning Committee meeting held on 15 January 2020.

5. Planning Applications Received (Pages 7 - 8)

5.1. TPO 6/2019: Rose Cottage, 11 Church Street, Riccall (Pages 9 - 18)

- 5.2. 2018/0933/COU: The Orangery, Lumby Hall, Butts Lane, Lumby (Pages 19 - 44)
- 5.3. 2019/1158/FUL: Land Off Highland Villas, Sherburn in Elmet (Pages 45 - 64)
- 5.4. 2019/0513/FUL: Hilagarth, Main Street, Church Fenton, Tadcaster (Pages 65 - 90)
- 5.5. 2019/0564/FUL: Hall Lane Stables, Hall Lane, Church Fenton (Pages 91 - 112)
- 5.6. 2019/1093/FUL: Land to Rear Of The Lodge, 23 Selby Road, Riccall (Pages 113 - 128)
- 5.7. 2019/0995/FULM: Dovecote Park, Bankwood Road, Stapleton (Pages 129 - 146)
- 5.8. 2019/1159/FUL: Land Off Station Road, Hambleton (Pages 147 - 162)
- 5.9. 2019/1234/FUL: Land Off Oaklands Crescent, Camblesforth, Selby (Pages 163 - 180)
- 5.10. 2020/0023/MAN2: Staynor Hall, Abbots Road, Selby (Pages 181 - 192)
- 5.11. 2017/0736/REMM: Land South Of Main Street, Church Fenton (Pages 193 - 230)

Janet Waggott

Janet Waggott, Chief Executive

Dates of next meetings (2.00pm)

Wednesday, 4 March 2020

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.

Planning Committee
Wednesday, 5 February 2020

Agenda Item 4



Minutes

Planning Committee

Venue:	Council Chamber - Civic Centre, Doncaster Road, Selby, YO8 9FT
Date:	Wednesday, 15 January 2020
Time:	2.00 pm
Present:	Councillor J Cattanach in the Chair Councillors I Chilvers, R Packham, P Welch, M Topping, K Ellis, D Mackay and J Mackman (Vice-Chair)
Officers Present:	Martin Grainger – Head of Planning, Ruth Hardingham - Planning Development Manager, Kelly Dawson – Senior Solicitor and Victoria Foreman – Democratic Services Officer
Press:	0
Public:	10

31 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor M Jordan.

32 DISCLOSURES OF INTEREST

All Councillors declared that they had received additional representations by email and telephone in relation to both applications on the agenda, agenda item 5.1 – Land South of Main Street, Church Fenton and agenda item 5.2 – Hall Lane Stables, Church Fenton and confirmed that they had not expressed an opinion on the application and remained open minded, and as such would participate in the debate and decision.

Councillor K Ellis declared a non-pecuniary interest in agenda item 5.1 – Land South of Main Street, Church Fenton as he knew the landowner, and confirmed that whilst he would remain in the room, he would not take part in the debate or decision on the application.

33 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chair advised Members that an Officer Update Note had been circulated and that a request had been received to audio record the debate in relation to agenda item 5.1 – Land South of Main Street, Church Fenton.

34 MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 4 December 2019.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 4 December 2019 for signing by the Chairman.

35 PLANNING APPLICATIONS RECEIVED

The Head of Planning and the Solicitor drew Members' attention to issues that had been raised over the past few days relating to the availability of the Council's Public Access online planning system. It was reported that the system had been unexpectedly offline from 9 January 2020 to 13 January 2020. As such, concerns had been expressed by the objectors to the applications for consideration at the meeting regarding their ability to prepare adequately whilst Planning Access was unavailable. The agents for the applications had also been contacted. The agent for item 5.1 advised that they wished the application to be determined due to the age of the application and that all of the information had been available.

The Head of Planning and the Solicitor went on to explain that all legal procedures had been followed in relation to the applications, including all material documents being available for inspection for the legal time frame and the agenda papers had been published and publicly available for the required five clear working days.

However, due to the concerns expressed about the availability of Planning Access by the objectors, Members could consider deferring the consideration of both applications if they deemed it appropriate.

The Chair explained that perception of the decision making process was key in relation to this matter, and as such he proposed that the both applications be deferred. The motion was seconded by Councillor D Mackay.

The Committee discussed the Chair's proposals and agreed that deferral would be the most appropriate way forward.

A vote was taken on the proposal to defer consideration of agenda item 5.1 – Land South of Main Street, Church Fenton and agenda item 5.2 – Hall Lane Stables, Church Fenton and was unanimously CARRIED.

RESOLVED:

To DEFER consideration of agenda item 5.1 – Land South of Main Street, Church Fenton and agenda item 5.2 – Hall Lane Stables, Church Fenton to a later date.

The meeting closed at 2.10 pm.

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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

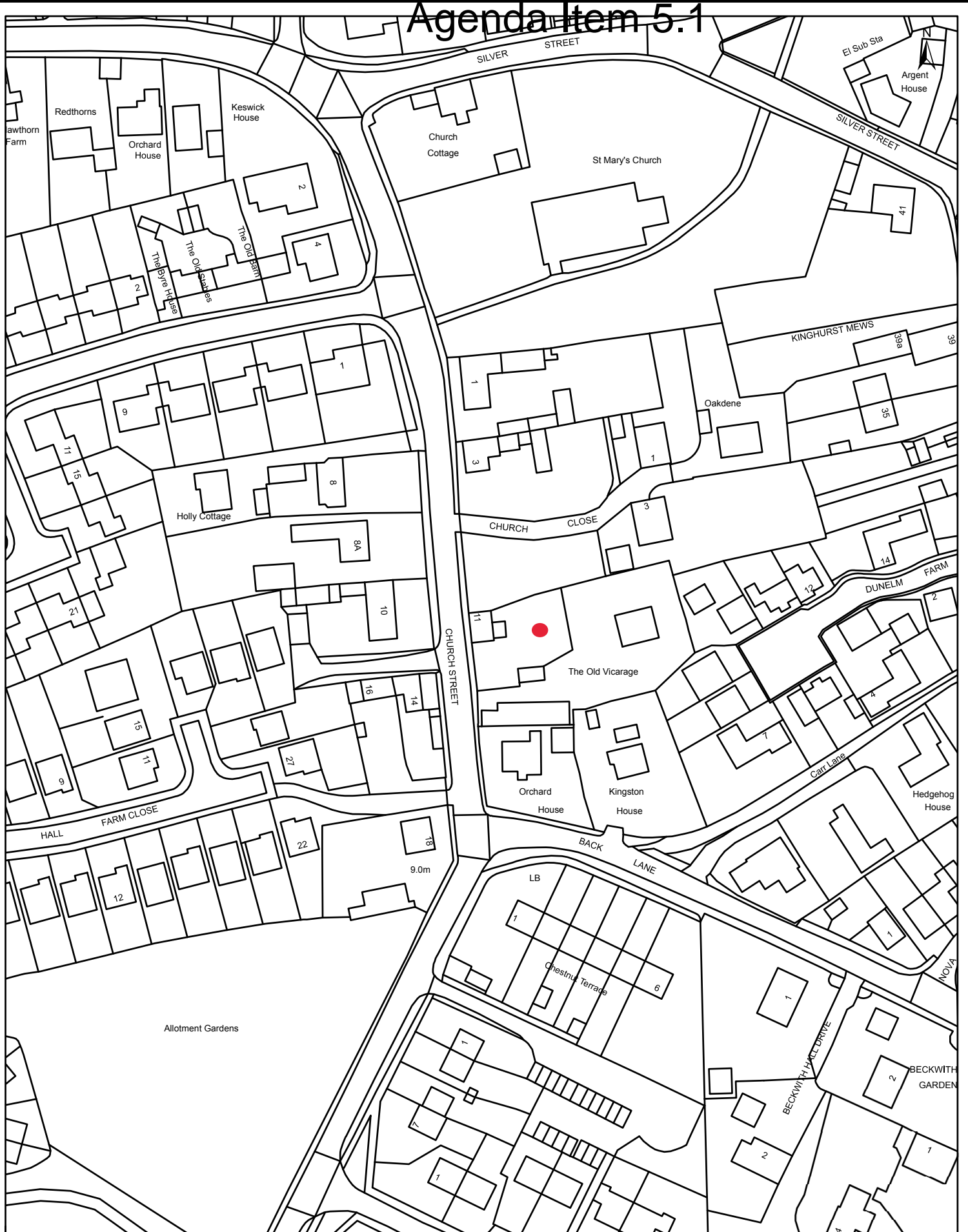
Agenda Item 5

Items for Planning Committee

5 February 2020

Item No.	Ref	Site Address	Description	Officer	Pages
5.1	TPO 6/2019	Rose Cottage, 11 Church Street, Riccall	Confirm with no modification Tree Preservation Order No. 6/2019	WISM	9-18
5.2	2018/0933/COU	The Orangery, Lumby Hall, Butts Lane, Lumby	Proposed and part retrospective change of use to a mixed use comprising a class A3 use for cafe tea room serving hot and cold food on the premises including children's and adult activities and events and beauty treatments with provision for 40 car parking spaces and 20 overflow car parking spaces	JETY	19-44
5.3	2019/1158/FUL	Land Off Highland Villas, Sherburn in Elmet	Erection of 2no semi-detached and 1no detached 2 bed single storey affordable dwellings	FIEL	45-64
5.4	2019/0513/FUL	Hilagarth, Main Street, Church Fenton, Tadcaster	Proposed erection of three detached dwellings following demolition of existing dwelling	YVNA	65-90
5.5	2019/0564/FUL	Hall Lane Stables, Hall Lane, Church Fenton, Tadcaster	Section 73 application to vary condition 11 (to increase the maximum number of horses from 21 to 27) of permission 2009/0565/FUL (allowed on appeal 01 April 2011) for the 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	MACO	91-112
5.6	2019/1093/FUL	Land to Rear Of The Lodge, 23 Selby Road, Riccall	Proposed erection of two detached dwellings with associated access, drainage and landscaping	LAHO	113-128
5.7	2019/0995/FULM	Dovecote Park, Bankwood Road, Stapleton, Pontefract	Erection of a new beef protein building (7.5 x 18.1m), extension to the existing fat processing plant (3.5m x 5m) and erection gas tank (10.6m x 3.1m) - (Retrospective).	GAST	129-146
5.8	2019/1159/FUL	Land Off Station Road, Hambleton	Erection of 2 No semi-detached and 1no detached 2 bed single storey dwellings	FIEL	147-162

5.9	2019/1234/FUL	Land Off Oaklands Crescent, Camblesforth, Selby	Erection of a terrace of three 2-storey affordable homes	FIEL	163-180
5.10	2020/0023/MAN2	Staynor Hall, Abbots Road, Selby	Non material amendment of 2015/0580/EIA Reserved matters application for the erection of No.44 dwellings, community facilities and retail units following outline approval 8/19/1011C/PA (CO/2002/1185)	CHFA	181-192
5.11	2017/0736/REMM	Land South of Main Street, Church Fenton	Reserved matters application relating to appearance, landscaping, layout and scale for erection of 50 dwellings of approval 2015/0615/OUT for outline application to include access for a residential development	FIEL	193-230



APPLICATION SITE

Rose Cottage, 11 Church Street, Riccall
TPO/6/2019

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Report Reference Number: TPO 6/2019

To: Planning Committee
Date: 5th February 2020
Author: Will Smith (Planning Policy Officer)
Lead Officer: Ruth Hardingham (Lead Officer – Planning)

APPLICATION NUMBER:	TPO 6/2019	PARISH:	Riccall
TPO SERVED:	Signed 11 th November 2019 and Served 11 th November 2019	DEADLINE FOR CONFIRMATION:	11 th May 2020
LOCATION:	Rose Cottage 11 Church Street Riccall		

Summary:

In exercise of the powers conferred by section 198 of the Town and Country Planning Act 1990 this report will seek the permission of the Planning Committee to “Confirm, with no Modification”, Tree Preservation Order No. 6/2019 to which an objection has been received. In accordance with the scheme of delegation, the report to verify the Tree Preservation Order cannot be issued under delegated powers due to the objections received.

1. Introduction and background

1.1 The Site

- 1.1 The Tree Preservation Order (TPO) is located in the rear garden of Rose Cottage, Riccall, Church Street.
- 1.2 The house is located in the Southern extent of the Conservation Area in the historic core of Riccall. The area presents a mix of house types - primarily detached dwellings of various form and age, including various established trees throughout the street scene.
- 1.3 To the North of the site is Grade I Church of St Mary and immediately West is Grade II, 10 Church Street. To the South of the Beech tree is a further selection of

protected tree specimens including Lime, Whitebeam and Yew set within the properties of Orchard House and Kingston House and protected under TPO 3/1985.

1.3 Planning History

- 1.4 On the 15th July the Council received notice of the intent to remove a large Copper Beech tree from the Riccall Conservation Area (2019/0739/TCA). On the 21st August 2019, the case Officer under delegated powers resolved to object to proposals to remove the tree.

2.0 Scope of the Provisional Tree Preservation Order Ref 6/2019

- 2.1 The TPO was issued on the 11th November 2019 in the context of advice received by the District Council Landscape Architect and the TPO is principally informed by Officer Site visit and consideration of the applicants proposed removal. Having considered the contribution to local amenity and the Conservation Area, it was the officers' judgement that consideration should be given to the tree's long term protection. The tree is worthy of protection as an important, veteran tree offering seasonal colouration to the Conservation Area. The specimen is of a large size, one of the more significantly aged within the area and of exceptional form and condition.
- 2.2 It is noted that the applicant has also acknowledged and expressed the tree's qualities throughout this process and has welcomed proposals to allow for neighbour consultation and due process prior to any felling of the specimen.
- 2.3 The decision to issue the TPO was underpinned by the advice of the Council's Landscape Architect.

As such the TPO as served relates to:

- a) A single Copper Beech Tree (T1)

- 2.4 The plan associated with the TPO is attached with the Officers Report below (Appendix A).
- 2.5 An Order can be made to protect specific trees, groups of trees or woodlands in the interests of amenity and should be used where the trees removal would have a significant negative impact on the local environment and its enjoyment by the public. The Order comes into effect immediately on the day the Council makes it and this provisional status lasts for six months, unless the authority either confirms the Order to provide long-term protection or decides not to confirm it.

3.0 Representations

- 3.1 The TPO was served in accordance with the Town & Country Planning (Tree Preservation) (England) Regulations 2012/605 on the person interested in the land, who has been identified as the owner of the property Rose Cottage. The Regulations specify that in the case of an order made following service of a notice under section 211(3) (preservation of trees in conservation areas), serve on the person who served that notice;

- (a) serve on the persons interested in the land affected by the order—

- (i) a copy of the order; and
- (ii) a notice containing the particulars specified in paragraph (2);

(2) The particulars mentioned in paragraph (1)(a)(ii) are—

- (a) the reasons for making the order;
- (b) a statement that objections or other representations with respect to any trees, groups of trees or woodlands specified in the order may be made to the authority in accordance with regulation 6;
- (c) the date, being at least 28 days after the date of the notice, by which any objection or representation must be received by the authority; and
- (d) a copy of regulation 6 (see Appendix B).

3.2 The Order was served following the Council decision to express objections to application 2019/0739/TCA. A copy of the TPO notice was displayed on site on the 11th November 2019 and delivered by the officer. Comments were invited on the Provisional Order to be received by Friday 6th January 2020.

3.3 An objection to the TPO was received from the applicant, on the 15th November 2019. Comments were also received on the provisional TPO from Riccall Parish Council and were received on the 13th December 2019.

3.4 The objection can be summarised as follows:

- This is a woodland tree in a small cottage garden
- Has outgrown the location and the dense canopy excessively shades the garden
- Danger of limb drop, an issue exacerbated by the specimens age
- Excessive flocking of pigeons and bird fouling across both the patio and lawn (images provided)
- Bird fouling a health concern
- Applicant has exhausted all deterrents and all attempts to deter the pigeons have failed

3.5 It has been stressed by the applicant that he has looked to retain the tree at all opportunities most notably designing the garden around the veteran specimen. The property owner has highlighted that the copper Beech now dominates the garden and this is a characteristic that has become further detrimental to the family use of the space. It is noted that the scale of pigeon droppings is a nuisance and due to the flocking of the pigeons and reach of the tree, the problem is intensifying as illustrated in images.

3.6 Members of Riccall Parish Council have visited the site and spoken to the applicant and a neighbour of the property concerned. The Parish Council submitted comments which can be summarised below;

- The Parish Council understand the issues with the pigeon droppings and the size of the tree within the site
- Appreciate that it is an asset to the environment and is within the Conservation Area.
- The TPO will allow time for appropriate assessments to be carried out and enable the occupier to find options to discourage the pigeons, should they wish to progress the reduction/removal of the tree in the future

- Members have no objection to the confirmation of the TPO
- Parish Council would wish to be consulted on any future applications relating to the TPO.

4.0 Report

4.1 The Council has considered the submission made by the objector and has considered the issues presented.

It is considered that;

- a) Do not regard the submissions made as acceptable reasons for objecting to a TPO
- b) Account should be taken of the fact that the tree has capacity to be reduced or further remedial work
- c) The tree is a large mature specimen, healthy and of significant age, offering a positive contribution to the tree coverage of the area.
- d) Healthy and attractive trees are an asset to the environment

4.2 The objector has stated that they feel the tree has outgrown the location and now dominates the domestic garden area. This has become a key factor in the garden now becoming described as unusable. Due to the size and scale of the tree, the applicant experiences substantial volumes of pigeon droppings, and has tried deterrents and pest control to resolve with no success. It is accepted that the scale of pigeon droppings is a nuisance and health risk. Due to the flocking behaviours of the pigeons the problem is intensifying. The officer understands the volume of droppings is excessive.

4.3 However, healthy and attractive trees are an asset to the environment and bird fouling is not sufficient justification for such a tree to be removed. It is agreed that the specimen is now significantly sized for the garden and the location close to the patio and host dwelling, while the tree also presents several large weight bearing limbs. The applicant has stated they would be willing to plant high quality replacement/s in suitable locations. The tree is also not directly street fronting, but does contribute to some localised views and presents prominent seasonal colouration with its sizable, purple canopy. The owner has always looked to retain the tree, but feels the issues the tree presents need resolving for their quality of life.

4.4 Reducing the tree could allow for the retention of the specimen while sufficiently mitigating against excessive shading and the spread of the pigeon issues, although an assessment would be required to look at how far the tree could sustain this. Beech trees respond well to pruning (BS3998) as they don't generally produce epicormic growth. Therefore, the foliage shouldn't grow back quickly or poorly after a reduction prune.

5.0 Conclusion

5.1 Special attention must be paid to the desirability of preserving the character or appearance of the Conservation Area. It is considered that there is not enough evidence or justification for removal of the tree at this time and the harm to the Conservation Area. Having regard to the above, the proposal to fell 1No Purple Beech tree in the Conservation Area would have a detrimental impact on the

character and appearance of the Conservation Area. TPO 06/2019 would protect an important tree, in the interests of amenity and its contribution to the Riccall Conservation Area.

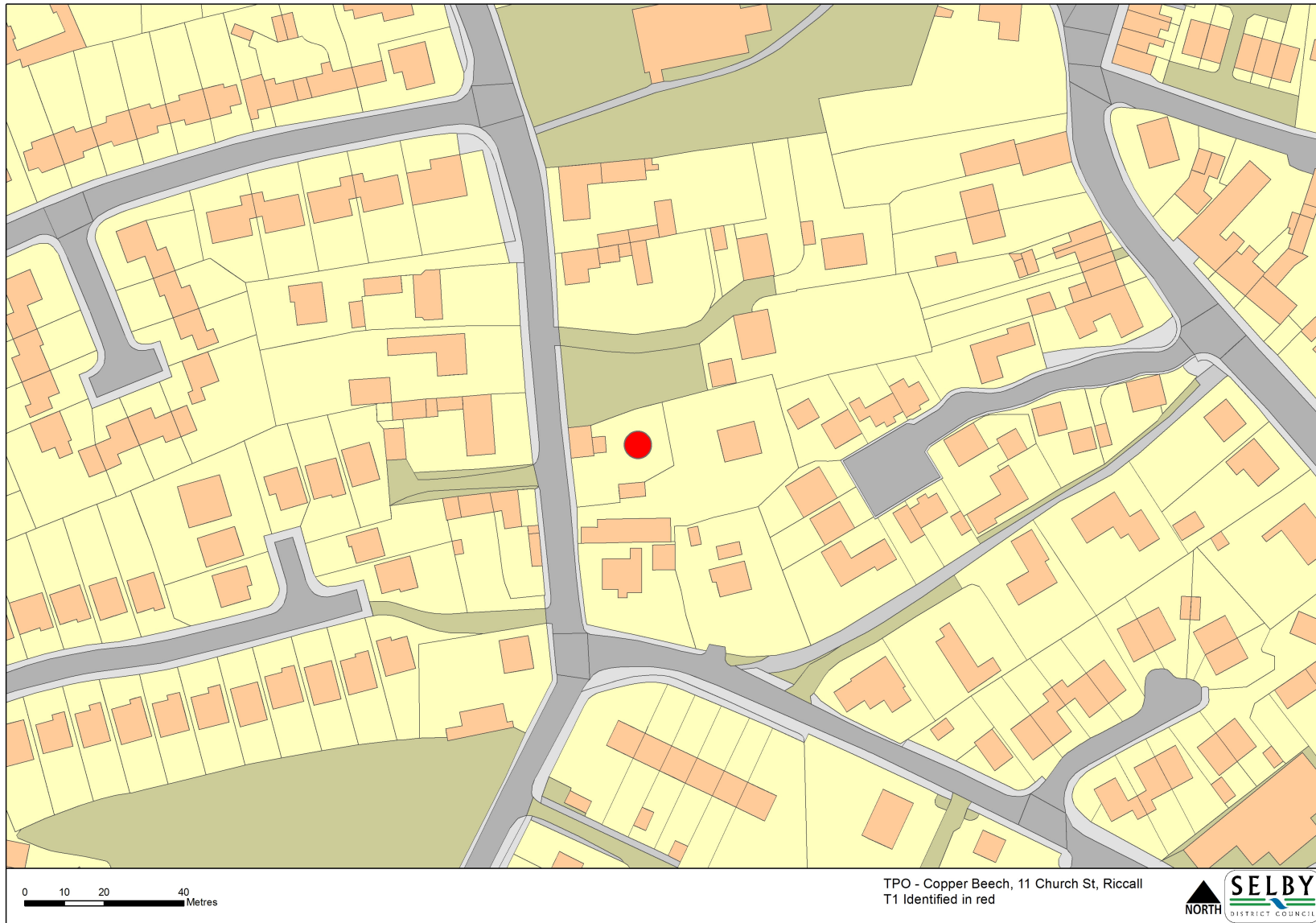
6.0 Recommendation

6.1 To confirm the Beech Tree - Preservation Order No.6/2019

7.0 Background Documents

None.

Contact Officer: Will Smith, Planning Policy Officer
wsmith@selby.gov.uk



COPY OF REGULATION 6 OF THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION)(ENGLAND) REGULATIONS 2012

Objections and representations

6(1) *Subject to paragraph (2), objections and representations -*

(a) *shall be made in writing and -*

(i) *delivered to the authority not later than the date specified by them under regulation 5(2)(c); or*

(ii) *sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;*

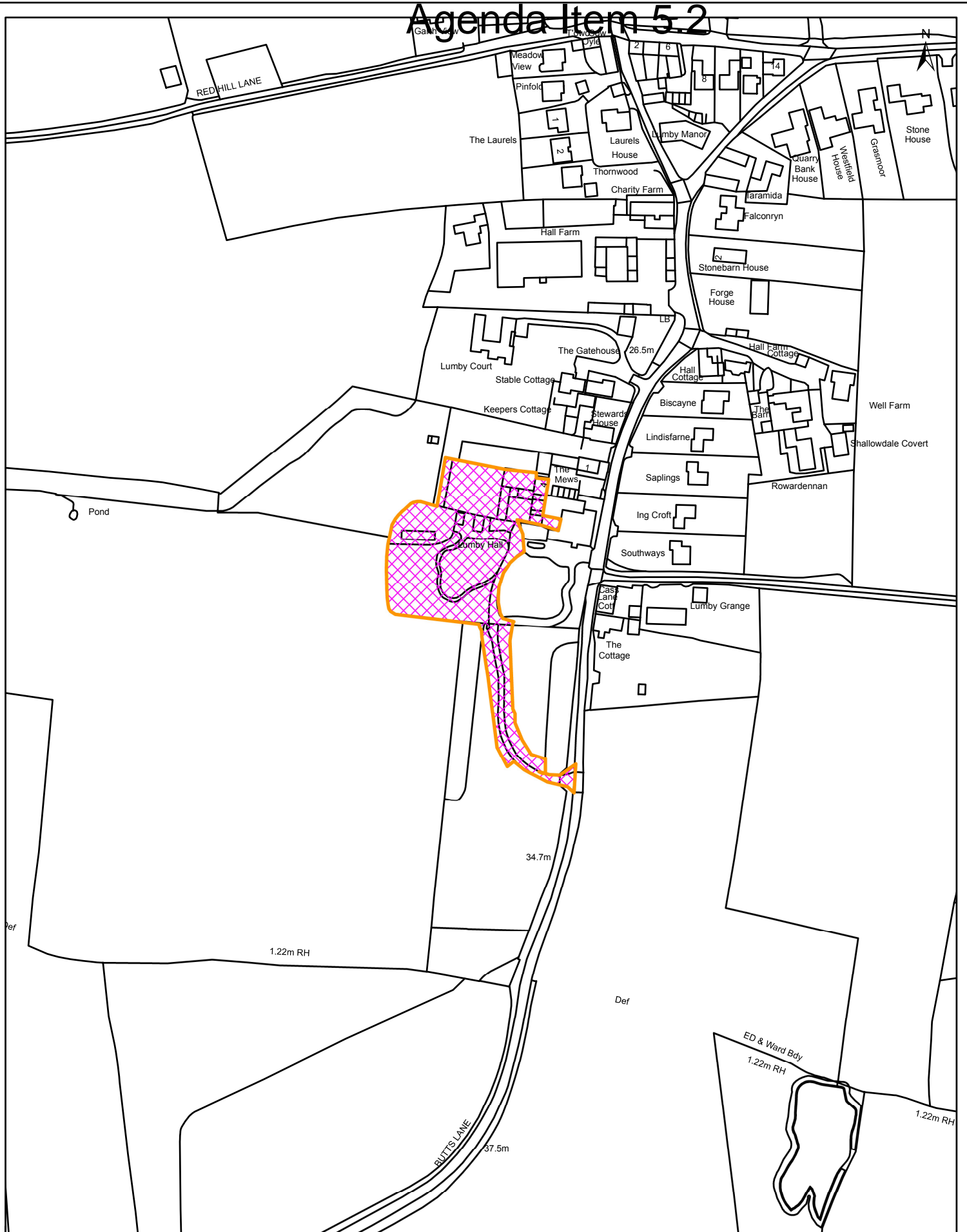
(b) *shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made; and*

(c) *in the case of an objection, shall state the reasons for the objection.*

(2) *The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.*

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Agenda Item 5.2



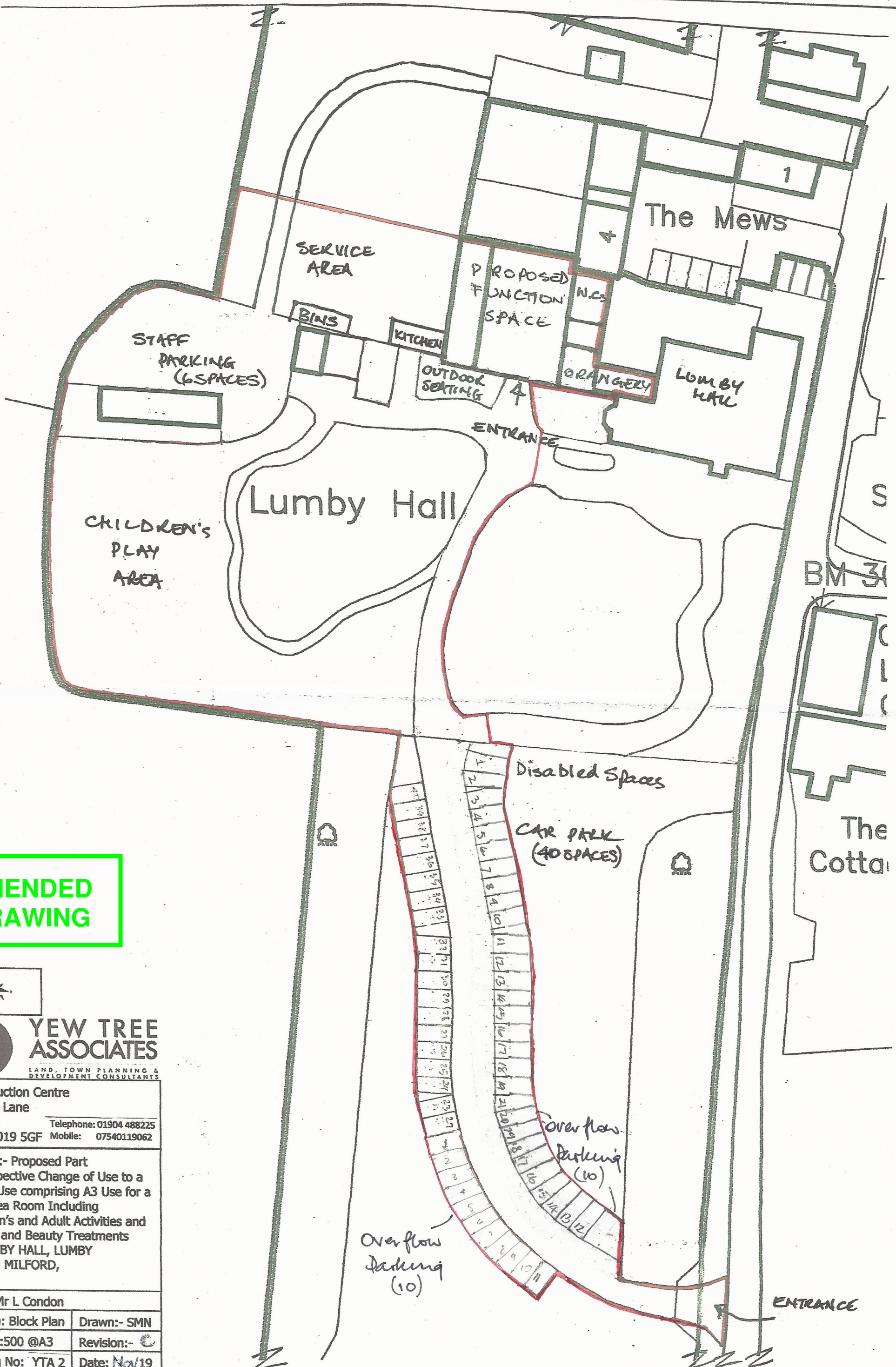
APPLICATION SITE

The Orangery, Lumby Hall, Butts Lane, Lumby
2018/0933/COU

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**AMENDED
DRAWING**



YEW TREE ASSOCIATES
LAND, TOWN PLANNING & DEVELOPMENT CONSULTANTS

York Auction Centre
Murton Lane
Murton
York YO19 5GF
Telephone: 01904 488225
Mobile: 07540119062

Project:- Proposed Part
Retrospective Change of Use to a
Mixed Use comprising A3 Use for a
Café Tea Room Including
Children's and Adult Activities and
Events and Beauty Treatments
At LUMBY HALL, LUMBY
SOUTH MILFORD,
LEEDS

Client: Mr L Condon	
Drawing: Block Plan	Drawn:- SMN
Scale: 1:500 @A3	Revision:- C
Drawing No: YTA 2	Date: Nov19

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Report Reference Number: 2018/0933/COU

To: Planning Committee
Date: 5th February 2020
Author: Jenny Tyreman (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0933/COU	PARISH:	South Milford Parish Council
APPLICANT:	Mr Liam Condon	VALID DATE: EXPIRY DATE:	17th July 2019 11th September 2019
PROPOSAL:	Proposed and part retrospective change of use to a mixed use comprising a class A3 use for cafe tea room serving hot and cold food on the premises including children's and adult activities and events and beauty treatments with provision for 40 car parking spaces and 20 overflow car parking spaces		
LOCATION:	The Orangery Lumby Hall Butts Lane Lumby Leeds West Yorkshire LS25 5JB		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee as the application is a minor application where 10 or more letters of representation have been received which raise material planning considerations and where Officers would otherwise determine the application contrary to these representations.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The development limit boundary runs through the application site, such that the application site is part located within the defined development limits of Lumby which is a Secondary Village as identified in the Core Strategy, and part located outside

the defined development limits of Lumby and is therefore located within the open countryside. The application site is also wholly located within the Green Belt.

- 1.2 The application site is situated on the edge of Lumby, a small settlement of deeply rural character clustered around Butts Lane, and the lanes that run from that. The application site comprises a large stone clad, steel portal framed garage structure with a pitched roof covered in lightweight roof panels and an area of land to the west, south west and south comprising a hardstanding area, grassed area and driveway to Butts Lane. The application building is adjacent to Lumby Hall, which is a substantial house set in its own grounds, and a portion of it adjoins the flank, and part of the rear wall of 4 The Mews to the rear.
- 1.3 The wider surroundings of the application site are, with the exception of the dwellings to its north and east, principally open agricultural fields. Buildings within Lumby are in the main residential, with some agricultural structures and uses also abutting Butts Lane. Its lanes are narrow and winding.

The Proposal

- 1.4 The application seeks full planning permission for the proposed and part retrospective change of use of the site to a mixed use comprising: a Class A3 use for a café/tea room serving hot and cold food on the premises; a functions space including children's and adult activities and events; a beauty treatment space; an outdoor seating area and an outdoor children's play area; provision for 40 car parking spaces and 20 overflow car parking spaces; and associated service area and provision for 6 staff car parking spaces.
- 1.5 It should be noted that under application reference 2017/0209/COU, planning permission was granted for the change of use of the orangery and bar lounge to a traditional style tea room with associated car parking. Conditions attached to this planning permission restricted, amongst other things: (1) the opening hours to be between 10am and 5pm Tuesday to Friday and 9am to 5pm Saturdays and Sundays; (2) the tea room to not operate in excess of 40 covers at any one time; (3) there to be no outdoor seating areas; and (4) visitor car parking to be no more than 16 spaces. These restrictions were primarily in the interests of maintaining the character and appearance of the area and the residential amenity of neighbouring properties.
- 1.6 The current application seeks to intensify the use of the site by: (1) extending the opening hours of the site to be between 9am and 9pm Monday to Sunday (including Bank and Public Holidays). Note: While the submitted application form and planning statement set out that the opening hours of the café/tea room would be between 9am and 9pm Monday to Sunday (including Bank and Public Holidays), the submitted Noise Impact Assessment (NIA) sets out that there would be up to 20 events per year in the functions space which would operate until 1am; (2) using the previously approved tea room as a café/tea room serving hot and cold food on the premises which could operate up to 100 covers at any one time; (3) introducing an outdoor seating area and an outdoor children's play area; (4) creating a functions space including children's and adult activities and events; (5) introducing a beauty treatment space; and (6) increasing the capacity of the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces. Some of the aspects of the proposal are already operating at the site, hence the part retrospective nature of this current application.

Relevant Planning History

- 1.7 The following historical applications are considered to be relevant to the determination of this application.
- 1.8 An application (reference 2015/0289/COU) for the retrospective change of use of land for residential and a function and events venue was refused on 09.03.2016 and dismissed at appeal on 19.12.2016.
- 1.9 An application (reference 2016/0969/PPP) for a lawful development certificate for the proposed change of use of conservatory and adjacent room to use as a tea room was refused on 31.10.2016.
- 1.10 An application (reference 2017/0209/COU) for the change of use of the orangery and bar lounge to a traditional style tea room with associated parking was permitted on 14.07.2017.
- 1.11 An application (reference 2017/1352/PPP) for a lawful development certificate for the proposed use of land for different uses (including but not limited to weddings and general events) for a period of not more than 28 days in any calendar year (of which not more than 14 days in total will be used for holding a market or motorcar and motorcycle racing including trails of speed and practicing) and the provision of any moveable structures in accordance with Class B, Part 4 of Schedule 2 of the GPDO 2015 was refused on 26.02.2018.
- 1.12 An application (reference 2017/0293/HPA) for the proposed replacement of an existing damaged driveway, entrance gates, stone piers and cattle grid with new entrance gates, stone piers and cattle grid was permitted on 12.05.2017.

2. CONSULTATION AND PUBLICITY

- 2.1 **Parish Council** – Initial response dated 05.09.19: Object to this application, due to the impact it will have on residential amenity and the local highway and highway safety specifically: (1) parking resulting in mud on the road – the parking arrangements would use the grass in front of Lumby Hall, as at present with some additional spaces and there is a concern that in the winter months, the grass will get churned up and vehicles may take mud onto the highway causing a hazard to road users; (2) increase in vehicular traffic – the proposed opening hours are 9am-9pm, 7 days a week and there is concern that the access and egress to the site is troublesome; (3) noise and disturbance – there is concerns that increased vehicular activity will cause noise and disturbance, particularly with people leaving the site in the evening hours.

Further response dated 24.11.19: All of the previous comments remain.

- 2.2 **NYCC Highways** – Initial comments dated 01.08.2019: The visibility splays at the access are below the recommended 215 metres at just 64 metres. However the applicant has provided speed data to prove that vehicles are generally travelling below the 60mph speed limit. Therefore the reduction in visibility splays to 64 metres is acceptable given the speed vehicles would generally travel at. It should however be noted that due to the hedge location the visibility splays will need to be maintained regularly and maintained at a height no greater than 1.05 metres.

Request the car parking provision be increased to 50 spaces and an overflow car parking area be designated. This is particularly important to ensure that vehicles do not displace onto the highway and interfere with the free flow of traffic. This could be conditioned if necessary.

No objections subject to three conditions relating to: (1) visibility splays; (2) details of access, turning and parking; (3) provision of approved access, turning and parking areas.

Further comments dated 12.11.19: No objections subject to two conditions relating to: (1) visibility splays; and (2) provision of approved access, turning and parking.

- 2.3 **Environmental Health – Initial comments dated 12.08.2019:** Request additional information as follows: (1) The credibility of the Noise Impact Assessment (NIA) cannot be relied upon and a new assessment should be carried out to consider, in particular, potential noise impact associated with events proposed to run until 9pm; (2) concerns regarding the potential noise impact on the adjoining dwelling and garden, a basis of refusal in respect of application ref: 2015/0289/COU. The applicant states that any music inside the building would be controlled by a decibel limiting system; however, it is not clear what limit is proposed and how this will be quantified; (3) clarification required as to whether or not a restriction is proposed regarding number of events and the days on which they will take place; (4) this department has received previous complaints that waste generated at the site can often exceed capacity and the Local Planning Authority should seek to ensure that the provisions for waste disposal can be met in consideration of likely increased waste generation as a result of these proposals; (5) recommend that the applicant is asked to clarify the status of the sewer and that the use of the sewer will not give rise to additional foul drainage discharges and the resultant pollution. It is also recommended that NYCC Highways and the Environment Agency are consulted with so as to ensure the proposal does not pose an unacceptable flood risk to the village or to the development itself.

Further comments dated 29.10.19: Continue to request additional information as follows: (1) The applicant has removed the external function areas but is yet to consider general noise impact of the proposals on nearby sensitive receptors. The previous comments regarding issues with the NIA are still relevant and a new assessment should be carried out to consider, in particular, potential noise impact associated with events proposed to run until 9pm; (2) concerns regarding the potential noise impact on the adjoining dwelling and garden, a basis of refusal in respect of application ref: 2015/0289/COU. The applicant states that any music inside the building would be controlled by a decibel limiting system; however, it is not clear what limit is proposed and how this will be quantified; (3) clarification required as to whether or not a restriction is proposed regarding number of events and the days on which they will take place; (4) still outstanding information regarding the proposed waste disposal contract considering previous complaints and difficulties in large vehicles accessing the site.

Further comments dated 15.11.19: The NIA remains unacceptable, notably (but not restricted to) the methodology used (Code of Practice on Environmental Noise Control at Concerts) excludes from its scope the assessment of noise impact at sensitive premises which are structurally attached to the venue. Furthermore, the fact that the proposals are now much different only increases the justification to re-assess noise impact. If the applicant is unable to reference suitable methodology for quantifying noise impact it may be that event venues adjoining noise sensitive

premises are typically considered unacceptable in terms of noise impact. Regarding waste disposal, the applicant is yet to confirm which provider is able to accommodate the needs of the venue. As such this does not yet alleviate concerns regarding waste disposal.

- 2.4 **The Environment Agency (Liaison Officer)** – No comments received.
- 2.5 **Yorkshire Water Services Ltd** – No comments received.
- 2.6 **Selby Area Internal Drainage Board** - If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year. If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow. If the surface water is to be discharged to any watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission and would be restricted to 1.4 litres per second per hectare or greenfield runoff. No obstructions within 7 metres of the edge of a watercourse are permitted without Consent from the IDB. If surface water or works are planned adjacent to a Main River within the Drainage District, then the Environment Agency should be contacted for any relevant Permits.

- 2.7 **Waste And Recycling Officer** – Initial response dated 02.08.19: A waste storage area has been identified. Due to the rural location of the premises it is advised that the applicant confirms that discussions have been held with a waste collection contractor and that they are able to service the site. The access to the premises is over a cattle grid which may make the site inaccessible to some providers who operate large RCV's.

Further response dated 18.11.19: The site terminated their commercial waste agreement with Selby District Council as of 15th December 2019. Request that a copy of the Waste Transfer Note between the site and the new supplier be provided after this date to confirm alternative arrangements are in place for the legal disposal of commercial waste from the premises.

- 2.8 **Neighbour Summary** – All immediate neighbours have been informed by neighbour notification letter and a site notice has been erected. Eighty nine letters of representation have been received as a result of the advertisement of the application (as of 06.01.2020), forty three of which support the proposals, forty five of which object to the proposals and one of which neither supports nor objects to the application, but which provides comments on the proposals.

The letters of support mainly come from customers of The Orangery, many of who advise that they are regular customers and that the site provides a good place for parents and children to go and meet other parents and children. There are comments that the proposals would create employment opportunities, would not give rise to any highway safety issues given the limited size of the venue and would not have any adverse impact on drainage. The letters of support come from: Leeds (nine); Castleford (six); Thorpe Willoughby (four); Pollington (three); Wakefield (two); Knottingley (two); South Milford (two); Sherburn in Elmet (two); Barlow (two); Allerton Bywater (one); Kippax (one); Pontefract (one); Little Fenton (one);

Wistow (one); Harrogate (one); Doncaster (one) South Kirkby (one) and Lumby (one).

The letters of objection raise concerns in respect of: (1) the impact of the proposals on the Green Belt and the inappropriateness of the outdoor seating area and outdoor functions areas within the Green Belt location, as previously concluded in a 2017 application; (2) the proposed use being more in line with the previously dismissed appeal than the more recently granted planning permission for a traditional tea room; (3) the scale of the commercial development of the site; (4) the scale of the development at the site not being appropriate to the locality and thus adversely impacting on the character and appearance of the area; (5) the proposed hours of use – it has been suggested that the commercial use of the hall should be restricted to daytime hours only; (6) the increased use of the site having an adverse impact on the character and appearance of the area and the residential amenity of neighbouring properties and properties within Lumby as a whole; (7) the impact of the proposals on the residential amenities of neighbouring properties in terms of noise and disturbance; (8) the proposal goes against conditions which were attached to the 2017 planning permission; (9) the conditions of the previous planning permission at the site not being complied with; (10) the changing nature of the use from temporary to permanent; (11) highway safety implications and a result of the proposed access, parking arrangements and increased traffic through the village; and (12) drainage.

The letter of comment states that Butts Lane needs repairing and has been received from a resident of Lumby.

3 SITE CONSTRAINTS

Constraints

- 3.1 The development limit boundary runs through the application site, such that the application site is part located within the defined development limits of Lumby, which is a Secondary Village as identified within the Core Strategy, and part located outside the defined development limits of Lumby and is therefore located within the open countryside. The application site is also located wholly within the Green Belt.
- 3.2 The application site is located within a Locally Important Landscape Area.
- 3.3 The application site is located within Flood Zone 1.

4 POLICY CONSIDERATIONS

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

of the Secretary of State and which have not been superseded by the Core Strategy.

- 4.3 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
 - SP13 – Scale and Distribution of Economic Growth
 - SP14 - Town Centres and Local Services
 - 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
 - ENV15 – Conservation and Enhancement of Locally Important Landscape Areas
 - EMP8 – Conversions to Employment Use in the Countryside
 - T1 – Development in Relation to the Highway Network
 - T2 – Access to Roads
 - S3 – Local Shops

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
- Other Issues
- Determining Whether Very Special Circumstances Exist

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 development limit boundary runs through the application site, such that the application site is part located within the defined development limits of Lumby, which is a Secondary Village as identified within the Core Strategy, and part located outside the defined development limits of Lumby and is therefore located within the open countryside. The application site is also located wholly within the Green Belt.
- 5.4 Policy SP2A (d) of the Core Strategy states that *"In Green Belt including villages washed over by Green Belt, development must conform to Policy SP3 and national Green Belt policies"*.
- 5.5 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"*.
- 5.6 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 harm to the Green Belt by reason of its inappropriateness, and any other harm identified.
- 5.7 Policy SP13 of the Core Strategy supports the more efficient use of existing employment sites and premises within defined Development Limits through modernisation of existing premises, expansion, redevelopment, re-use, and intensification. In rural areas, sustainable development (on both Greenfield and Previously Developed Sites) which brings sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported, including for example, the reuse of buildings. In all cases, development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.

- 5.8 Policy EMP8 of the Selby District Local Plan specifically relates to the ‘Conversions to Employment Use in the Countryside’ and sets out that such proposals would be permitted provided 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 will not require extensive alteration, re-building and/or extension; amongst other factors relating to the impacts of the proposed conversion.
- 5.9 Policy SP14 of the Core Strategy supports shops and services, including village 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 existing communities and the planned growth of communities.
- 5.10 Policy S3A of the Selby District Local Plan specifically relates to ‘Local Shops’ and sets out that outside defined shopping and commercial centres, proposals for local shops (Class A1) and commercial premises such as financial and professional services, public houses, cafes, restaurants and takeaways (Class A2 and A3) will be permitted provided the proposal is within the defined development limit; and the proposal is intended to serve a purely local function or there is a demonstrable need for the particular outlet in the locality; the scale of provision would be appropriate to the locality; amongst other factors relating to the impacts of the proposed development.
- 5.11 The proposals can be split up into four broad areas for the purposes of assessing the principle of the development, as follows:
- The change of use of the building to provide a café/tea room serving hot and cold food on the premises which could operate up to 100 covers at any one time;
 - The change of use of the building to provide a functions space including children's and adult activities and events and a beauty treatment space;
 - The change of use of land to provide an outdoor seating area and outdoor children's play area to be used in association with the café/tea room and functions space.
 - The change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces.

The change of use of the building to provide a café/tea room serving hot and cold food on the premises which could operate up to 100 covers at any one time

- 5.12 Paragraph 145 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than for specified exceptions. Since this element of the proposal does not propose the construction of new buildings, paragraph 145 of the NPPF would not apply.
- 5.13 Paragraph 146 of the NPPF states that certain other forms of development are also not inappropriate, meaning forms other than the construction of new buildings. This includes *“the re-use of buildings provided that the buildings are of permanent and substantial construction”*. This element of the proposal would involve the re-use of a building which is considered to be of permanent and substantial construction and would preserve the openness of the Green Belt, thus this element of the proposals is considered to be appropriate development within the Green Belt in accordance

with Policies SP2 and SP3 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 146).

- 5.14 The proposal would comply with criteria (1) and (2) of Policy EMP8 of the Selby District Local Plan as 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 will not require extensive alteration, re-building and/or extension.
- 5.15 Policy SP14 of the Core Strategy and Policy S3A of the Selby District Local Plan relate to local services/shops. Under planning application reference 2017/0209/COU for the change of use of two rooms within the premises to a traditional style tea room, it was considered that there was a demonstrable need for a small scale traditional style tea room within Lumby. This conclusion was reached having regard to the number of letters of support which had been received as part of the advertisement of the application. Furthermore, it was considered that the scale of the provision was appropriate to the locality, as the use covered two rooms of the premises and conditions were attached to the planning permission restricting the use to be for a traditional style tea room only and for the use not operate in excess of 40 covers at any one time, in order to ensure the scale of the provision remained appropriate to the locality. On this basis the proposals were considered to be acceptable in accordance with Policy SP14 of the Core Strategy and Policy S3A of the Selby District Local Plan. Regardless of the outcome of this current planning application, the previous planning permission for the change of use of two rooms within the premises to a traditional style tea room remains.
- 5.16 The current application seeks planning permission for the change of use of the building to provide a café/tea room serving hot and cold food on the premises which could operate up to 100 covers at any one time. While it is noted from a site visit that there were two rooms of the premises set out with tables and chairs (those granted planning permission to be used as a traditional style tea room under planning permission reference 2017/0209/COU), these rooms linked to two other larger rooms within the premises, which are proposed to provide a functions space including children's and adult activities and events. There would be nothing to preclude goods purchased from the café/tea room to be consumed within the functions space as well as the two rooms set out with tables and chairs. This scenario was evident during the site visit. Indeed, in order to operate up to 100 covers at any one time on the premises, it is considered the functions space would be required to be used for this purpose at times.
- 5.17 In terms of criteria (1) of Policy S3A of the Selby District Local Plan, the proposal would be located within the defined development limits and thus would satisfy this criterion. In terms of criteria (2) of Policy S3A of the Selby District Local Plan, it is not considered that the proposal serves a purely local function, as letters of support received as part of the advertisement of the application are mainly from customers who could not be considered to be local to Lumby, being from Leeds (nine); Castleford (six); Thorpe Willoughby (four); Pollington (three); Wakefield (two); Knottingley (two); South Milford (two); Sherburn in Elmet (two); Barlow (two); Allerton Bywater (one); Kippax (one); Pontefract (one); Little Fenton (one); Wistow (one); Harrogate (one); Doncaster (one) South Kirkby (one) and Lumby (one). The supporting text to Policy S3A of the Selby District Local Plan at paragraph 9.20 suggests that 'local' would reduce the need for travelling, thus the service or shop would be accessible within walking distance. However, criteria (2) offers an alternative - that there is a demonstrable need for the particular outlet in the locality.

In this respect, it is noted that the application has received 43 letters of support (the location from which these have been received is noted above). Yet 45 letters of objection have also been received, the majority of which are from residents of Lumby. No information has been put forward by the applicant to demonstrate the need for the particular outlet in the locality. It is therefore not considered that the letters of support received, alone, is demonstrable of the need for the particular outlet in the locality as has been suggested by the applicant's agent. Thus, it is not considered that criteria (2) has been satisfied. In terms of criteria (3) of Policy S3A of the Selby District Local Plan, it is not considered that the scale of the provision would be appropriate to the locality having regard to the scale of the use to operate up to 100 covers (which is more than double what was previously considered to be appropriate under application reference 2017/0209/COU) and the nature of the locality, comprising the Secondary Village of Lumby.

- 5.18 Having regard to the above, while the change of use of the building to provide a café/tea room serving hot and cold food on the premises, which could operate up to 100 covers at any one time, would be appropriate development within the Green Belt in accordance with Policies SP2 and SP3 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 146) and would comply with criteria (1) and (2) of Policy EMP8 of the Selby District Local Plan, it is not considered that the proposals, given their nature and scale, would serve the day-to-day needs of the existing community, would serve a purely local function, nor be of a scale appropriate to the locality. Furthermore, it has not been demonstrated that there is a need for this particular outlet in the locality. This element of the proposal is therefore considered to be contrary to Policy SP14 of the Core Strategy and Policy S3A of the Selby District Local Plan.

The change of use of the building to provide a functions space including children's and adult activities and events and a beauty treatment space

- 5.19 Paragraph 145 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than for specified exceptions. Since this element of the proposal does not propose the construction of new buildings, paragraph 145 of the NPPF would not apply.
- 5.20 Paragraph 146 of the NPPF states that certain other forms of development are also not inappropriate, meaning forms other than the construction of new buildings. This includes *"the re-use of buildings provided that the buildings are of permanent and substantial construction"*. This element of the proposal would involve the re-use of a building which is considered to be of permanent and substantial construction and would preserve the openness of the Green Belt, thus this element of the proposals is considered to be appropriate development within the Green Belt in accordance with Policies SP2 and SP3 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 146).
- 5.21 The proposal would comply with criteria (1) and (2) of Policy EMP8 of the Selby District Local Plan as 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 will not require extensive alteration, re-building and/or extension.
- 5.22 Having regard to the above, the change of use of the building to provide a functions space including children's and adult activities and events and a beauty treatment space would be appropriate development within the Green Belt in accordance

with Policies SP2 and SP3 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 146) and would comply with criteria (1) and (2) of Policy EMP8 of the Selby District Local Plan.

The change of use of land to provide an outdoor seating area and outdoor children's play area to be used in association with the café/tea room and functions space

- 5.23 Paragraph 145 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than for specified exceptions. Since this element of the proposal does not propose the construction of new buildings, paragraph 145 of the NPPF would not apply.
- 5.24 Paragraph 146 of the NPPF states that certain other forms of development are also not inappropriate, meaning forms other than the construction of new buildings. This includes "*material changes in the use of land*" provided they preserve the openness of the Green Belt and the purposes of including land within it. This element of the proposal would involve the use of a small area of land measuring approximately 58m² for an outdoor seating area in association with the café/tea room and functions space, and a larger area of land measuring approximately 1500m² for a children's play area in association with the café/tea room and functions space – as shown on drawing no. YTA 2 Revision C. The outdoor seating area would be such a scale that it would be considered to preserve the openness of the Green Belt and the purpose of including land within it. The children's play area is not shown to have any fixed play equipment, and currently comprises a grassed area surrounded by hedges and trees. Subject to a condition to ensure that there is no fixed play equipment on the children's play area, it is considered that its scale and nature within its context would preserve the openness of the Green Belt and the purposes of including land within it.
- 5.25 Subject to the aforementioned condition, the change of use of land to provide an outdoor seating area and outdoor children's play area to be used in association with the café/tea room and functions space would be appropriate development within the Green Belt in accordance with Policies SP2 and SP3 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 146).
- 5.26 Letters of representation setting out that under application reference 2017/0209/COU the material change of use of land to provide an outdoor seating area was considered to be inappropriate development within the Green Belt are noted. However, since the assessment and determination of that application, the NPPF has been updated (most recently with the publication of the February 2019 version). Within the updated NPPF, material changes in the use of land are now considered to be appropriate development in the Green Belt provided they preserve the openness of the Green Belt and the purposes of including land within it (paragraph 146).

The change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces

- 5.27 Paragraph 145 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than for specified exceptions. Since this element of the proposal does not propose the construction of new buildings, paragraph 145 of the NPPF would not apply.

- 5.28 Paragraph 146 of the NPPF states that certain other forms of development are also not inappropriate, meaning forms other than the construction of new buildings. This includes “*material changes in the use of land*” provided they preserve the openness of the Green Belt and the purposes of including land within it. This element of the proposals would involve the use of an area of land measuring approximately 780m² either side of the driveway for a visitor car parking area to include the provision of 40 car parking spaces and 20 overflow car parking spaces – as shown on drawing no. YTA 2 Revision C.
- 5.29 Under planning application reference 2017/0209/COU for the change of use of two rooms within the premises to a traditional style tea room, it was considered that the provision of 16 visitor car parking spaces, which would be available for use during the opening hours of the tea room (10am to 4pm Tuesday to Friday, 9am to 4pm Saturday and Sunday and not at all on Bank or Public Holidays), would result in a temporary use of the land and would preserve the openness of the Green Belt and the purposes of including land within it. Furthermore, under planning application reference 2015/0289/COU for the retrospective change of use of land for residential and a function and events venue, an Inspector concluded that the provision of 56 visitor car parking spaces, which would be available for use during only 20 events held at the site per year would result in a temporary use of the land and would preserve the openness of the Green Belt and the purposes of including land within it.
- 5.30 The current application seeks planning permission for the change of use of the site to a mixed use comprising: a Class A3 use for a café/tea room serving hot and cold food on the premises; a functions space including children's and adult activities and events; a beauty treatment space; and an outdoor seating area and an outdoor children's play area, which would be served by 40 car parking spaces and 20 overflow car parking spaces – a total of 60 visitor car parking spaces. The submitted application form sets out that the opening hours of the café/tea room would be between 9am and 9pm 7 days a week (including Bank and Public Holidays), but in addition, the submitted Noise Impact Assessment (NIA) sets out that there would be up to 20 events per year in the functions space which would operate until 1am – thus the use of the site is proposed to be greatly intensified by comparison with what was applied for under planning permission references 2017/0209/COU and 2015/0289/COU. The proposals would significantly increase the amount of parked vehicles on the site and given the proposed opening hours of the premises, it is not, in this instance, considered that the parking of the vehicles could be described as a temporary use of the land, as the areas would be designated for the parking of vehicles on a permanent basis and in use a considerable amount of time per week. In terms of whether the proposed use of the land would preserve the openness of the Green Belt and the purposes of including land within it, both spatially and visually, the parking of vehicles in the areas as shown on drawing no. YTA 2 Revision C, surrounded principally with open agricultural fields, would be considered to result in a material depletion in the openness of the Green Belt and would conflict with the purposes of including land within it.
- 5.31 Having regard to the above, the change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces would be inappropriate development within the Green Belt contrary to Policies SP2 and SP3 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 146).

Conclusion on the Principle of the Development

- 5.32 Overall, while the change of use of the building to provide a café/tea room serving hot and cold food on the premises which could operate up to 100 covers at any one time; the change of use of the building to provide a functions space including children's and adult activities and events and a beauty treatment space; and the change of use of land to provide an outdoor seating area and outdoor children's play area to be used in association with the café/tea room and functions space would be considered to be appropriate development within the Green Belt, the associated change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces, which is a fundamental element of the proposals, without which the overall change of use of the site proposed could not function, would be considered to be inappropriate development within the Green Belt. Paragraph 143 of the NPPF sets out:

“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations” (paragraph 144 of the NPPF).

- 5.33 Furthermore, while the change of use of the building to provide a café/tea room serving hot and cold food on the premises, which could operate up to 100 covers at any one time, would be appropriate development within the Green Belt in accordance with Policies SP2 and SP3 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 146) and would comply with criteria (1) and (2) of Policy EMP8 of the Selby District Local Plan.

It is not considered that the proposals, given their nature and scale, would serve the day-to-day needs of the existing community, would serve a purely local function, nor be of a scale appropriate to the locality. Furthermore, it has not been demonstrated that there is a need for this particular outlet in the locality. This element of the proposal is therefore considered to be contrary to Policy SP14 of the Core Strategy and Policy S3A of the Selby District Local Plan.

Design and Impact on the Character and Appearance of the Area

- 5.34 Under planning application reference 2015/0289/COU for the retrospective change of use of land for residential and a function and events venue to hold up to 20 events per year such as weddings and christenings for between 80 to 100 guests, with live and amplified music up 1am (which was dismissed at appeal), an Inspector concluded that whilst the proposed development would only have a minimal effect of the appearance of the area, arising chiefly from cars parking, its effects on the settlements character would go beyond the merely visual effects of the proposal. The Inspector found that there was very limited background noise in the village, which gave it an intrinsically quiet rural character. At paragraph 10 of the appeal statement, the Inspector states *“The proposed use would introduce a considerable amount of additional activity in and around the appeal building both during the day, but more critically during the night and early morning, affecting a substantial proportion of weekends in the year. This would include, but not be limited to, the arrival of staff; the making of deliveries; activity with unloading deliveries in the service yard at the rear; the arrival of guests, which would be predominantly by car*

due to the remoteness of the location; and the sound of the events themselves. At the end of an event, the dispersal of guests and staff would be another source of sound, including voices, car doors opening and closing, and the sound of engines.” At paragraph 11, the Inspector concludes *“Taken together, these additional and substantial sources of noise would harm the surrounding noise environment and character of the settlement, to the detriment of its amenity and thus would conflict with Policies SP13 D and SP15 of the Selby District Core Strategy (adopted October 2013) (the Core Strategy); and Policies ENV1 and EMP 8 of the Selby District Local Plan (adopted February 2005) (the Local Plan). Taken together, and amongst other matters, these Policies seek to ensure that new economic developments in rural areas are sensitive to the character and quality of the surrounding local environment, and are consistent with the objective of the Framework given at paragraph 17 that planning should recognise the intrinsic character of the countryside.”*

- 5.35 Under planning application reference 2017/0209/COU for the change of use of two rooms within the premises to a traditional style tea room, it was considered that the proposal would not have any significant adverse effect on the character and appearance of the area, due to the nature and scale of the proposals and the opening hours, both of which were restricted by way of conditions.
- 5.36 The current application seeks to intensify the use of the site by: (1) extending the opening hours of the site to be between 9am and 9pm Monday to Sunday (including Bank and Public Holidays). Note: While the submitted application form and planning statement set out that the opening hours of the café/tea room would be between 9am and 9pm Monday to Sunday (including Bank and Public Holidays), the submitted Noise Impact Assessment (NIA) sets out that there would be up to 20 events per year in the functions space which would operate until 1am; (2) using the previously approved tea room as a café/tea room serving hot and cold food on the premises which could operate up to 100 covers at any one time; (3) introducing an outdoor seating area and an outdoor children’s play area; (4) creating a functions space including children’s and adult activities and events; (5) introducing a beauty treatment space; and (6) increasing the capacity of the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces. Thus, it appears that the use of the site would be more intensive than that dismissed at appeal under planning application reference 2015/0289/COU.
- 5.37 In terms of the impact of the proposal on the appearance of the area, the proposals would result in the re-use of buildings which would not have an impact on the appearance of the area, and would include the provision of an outdoor seating area and children’s play area (with no fixed play equipment) which would not have any significant impact on the appearance of the area given its context. The proposals would also result in the provision of 40 car parking spaces and 20 overflow car parking spaces – a total of 60 visitor car parking spaces – either side of the driveway, which would be designated for the parking of vehicles on a permanent basis and in use a considerable amount of time per week. Surrounded principally by open agricultural fields, the introduction of this scale of car parking for such an intensive use would be considered to have an impact on the appearance of the area. Furthermore, the site is located within a Locally Important Landscape Area, wherein Policy ENV15 of the Selby District Local Plan requires development to conserve and enhance the character and quality of the landscape. It is not considered that the scale of the car parking provision and the intensity of the use of the car parking provision would conserve and enhance the character and quality of the landscape in this instance.

- 5.38 In terms of the impact of the proposal on the character of the area, the intensification of the use of the site, over and above that already approved under planning application reference 2017/0209/COU would introduce a considerable amount of additional activity to the site, both during the day and at night year round and potentially the early morning for part of the year. This would include, but not be limited to, the arrival of staff; the making of deliveries; activity associated with unloading deliveries in the service yard at the rear; the arrival and dispersal of customers and guests, which would be predominantly by car due to the remoteness of the location; children playing in the outdoor children's play area; and the sound of the functions/events. Taken together, these additional sources of noise are considered to harm the surrounding noise environment and character of the settlement, to the detriment of its amenity.
- 5.39 Having regard to the above, the proposal is considered to have a significant and detrimental impact on the character and appearance of the area, contrary to Policies ENV1, ENV15, EMP8 and S3A of the Selby District Local Plan, Policies SP13D, SP15 and SP19 of the Core Strategy. Taken together, these policies seek to ensure that new economic development in rural areas are sensitive to the character and quality of the surrounding local environment, and area consistent with the objective of the NPPF given at paragraph 170 that planning should recognise the intrinsic character and beauty of the countryside.

Impact on Residential Amenity

- 5.40 The application has been supported by a Noise Impact Assessment (NIA) (reference DC1836 – R3v1) undertaken by Dragonfly Consulting dated October 2015 and Sound Insulation Tests (SITs) (reference DC1836–R2) undertaken by Dragonfly Consulting dated September 2015. These are the same NIA and SITs which were submitted as part of application reference 2015/0289/COU.
- 5.41 Under planning application reference 2015/0289/COU for the retrospective change of use of land for residential and a function and events venue to hold up to 20 events per year such as weddings and christenings for between 80 to 100 guests, with live and amplified music up 1am (which was dismissed), an Inspector raised concerns that the submitted Noise Impact Assessment (NIA) was not based on the correct Code and highlighted deficiencies in the NIA, in that the assessment focused on the effects of the internally generated noise from the appeal building, and contained no explicit consideration of the effect of traffic noise, use of the service yard or general comings and goings from the venue. In terms of the an assessment of living conditions of adjacent residential buildings, the Inspector concluded at paragraph 17 of the appeal decision that *“Given the lightweight nature of the appeal building’s roof and its proximity to No 4 particularly its bedroom window, the potential for music noise to cause significant disturbance to the dwelling’s occupiers within both the dwelling’s habitable rooms and its garden are considerable”* and that *“Whilst I had regard to the proposed roof insulation measures included with the appeal documents, I have been supplied with no substantive evidence to suggest what level of mitigation would be delivered by these, and how this could address the harm that would be caused to the occupiers of No 4”* (paragraph 18). Moreover the Inspector considered that noise arising from the use of the service yard *“would be likely to exacerbate the harmful effects the proposed development would cause to the living conditions of the occupants of No 4”* (paragraph 19). In terms of the impact of the proposals on the living conditions of Cass Lane Cottage, the Inspector concluded *“the potential for disturbance for the*

cottage's occupiers arising from the comings and particularly goings of event attendees is considerable" (paragraph 22). For these reasons, the Inspector concluded the proposed development would cause harm to the living conditions of the occupants of 4 The Mews and Cass Lane Cottage through noise and disturbance.

- 5.42 Under planning application reference 2017/0209/COU for the change of use of two rooms within the premises to a traditional style tea room, it was considered that the proposal would not have any significant adverse effect on the living conditions of the occupants of the adjacent residential buildings, due to the nature and scale of the proposals and the opening hours, both of which were restricted by way of conditions.
- 5.43 As established earlier in this report, the current application seeks to intensify the use of the site, such that it appears that the use of the site would be more intensive than that dismissed at appeal under planning application reference 2015/0289/COU.
- 5.44 The Council's Environmental Health Officer (EHO) has been consulted on the proposals and has advised that Lumbly is described as being in a 'tranquil' area within the terms of the criteria laid out in the three government policy statements. In view of this the Council's EHO would raise concerns regarding the use of external areas for functions and the potential for loss of amenity at nearby sensitive receptors, most notably from noise impact. The applicant states that there will be no impact as concluded in a supporting Noise Impact Assessment (NIA); however, the Council's EHO advises that the same NIA was submitted in support of previously refused application 2015/0289/COU for a function and events venue whereby the conclusions drawn were considered dubious, specifically the contention that those proposals would not give rise to an unacceptable impact on residential amenity despite investigations by the Environmental Health department to the contrary. Furthermore, under application reference 2015/0289/COU, an Inspector raised concerns that the submitted NIA was not based on the correct Code and highlighted deficiencies in the NIA. In view of this, the Council's EHO advises that the credibility of the NIA cannot be relied upon and a new assessment should be carried out to consider, in particular, potential noise impact associated with events proposed to run until 9pm, or 1am, whichever is the case proposed, given the contradictory information provided on opening hours. Furthermore, the Council's EHO raises concerns regarding the potential noise impact on the adjoining dwelling and garden (at 4 The Mews). The applicant states that any music inside the building would be controlled by a decibel limiting system; however, it is not clear what limit is proposed and how this will be quantified. The supporting sound insulation tests simply conclude that the tested walls meet the required standard under the Building Regulations 2000 (Approved Document E 2004) which does not alleviate these concerns.
- 5.45 Following the submission of amended plans removing the external function areas, the Council's EHO advised that applicant had still not considered the general noise impact of the proposals on nearby sensitive receptors and advised that their previous comments regarding issues with the submitted NIA were still relevant and a new NIA should be carried out. The Council's EHO also advised that the remaining issues raised initially by them also still required addressing.
- 5.46 The applicant has declined to provide the aforementioned information requested by the Council's EHO.

- 5.47 In the absence of a suitable NIA and details of any proposed mitigation measures, it is not possible to determine whether the proposed development would result in harm to the occupants of the adjacent residential buildings through noise and disturbance. The proposal is therefore considered to be contrary to Policies ENV1, ENV2, S3A of the Selby District Local Plan and Policy SP19 of the Core Strategy. These policies are broadly consistent with the NPPF, insofar as it requires planning to seek to ensure a good standard of amenity for all existing and future occupants of land or buildings, and to ensure new development avoids noise that would have significant adverse impacts to quality of life (paragraph 127).

Impact on Highway Safety

- 5.48 The submitted plans demonstrate that the site would be access from Butts Lane and the proposed use of the site would benefit from provision for 40 car parking spaces and 20 overflow car parking spaces – a total of 60 visitor car parking spaces – and 6 staff car parking spaces (as shown on drawing no. YTA 2 Revision C).
- 5.49 NYCC Highways have been consulted on the proposals and have advised that they have no objections to the proposals in terms of highway safety subject to two conditions relating to visibility splays and the provision of the approved access, turning and parking areas.
- 5.50 Subject to the aforementioned conditions, and notwithstanding representor comments, it is considered that the proposals would not have any significant or detrimental impact on highway safety in accordance with Policies ENV1 (2) and (3), EMP8 (6), S3A (4) and (5), T1 and T2 of the Selby District Local Plan and national policies contained within the NPPF.

Flood Risk and Drainage

- 5.51 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 5.52 In terms of drainage, surface water disposal would not be impacted as a result of the proposals. In terms of foul sewage, the submitted application form sets out that foul sewage would be disposed of via septic tank or package treatment plant. The local Internal Drainage Board, Yorkshire Water and the Council's EHO has been consulted on the proposals. The local Internal Drainage Board and Yorkshire Water have no raised any objections to the proposals. The Council's EHO has advised that while they have no reason to consider the drainage proposals to be insufficient for the intended use, in the wider context they are aware of drainage issue within Lumby and that the village is not served by a public sewerage system. Therefore, the Council's EHO recommends that the status of the sewer is confirmed by the applicant and the applicant is asked to confirm that the sewer will not give rise to additional foul drainage discharges and resultant pollution. The Council's EHO also recommends that NYCC Highways and the Environment Agency are consulted on the application to ensure the proposal does not pose an unacceptable flood risk to the village or to the development itself. The applicant's drainage engineers have confirmed that the sewer will not give rise to additional foul drainage discharges and resultant pollution. NYCC Highways and the Environment Agency have been consulted on the proposals and have not raised any objections in terms of flood risk and drainage.

- 5.53 Having regard to the above, and notwithstanding representor comments, it is considered the proposals are acceptable in terms of flood risk and drainage.

Other Issues

- 5.56 It has been brought to Officers attention that due to the location of the site, which is accessed over a cattle grid, a standard sized refuse collection vehicle is unable to access the site. The Council's EHO has advised that they have received previous complaints that waste generated at the site can often exceed capacity and have requested that the Local Planning Authority seek to ensure that the provisions for waste disposal can be met in consideration of likely increased waste generation as a result of these proposals. The Council's Waste and Recycling Officer (WRO) has advised that the applicant has terminated their commercial waste agreement with Selby District Council and have signed up with an alternative provider – the Council's WRO requests that a copy of the Waste Transfer Note between the site and the new supplier is provided to confirm alternative arrangements are in place for the legal disposal of commercial waste from the premises. This information has not been requested on the basis that there is separate legislation (to planning legislation) that would require the applicant to ensure appropriate disposal of waste from the site, including the Environmental Protection Act 1990 and the Waste (England and Wales) Regulations 2011.
- 5.57 Concerns have been raised that conditions attached to planning permission reference 2017/0209/COU have not been complied with. Any potential breaches of planning permission should be raised with the Council's Planning Enforcement Team for investigation in the first instance, however, it is noted that this current planning application seeks to regularise some of those potential breaches of planning control.

Determining Whether Very Special Circumstances Exist

- 5.58 It has been determined earlier in this report that the proposal comprises inappropriate development in the Green Belt (by reason of the change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces not preserving the openness of the Green Belt and the purposes of including land within it), which is by definition harmful to the Green Belt. Other harm resulting from the proposal has been identified, namely:
- Conflict with Policy SP14 of the Core Strategy and Policy S3A of the Selby District Local Plan, as the proposals given their nature and scale, would not serve the day-to-day needs of the existing community, would not serve a purely local function, and would not be of a scale appropriate to the locality. Furthermore, it has not been demonstrated that there is a need for this particular outlet in the locality.
 - Conflict with Policies ENV1, ENV15, EMP8 and S3A of the Selby District Local Plan, Policies SP13D, SP15 and SP19 of the Core Strategy and national policy contained within the NPPF, as the proposals given their nature and scale are considered to have a significant and detrimental impact on the character and appearance of the area.
 - Conflict with Policies ENV1, ENV2, S3A of the Selby District Local Plan, Policy SP19 of the Core Strategy and national policy contained within the NPPF, as in the absence of a suitable NIA and details of any proposed mitigation measures, it is not possible to determine whether the proposed

development would result in harm to the occupants of the adjacent residential buildings through noise and disturbance.

Therefore it is necessary to consider whether very special circumstances exist which outweigh the harm to the Green Belt by reason of its inappropriateness and the other harm identified.

- 5.59 In this instance, the applicants have not advanced a case for very special circumstances (as they do not consider the proposal to comprise inappropriate development within the Green Belt) and therefore the Local Planning Authority would conclude that on the basis of the information provided with the application, very special circumstances do not exist which clearly outweigh the harm to the Green Belt by reason of its inappropriateness and any other harm resulting from the proposals.

6 CONCLUSION

- 6.1 The development limit boundary runs through the application site, such that the application site is part located within the defined development limits of Lumby which is a Secondary Village as identified in the Core Strategy, and part located outside the defined development limits of Lumby and is therefore located within the open countryside. The application site is also wholly located within the Green Belt. The application seeks full planning permission for the proposed and part retrospective change of use of the site to a mixed use comprising: a Class A3 use for a café/tea room serving hot and cold food on the premises; a functions space including children's and adult activities and events; a beauty treatment space; an outdoor seating area and an outdoor children's play area; provision for 40 car parking spaces and 20 overflow car parking spaces; and associated service area and provision for 6 staff car parking spaces.

- 6.2 While the change of use of the building to provide a café/tea room serving hot and cold food on the premises which could operate up to 100 covers at any one time; the change of use of the building to provide a functions space including children's and adult activities and events and a beauty treatment space; and the change of use of land to provide an outdoor seating area and outdoor children's play area to be used in association with the café/tea room and functions space would be considered to be appropriate development within the Green Belt, the associated change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces would be considered to be inappropriate development within the Green Belt. Paragraph 143 of the NPPF sets out:

"Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations." (paragraph 144 of the NPPF).

- 6.3 Other harm has been identified namely: (1) conflict with Policy SP14 of the Core Strategy and Policy S3A of the Selby District Local Plan, as the proposals given their nature and scale, would not serve the day-to-day needs of the existing community, would not serve a purely local function, and would not be of a scale appropriate to the locality. Furthermore, it has not been demonstrated that there is a need for this particular outlet in the locality; (2) conflict with Policies ENV1,

ENV15, EMP8 and S3A of the Selby District Local Plan, Policies SP13D, SP15 and SP19 of the Core Strategy and national policy contained within the NPPF, as the proposals given their nature and scale are considered to have a significant and detrimental impact on the character and appearance of the area; and (3) conflict with Policies ENV1, ENV2, S3A of the Selby District Local Plan, Policy SP19 of the Core Strategy and national policy contained within the NPPF, as in the absence of a suitable NIA and details of any proposed mitigation measures, it is not possible to determine whether the proposed development would result in harm to the occupants of the adjacent residential buildings through noise and disturbance.

- 6.4 Having regard to the above, it is necessary to consider whether very special circumstances exist which clearly outweigh the harm to the Green Belt by reason of its inappropriateness and any other harm resulting from the proposals, as identified above. In this instance, the applicants have not advanced a case for very special circumstances and therefore the Local Planning Authority would conclude that on the basis of the information provided with the application, very special circumstances do not exist which clearly outweigh the harm to the Green Belt by reason of its inappropriateness and any other harm resulting from the proposals.

7 RECOMMENDATION

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

01. The proposed change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces would not fall into any of the exceptions to inappropriate development in the Green Belt set out within paragraph 145 of the NPPF, and would not comprise any of the other forms of development which are not inappropriate in the Green Belt as set out in paragraph 146 of the NPPF. The proposal is therefore inappropriate development in the Green Belt where it is national policy to refuse such development unless there are very special circumstances which clearly outweigh the harm to the Green Belt and any other harm identified, which have not been demonstrated in this case. As such, the proposal is contrary to Policies SP2A (d) and SP3 of the Core Strategy and national policy contained within the NPPF.
02. The change of use of the building to provide a café/tea room serving hot and cold food on the premises, which could operate up to 100 covers at any one time, would not serve the day-to-day needs of the existing community, would not serve a purely local function, and would not be of a scale appropriate to the locality. Furthermore, it has not been demonstrated that there is a need for this particular outlet in the locality. This element of the proposal is therefore contrary to Policy SP14 of the Core Strategy and Policy S3A of the Selby District Local Plan.
03. The proposed change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces would have an adverse impact on the character and appearance of the area and would not conserve or enhance the character and quality of the Locally Important Landscape Area. This element of the proposal is therefore contrary to Policies ENV1, ENV15, EMP8 and S3A of the Selby District Local Plan, Policies SP13D, SP15 and SP19 of the Core Strategy.
04. The proposed intensification of the use of the site would introduce a considerable amount of additional activity to the site, both during the day and at night year round

and potentially the early morning for part of the year. Taken together, these additional sources of noise would result in harm to the surrounding noise environment and character of the settlement, to the detriment of its amenity. The proposal is therefore contrary to Policies ENV1, EMP8 and S3A of the Selby District Local Plan, Policies SP13D, SP15 and SP19 of the Core Strategy and national policy contained within the NPPF.

05. The applicant has failed to submit a suitable Noise Impact Assessment and details of any proposed mitigation measures and therefore the applicant has provided insufficient information to allow the Local Planning Authority to make an appropriate and full assessment of the impact of the proposed development on the living conditions of the occupants of the adjacent residential buildings through noise and disturbance. The proposal is therefore contrary to Policies ENV1, ENV2, S3A of the Selby District Local Plan, Policy SP19 of the Core Strategy and national policy contained within 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.

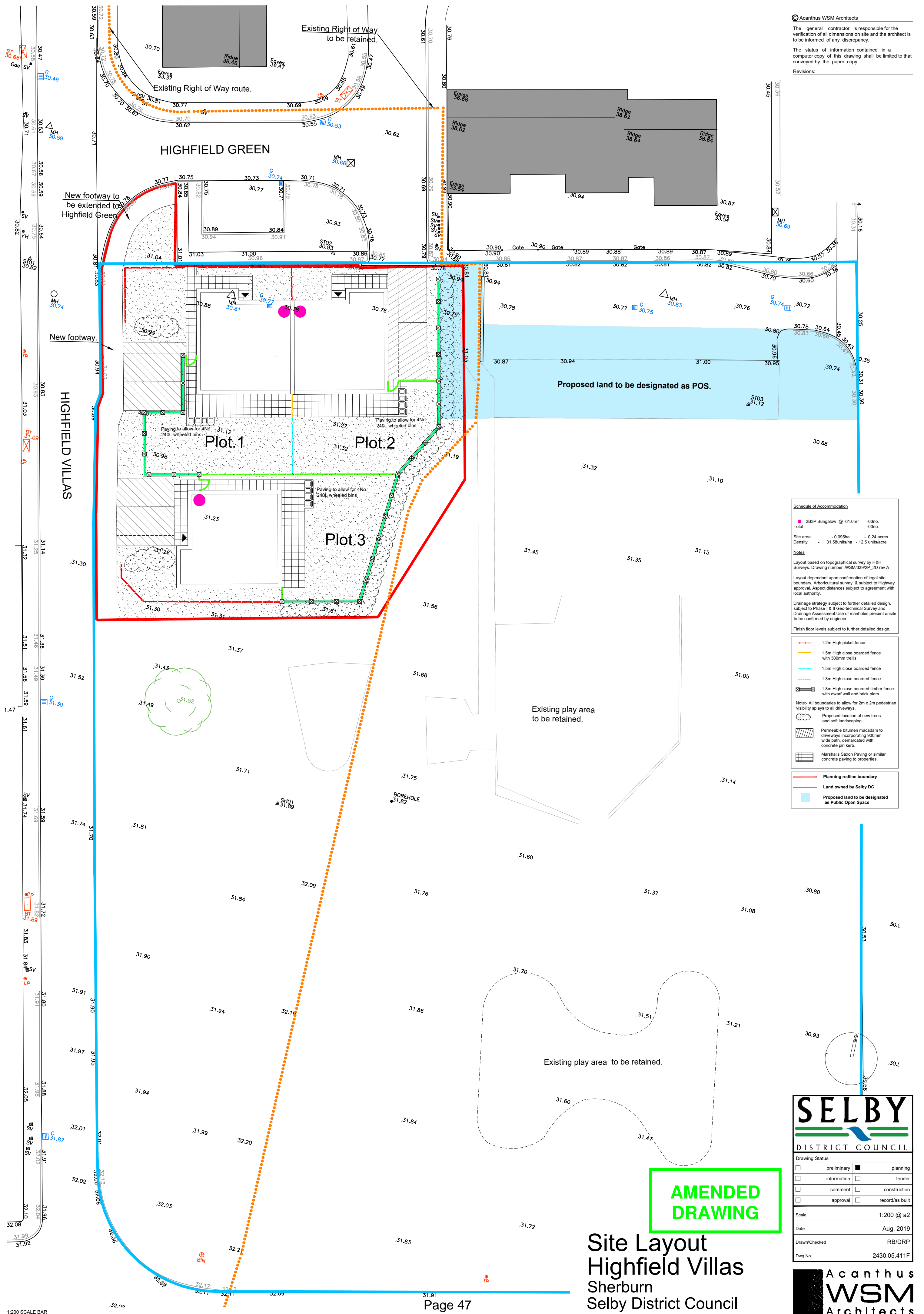
10 Background Documents

Planning Application file reference 2018/0933/COU and associated documents.

Contact Officer: Jenny Tyreman (Senior Planning Officer)
jtyreman@selby.gov.uk

Appendices: None

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Schedule of Accommodation

● 2B3P Bungalow @ 61.0m² -03no.
 Total -03no.

Site area - 0.005ha - 0.24 acres
 Density - 31.58units/ha - 12.5 units/acre

Notes

Layout based on topographical survey by H&H Surveys. Drawing number: WSM/339/2P_2D rev A

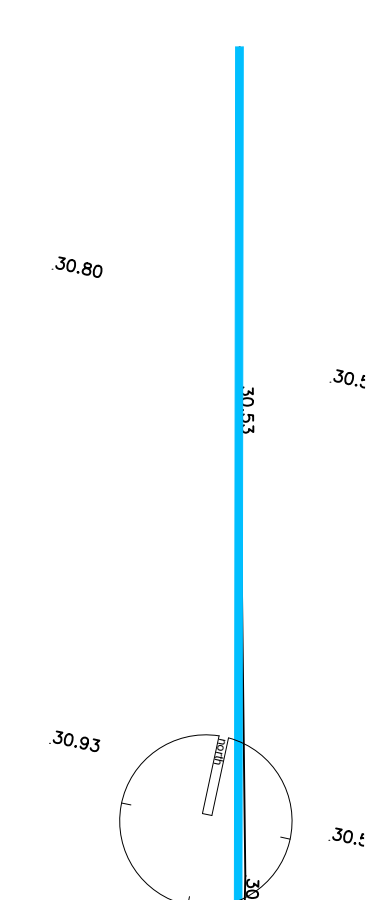
Layout dependent upon confirmation of legal site boundary. Arboricultural survey & subject to Highway approval. Aspect distances subject to agreement with local authority.

Drainage strategy subject to further detailed design, subject to Phase 1 & 2 Geo-technical Survey and Drainage Assessment. Use of manholes present onsite to be confirmed by engineer.

Finish floor levels subject to further detailed design.

- 1.2m High picket fence
- 1.5m High close boarded fence with 300mm trellis
- 1.5m High close boarded fence
- 1.8m High close boarded fence
- 1.8m High close boarded timber fence with dwarf wall and brick piers
- Note: All boundaries to allow for 2m x 2m pedestrian visibility splays to all driveways.
- Proposed location of new trees and soft landscaping
- ▨ Permeable bitumen macadam to driveways incorporating 900mm wide path, demarcated with concrete pin kerb.
- ▧ Marshalls Saxon Paving or similar concrete paving to properties.

- Planning redline boundary
- Land owned by Selby DC
- Proposed land to be designated as Public Open Space



AMENDED DRAWING

Site Layout
Highfield Villas
 Sherburn
 Selby District Council

SELBY	
DISTRICT COUNCIL	
Drawing Status	
<input type="checkbox"/> preliminary	<input type="checkbox"/> planning
<input type="checkbox"/> information	<input type="checkbox"/> tender
<input type="checkbox"/> comment	<input type="checkbox"/> construction
<input type="checkbox"/> approval	<input type="checkbox"/> record/as built
Scale	1:200 @ a2
Date	Aug. 2019
Drawn/Checked	RB/DRP
Dwg No	2430.05.411F



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Report Reference Number: 2019/1158/FUL

To: Planning Committee
Date: 5 February 2020
Author: Fiona Ellwood (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/1158/FUL	PARISH:	Sherburn In Elmet Parish Council
APPLICANT:	Selby District Council	VALID DATE:	19th November 2019
		EXPIRY DATE:	14th January 2020
PROPOSAL:	Erection of 2no semi-detached and 1no detached 2 bed single storey affordable dwellings		
LOCATION:	Land Off Highfield Villas Sherburn In Elmet North Yorkshire		
RECOMMENDATION:	GRANT subject to the completion of an appropriate Section 106 Agreement		

This application has been brought before Planning Committee as the applicant is Selby District Council

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The site is 0.1 hectares of land located in the central part of Highfield Villas on the south west side of Sherburn. The northern part of the land previously housed a row of garages which have recently been demolished. The southern part of the site forms part of the large central area of recreation open space which is surrounded by residential, development much of which is still owned by the Council.

The Proposal

- 1.2 The proposal is for a scheme of three affordable bungalows, being a pair of semi-detached and a single detached dwelling each having two bedrooms. Erection of 2no semi-detached and 1no detached 2 bed single storey affordable dwellings. They would be constructed of red facing brick and dark grey roof tiles (Sandtoft Calderdale Thin Leading Edge) with white UPVC windows and door frames.

Relevant Planning History

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

CO/2003/1554: Erection of 1.2 metre fencing and gates on: land at Highfield Green, Sherburn In Elmet, Leeds, Decision: Permitted 17 March 2004

CO/1977/24297: Development Of Existing Grassed Area As Childrens Playground, Highfield Villas, Sherburn In Elmet, North Yorkshire, Permitted 30 March 1977

2019/0232/DEM: Prior notification for proposed demolition of garages, Highfield Green, Sherburn In Elmet, North Yorkshire. Permitted: 11 April 2019

2. CONSULTATION AND PUBLICITY

Consultation

2.1 NYCC Highways -Public Rights Of Way Officer

There is a Public Right of Way or a 'claimed' Public Right of Way within or adjoining the application site boundary. A Public Path Order/Diversion Order needed if affected permanently to be made under S.257 of the Town and Country Planning Act 1990 as soon as possible. If affected temporarily during development a Temporary Closure Order is required. Informatives given.

NYCC Highways

There are no Local Highway Authority objections to the proposed development. It should however be noted that the proposed footway does not connect the site to the surrounding footways and facilities. It is recommended that the footway continues further north around the corner into Highfield Green up to the existing hedgerow and further south to the site boundary. It is also recommended that 2 metres x 2 metres pedestrian visibility splays are created at the accesses due to the location of the recreational area. This would result in the fence boundary having to be set back slightly. Recommends conditions to be attached to any consent granted.

Yorkshire Water Services Ltd

Waste Water- conditions advised.

No objection in principle to the drainage systems propose and Informatives given:

Selby Area Internal Drainage Board

No comments received.

Contaminated Land Consultant

Phase 1 report shows that the site was occupied by derelict garages, concrete pads, broken tarmac and a small grass playing area. The preliminary risk assessment concludes that the site may have been exposed to some contamination from construction/demolition waste, oils or fuel from vehicle spills and asbestos

from previous/existing building materials. A site investigation was therefore recommended.

Phase 2 report- soil sampling results did not detect any elevated levels of contaminants at the site. Therefore, the report concludes that the levels of contamination are unlikely to pose a risk to future users of the site.

Recommends conditions attached to any consent granted in the event that unexpected contamination is detected during development.

Waste And Recycling Officer

It is noted that external storage is shown for 3 x wheeled bins. The Council recently approved a change to the current recycling service and will shortly be moving to a wheeled bin system. This will require external storage for 4 x 240 litre wheeled bins in total - 1x refuse, 1x green waste, 2 x recycling.

Parish Council

No objections.

Publicity

The application was advertised by Site Notice and Neighbour Notification Letters and no letters of representation have been received. The application also needs to be advertised as a departure to the development plan by site notice and press notice given it is allocated ROS in the Local Plan. This is being carried out at the time of writing this report and an update will be given at the meeting on the expiry dates and any representation received as a result.

3 SITE CONSTRAINTS

Constraints

- 3.1 The site is located within the settlement development limits of Sherburn in Elmet. Part of the site is on land allocated as Recreation Open Space in the adopted Selby District Local Plan and indicated on the proposals map to be protected by Policy RT1 of the Local Plan.

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 (CS)

- 4.6 The relevant Core Strategy Policies are:

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

Selby District Local Plan (LP)

- 4.7 The relevant Selby District Local Plan Policies are:

RT1: Recreation Open Space
ENV1: Control of Development
ENV2: Environmental Pollution and Contaminated Land
T1: Development in Relation to Highway
T2: Development including creation of a new access

5 APPRAISAL

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

- 1) The principle of the development
- 2) The impacts of the proposal on;

- Character and form of the locality
- Highway Safety
- Residential Amenity
- Affordable Housing
- Contamination
- Nature Conservation and Protected Species

5.2 Principle of the Development

- 5.3 Policy SP1 of the Selby District Core Strategy Local Plan (2013) outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.
- 5.4 The application site is situated within the Development limits of Sherburn in Elmet. Policy SP2A directs the majority of new development to the towns and service Centre's. Under SP2A(a) Sherburn and Tadcaster are designated 'Local Service Centre's (LSC) where further housing, employment, retail, commercial and leisure growth will take place according to the size and role of the settlement.
- 5.6 Policy SP4 (a) of the CS sets out the types of residential development that are acceptable in principle within Development Limits. In Sherburn, conversions, replacement dwellings, redevelopment of previously developed land and appropriate scale development on Greenfield land (including garden land and conversion/redevelopment of farmsteads) are considered acceptable.
- 5.7 The northern part of the site (most of plots 1 & 2 of the scheme) was occupied by a former block of garages which served Highfield Villas. These have now been demolished and this part of the application site is considered to be previously developed land. The redevelopment of this part of the site therefore conforms to the spatial development strategy set out in Policy SP2A and complies with the forms of development identified in SP4(a) which are considered acceptable within Development Limits of Local Service Centre's.
- 5.8 The southern part of the site (all of plot 3 and part of the gardens to plots 1 & 2) is Recreation Open Space and is designated as such in the adopted Selby District Local Plan. It forms part of the large rectangular area of open space located centrally at Highfield Villas. The surrounding housing all fronts onto this large open grass area which has play equipment in the centre. Saved Policy RT1 of the Local Plan states that: Proposals which would result in the loss of existing recreation open space and allotments will not be permitted unless:
- 1) The use has been abandoned and the site is not required to remedy an existing deficiency for recreation or allotment use elsewhere in the locality; or
 - 2) Alternative provision of at least the equivalent size, accessibility and quality is made within the locality to serve the needs of the existing community; or
 - 3) Sports and recreation facilities can best be retained and enhanced through the redevelopment of a small part of the site.
- 5.9 The recreational use of this site has not been abandoned and therefore criteria one is not applicable. In terms of criteria 2), the total area of recreation open space is currently 5048 square metres. The proposed development would result in the loss of 177 square metres of recreation open space.

- 5.10 However, it is proposed to provide an additional area of open space from the adjoining parcel of land to the east. This was another area of former garaging owned by the Council. Part of this area is to be retained as access and parking to the residential dwellings to the north. However, the southern portion of the site which adjoins the recreation open space is proposed to replace the loss. This is identified on the revised site layout. The area of land is slightly smaller than the area of land lost and will result in an overall reduction of 70 square metres or 1.4% of the total existing recreation area. (NB: The figures provided by applicant are currently being checked at the time of writing this report and may be larger- an update will be given to Members at the Committee on this matter).
- 5.11 In terms simply of size there would be only a small shortfall. However, even though small on the basis of the above the land does not meet criteria 2 of Policy RT1 as it is not an equivalent size replacement piece of land. In addition it is not currently of the same quality but it does have the potential to be upgraded. The land is hard standing at present but could be landscaped or upgraded to integrate within the open space area. If approved it would be appropriate to impose a condition to ensure this is effectively incorporated into the recreation open space provision for the area and is not used for any other purpose.
- 5.12 Functionally, the scheme eats into the larger area of the designated open space and may leave a less effective area of land or limit its potential to provide useful alternative or upgraded recreational provision in the future. It is understood that a community consultation process may be planned to establish how the whole recreation site could best be fit for purpose in the future. However, at the present time this has not been undertaken. As such it could be considered premature to allow the loss of such a key part of the existing recreation ground in advance of community consultation or in advance of sufficient evidence to demonstrate that the loss would not be harmful to the long term recreational needs of the area.
- 5.13 Overall therefore the principle of the development would comply with Policies SP1, SP2 & SP4 of the Core Strategy but would conflict with Policy RT1 of the Local Plan. The proposal should therefore be refused unless material considerations exist that would outweigh this conflict with the development plan.
- 5.14 The material considerations put forward by the applicants in this case include the following:
- 1) Open space provision in Sherburn

There are 4 principle designated areas of open space in Sherburn (Highfield Villas, Eversley Park , Fairways Park and White Rose Park. Highfield Villas is the smallest area and has the narrowest provision.
 - 2) Open Space Loss

The remaining former garage site would be used to offset the loss. There would only be a deficit of 70 sqm amounting to 1.4% overall loss. In terms of overall loss of open space in Sherburn it is estimated this would be 0.048%
 - 3) Remaining Area of open space

The remaining area of open space provides in the short to medium term for the existing facilities remaining in-situ and not being compromised by the positioning of the properties. Should there be re-development in future; enhancements to the provision could be accommodated on the remaining area of 1.23 acres, which is of a consistent shape and does not incorporate any irregular boundaries.

4) Affordable Housing

- Property type requirements assessed to meet community need
- Adapted bungalow requirement identified, larger footprint than that of a standard bungalow
- The bungalows have been grouped to form a cluster, which minimises the impact of the housing on the overall greenspace
- Scheme layout does not require diversion of the existing right of way
- Secure by design was considered to minimise rear boundaries to the open space
- Allows for the on-going use of the existing equipment

5) The aim of this proposed development is to meet the local housing need; Selby District Council currently has no CAT 2 accessible housing stock. Two additional households have already expressed an interest and meet the requirements to be re-housed. This has the additional benefit of providing the residents with suitable housing and maintaining their community ties in the immediate vicinity.

5.15 When taking all of the above into account of the scheme, the harm is the small net loss of the open space and the change to the shape of the space available for the future. On balance the loss of 0.4% should be seen in the context on the wider benefit that the scheme would be contributing to the housing requirement of local households to live in accommodation which is affordable and suitable for their needs.

5.16 On balance it is considered that the benefits of the scheme outweigh the loss of formal recreational open space and the conflict with the development plan in this particular case.

5.17 Policy SP4(c) of the CS states “in all cases proposals will be expected to protect local amenity, to preserve and enhance the character of the local area, and to comply with normal planning considerations, with full regard taken of the principles contained in Design Codes (e.g. Village Design Statements), where available. Furthermore Policy SP4(d) goes on to state that “appropriate scale will be assessed in relation to the density, character and form of the local area and should be appropriate to the role and function of the settlement in the hierarchy.”

5.18 The impact on acknowledged interests is considered in the following parts of the report.

5.19 Character and form of the locality

5.20 Relevant policies in respect to design and the impacts on the character of the area include Policy ENV1 (1) and (4) of the Selby District Local Plan, and Policies SP19 “Design Quality” and SP4(c) of the Core Strategy. Significant weight should be attached to Local Plan policy ENV1 as it is consistent with the aims of the NPPF.

- 5.21 Relevant policies within the NPPF, which relate to design, include paragraphs 124 to 131.
- 5.22 The application is a full application for three single storey dwellings in a housing area which displays a variety of designs and form ranging from two storey semi-detached, terraced housing, and the more modern housing on Highfield Green to the north with roof forms sloping down from 2 storey to single store level. Materials around the perimeter of Highfield Villas are predominantly red brick or brick and render with hipped grey tiled roofs. More recent additions on Highfield Green are buff brick with brown tiled roof and render features. The central open area is a key feature of this housing estate with dwellings fronting onto it. Although, this scheme is for single storey dwellings which are less characteristic of the surrounding development, these lower height dwellings would detract less from the openness of the central recreation area than a two storey development might. Therefore the variation is considered an appropriate form of development in this location.
- 5.23 In terms of the design, the dwellings would have active frontages towards Highfield Green and secondary frontages facing east and west providing natural surveillance over the open green space. They would be simple in design, constructed of red brick with dark grey pitched tiled roof and front gable features. Each dwelling would have a small enclosed individual garden area and off street parking within the curtilage. It is considered that the size, scale and general design of the proposed dwellings compliment that of existing dwellings found in the immediate area.
- 5.24 Boundary treatments consist of a mix 1800mm brick wall and panel fencing, 1800mm close boarded fencing to secure and screen private garden areas and lower 1200mm picket style fencing to the frontages. The scheme also provides for hedgerow planting along the east and part of the south boundary. This is considered appropriate in this location and consistent with the character and appearance of the surrounding area.
- 5.25 Overall, the scheme is considered to take account of the character of area, in terms of its height, scale, form and type. The materials indicated are appropriate but the details should be secured by condition to ensure they reflect the surrounding context. The boundary treatment and planting should also be conditions to ensure the hedgerow is planted to soften the appearance within this open context As such the proposals are considered to comply with Policy ENV1 of the Local Plan which requires proposals to provide a good quality of development which takes account of the surrounding area. In this respect the development is compatible with the Development Plan as well as Policy SP4 of the Core Strategy and with the NPPF.

5.26 Highway Safety

- 5.27 Policies ENV1 (2), of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements. Policy T1 of the Local Plan relate to consideration of the highways impacts of development. Policy T1 notes that development should be well related to existing highways networks and will only be permitted where existing roads have adequate capacity otherwise off site highways works may be required. It is considered that these policies of the Selby District Local Plan should be given significant weight as they are broadly in accordance with the emphasis within the NPPF.

- 5.28 The highway authority initially raised some concerns in regards to the development not connecting up with the footway and set requirements for pedestrian visibility splays. Amended plans were received which satisfactorily addressed these issues.
- 5.29 The scheme is now considered acceptable in terms of road safety standards and subject to compliance with the recommended conditions, the development is considered acceptable in terms of road safety and would not conflict with Policies ENV1 (2) and T1 of the Local Plan.

5.30 Residential Amenity

- 5.31 Relevant policies in respect of the impact of the proposal on residential amenity include Policy ENV1 (1) of the Selby District Local Plan. Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved for all existing and future occupants of land and buildings.
- 5.32 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighboring properties, overshadowing/overbearing of neighboring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 5.33 It is noted that no objections have been received in relation to impacts on residential amenity particularly in terms of the relationship to Highfield Green (to the north) and existing properties fronting Highfield Villas to the west.
- 5.34 In terms of overlooking, the dwellings are orientated with front windows facing the street. Other windows to the side would face the recreation open space. Being single storey there would be no first floor views towards other nearby dwellings. As such due to the layout, position and orientation the development is not considered to give rise to any loss of amenity from overlooking.
- 5.35 In terms of overshadowing, due to the offset position to the south of the nearest residential units on Highfield Green and the single storey nature of the development, there would be very limited impact on the amenity for the occupants of nearby dwellings. Moreover, the nearest unit on Highfield Green has a roof configuration which reduces to single storey on the corner nearest the development. Therefore the interrelationship between Plot 2 and the existing housing is considered to be acceptable in terms of overshadowing.
- 5.36 In terms of the development being overbearing, the key relationships are those of Highfield Green to the north east and Plots 2 of the proposed development which are the nearest in position to each other. Again due to the single storey development and the offset position the proposed development would have limited impact on the nearest units on Highfield Green. The inter-relationship between the two properties, the retained boundaries and the angle of the site means that the juxtaposition would not result in the new dwelling being overbearing on the existing dwellings.
- 5.37 In terms of the level of amenity that would be achieved for the occupants of the proposed development, the scheme is considered satisfactory. The dwellings would be small but would have sufficient space internally with all relevant amenities and each have a small private rear garden area.

5.38 It is therefore considered that the proposed development would not result in a significant detrimental impact on the residential amenities of the area or surrounding properties and that a good standard of residential amenity, would be achieved within the development in accordance with Policy ENV1(1) of the Local Plan and the NPPF.

5.39 Affordable Housing

5.40 Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District. This scheme is for 100% affordable housing units. Therefore subject to a Section 106 Agreement to ensure that the units implemented are 'Affordable' and remain in perpetuity as such, the proposal is considered acceptable in respect of affordable housing policy.

5.41 Contamination

5.42 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. The application is supported by a contamination assessment that has been reviewed by then Council's contaminated land consultant. It has been confirmed they have no objection subject to a condition covering unexpected contamination. The proposals are therefore acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

5.43 Nature conservation, Ecology and Protected Species

5.44 Policy ENV1(5) states that proposals should not harm acknowledged nature conservation interests, or result in the loss of open space of recreation or amenity value, or which is intrinsically important to the character of the area. Policy SP15B of the CS seeks to achieve sustainable development and sets a number of criteria which should be taken into consideration. These policies should be given significant weight as they are consistent with the NPPF.

5.45 The application has not been accompanied by an Ecological Assessment as this is not required given the scale of the development and the site itself. The site is an open small area of concrete hardstanding with very recently demolished garages and an area of public open mown grass. As such it is not considered that the development would harm nature conservation interests. There are no trees or vegetation on the site other than the cut grass and therefore there no ecological impacts would be expected.

5.46 In terms of Biodiversity the dwellings would provide new planting and a condition can be imposed to require the details of a landscaping scheme to be agreed. Overall it is considered the development would not harm any acknowledged nature conservation interests and would not conflict with the above policy.

6 CONCLUSION

6.1 Having looked at the material planning considerations, it is considered that that the proposals are acceptable in all respects except in relation to the loss of the designated recreational open space. As such the proposal should therefore be refused unless material considerations exist that would outweigh this conflict with Policy Policy RT1 of the Selby District Local Plan.

- 6.2 In this respect it is noted that the scheme is intended to meet the demonstrable, objectively assessed housing needs of members of the local community. The proposed development would provide much needed single storey affordable housing within the community for residents in Sherburn to downsize from family housing. Residents have already been identified who would move into these properties.
- 6.3 The scheme is acceptable with respect to the impacts on highway safety, residential amenity, design and impact on the character and appearance of the area.
- 6.4 A Section 106 Agreement is therefore necessary firstly to ensure the development is for 'Affordable Housing' and remains in perpetuity for the use. Secondly, to secure the replacement area of open space is incorporated into the open space area and is maintained and retained for this purpose in perpetuity.
- 6.5 On balance subject to the above the proposal is considered acceptable in planning terms.

7 RECOMMENDATION

- 7.1 Minded to **GRANT** subject to a S106 agreement to secure affordable housing in perpetuity on the site and to secure the replacement area of open space and subject to the expiry of the publicity period and subject to no representation being received which raise further material planning issues and 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 following approved plans and documents, notwithstanding the details in the application form:

2430.05.400A	Location Plan
2430.05.411F	Site layout Plan
2430.05.450A	Public Open Space
2430.05.430	Plots 1-2, 2B3P CAT2 Bungalow (Plans and Elevations)
2430.05.435	Plots 3, 2B3P CAT2 Bungalow (Plans and Elevations)
2430.01.420	Boundary Treatment
00.18286-ACE-00-XX-DR-C-50-0165-P3-	Drainage Layout Plan
00.18286-ACE-00-XX-DR-C-50-0200-P3-	Exceedance Plan

Reason:

For the avoidance of doubt.

03. No development shall start above slab level until details of the details of the external materials 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. The existing Public Right of Way on the site must be protected and kept clear of any obstruction until such time as an alternative route has been provided by either a temporary or permanent Order.
05. No development shall commence until a scheme for the provision of waste and recycling facilities has been agreed with the Council, upon agreement the scheme shall be implemented prior to the occupation of the dwellings.

Reason

In the interests of providing adequate provisions for the collection and removal of waste for re-cycling

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

Reason

In accordance with policy ENV1 of the LP and to ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.

07. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the accesses to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:
 - a). The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E5.
 - b). Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
 - c). Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority. All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason

In accordance with policy T1 and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

08. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until visibility splays providing clear visibility of 2 metres x 2 metres measured down each side of the access and the back edge of the footway of the major

road have been provided. The eye height will be 1.05 metre and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times. (An explanation of the terms used above is available from the Highway Authority).

Reason

In accordance with policy T1 and the interests of road safety to provide drivers of vehicles using the access and other users of the public highway with adequate inter-visibility commensurate with the traffic flows and road conditions.

09. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until:

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

a. Provision of a footway.

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

Reason

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

10. There must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the Highway Authority.

Reason

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

11. No part of the development shall be brought into use until the approved vehicle access, parking areas indicated on the site layout plan approved under condition 02 have been constructed in accordance with the submitted drawing (Reference:2430.05.411F Site Layout Plan) Once created these areas shall be maintained clear of any obstruction and retained for the intended purpose at all times.

Reason

In accordance with policy T1 and to ensure the provision of appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

12. 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.

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

Reason

In the interest of satisfactory and sustainable drainage.

14. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

Reason

To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network.

INFORMATIVES

Highways

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

Section 278 Agreement

There must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the Highway Authority.

Drainage

The developer should also note that the site drainage details submitted have not been approved for the purposes of adoption or diversion. If the developer wishes to have the sewers included in a sewer adoption/diversion agreement with Yorkshire Water (under Sections 104 and 185 of the Water Industry Act 1991), they should contact our Developer Services Team (tel. 0345 120 84 82, email:technical.sewerage@yorkshirewater.co.uk) at the earliest opportunity. Sewers intended for adoption and diversion should be designed and constructed in accordance with the WRC publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition, as supplemented by Yorkshire Water's requirements.

Public Right of Way

There is a Public Right of Way or a 'claimed' Public Right of Way within or adjoining the application site boundary

- If the proposed development will physically affect the Public Right of Way permanently in any way an application to the Local Planning Authority for a Public Path Order/Diversion Order will need to be made under S.257 of the Town and Country Planning Act 1990 as soon as possible. Please contact the Local Planning Authority for a Public Path Order application form.
- If the proposed development will physically affect a Public Right of Way temporarily during the period of development works only, an application to the Highway Authority (North Yorkshire County Council) for a Temporary Closure Order is required. Please contact the County Council or visit their website for an application form.
- The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as an alternative route has been provided by either a temporary or permanent Order.
- It is an offence to obstruct a Public Right of Way and enforcement action can be taken by the Highway Authority to remove any obstruction.
- If there is a "claimed" Public Right of Way within or adjoining the application site boundary, the route is the subject of a formal application and should be regarded in the same way as a Public Right of Way until such time as the application is resolved.
- Where public access is to be retained during the development period, it shall be kept free from obstruction and all persons working on the development site must be made aware that a Public Right of Way exists, and must have regard for the safety of Public Rights of Way users at all times.

Applicants should contact the County Council's Countryside Access Service at County Hall, Northallerton via CATO@northyorks.gov.uk to obtain up-to-date information regarding the exact route of the way and to discuss any initial proposals for altering the route.

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.

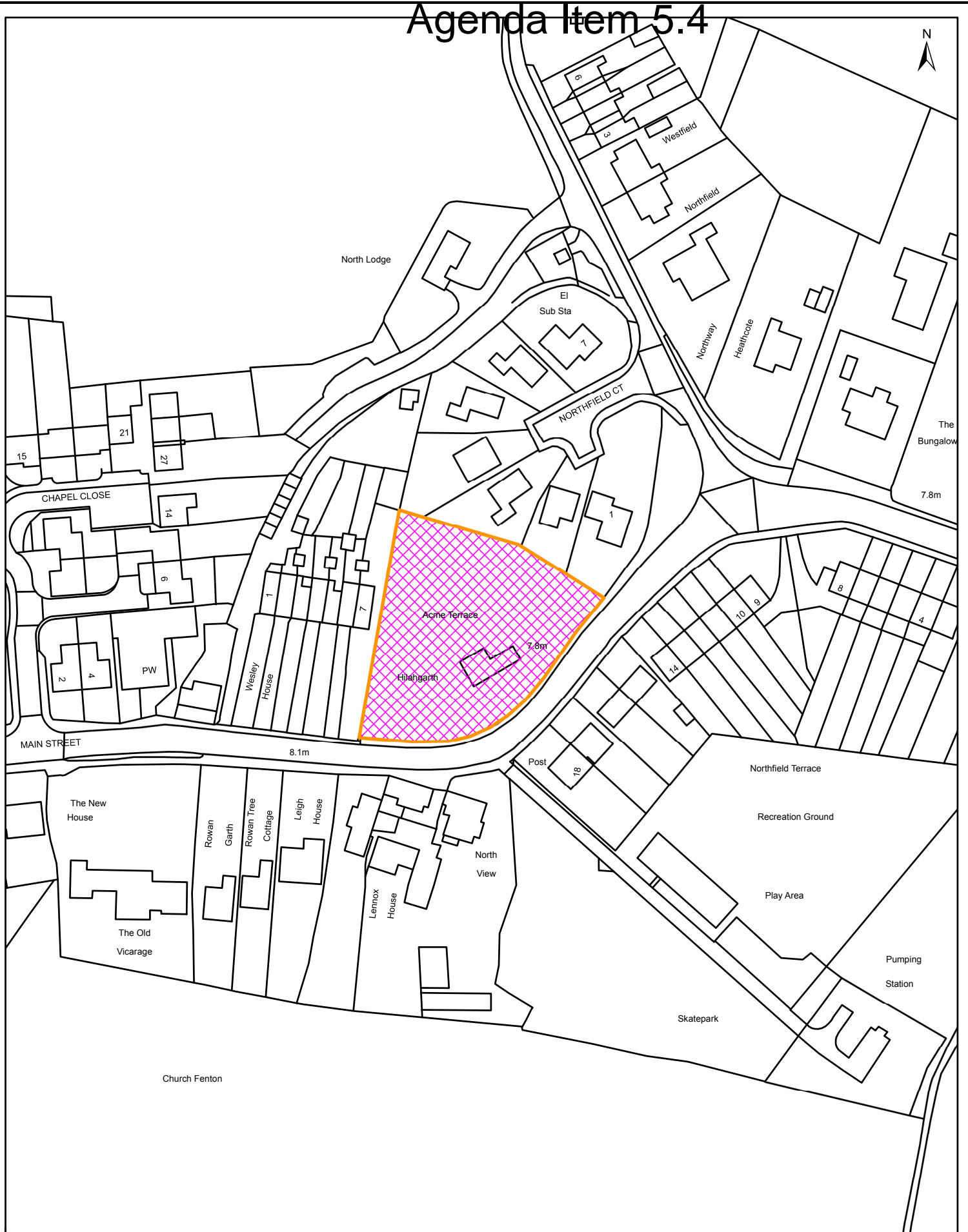
10 Background Documents

Planning Application file reference 2019/1158/FUL and associated documents.

Contact Officer: Fiona Ellwood (Principal Planning Officer)

fellwood@selby.gov.uk

Appendices: None



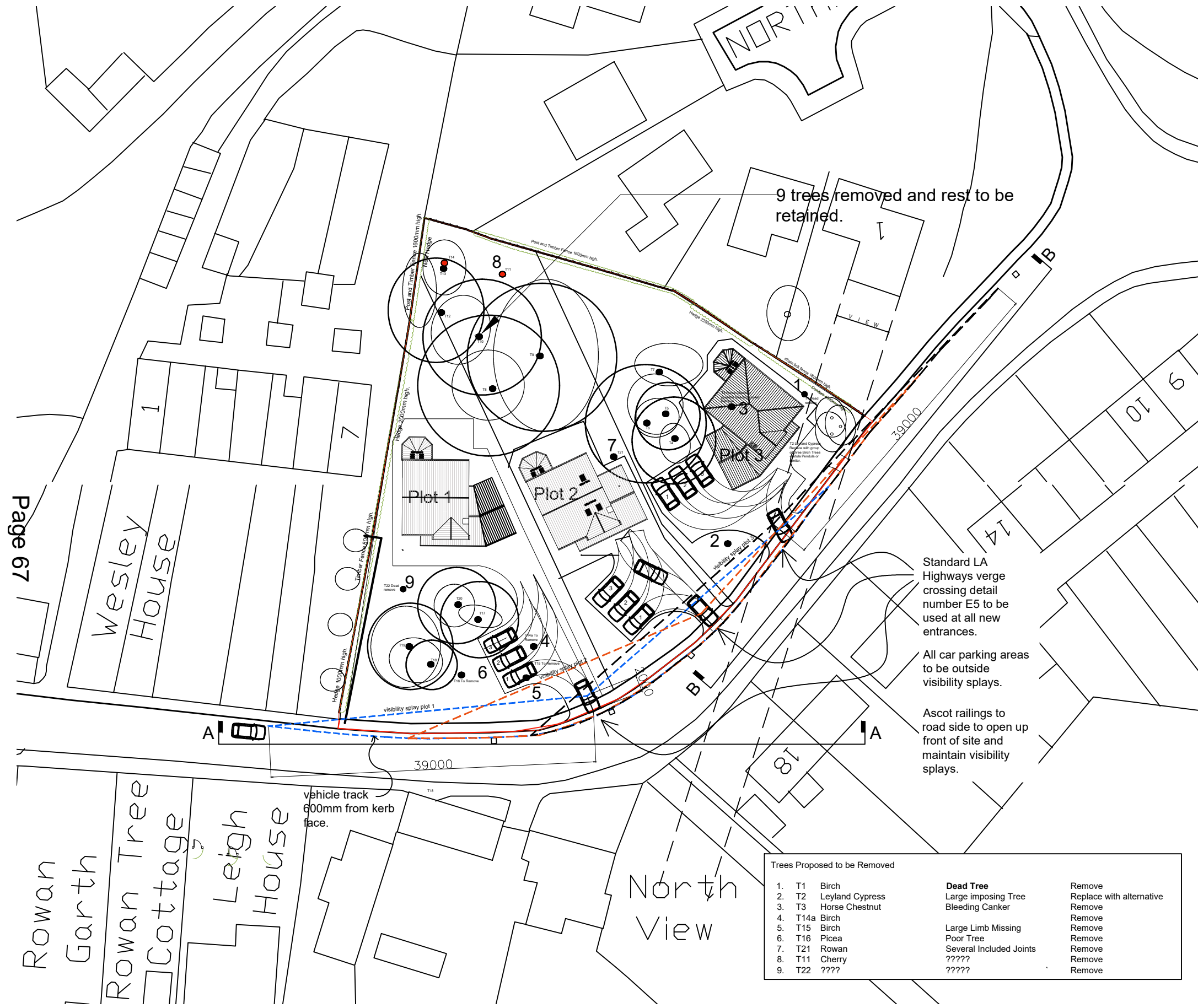
APPLICATION SITE

Hilahgarth, Main Street, Church Fenton
2019/0513/FUL

1:1,250



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Trees Proposed to be Removed		
1. T1	Birch	Remove
2. T2	Leyland Cypress	Replace with alternative
3. T3	Horse Chestnut	Remove
4. T14a	Birch	Remove
5. T15	Birch	Remove
6. T16	Picea	Remove
7. T21	Rowan	Remove
8. T11	Cherry	Remove
9. T22	????	Remove
	Dead Tree	
	Large imposing Tree	Remove
	Bleeding Canker	Remove
	Large Limb Missing	Remove
	Poor Tree	Remove
	Several Included Joints	Remove
	?????	Remove
	?????	Remove

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AMENDED DRAWING

The Planning & Design Partnership
PLANNING.ARCHITECTURAL.INTERIORS.LANDSCAPE

The Chicory Barn Studio,
The Old Brickyards, Moor Lane, Stamford Bridge,
York, The East Riding Of Yorkshire, YO41 1HU.

Telephone 01759 373656 Fax 01759 371810
E-mail:chicorybarn@the-pdp.co.uk www.the-pdp.co.uk

Client	Estate of RF Dean (Deceased) C/D Vaughan Lindley, Crombie Wilkinson	
Project	Proposed Housing Scheme Feasibility Hilthgarth Church Fenton	
Drawing	Proposed Block Plan 3 HOUSES	
Date	Jan 2019	Drawn RTJD
Scale	1/500 @ A3	Rev. C
Status	Planning	
Drawg. No.	S/YTA 01 - 002	

PROPOSED Block Plan - Scale 1:500

C Amended layout after comments from LA planning. House 3 reduced in scale. PAQR 17/12/19
 B Amended layout after comments from LA planning and Landscape Architect. PAQR 10/6/19
 A SW drainage amended to discharge into sw sewer PAQR 10/6/19

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Report Reference Number: 2019/0513/FUL

To: Planning Committee
Date: 5th February 2020
Author: Yvonne Naylor (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0513/FUL	PARISH:	Church Fenton Parish Council
APPLICANT:	The Estate Of R F Dean (Deceased)	VALID DATE: EXPIRY DATE:	29th May 2019 24th July 2019 (Extension of Time to 7 th February 2020)
PROPOSAL:	Proposed erection of three detached dwellings following demolition of existing dwelling		
LOCATION:	Hilahgarth Main Street Church Fenton Tadcaster North Yorkshire LS24 9RF		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as it has received more than 10 letters of objection as a result of consultations which raise material considerations; as such it is considered locally controversial.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located on Main Street Church Fenton and is currently occupied by a single dwelling known as "Hilahgarth" which comprises a detached two storey dwelling with a side element which is single story. The dwelling sits within a plot of approximately 0.25 hectares and there are two existing vehicle access points in place from Main Street.
- 1.2 The site is surrounded by existing residential development, comprising a row of terrace properties to the east, Northfield Court to the north/north east which is a

small development of detached dwellings and semi/terrace development on the opposite side of Main Street known as Northfield Terrace, as well as a grouping of detached properties which includes North View and Lennox House.

- 1.3 The site is within Flood Zone 2, so of medium probability of flooding. There are no statutory national or local landscape or wildlife designations covering the application site. There is no Conservation Area or nearby listed buildings that are affected.
- 1.4 There are a number of established trees within the site to the sides and rear of the existing dwelling.
- 1.5 There is a Tree Preservation Order relating to trees within the site as confirmed on the 22nd January 2020.

The Proposal

- 1.4 The application was initially submitted for the erection of four (no 4) dwellings on the site although this was reduced to three (no. 3) during the life of the application with amended plans being submitted accordingly. The description of development also confirms the demolition of the existing property on the site.
- 1.5 The proposed scheme shows erection of 3 No. detached dwellings all facing onto Main Street. The scheme was revised during the life of the application, reducing the number of units from 4 to 3 and changing the layout and the latest revisions made on the 19th December 2019. As a result of these changes the scheme shows Plots 1 and 2 as 2/5 storey units providing 5 bed accommodation and Plot 3 being a two storey unit with a hipped roof design.
- 1.6 Plots 1 and 2 provide accommodation over three floors with the fifth bedroom being within the roof space with roof lights. Plot 3 is a 4 bed unit with accommodation over two floors. The floor plans also accommodate an integral garaging for each unit with a person access door from the garden areas. A series of streetscenes have been provided as part of the application accounting for changes in ground levels as set out in the submitted Flood Risk Assessment which notes that the dwellings would be set at least 300m above the ground level of the adjacent land.
- 1.7 The design of the units includes features such as chimneys and includes retention of trees within both frontage / side and rear garden areas.
- 1.7 The units will have individual access points from Main Street with turning areas provided to the front of each dwelling with car parking composite to the size of the dwellings. Submitted plans also show the visibility splays, confirm that the access crossings will be to design standard E5 and that all car parking provision outside visibility splays as well as the use of "ascot railings" on the road side to maintain visibility.
- 1.8 The site would be connected to mains services for both surface and foul water drainage.
- 1.9 The submitted plans confirm that a mix of fencing and hedges will define the boundaries of the site.
- 1.10 In terms of materials then the application form and the submitted Design and Access Statement state that the design incorporates detail such as art stone sills

and detail courses and that materials would be utilise to blend into the local vernacular. Such details are also shown on the elevation plans.

Relevant Planning History

- 1.11 Although there was an application in 1975 for an extension to the existing house (Ref 8/62/10/PA) was granted there are no other historical applications considered to be relevant to the determination of this application.

2. CONSULTATION AND PUBLICITY

- 2.1 **Church Fenton Parish Council** – initial comments from the Parish Council (June 2019) noted an objection to the application on the basis that:

1. The proposal includes 4 new driveways on a corner where there is poor visibility. This area is already hazardous, with the previous owners never using the driveway opposite the entrance to the Recreation Ground as they felt it was unsafe. This proposal would be significantly detrimental to highway safety in an area that is regularly used by young children accessing the Recreation Ground.
2. There is no requirement in the Selby District Local plan for additional dwellings in Church Fenton. Numbers already with planning consent significantly exceed any need, so a less intensive proposal that has less impact can easily be justified.
3. The proposal includes 3 storey houses which is contrary to the approved Village Design Statement which is reinforced by Policy H2 in the draft Neighbourhood Plan which has recently been subject to a Regulation 14 consultation.
4. The proposal is contrary to Policy H1 of the draft Neighbourhood Plan in that it fails to provide a mixed development of integrate with neighbouring properties and landscape. Instead it offers large dwellings only.
5. The existing character of the site including a mature hedgerow and trees would be lost to the detriment of local amenity. There is significant concern about the loss of trees either as part of the development or once dwellings are occupied.
6. The site lies within Flood Zone 2. The Flood Risk assessment states that there are no other sites within the Church Fenton area that could accommodate this development. However there is no requirement in planning terms for any new development in Church Fenton, and there are many more development opportunities in nearby areas (such as Sherburn-in-Elmet).

Following revisions to the scheme in September 2019, further comments were received from the Parish Council noting:

“The Parish Council have considered the revised proposals that have been submitted for this site. It does not consider that the changes are adequate to mitigate any of the previous objections. On that basis the Council wishes to reconfirm its comments sent on 8th July 2019. As well as being contrary to the Village design guide the proposed houses are not in keeping with the character and design of the nearby area (such as Northview and Northfield Court, and would dominate the area. However it would suggest that a development of 2 dwellings served off a single access could potentially provide an acceptable development

solution. This would allow similar sized dwellings to be provided without the need for a 3rd storey.”

Following revisions to the scheme in December 2019, further comments were received from the Parish Council noting that “The Parish Council have considered the revisions and do not feel the changes are substantial enough to justify changes to the previous comments made by the Parish Council”.

2.2 **NYCC Highways** – initial comments on the application sought further information on the approach to the four access points in terms of visibility.

Following revisions to the scheme and the provision of additional speed survey information NYCC Highways Officer advised that they have no objections to the scheme subject to conditions on:

- Construction of private access / verge crossing requirements
- Closing of existing access points
- Visibility splay requirements
- Pedestrian Visibility splay requirements
- Provision of approved accesses, parking and turning areas prior to being brought into use
- Garage conversion to habitable rooms restrictions without a planning application.

2.3 **Yorkshire Water Services Ltd** – Advised that there are no observations on the scheme based on the information submitted.

2.4 **Environment Agency (Liaison Officer)** – Confirmed that the proposed development falls within Flood Zone 2, which is land defined in the planning practice guidance as being at risk of flooding. Advised therefore that the Council consider their standard comments for local planning authorities and planning applicants to refer to on 'lower risk' development proposals.

2.5 **Selby Area Internal Drainage Board** – Advised that the application site lies within their District, noting that the development would increase the impermeable area on the site. In this context they note that the application may relate to work in, on, under or near a watercourse within the Internal Drainage Board (IDB) Drainage District and requires consent from the IDB in addition to any landowner agreements for works, access, easements and planning permissions.

As such they note the following:

- i) If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year.
- ii) If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow.
- iii) If the surface water is to be discharged to any watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission and would be restricted to 1.4 litres per second per hectare or greenfield runoff.

- iv) No obstructions within 7 metres of the edge of a watercourse are permitted without Consent from the IDB.
- v) If surface water or works are planned adjacent to a Main River within the Drainage District, then the Environment Agency should be contacted for any relevant Permits
- vi) Should Consent be required from the IDB as described above then we would advise that this should be made a condition of any Planning decision any surface water discharge into any watercourses in, on, under or near the site requires consent from the Drainage Board.

2.6 **Environmental Health** – Confirmed that they consider that the proposed development will not have any adverse effects on surrounding property and local amenities once operational. However, do foresee potential adverse effects on residents of the existing residential properties surrounding the development site during demolition and construction. These phases are likely to create dust, noise and vibration which may cause disturbance. To reduce the likelihood of such disturbance; it is recommended that the developer should submit a Demolition and Construction and Environmental Management Plan (DEMP/CEMP). The plans should outline controls and procedures to be followed during demolition and construction to control noise, dust and vibration emissions from the site. Working hours and times of large deliveries to the site should also be outlined. As such recommends imposing of a condition requiring prior to the site preparation demolition and construction work commencing; a scheme to minimise the impact of noise, vibration, dust and dirt on residential property in close proximity to the site.

2.7 **County Ecologist** – confirmed that are satisfied with the scope and content of the submitted Ecological Impact Assessment (EclA) (MAB Ecology - April 2019 has been undertaken in accordance with current best practice guidelines. The assessment concludes that there will be no significant impact upon designated sites or protected species. Section 8 identifies some local level impacts which can be adequately avoided, mitigated or compensated through measures outlined in Section 9 of the report. As such, provided that the measures in section 9 are adhered to there will be no ecological impacts resulting from the development. Current National policy advocates building in enhancement measures for biodiversity and this is covered within section 10 of the report.

As such provided that the requirements within section 9 and section 10 of the report can be secured via a suitably worded condition, then there will be no significant ecological impacts

2.8 **North Yorkshire Bat Group** – No responses received in the statutory consultation period.

2.9 **Yorkshire Wildlife Trust** – No responses received in the statutory consultation period.

2.10 **Landscape Consultant** - No objection to the revised layout 'Proposed Block Plan 3 Houses dwg S/YTA 01 - 002 Rev B' provided that key trees are retained to protect local amenity, and a detailed landscaping scheme is secured via condition, alongside the erection of fencing for the protection of any retained tree must be undertaken in accordance with the Arboricultural Survey & Implications Study Amended October 2019, before any equipment, machinery or materials are brought on to the site for the purposes of the development, and must be maintained until all equipment, machinery and surplus materials have been removed from the site.

Following revisions to the scheme in December 2019, the Landscape Officer advised that previous comments apply and no further observations are required.

- 2.11 **Contaminated Land Consultant** - Confirmed that the Phase 1 report provides a good overview of the site's history, its setting and its potential to be affected by contamination. On this basis recommends a condition to cover the occurrence of on unexpected contamination during the development works.

Neighbour Summary (as of 13th January 2020)

- 2.12 The application was advertised via a site notice and through neighbour notification letters. As a result of a total of 26 submissions from 16 different addresses were received. A further 11 submissions were made following changes to the scheme on the 19th December 2019 largely from those who previously commented on earlier consultations and schemes. The comments received throughout the application can be summarised as follows:

Principle of Development

- There is no requirement for further development of this type in the village as there has been significant development already in the area and this should be a basis for rejecting this proposal
- The development is not needed - the Council has a 5 year housing land supply
- The current house is an asset to the community and a beautiful home.

Highways

- The approach to the individual accesses to each dwelling is contrary to Policy T2 of the Local Plan
- Located on a bend in Main Street which is dangerous and immediate opposite entrance to the Park there should not be so many entrances in this location
- Scheme should have a single access with a shared drive area with parking to the rear of the dwellings
- Car will be parked opposite the proposed entrances and this would hamper manoeuvres
- The owner of the site used to tell visitors to use the entrance closest to Northfield Court away from the bend
- Parked cars in this area will affect the visibility and result in highway safety issues given that there is already significant parking on the opposite side of the road from the development site given limited parking afforded to the Northfield Terrace properties as a result of their age
- Will conflict with HGV's and Buses that use the site as well as tractors and car traffic
- Appropriate visibility should be secured and maintained
- Appropriate car parking provision should be made within the site
- Development of the site will increase danger for pedestrians passing the site including school children
- The traffic survey was done at the quietest time of the year (summer) and as such is not representative of the reality in the area

Residential Amenity

- Will result in overlooking of occupiers on Northfield Court as far is discernible from the information provided by the applicants
- The siting and scale of the units adjacent to Northfield Court will impact on the privacy and daylight enjoyed by existing adjacent occupiers
- Access points will impact on amenity of occupiers opposite the site
- The development is located too close to the boundaries with the adjacent existing properties particularly 1 and 2 Northfield Court
- The development will impact on the air of the adjacent occupiers
- Revised plans (reducing the scheme to 3 units) does not address impacts on the neighbouring properties on Northfield Court and even with a two storey unit on Plot 3 impacts on the adjoining occupiers
- The design of Plot 3 in terms of side windows will result in overlooking of 1 Northfield Court

Design

- The development represents over development of the site and it should be only for 2 houses
- The site should accommodate 2 dwellings and they should all be 2 storey not 3 storey
- The height of the proposed dwellings will be out of character with the surrounding area and they should all be two storey
- The proposed size and style of the dwellings are not acceptable
- The proposed dwellings are not in keeping with the area
- The emerging Neighbourhood Plan clearly demonstrates the importance and style and character and this area is peppered with historically significant buildings including some immediately adjacent to this site and this development should take account of these accordingly
- The scheme does not accord with the Village Design Statement
- A development of bungalows on the site should be considered

Flood Risk and Drainage

- The development should be designed to accommodate high rainfall and attenuation tanks to mitigate potential risk of flooding to neighbouring properties
- Existing drains in the area are already not accommodating excess rain water
- The site is in Flood Zone 2 and should not be developed particularly when no need for additional housing in Church Fenton

Trees, Landscaping and Ecology

- Development of the site will result in pressure to remove more trees from the site in the long term
- The submitted survey includes errors in terms of the grading of the trees within the site – in one section T9 is Category A but then later Category B – this should be reviewed
- Development will result in loss of habitat
- Hedge on road frontage should be retained

Construction Impacts

- Works should be controlled regarding the depositing of mud on the highway and cleaning of vehicles leaving the site
- Residents will be impacted when the site is being constructed including those that work from home

Other matters

- The land should be sold to NYCC Highways to allow them to make the road safer in this location through widening
- Request that the Planning Committee visit the site prior to making a decision on the application
- The development does not accord with the National Planning Policy Framework
- The annotations on the drawing imply that the applicants control the hedgerow to the rear of 1 Northfield Court – this is not the case
- Will reduce the property values of the adjacent properties
- The existing house would make a family home and should be retained as such – a single dwelling in a treed plot

3 SITE CONSTRAINTS

Constraints

- 3.1 The application site is currently occupied by a dwelling within the development limits for Church Fenton.
- 3.2 There are no statutory national or local landscape or wildlife designations covering the site and there is no Conservation Area or nearby listed buildings that are affected.
- 3.3 The site is located within Flood Zone 2 and therefore has a medium risk of flooding.
- 3.4 There is a TPO (Ref TPO 08/2019) relating to the site which protects three groups of trees within the site.

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
- SP4 - Management of Residential Development in Settlements
- SP8 - Housing Mix
- SP9 - Affordable Housing
- SP15 - Sustainable Development and Climate Change
- SP16 - Improving Resource Efficiency
- SP18 - Protecting and Enhancing the Environment
- SP19 - Design Quality

Selby District Local Plan

4.7 The relevant Core Strategy Policies are:

- ENV1 - Control of Development
- ENV2 - Environmental Pollution and Contaminated Land
- H2B - Housing Density
- T1 - Development in Relation to Highway
- T2 - Access to Roads

Other

4.8 Church Fenton Village Design Statement (CF-VDS) was approved as Supplementary Planning Document in February 2012 and the site lies partly within Character Area 1 – Village Centre as a result of its location on Main Street.

5 APPRAISAL

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

- Principle of Development
- Design and Impact on the Character and Appearance of the Area including Landscaping
- Impact on Residential Amenity
- Highway Impacts
- Flood Risk and Drainage
- Ecology and Protected Species
- Contamination
- Construction Stage Impacts
- Affordable Housing and Housing Mix
- Other Matters arising from Consultations

Principle of 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 the NPPF in relation to the presumption in favour of sustainable development and decision taking.
- 5.3 Policy SP2 of the Core Strategy sets out the Spatial Development Strategy with SP2(A) noting Church Fenton as a Designated Service Village (DSV) which are noted as having scope of additional residential and small scale employment growth to support rural sustainability subject to compliance with Policy SP4.
- 5.4 Policy SP4 (A) of the Core Strategy relates to development in settlements, and notes that in order to ensure that the development of non-allocated sites contributes to sustainable development and the continued evolution of viable communities then within DSV's supports conversions, replacement dwellings, redevelopment of previously developed land and appropriate scale development on greenfield sites (including garden land and conversion / redevelopment of farmsteads). SP4 (C) notes that schemes will be expected to protect local amenity, preserve and enhance the character of the local area and to comply with normal planning considerations and SP4 (D) notes that any scheme would need to be of a "appropriate scale" in relation to density, character and form of the local area and should be appropriate to the function of the settlement within the hierarchy.
- 5.6 The proposal would involve development on greenfield land as per the definition in the NPPF and is within the defined development limits of a DSV, as such the principle of development is supported by SP2 and SP4(A) on the site subject to normal planning considerations and the requirements of SP4 (D) of the Core Strategy. The impacts of the development in terms of in relation to highways, amenity, character and appearance of the area, nature conservation interests, design and landscaping, are considered within the later sections of this report.

Design and Impact on the Character and Appearance of the Area including Landscaping

- 5.8 Policy ENV1 requires consideration of the design and layout of schemes and their effect on the character of the area, in addition Policy SP4 of the Core Strategy considers the approach on the design of new buildings, in terms of design, materials, character of the area and landscaping.

- 5.9 In commenting on the application objectors have commented on the design of the scheme in terms of character of the area, the type of units, the height of the proposed units and that the scheme does not accord with the Village Design Statement (VDS).
- 5.9 The application site is located within a residential area in the central part of the village. In terms of the VDS then the site lies within “Character Area 1 – Centre of Village”, an area which is acknowledge as being an area that has developed over time, with development having varied relationships to the road, being linear in character as well as including housing of varying type, size and design. The VDS does also note a limited materials palette within the character area and that development is largely two storey units.
- 5.10 The proposed development would front the road with the units all facing Main Street and having parking / garden areas to both the front and the rears so the relationship to the road and is of a linear form. It is considered that this acceptable in terms of the character defined in the VDS but also in terms of the immediate area which is not wholly within the noted VDS character area.
- 5.11 In terms of the type, size and design of the units, then not only is the area immediately surrounding the development of varying types, size and design the VDS does acknowledge that the Character Area is also varied. The units are detached, design to be two storey in appearance whilst including accommodation in the roof spaces of Plots 1 and 2 and do include elevation design features to reflect the context such as window detailing and chimneys.
- 5.12 The submitted information forming part of the application notes that materials would be brick and pantile, and the specific colours and mix can be controlled via condition.
- 5.13 In terms of landscaping and tree impacts then the site is not within a protected landscape or within a Conservation Area although there are trees subject of preservation orders within the site as noted above. The proposed scheme would not result in the loss of any trees noted as worthy of protection under the TPO and the Councils Landscape Officer has raised no objections to the scheme having considered these relationships subject to conditions relating to a finalisation of a tree protection plan and agreement of a landscaping scheme.
- 5.14 As such the scheme is considered to take account of the context and the VDS and is considered to be acceptable in terms of the character of area, in terms of its height, scale and type. It also takes full account of the landscape context and via condition materials can be secured that reflect the surrounding context. As such the proposals are considered to comply with Policy ENV1 of the Local Plan which requires proposals to provide a good quality of development which takes account of the surrounding area. In this respect the development is compatible with the Development Plan as well as Policy SP4 of the Core Strategy.

Impact on Residential Amenity

- 5.15 Relevant policies in respect of the impact of the proposal on residential amenity include Policy ENV1 (1) of the Selby District Local Plan. Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved for all existing and future occupants of land and buildings.

- 5.16 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 5.17 It is noted that no objections have been received in relation to impacts on residential amenity particularly in terms of the relationship to Northfield Court (to the north) and existing properties fronting Main Street to the east.
- 5.18 In terms of overlooking then the existing property (that is to be demolished) is two storey and overlooks the adjoining garden areas to the north and east. The proposed development will result in an increase in overlooking of these garden area, simply as a result of the increase in the number of dwellings, from 1 to 3, however it is considered that the extent of overlooking would by virtue of the siting of the units would not be so significant to warrant refusal of the scheme on overlooking grounds particularly given the orientations and internal layout. In order to ensure that there is control over alterations to the dwellings and future extensions windows, and outbuildings it is however considered appropriate to remove permitted development rights for all three plots via a condition on any consent.
- 5.19 In terms of overshadowing, then having considered not only the internal site layout plan, but also the relationships to the existing adjoining properties it is considered that there would be no impact in terms of overshadowing on the occupiers of Northfield Court (to the north) and only limited impact on those properties to the east. Again it is considered that by virtue of the siting of the units would not be so significant to warrant refusal of the scheme on overshadowing grounds.
- 5.20 In terms of the development being overbearing, then the key relationships are those of Plot 3 to the dwellings on Northfield Court and the relationship of Plot 1 to the dwellings to the east. In terms of Plot 1 then this unit is sited forward of the adjacent property, however the inter-relationship between the two properties, retained boundaries and the angle of the site means that the relationship would not result in the new dwelling being overbearing on the existing dwelling. In terms of Plot 3 then this units has a roof design which reduces the impact on the adjacent property and is also a traditional two storey unit thus its height reflects that of the adjacent property. There is also a defined boundary between the two units reducing any feeling of overbearing.
- 5.21 As such having balanced these considerations it is the view of Officers that the scheme is acceptable in terms of residential amenity in terms of both the internal layout but also the resultant relationship to surrounding properties and the scheme is thus considered acceptable in terms of residential amenity subject to the removal of permitted development rights via a suitably worded condition.

Highways Impact

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

these policies of the Selby District Local Plan should be given significant weight as they are broadly in accordance with the emphasis within the NPPF.

- 5.23 There are two existing vehicles accesses into the site, serving the existing dwelling from Main Street. The submitted plans show the proposed units each having an access onto Main Street, with parking and turning provision also being provided within each plot. Two speed surveys have been undertaken in support of the application and the submitted plans show visibility splays for each units, confirm that the verge details will be constructed to highways standards, that all parking areas are outside the visibility spays and that railings will be used to define the frontage to the site to maintain the visibility splays.
- 5.24 In commenting on the application Objectors have raised concerns about highways safety at both the construction stage and once the dwellings are occupied. In addition concerns have been raised on the impacts on pedestrians and the amenity of occupiers opposite the application site in terms of increased vehicle movements from the site as a result of the increase in the number of dwellings. In addition concerns have been raised in terms of mud on the road during the construction phase.
- 5.25 In terms of the noted concern that the construction stage will increase mud on the road, then it is not within the remit of planning to address such issues, and this would be a matter for the Highways Authority should there be an issue on the adopted highway as a result of the construction.
- 5.26 As part of the negotiations on the application NYCC Highways Officers did request an additional traffic speed survey be undertaken, alongside confirmation on visibility spays and revisions to the scheme to ensure car parking and turning provision was appropriate. As a result they have no objections subject to conditions which have been confirmed as acceptable to the applicants as a pre-commencement condition and it has also been confirmed that the visibility splays can be attained within land in the applicants control or highways land.
- 5.27 In terms of the impact on occupiers as a result of increased vehicle movements then environmental health have raised no concerns on this and in any instance the scale of the development would not result in an increase in traffic so significant to warrant a refusal on these grounds particularly given the sites location in the central part of the settlement which will have an existing level of activity.
- 5.28 It is considered that in the context of no objections from NYCC Highways that there is no detrimental impact on the existing highway network and it would not create conditions prejudicial to highways safety to warrant refusal on highways grounds and as such the scheme accords with ENV1 (2) of the Local Plan.

Flood Risk and Drainage

- 5.29 The application site is located within Flood Zone 2 which has a medium probability of flooding. Relevant policies in respect to drainage, climate change and flood risk include Policy ENV1(3) of the Local Plan and Policies SP15 and SP16 of the Core Strategy.
- 5.30 Objectors have noted concerns in terms of the drainage impacts of the development in terms of infrastructure capacity and the sites location within Flood Zone 2.

- 5.31 Consultations have been undertaken on the application with Yorkshire Water, the Environment Agency and the Internal Drainage Board, whose comments are all noted earlier in the report with no objections being lodged. In commenting the Environment Agency has referred Local Planning Authorities to standing advice and the IDB have noted a number of comments as set out earlier in the report.
- 5.32 In terms of the drainage approach for the site then the application form confirms that the site will utilise mains systems for both surface water and foul sewerage. The application is supported by a Flood Risk Assessment (FRA) which considers possible implications for the development and defines mitigation accordingly. The application is also accompanied by the sequential test within the submitted FRA which considers other sites within the settlement in the context of the Council's Guidance Note on applying the Sequential Test. The FRA concludes there are no other available sites at a lower flood risk and that the development of the site can be developed subject to finished floor levels 300mm above the surrounding ground level and that the site is registered for the government flood warning system.
- 5.33 In terms of the comments of the IDB then the application forms confirm use of mains systems and as such the comments are noted but as a mains connections are being used there is no need for a condition on the matters noted by the IDB.
- 5.34 In terms of climate change then the Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate meet 8 criteria set out within the policy. Having had regard to the nature and scale of the proposal, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria of SP15 (B) of the Core Strategy. Therefore having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.
- 5.35 It is considered that subject to the implementation in accordance with the submitted mitigation within the FRA (increase in finished floors levels by 300m above existing ground level and registering for Flood Alert service) the scheme is considered to acceptable and accord with the noted Policies of the Local Plan and Core Strategy and the NPPF.

Ecology and Protected Species

- 5.36 Policy ENV1(5) states that proposals should not harm acknowledged nature conservation interests, or result in the loss of open space of recreation or amenity value, or which is intrinsically important to the character of the area. These policies should be given significant weight as they are consistent with the NPPF.
- 5.37 Objectors in commenting on the application have raised concerns in terms of the loss of habitats.
- 5.38 The application is accompanied by Ecological Impact Assessment (EIA) dated April 2019 prepared by MAB Environment and Ecology Ltd which assesses protected species and, considered statutory and non-statutory protected sites and assessed the habitat on site through a data assessment and an extended Phase 1 Habitat Survey. It includes a series of recommendations including hedgerow retention / replacement, tree replacement, use of reasonable measures to protect great

crested newts, installation of bird boxes, works outside breeding season in terms of demolition and clearance of vegetation and the installation of bat boxes.

- 5.39 Since the application was submitted and the EIA undertaken the scheme has evolved and a large number of trees within the site are now shown as being retained which clearly was not envisaged when the EIA was initially undertaken nor when the application was first submitted to the Council.
- 5.40 In any instance the recommendation and mitigation noted in the EIA have been considered by the County Ecologist and they have confirmed that they have no objections to the scheme noting that the scheme should be progressed in accordance with the recommendations of the report at Sections 9 and 10 accordingly. In addition as noted above a landscaping scheme for the site will be required taking account of the recommendations of the noted Report.
- 5.41 On balance it is considered that the Applicants have demonstrated to the satisfaction of the consultees that the impacts on protected species and habitats subject to the noted conditions.

Land Contamination

- 5.42 Relevant policies in respect of land contamination include Policy ENV2 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy.
- 5.43 The application is supported by a Phase 1 Desk Top Study – Preliminary Environmental Risk Assessment. The Councils Contaminated Land Consultant has been consulted on this application and has advised that the report provides a good overview of the site history, setting and potential to be affected by contamination. As such it is recommended that no further investigation is required and a condition relating to "unexpected contamination" would be sufficient in case of the occurrence of unexpected contamination during the development works.
- 5.44 Subject to the aforementioned condition, it is considered that the proposal would be acceptable in respect of land contamination and is, therefore, in accordance with Policy ENV2 of the Selby District Local Plan and Policy SP19 of the Core Strategy.

Construction Stage Impacts

- 5.45 Policy ENV1 (1) requires that the District Council take account of "The effect upon... the amenity of adjoining occupiers". It is considered that policy ENV1 (1) of the Selby District Local Plan should be given significant weight as one of the core principles of the NPPF is to ensure that a good standard of residential amenity is achieved in accordance with the emphasis within the NPPF. In addition, Policy ENV2A states that "Proposals for development which would give rise to, or would be affected by, unacceptable levels of noise, nuisance, contamination or other environmental pollution including groundwater pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme"
- 5.46 In commenting on the application objectors have raised concerns at the impacts of the development at the construction phase, both in terms of noise and highways.
- 5.47 As noted above the Council's Environmental Health Officers have been consulted on the application and they have advised that they do not consider that the scheme

would have any adverse effects on surrounding property and local amenities once operational. They have however noted possible “effects on residents of the existing residential properties surrounding the development site during demolition and construction” as such they have outlined support for the use of a condition requiring submission and agreement of a “Demolition and Construction and Environmental Management Plan (DEMP/CEMP)”, noting that this should outline controls and procedures to be followed during demolition and construction to control noise, dust and vibration emissions from the site alongside working hours and times of large deliveries to the site.

- 5.48 Such conditions are not usually utilised on developments under 10 units in scale, so minor developments, and any issues could be addressed through statutory nuisance procedures by the Environmental Health. The proposed use of such a pre-commencement condition has been discussed with the Applicants Agent (who have confirmed agreement accordingly) and on balance it is considered that in this instance given the sites location such a condition is appropriate.
- 5.49 In this context scheme is considered acceptable and construction impacts mitigated.

Affordable Housing

- 5.50 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.
- 5.51 However, the NPPF is a material consideration in planning decisions (as set out in paragraph 2 of the NPPF) 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”*.
- 5.52 The application proposes the creation of three dwellings 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 national policy contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

Other matters arising from Consultations

- 5.53 In commenting on the application objectors have noted that it is considered that the site should be kept as a single dwelling, or be used for highways improvements or utilised as a village green space. These alternative uses are not before the Planning Authority and as such options are not material considerations in the determination of this application.

- 5.54 In commenting on the application neighbours have questioned land ownership noting that there is a lack of clarity on the boundary between the application site and 1 Northfield Court. The landownership has been verified with the Applicant and it is understood that the red line is accurate.
- 5.55 Comments made on the application reference the “Church Fenton Neighbourhood Plan”. Although the NP has been subject of a pre-submission consultation the Plan has not been submitted to the Council for Consultation. However in any instance, this document is an emerging and although approaching the pre-submission consultation stage it has not progressed to a stage that it forms part of the Development Plan under Section 38(6) of the Planning and Compulsory Purchase Act 2004 as such it affords very limited weight on the consideration of this application. Having considered these matters Officers do not consider that the scheme is unacceptable.
- 5.56 In commenting on the application objectors have requested that the Planning Committee visit the site prior to making a decision on the application, this is a matter for Members in considering the application and this Report.

6 CONCLUSION

- 6.1 The scheme is for the demolition of an existing dwelling and redevelopment of the site for 3 dwellings. On balance it is considered that the scheme is acceptable subject to conditions and informatives having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations.

7 RECOMMENDATION

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

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 following approved plans and documents, notwithstanding the details in the application form:

- Location Plan (Ref S/YTA 01-005)
- Block Plan – Existing (Ref S/YTA 01-001)
- Topographical Plan (Ref S/YTA 61-006)
- Proposed Block Plan (Ref S/YTA 01-002 Rev C)
- Floor Plans and Elevations (Ref - S/YTA 01-003 Rec D)
- Proposed Street Elevation and Parking Arrangements (ref S/YTA 01-061 Rev C)

Reason: For the avoidance of doubt.

03. No development shall commence above slab level until a sample panel of the proposed materials mix to be used in the construction of all of the

external surfaces and boundary walls 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 any roofing, cladding or render) to be used in the development. The development shall be constructed in accordance with the approved sample.

Reason: In the interest of design quality.

04. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the accesses to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:
- a. The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E5.
 - b. Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
 - c. Provision should be made to prevent surface water from the site discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.

All works shall accord with the approved details agreed in writing by the Local Planning Authority.

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

- 05 No part of the development shall be brought into use until the existing access on to Main Street has been permanently closed off and the highway restored. These works shall be in accordance with details which have been approved in writing by the Local Planning Authority in consultation with the Highway Authority. No new access shall be created.

Reason: In accordance with Policy ENV1 of the Selby District Local Plan and in the interests of highway safety.

- 06 There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 39 metres measured along both vehicle track lines 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 and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In accordance with Policy ENV1 of the Selby District Local Plan and in the interests of highway safety.

- 07 No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas hereby approved

have been constructed in accordance with the submitted drawing (Reference Drawing number S/YTA 01 - 002 Rev C). 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 ENV1 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

- 08 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

Reason: In accordance with Policy ENV1 of the Selby District Local Plan and to ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity the development.

09. No development approved by this permission shall be commenced until the Local Planning Authority has approved a Construction Management Plan. The scheme shall then be implemented in accordance with the agreed CMP.

Reason: In accordance with Policies ENV1 of the Selby District Local Plan and in the interest of amenity and to ensure a satisfactory means of highway safety access in the interests of vehicle and pedestrian safety and convenience.

10. The development hereby permitted must be carried out in accordance with the mitigation measures contained within Section 9 and 10 of the Ecological Impact Assessment dated April 2019.

Reason: In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, The Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010.

11. The development shall be carried out in accordance with the mitigation measures noted within the submitted Flood Risk Report. These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants

12. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree / root protection plan) and the appropriate working methods (the Arboricultural Method Statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: 2012 Trees in relation to design, demolition and construction -

Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved and maintained until the scheme is completed.

Reason: To protect existing trees on the site during construction

13. Notwithstanding the detail shown on Plan S/YTA/01/061 Revision C no development shall commence above slab level until a full detailed landscaping / planting scheme and fencing details has been submitted and agreed with the Local Planning Authority. The scheme shall include:

- Details of the species, location, planting density and stock size in respect of all tree and shrub planting
- Details of the measures for the management and maintenance of the approved landscaping

All planting, seeding or turfing comprised in the approved plan shall be carried out in the first planting and seeding seasons following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner. Any trees which die, are removed or become seriously damaged or diseased within the first five years shall be replaced in the next planting season with others of similar size and species.

Reason: In order to ensure for the preservation and planting of trees and landscaping in accordance with s.197 of the Act and in order to comply with saved Policy ENV1 of the Selby District Local Plan.

14. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

15. 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, without the prior written consent of the Local Planning Authority.

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 Policy ENV1 of the Selby District Local Plan.

Informatives

01. NPPF – The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.
02. The applicant/occupants should phone Floodline on 0345 988 1188 to register for Floodline Warnings Direct, or visit <https://flood-warninginformation.service.gov.uk/warnings>. It is a free service that provides flood warnings direct by telephone and mobile. It also gives practical advice on preparing for a flood, and what to do if one happens. By providing an advanced warning, it will allow protection measures to be implemented such as moving high value goods to an elevated level as well as evacuating people off site.
03. A that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The ‘Specification for Housing an Industrial Estate Roads and Private Street Works’ published by North Yorkshire County Council, the Highway Authority, is available at the County Council’s offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in Condition 04.
04. Condition 5 – Highways - These works shall include, where appropriate, replacing kerbs, footways, cycleways and verges to the proper line and level.

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

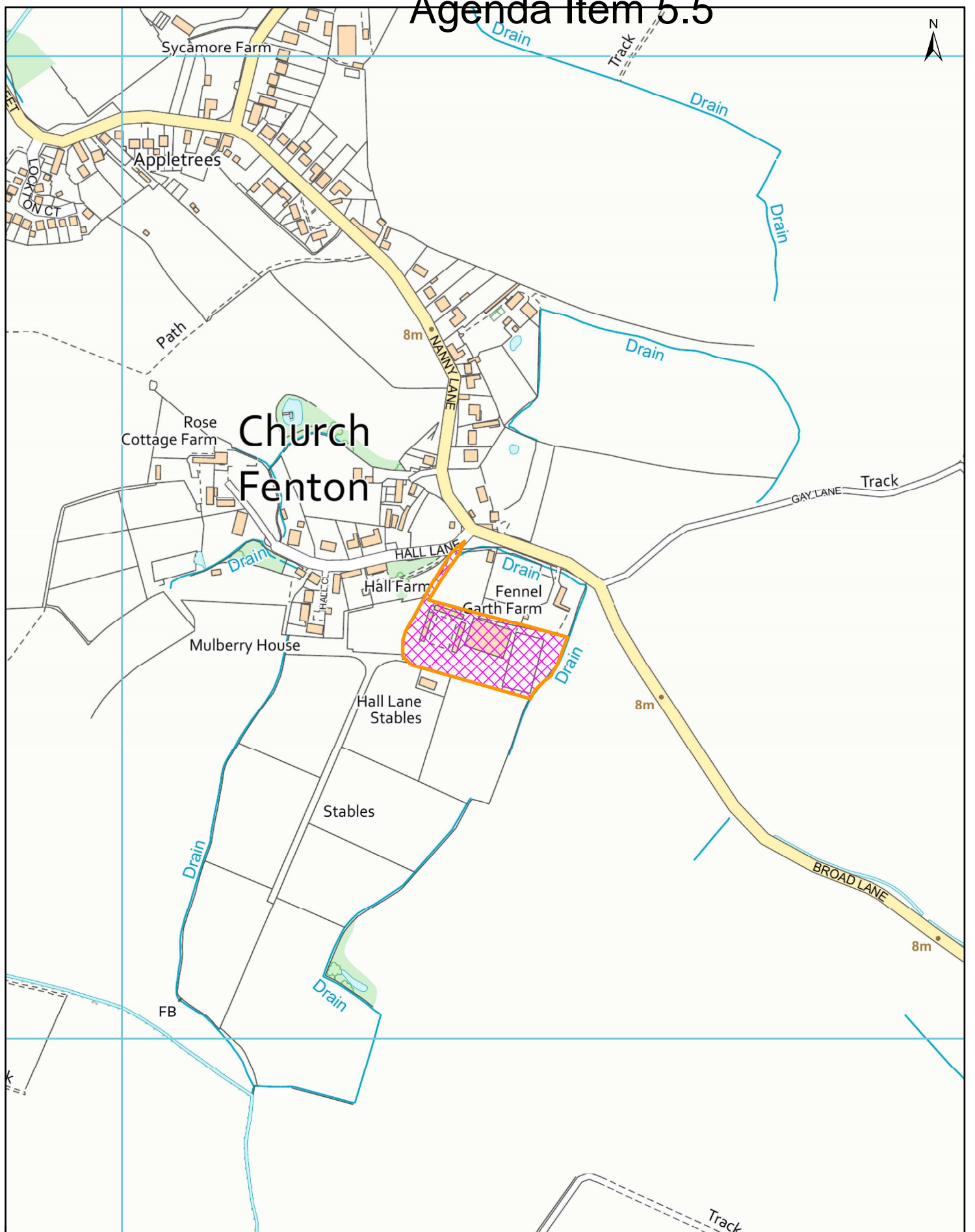
Financial issues are not material to the determination of this application.

10 Background Documents

Planning Application file reference 2019/0513/FUL and associated documents.

Contact Officer: Yvonne Naylor (Principal Planning Officer)
ynaylor@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: 5th February 2020
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 to vary condition 11 (to increase the maximum number of horses from 21 to 27) of permission 2009/0565/FUL (allowed on appeal 01 April 2011) for the 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		
LOCATION:	Hall Lane Stables Hall Lane Church Fenton Tadcaster North Yorkshire LS24 9RN		
RECOMMENDATION:	GRANT		

1. Introduction and Background

- 1.1 This application has been brought back before Planning Committee due to deferral of the application at the 15th January 2020 Planning Committee. Members resolved to defer the application due to intermittent availability of Public Access, whereby objectors were unable to access relevant documents was given due consideration.
- 1.2 A copy of the officer report presented to Planning Committee on 15th January 2020 is attached in Appendix 1.

2.0 Further Representations Received

2.1 On the date of the January Planning Committee a letter was received from an objector's solicitor, comments of which are as follows:

- Substantive medical evidence provided from General Practitioner (GP) to support threat to health of clients, neighbours and their children with no Enforcement action taken despite the breach of original planning condition in regards to manure bund (midden)
- Increase in activity would consequently exacerbate current nuisance and threat to health
- Local Authority needs to have proper regard to the suitability of the current facility in reaching their conclusion
- Our client has recently contacted the Environment Agency and investigations will follow. The Local Authority should defer their decision pending conclusion of the investigation
- Manure bund is currently positioned as close as it could be to our client's dwelling
- Application site equates to at least 25 acres, therefore the manure bund could easily be re-positioned a good distance from its current location
- It is considered that the Local Authority should impose a suitable condition regarding the location of the manure bund prior to allowing increased activity
- No justification included within current application for continued use of the manure bund in current location and the Local Authority would be fully justified in imposing a suitable condition
- Our clients have repeatedly tried to impress the extent of the impact of the manure bund on their daily lives due to the odour, presence of vermin and insect activity which would increase should the current application be approved and note that they would rely on this and earlier correspondence in the event that they commence with proceedings previously threatened but have withheld from taking

2.2 These matters have previously been discussed and addressed in the body of the previous Agenda which is appended to this report in Appendix 1. The applicant has stated that there has never been vermin on the application site. Furthermore, the Officer who has visited a number of livery stables noted on both site visits that the stables are immaculately kept as are the adjacent paddocks. In order to address the potential for any nuisance, as a result of the increase in horses, a condition has been included which would require details of the midden to be submitted, which is considered to address the new and existing objections raised, relative to this aspect of the proposal.

3.0 Recommendation:

- i. It is recommended that this planning application is APPROVED subject to conditions detailed below:**

Reasons for Recommendation:

3.1 The conditions have however changed from the previous report due to the introduction of an additional condition which requires a Manure Management Scheme to be submitted (condition No. 02) and which negates the need for condition 03. on the previous Agenda. The amended conditions are as follows:

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. A Manure Management Plan shall be submitted to and approved in writing by the Local Planning Authority within three months of the granting of this permission. The submitted information shall include the following details:

- Size, height, materials & design of the storage facility
- Frequency of disposal to storage facility and removal off site of manure and soiled bedding
- Maximum volume of manure and soiled bedding to be stored within the facility at any time
- Control of odour and flies

The works for such storage and disposal shall be completed and subsequently maintained in accordance with the approved details. No storage of manure and soiled bedding shall take place outside of the storage area approved under this condition.

Reason: To ensure that appropriate facilities are provided for the storage and removal of waste at the site in the interests of the amenity of surrounding occupiers and to preserve the character and appearance of the area in accordance with the requirements of policy ENV1 of the Selby District Local Plan.

03. 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.

04. At no time shall the number of horses stabled at the development exceed 27. Other than a maximum of six horses at any one time, the stabled horses shall be kept 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 Public 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.

Background Documents

Planning Application file reference 2019/00564/FUL and associated documents.

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

Appendices: Appendix 1 - Report to Planning Committee, January 2020



Report Reference Number: 2019/0564/FUL

To: Planning Committee
Date: 15th January 2020
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 to vary condition 11 (to increase the maximum number of horses from 21 to 27) of permission 2009/0565/FUL (allowed on appeal 01 April 2011) for the 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		
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.

The application was initially on the November 29019 Agenda but was deferred in order for officers to consider further representations received.

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; to the 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 and built in a courtyard arrangement. To the immediate east of the stables is the indoor arena, beyond which is an outdoor manege. Paddocks extend around the site to the south east, southwest and south and are all 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 a manure storage area) surrounded by a low (1m high) earth bund. This is used for soiled bedding and waste from the horses.
- 1.5 Planning permission was granted for the livery yard and associated development in 2011 (2009/0565/FUL) on Appeal along with the temporary siting of a residential caravan. A later permission was also given for a permanent dwelling to house the owners of the livery (and replace the temporary caravan) in 2016 (2015/0908/FUL).

The Proposal

- 1.6 This application is a Section 73 application to vary condition 11 (number of horses) of permission 2009/0565/FUL (allowed on appeal 01 April 2011) for the 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.
- 1.7 The application under S73 relates to allowing for additional horses as condition 11 provides that at no time shall the number of horses stabled exceed 21, and other than a maximum of three horses at any one time the stabled horses shall be on full or part-livery only. The applicant wishes to increase the numbers respectively to a maximum of 27 of which up to six may be the owner's horses, instead of the permitted three.
- 1.8 The Applicants have submitted that the livery has successfully retained its customers, some of whom now have two horses rather than one on livery and as such an increase is being sought as it would be impractical to place an additional horse at another livery. Also, the applicants now breed their own horses, which may at times result in more horses than permitted under the extant permission.
- 1.9 In addition the applicants have a total of five horses of their own – three of which are foals to be sold at age four, so they are currently in breach of condition 11.

Once sold however and if breeding is successful, they will be replaced by other foals, which is another reason for the applicants seeking to change condition 11.

Relevant Planning History

- 1.10 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(lightning) & 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 Church Fenton 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

21 letters of objection have been received from 15 objectors. Comments are summarised below:

- 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 as 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 but adjoins the Development Limits of Church Fenton, within Flood Zone 2 and on potentially contaminated land.

3.2 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
- T2 Access to Roads
- RT9 Horse Related Development

5 APPRAISAL

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

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

5.2 Principle of Development

5.3 The Town and Country Planning Act 1990 Section 73 allows for applications to be made to undertake development without complying with conditions attached to such an approval. Paragraph (2) of Section 73 states "On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and —

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application."

5.4 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 of planning permission 2009/0565/FUL granted on Appeal on 12/01/2011 (APP/N2739/A/10/2134309) 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.

5.5 A section 73 is an application for planning permission where the local authority's duty is to have regard to the development plan and any other material

considerations. In considering a section 73 application, if a variation to a condition is acceptable permission is granted and the effect is a new consent sitting alongside the original consent. The only consideration of this application is in relation to the impact the proposed variation would have on the character of the open countryside, highway safety and residential amenity. 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; whether there are reasonable grounds for refusal if these conditions were retained in their present form; or whether permission can be granted unconditionally or subject to different conditions.

- 5.6 The principle of the development was determined on appeal and therefore was considered policy compliant at that time.
- 5.7 The Selby District Core Strategy (CS) was adopted on 22.10.2013 which replaced a number of 'saved' Selby District Local Plan (SDLP) policies. Additionally, the introduction and updates to the National Planning Policy Framework (NPPF) first published in 2012, and last updated in February 2019 which replaced Planning Policy Statements (PPS). The proposed variation to the condition will be assessed against the updated policies and guidance.
- 5.8 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.

5.9 Impact on Open Countryside

- 5.10 The proposed change to condition 11 for six additional horses in itself would not result in any additional visual impact on the character of the open countryside as the changes would be confined to within the extent of the existing site, with no further encroachment into the open countryside.
- 5.11 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 or impact on the open countryside as the changes would be confined to within the existing site, 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.

- 5.12 The above considerations comply with the NPPF at paragraph 83 a), which advises (amongst other things) that policies should “*enable the expansion of all types of business in rural areas.*” 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 but 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.

5.13 Impact on Residential Amenity

- 5.14 Policy ENV1 (1) requires development to ensure there is no detrimental impact on existing residents with policy RT9 (1) requiring stable blocks to be sited at a reasonable distance from the nearest dwelling to ensure that no detrimental impact results, in respect of noise and odour. The stables are located to the south side of the indoor arena, facing away from adjacent neighbors who are also located at a significant distance from (minimum of 75m) the site of the stables to be retained.
- 5.15 This application does not involve operational development but would increase the manure produced. However, arrangements are already in place for its disposal and the submitted 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, which would be likely, given the increase in horses.
- 5.16 Part of paragraph 182 (NPPF) advises that “*existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.*” An objector has referred to movements on site taking place as early as 7am. This is not a consideration in regards to this application as there are no time limits in regards to running of the livery. Restrictions are applied only in respect of the training of owners who have their horses on livery at the premises, which is also limited to up to two people being trained at any time between the following hours:

- Monday to Friday: 9.00 and 19.00
- Saturdays, Sundays & Bank Holidays: 10.00 and 18.00

Whilst there would be additional horses and movements to the midden, it would be unfair to restrict movements and the operations of the livery, particularly when it has been running for approximately nine years. Furthermore, it is debatable as to whether imposing such a condition would meet the six tests in accordance with paragraph 55 of the NPPF in terms of being necessary, relevant, enforceable, precise and reasonable in all other respects.

- 5.17 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. However the only condition this application directly affects is condition 11. However, as a substantial period of time has passed since the proposal was allowed on appeal, all but one (condition 7 – lighting scheme) of the conditions have now been discharged and complied with. With regards to 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.
- 5.18 The existing lighting scheme has been in force for some eight to nine years and therefore gone beyond the point of being subject to Enforcement action. If the scheme were submitted under a discharge of condition application, it would be approved and therefore discharged as there have been no complaints in regards to it. The agent has however submitted details in order to formalise the scheme. The EHO has advised he has nothing to add to his previous comments (no objection) on the basis that there have been no complaints. In conclusion, the existing lighting scheme which has been in place for a significant period and for which there have been no complaints and it is therefore considered to be acceptable.
- 5.19 There are also slight changes to the wording of condition 8 (manure disposal) in order to retain the scheme as approved.
- 5.20 Objectors have referred to the existing manure storage area permitted under the extant consent. A scheme for the conversion of existing farm buildings to residential properties to the north west of the site 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). This does not however form part of the proposal but it is reasonable to respond and address along with other objections as follows. Furthermore, the impact on the residential amenities for occupants of the new dwellings would have been considered at the time when the stables were already established.
- 5.21 The position of the midden for the storage of manure was approved under the extant permission. However the dimensions of the midden do not strictly accord with the scheme as discharged under 2011/0590/DPC (being 10m by 10m by 1.5m high with a volume of 150 cubic metres) as the dimensions are 20m by 7m by 1m high. However, the storage is below the approved volume of 150 cubic metres at 140 cubic metres as the midden has not been used to its full capacity under the extant permission. In addition, the capacity of 150 cubic metres was considered to be reasonable at the time the condition was discharged.

- 5.22 The variation to allow six more horses and resulting in additional manure/soiled bedding is a material consideration. The applicants have clearly stated that this would not result in an increase in capacity to the existing midden. The midden would be emptied more often in order to maintain the current levels and not go beyond that currently permitted.
- 5.23 A letter has been received from a General Practitioner on behalf of an objector, claiming that the position of the midden is impacting on the health of this person and their family. It states that the current manure pile is having a negative impact on the health of local residents and that intensification of its use would exacerbate the *“current health issue.”* The letter adds that the manure pile should be re-located if an increase in horse numbers should be approved. This is considered to be an unreasonable request given the comments below and would be very expensive for the applicants to relocate, with no guarantee of them not being requested to move it again in the future.
- 5.24 It should be noted that the EHO investigated a complaint regarding odour associated with the manure pile following allegations that it was “prejudicial to health” under the Environmental Protection Act 1990. The complainant has previously sought advice from a solicitor and acquired letters from their GP stating that the manure pile “could” be causing health effects to the family. Environmental Health where of the view that formal action could not be taken on this basis, but did not want to discount this without consulting other professionals and Public Health England. In response the following statement was provided by Public Health England to describe the difference between the stress response in relation to odours and what can be defined as specific harms to health from direct exposure to a chemical or pollutant: *“The human nose is very sensitive to odours, and many substances that are perceived as odorous or smelly are usually present at levels below which there is a direct harmful effect. Odours can however cause annoyance and can lead to stress and anxiety. Some people may experience symptoms such as nausea, headaches or dizziness as a reaction to odour, even when the substances that cause those smells are themselves not harmful to health.”*
- 5.26 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 and therefore not prejudicial to health. Furthermore, whilst it is acknowledged that there was a minor breach in regards to the dimensions of the midden, Planning Enforcement Officers (PEO) concluded that there was no justification for action to be taken. Despite the numerous claims by the neighbour as discussed above, it is clear that there is insufficient justification and evidence to support the complaints as proven by the EHO and PEO.
- 5.27 The scheme for foul bedding was discharged in 2011 and therefore acceptable for its purpose. Furthermore, the applicants chose to limit its capacity to 140cubic metres, although the scheme allows for 150cubic metres.

5.28 On the basis of the above, it is considered that the amenities of the adjacent residents would be preserved in accordance with Policies ENV1(1) and RT9 (1) of the Selby District Local Plan and the advice contained within the NPPF.

5.29 Impact on Highway Safety

5.30 Local Plan policy RT9 expects horse related development to not “*create conditions prejudicial to highway safety.*” Paragraph 108 b) aims to achieve safe and suitable access for all users to a site and paragraph 109 states that applications should only be refused on highway grounds if the impact on highway safety would be severe. Objections received state that there would be an increase in heavy traffic from additional horse boxes, for which the roads are unsuitable. Whilst the application may intensify the use of the site to a minimal degree, no changes are proposed to the existing access and low levels of additional traffic associated with the proposal are anticipated, even if this resulted in more people using the livery. The additional vehicular traffic to and from the stables would not increase significantly and therefore would not impact on existing highway safety.

5.31 This view is endorsed by NYCC Highways in their response, who has advised that they have no objections to the proposed development as the condition is not highway related.

5.32 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 paragraph 108 b) and paragraph 109 of the NPPF.

5.33 Flood Risk and Drainage

5.34 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.

5.35 Response to Outstanding Objections

5.36 Consultations have been undertaken in accordance with the regulations, including the placing of a site notice on Hall Lane.

5.37 There are a number of general objections which are not material considerations haven't been addressed in the above sections and responses of which are provided below:

- The Notice of Decision for the application to which this is linked (2009/0565/FUL) has been made available on Public Access

- Objectors have raised planning enforcement matters relating to the original approval (midden) which do not form part of the application for consideration
- 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; all of which were discharged under 2011/0590/DPC.

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 variation of condition 11 to increase the number of horses kept at Hall Lane livery Stables from 21 to 27 is acceptable and would not have a detrimental impact on the character and appearance of the area, the residential amenity of the occupants of neighbouring properties and highway safety and would not therefore result in a development which is substantially different to that already approved.

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 six horses at any one time, the stabled horses shall be kept 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 Public 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.

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

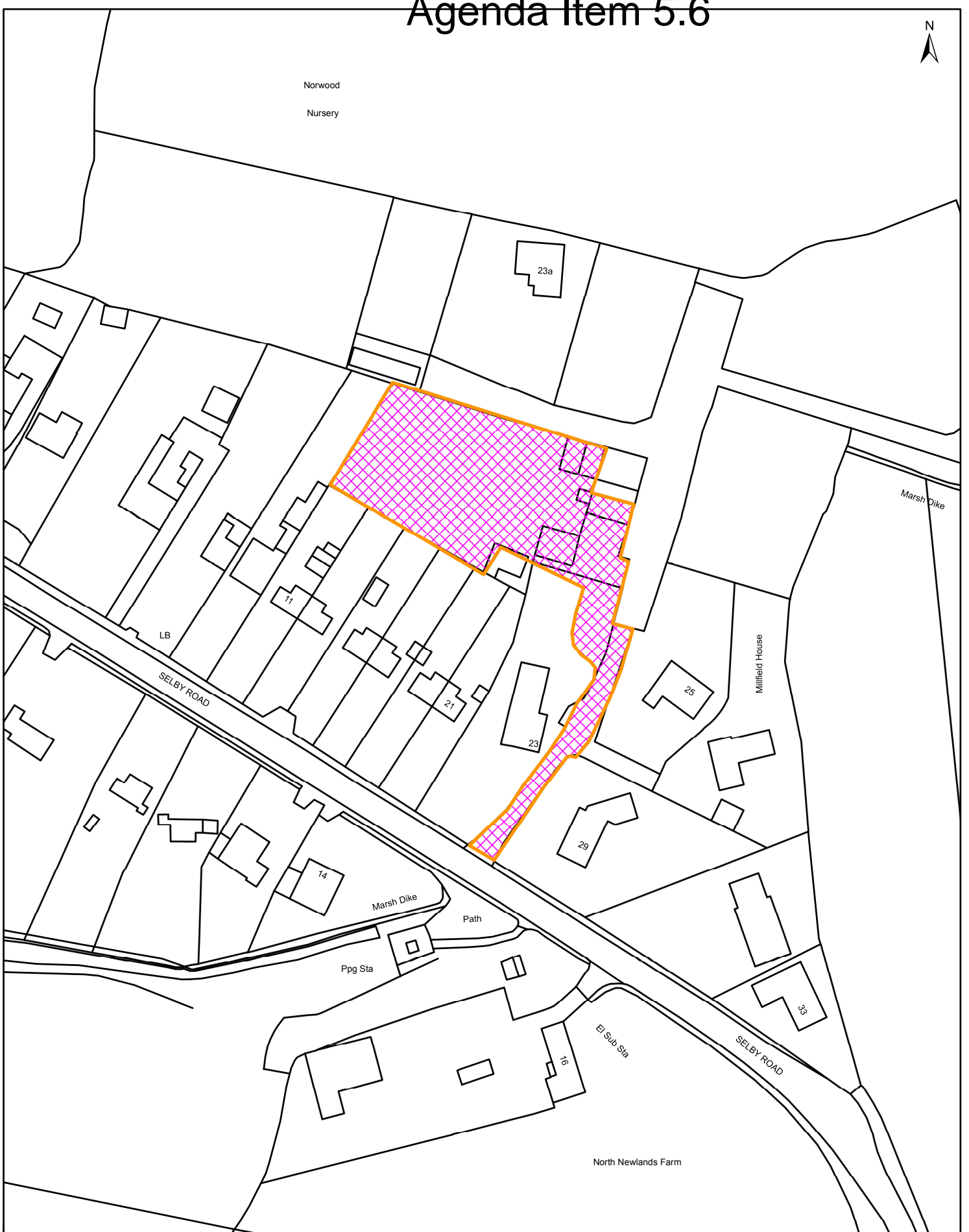
Appendices: None

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Agenda Item 5.6



Norwood
Nursery



APPLICATION SITE

Land to the rear of The Lodge, 23 Selby Road, Riccall
2019/1093/FUL

1:1,250



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REAR No 23
THE LODGE
SELBY RD.
RICCALL

PROPOSED EMERGENCY
TURNING AREA

**AMENDED
DRAWING**

1:200 SCALE



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Report Reference Number: 2019/1093/FUL

To: Planning Committee
Date: February 2020
Author: Laura Holden (Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/1093/FUL	PARISH:	Riccall Parish Council
APPLICANT:	Mrs Claire Northern	VALID DATE: EXPIRY DATE:	21st October 2019 16th December 2019
PROPOSAL:	Proposed erection of two detached dwellings with associated access, drainage and landscaping		
LOCATION:	Land To Rear Of The Lodge 23 Selby Road Riccall York North Yorkshire		
RECOMMENDATION:	REFUSAL		

This application has been brought before Planning Committee having been called in by Councillor Duggan as he believes the proposal is appropriate infill development.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is currently an open grassed paddock and currently has single-storey wooden stable block on the site. The site is currently bounded by a wooden closeboard fence.
- 1.2 The application site is located to the rear of the dwellinghouses located on Selby Road. The site is accessed via an existing lane directly off Selby Road. The site is located approximately 590 metres to the south of the defined development boundary of Riccall and is therefore located within the open countryside.

The Proposal

- 1.3 Proposed erection of two detached dwellings with associated access, drainage and landscaping

Relevant Planning History

- 1.4 The following historical application is considered to be relevant to the determination of this application. This centres around the use of the land for holiday use, the most recent application being in 2016 for the siting of 6 holiday units.
- Application Number: 2007/0934/OUT, Description: Outline for the erection of 12no. Holiday Chalets on land at Norwood Nursery to the rear, Decision: Refused, Decision Date: 16-NOV-07
 - Application Number: 2008/0211/OUT, Description: Outline for the erection of 12no. Holiday Chalets on land to the rear, Decision: Granted, Decision Date: 23-MAY-08
 - Application Number: 2011/0739/COU, Description: Change of use of land for the siting of 12No. twin unit static holiday lodges, Decision: Granted, Date: 19-SEP-11
 - Application Number: 2011/0166/OUT, Description: Extension of time application for approval 2008/0211/OUT (8/15/89P/PA) for outline permission to erect 12no. Holiday Chalets on land to the rear, Decision: Granted, Decision Date: 08-APR-11
 - Application Number: 2016/1258/COU, Description: Demolition of buildings on site, Change of use to allow the siting of 6 No. holiday use only units, Decision: Granted, Decision Date: 08-MAR-17
 - Application Number: 2018/1108/FUL, Description: Proposed erection of amenity block following demolition of existing stables, Decision: Granted, Date: 20-MAR-19
 - Application Number: 2019/0389/FUL, Description: Proposed erection of two detached dwellings with associated access, drainage and landscaping, Decision: Withdrawn, Date 11-JUL-19

2. CONSULTATION AND PUBLICITY

- 2.1 **North Yorkshire Fire & Rescue Service** – The submitted development plans do not give the dimensions of the access road to the houses, and therefore attention is drawn to Approved Document B, Volume 1 – Dwelling Houses 2019 edition, Section 13, Pages 97 and 98 – Vehicle Access. It is assumed that the provision of water for firefighting will meet the requirements set out in National guidance document on the provision of water for firefighting, Appendix 5.

The North Yorkshire Police, Fire and Crime Commissioner Fire and Rescue Authority will make further comment in relation to the suitability of proposed fire safety measures at the time when the building control body submit a statutory Building Regulations consultation to the Fire Authority.

- 2.2 **NYCC Ecologist** - It is supported by a thorough and clearly-presented Preliminary Ecological Appraisal. The application site has minimal ecological interest, comprising hard standing and mown grass, so there are very few constraints. The Design and Access Statement states that boundary planting will be retained and protected during development. An informative has been recommended which relates to the bird breeding season.
- 2.3 **The Ouse and Derwent Internal Drainage Board** – Identified discrepancies in the submitted documents relating to the proposed drainage and advises that soakaways are first considered. The Board recommends that a condition is attached to any permission granted to agree the proposed drainage works.
- 2.4 **Planning Policy Team** - The application site is defined in the Core Strategy as Countryside, Policy SP2 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.

This full proposal for 2 (market rate) dwellings on greenfield land does not constitute any of the development types described as being appropriate in the Countryside by Policy SP2A(c) and is therefore contrary to Policy SP2A(c) of the Core Strategy.

- 2.5 **NYCC Highways** – The proposed houses are more than 45m from the highway and as such should have turning available for fire attendants. It was therefore recommended that the site plan is amended to address this issue. Following concerns raised an amended site plan was submitted to widen the driveway to ensure a fire attendant would be able to turn on the site. Subject to the recommended conditions, no further objections were raised following the submission of the amended plans.
- 2.6 **NYCC Archaeologist** - The proposal is within an area of extensive prehistoric and Romano-British activity extending from Riccall to Skipwith. However the small scale of the development within an existing paddock is unlikely to have a significant impact on archaeological remains, therefore no objections.
- 2.7 **Contaminated Land** - The Phase 1 report provides a good overview of the site's history, its setting and its potential to be affected by contamination. The report and the proposed site investigation works are therefore acceptable. Conditions are recommend covering the need for: Investigation of Land Contamination, Submission of a Remediation Scheme, Verification of Remedial Works, and Report of Unexpected Contamination.
- 2.8 **Yorkshire Water** – As the proposal site is currently undeveloped, no positive surface water is known to have previously discharged to the public sewer network (which comprises foul only sewers in the vicinity of the development) does not have capacity to accept a discharge of surface water. It is noted from the Design & Access comments, within the submitted Planning Statement (October 2019) that it is proposed dispose the surface water from the dwellings to soakaways, subject to viability testing. Conditions relating to separate drainage systems and no piped discharge have been recommended.

- 2.9 **National Grid** – No objection to the proposal which is in close proximity to a High-Pressure Gas Pipeline - Feeder

Publicity

- 2.10 **Neighbour Summary** – All immediate neighbours have been informed by letter and a site noticed has been erected. 6 letters of support have been received as a result of this advertisement. The letters of support raise the following comments:

- We feel that two single storey dwelling would be more suitable than caravans or lodges.
- I broadly support this application as I consider it would represent a more agreeable long-term outcome to that of the previously approved application for holiday lodges / touring caravans, which was widely objected to.

3 SITE CONSTRAINTS

Constraints

- 3.1 The application site is located outside development limits, and is therefore, within the open countryside.
- 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
SP4 - Management of Residential Development in Settlements
SP15 - Sustainable Development and Climate Change
SP19 - Design Quality

Selby District Local Plan

- 4.7 The relevant Selby District Local Plan Policies are:

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

5 APPRAISAL

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

- Principle of the Development
- Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage
- Ecology
- Archeology
- Contaminated Land
- Affordable Housing

Principle of the Development

- 5.2 Core Strategy Policies SP2 and SP4 direct new development to the Market Towns and Designated Service Villages (DSVs), restricting development in the open countryside.
- 5.3 The application site is defined in the Core Strategy as Countryside, Policy SP2 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.

- 5.4 The NPPF is a material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development.
- 5.5 Paragraph 78 of NPPF is particularly relevant as it states that “To promote sustainable development in rural areas, housing should be located where it will maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby”.
- 5.6 Paragraph 79 of the NPPF states “Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
- (a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
 - (b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
 - (c) the development would re-use redundant or disused buildings and enhance its immediate setting;
 - (d) the development would involve the subdivision of an existing residential dwelling; or
 - (e) the design is of exceptional quality, in that it:
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.”
- 5.7 The Local Planning Authority does not consider that any of the above circumstances apply and no case has been made within the submissions to justify compliance with the above.
- 5.8 This full proposal for two dwellings with the open countryside does not constitute any of the development types described as being appropriate in the Countryside by Policy SP2A(c) and is therefore contrary to Policy SP2A(c) of the Core Strategy and Paragraph 78 and 79 of the NPPF.
- 5.9 The applicants and letters of support make the point that the proposal is better than the approved lodges consent, however this cannot be used to compare on appropriate use in the countryside for one inappropriate use. Both uses have fundamental differing planning considerations and as such are not comparable or cannot be traded.

Impact on the Character and Appearance of the Area

- 5.10 Relevant policies in respect to the impact of development on the character and appearance of the area include Policy ENV1 (1), (4) and (5) of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy. Further to this, relevant policies within the NPPF, include paragraphs 124, 127, 128, 130, 131.
- 5.11 The application site is located outside development limits and is situated to the north of the dwellings located on Selby Road. The surrounding dwellings are predominately detached and semi-detached properties, set within large plots. The current form of the area is predominately linear development, with properties facing onto Selby Road, with only a limited number of properties set back from the road.
- 5.12 The proposed development would therefore interrupt this character and result in uncharacteristic backland development. The proposal would also change this open and green character created by the paddock to one of residential and lead to the domestication of the land and an extension of the built form into the countryside.
- 5.13 The proposed application proposes two detached, single storey dwellings which are to be identical in design and scale. The dwellings are proposed to be of an L-shaped construction with an integral garage. The proposed dwellings are of an appropriate size and would sit comfortably within the plot. The dwellings would benefit from a reasonable sized amenity area to the front and rear of the dwellings. It is not considered the proposal would result in an overdevelopment of the site.
- 5.14 The proposed curtilage of the dwellings is to be bounded by a 1.8 metres fence to match the site boundary fence. This type of boundary treatment is considered acceptable for the character of the area.
- 5.15 Whilst the proposed dwellings are considered acceptable in terms of design and scale, the location of the proposed dwelling is not considered to be acceptable. It is considered the proposed dwellings would result in backland development and would alter the character, form and layout of the area. The proposal does therefore, not comply with Policy SP19 (a) and (b) of the Core Strategy or ENV1 (1) and (4) of the Local Plan.

Impact on Residential Amenity

- 5.16 Policy ENV1 (1) requires that the District Council take account of "The effect upon... the amenity of adjoining occupiers". It is considered that Policy ENV1 (1) of the Selby District Local Plan should be given significant weight as one of the core principles of the NPPF is to ensure that a good standard of residential amenity is achieved in accordance with the emphasis within the NPPF.
- 5.17 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 5.18 The proposed dwellings are to be single storey and are positioned to the north of the existing two-storey dwellings on Selby Road. The proposed dwellings are to be situated approximately 11.7 metres from the existing site boundary. The rear elevations of the proposed dwellings are to face the rear elevations and gardens of

the existing dwellings to the south of the site. The separation distance between the rear elevations is approximately 36.7 metres.

- 5.19 Given the proposed dwellings are to be single storey, and therefore have no first floor windows facing towards the neighbouring property it is not considered there would be any issues of overlooking caused by the development.
- 5.20 There are significant separation distances between the existing and proposed dwellings, as well as the existing 1.8 metres high boundary fence, and therefore, it is not considered the proposed dwellings would be overbearing or overshadowing towards the neighbouring properties.
- 5.21 The proposals due to the appropriate separation distances, the existing and proposed boundary treatment and landscaping around the perimeters of the site ensures there would be no significant detrimental impact in terms of overlooking or overshadowing or adverse noise and disturbance in accordance with Policies ENV1 (1).

Impact on Highway Safety

- 5.22 The application site can be accessed via an existing single track lane off Selby Road. The initial site plan identified that the two dwellings would be accessed by a 4 meter width driveway. Both dwellings have an integral double garage, and a turning area to the front of each dwelling.
- 5.23 NYCC Highways have been consulted on the application and raised concerns as the proposed houses are more than 45 metres from the highway and so should have turning available for fire attendants. Following the concerns raised by NYCC Highways, the proposed site plan has been amended, and the driveway has been widened to allow for the turning of fire attendants vehicles. NYCC Highways have raised no further objections to the submitted plans subject to the recommended conditions relating to the detail of access, turning and parking to be carried out in accordance with the approved plans.
- 5.24 Subject to these conditions it is considered that the development would not cause a significant impact with regard to highway safety and on the surrounding highway network in accordance with Policy SP19 of the Core Strategy and Policy ENV1 (2) & T2 of the Local Plan.

Flood Risk and Drainage

- 5.25 The application site is located in Flood Zone 1, which has a low probability of flooding and therefore no Flood Risk Assessment, sequential or exceptions test are required.
- 5.26 In terms of drainage, there are discrepancies within the submitted documents as to how the surface water would be disposed of and so the Internal Drainage Board has requested a condition to secure the proposed drainage works. This condition is considered necessary for the proposed development.
- 5.27 Yorkshire Water have provided comments on the application and advised conditions relating to separate drainage systems and no piped discharge of surface water on the site. It would therefore be reasonable and necessary to secure drainage details by condition.

- 5.28 It is therefore considered that the proposal is in accordance with Policies SP15, SP16 and SP19 of the Core Strategy Local Plan, and the NPPF, subject to conditions.

Ecology

- 5.29 Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 109 to 125 of the NPP and accompanying PPG in addition to the Habitat Regulations and Bat Mitigation Guidelines published by Natural England.
- 5.30 In respect to impacts of development proposals on protected species planning policy and guidance is provided by the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010 and the NPPF. The presence of a protected species is a material planning consideration. In addition Policy ENV1(5) require proposals not to harm acknowledged nature conservation interests.
- 5.31 The application is supported by an Ecological Assessment which makes recommendations to proposed biodiversity enhancements and recommendations for vegetation to be removed outside the bird breeding season (March to August).
- 5.32 The NYCC Ecologist has provided comments on the application and advised that the application is supported by a thorough and clearly-presented Preliminary Ecological Appraisal. The application site has minimal ecological interest, comprising hard standing and mown grass, so there are very few constraints. The Design and Access Statement states that boundary planting will be retained and protected during development. An informative has been recommended which advises that works should be preferably outside the bird breeding season.
- 5.33 As such, having had regard to all the ecological issues associated with the proposal, it is concluded that the proposal is acceptable and that the proposal is in accordance with Policy SP18 of the Core Strategy and ENV1(5) of the Local Plan.

Archaeology

- 5.34 The proposal is within an area of extensive prehistoric and Romano-British activity extending from Riccall to Skipwith.
- 5.35 The NYCC Archaeologist has been consulted on the application and advised they have no objections to the proposal as the proposal is relatively small scale development within an existing paddock and therefore, is unlikely to have a significant impact on the archaeological remains.
- 5.36 It is therefore, considered the proposal is acceptable in terms of impact on archaeology and therefore, complies with Policy ENV1 of the Local Plan.

Contaminated Land

- 5.37 A Stage 1: Desktop Study Report has been submitted with the application. The report shows that the site has previously been used as a nursery, with a storage tank having been located on the site. The past activities could have given rise to

land contamination and so the report recommends that further intrusive investigation is carried out, along with a quantitative risk assessment.

- 5.38 The Council's Contaminated Land Consultant has been consulted on the application. Their response states that the Phase 1 report provides a good overview of the site's history, its setting and its potential to be affected by contamination. Their response confirms that the report and the proposed site investigation works are acceptable. If contamination is found, then appropriate remedial action will be required to make the site safe and suitable for its proposed use. Four conditions have been recommended relating to further investigations and risk assessments, remediation schemes, verification of remedial works, and reporting of unexpected contamination.
- 5.39 Subject to the recommended conditions, it is considered the proposal is acceptable in terms of contaminated land 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 erection of two dwellings 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 site is located outside the defined development limits of Riccall and is therefore, located within the open countryside. This proposal for two dwellings with the open countryside does not constitute any of the development types described as being appropriate in the Countryside by Policy SP2A(c) and is therefore contrary to Policy SP2A(c) of the Core Strategy and Paragraph 78 and 79 of the NPPF.
- 6.2 The proposal is considered to result in back land development, and would therefore, be out of character with the linear form of residential development on Selby Road.

The proposal would result in development which is not characteristic of the area and therefore does not comply with Policy SP19 of the Core Strategy or ENV1 of the Local Plan.

- 6.3 The proposal is considered to be acceptable in respect of matters of acknowledged importance such as residential amenity, highway safety, flood risk and drainage, ecology, archaeology, contaminated land and affordable housing.

7 RECOMMENDATION

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

1. The proposal would result in the creation of two new dwellings within the open countryside, wherein accordance with the overall Spatial Development Strategy for the District, development will be restricted 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 communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances. The proposal does not comprise any of the types of development that are acceptable in principle under Policy SP2A (c) of the Core Strategy. Therefore, the proposal is unacceptable in principle and contrary to Policy SP2A (c) of the Selby District Core Strategy and hence the overall Spatial Development Strategy for the District.
2. The erection of a residential development on this backland site would extend the residential built form into the countryside, lead to the loss of the open and green character and the domestication of the land, all of which would be harmful to the character and appearance of the countryside. The proposal is therefore contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 (a) and (b) of the Core Strategy and the advice contained within 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.

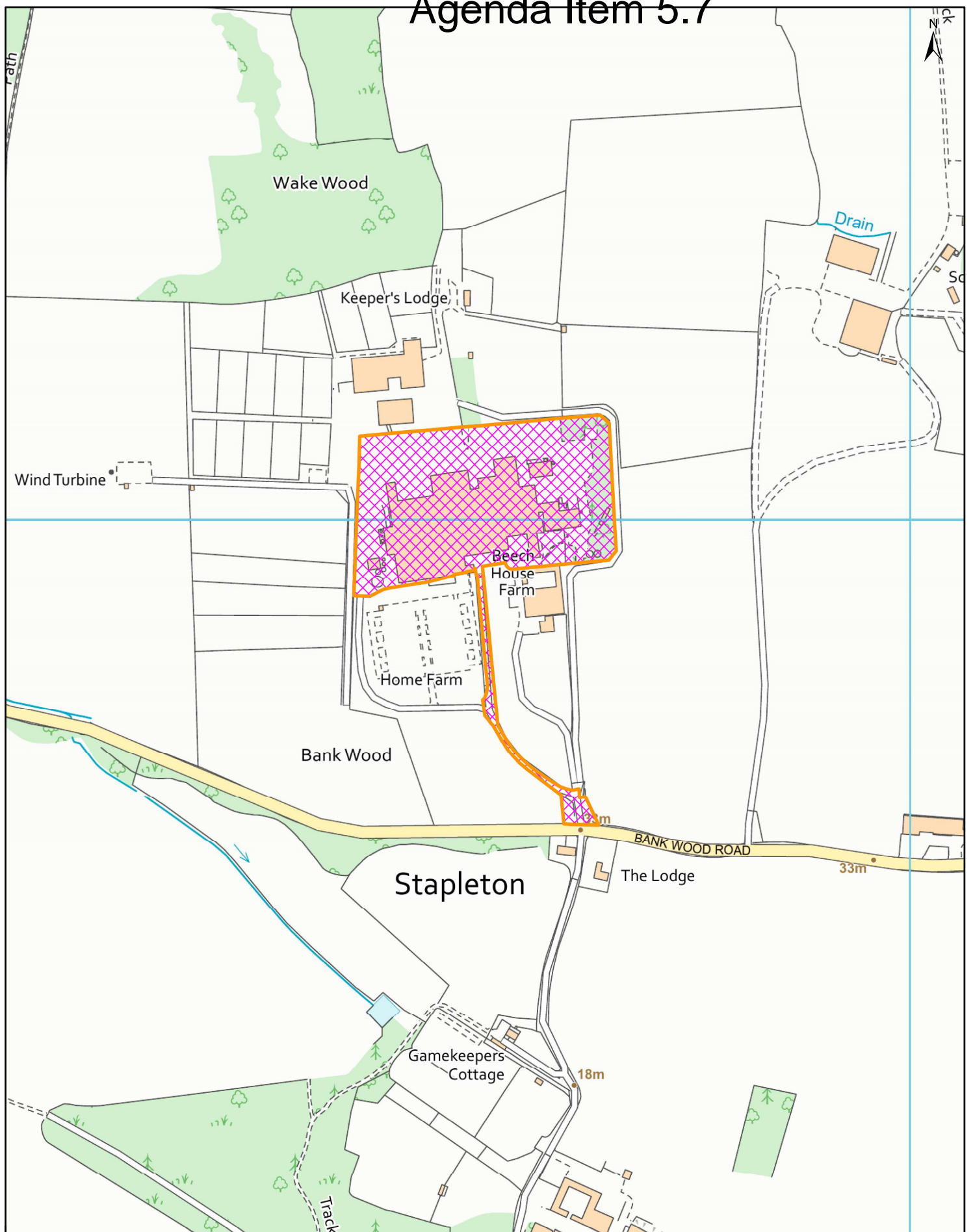
10 Background Documents

Planning Application file reference 2019/1093/FUL and associated documents.

Contact Officer: Laura Holden (Planning Officer)
lholden@selby.gov.uk

Appendices: None

Agenda Item 5.7



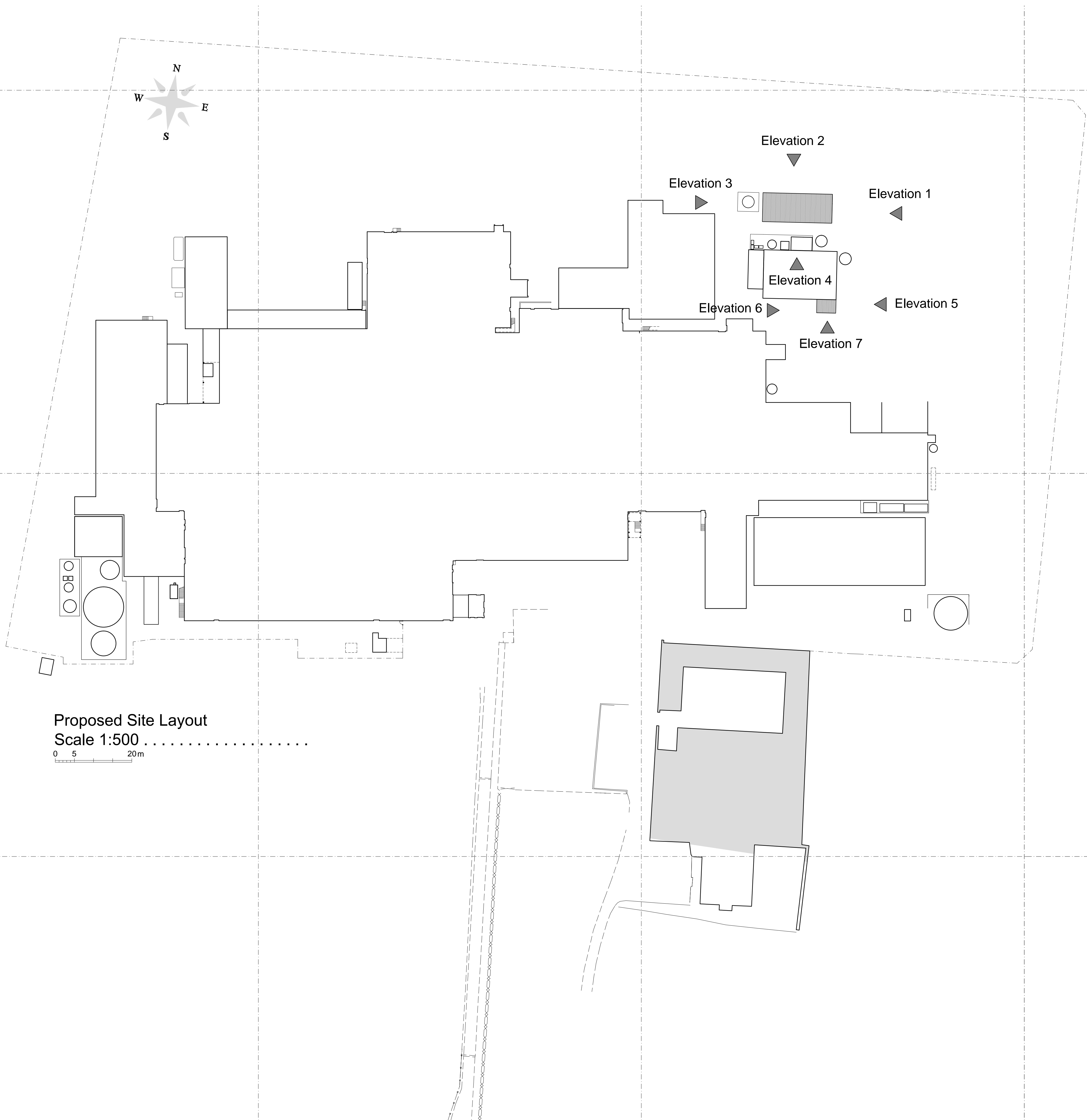
APPLICATION SITE

Dovecote Park, Bankwood Road, Stapleton
2019/0995/FULM

1:5,000



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Proposed Site Layout
Scale 1:500

0 5 20m

Rev A: Room to Tallow plant added

DP 02.06.19

<p>DP Architectural Services LTD 20 Merfield Ashey Village Chorley Lancashire PR7 1UR m. 07877 595100 t. 01257 671635 e. dparch69@gmail.com</p>	<p>Client Dovecote Park Ltd Dovecote Park Bank Wood Road Stapleton Portlough WFB 3DD</p>	<p>Project Proposed Greaves Building</p>	<p>Drawings Site plan as Proposed</p>
	<p>Paper size A1 Date Mar 2019</p>	<p>Job no 2019-08 Scale 1:500</p>	<p>Drawing no P02 Revision A</p>

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Report Reference Number: 2019/0995/FULM

To: Planning Committee
Date: 5th February 2020
Author: Gareth Stent (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0995/FULM	PARISH:	Stapleton Parish Council
APPLICANT:	Dovecote Park Ltd	VALID DATE: EXPIRY DATE:	3rd October 2019 2nd January 2020
PROPOSAL:	Erection of a new beef protein building (7.5 x 18.1m), extension to the existing fat processing plant (3.5m x 5m) and erection gas tank (10.6m x 3.1m) - (Retrospective).		
LOCATION:	Dovecote Park Bankwood Road Stapleton Pontefract West Yorkshire WF8 3DD		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee because it constitutes inappropriate development within the Green Belt but it is considered there are very special circumstances which would justify approval of the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 Dovecote Park lies to the north of Bank Wood Road in open countryside and consists of a modern industrial sized specialist beef and venison production facility. The facility originated from the farm/abattoir at Beech House Farm and has grown considerably in recent years. The 5.4 hectare site and employs a large workforce and consists of large modern industrial steel-clad buildings set in a screened rural landscape.
- 1.2 The topography of the land running from Bankwood Road (the entrance of the complex) to the northern edge of the site at the adjacent property of Home Farm

has an undulating character. From the entrance at Bankwood Road the land rises and then dips where the main complex of buildings are located. From the main complex of buildings the land significantly rises again. The topography of the land running from west to east has an undulating character where the main complex building is located in the hidden dip of the land.

- 1.3 From the south of the site at the entrance the boundary treatment is high natural stone walling with a plantation of large mature deciduous trees which screens the highest part of the existing buildings. Surrounding the main complex of buildings there are high mature evergreen trees.

The Proposal

- 1.4 The application seeks consent for 2 new buildings and a gas tank, which have already been constructed and are therefore considered retrospective. The buildings and plant lie in the north western corner of the site and wholly within the existing curtilage of the site.
- 1.5 Beef Protein Building – This is known as the Greaves building and is free standing with a floor area of 18.1m x 7.5m and is 'lean to' style form with a ridge height of 4.7m and eaves of 3.7. The building is timber clad on the external wall and has a metal profile sheeted roof. The building has an external roller shutter on the east elevation and a conventional door.
- 1.6 Fat Processing plant – This is small addition to the existing fat processing plant to provide a covered area for a small tipper vehicle to be housed within the building to meet the food standards agency requirements. The lean to style building has a floor area of 5m x 3.5m and eaves height of 3.8m and ridge of 4.5m being a continuation of the roof of the adjoining building. Again this is timber clad with a profile sheeted roof.
- 1.7 Gas Tank – This is a typical cylindrical metal finished tank used for the storage of CO₂ (Nitrogen). It stands 10.6m tall and has a diameter of 3.1m. It is located on a concrete pad to the rear (west) of the Greaves building.
- 1.8 The buildings/plant sought for retention lie to the north east of the facility and sit within the curtilage of the existing premises. Cumulatively the total floor space is 154.71 sq m (plus tank at 9.7m sq).

Relevant Planning History

- 1.9 The current owners have been operating since November 1997 and have made considerable investment through various planning permissions over recent years. Some applications have had to be referred to the Secretary of State due to their size following the Local Planning Authority consistently regarding very special circumstances being demonstrated. The most significant and recent being;
- 2018/1111/FULM - Proposed construction of an extension to the existing facility to provide a new burger production building- approved 14 March 2019.
 - 2018/0450/FULM - The proposed erection of a new dry aged chiller and extension to the fat processing room and retrospective extensions to the venison lairage facility – Granted 15 February 2019.

- 2017/0283/FUL Extensions to the established commercial premises at Dovecote Park to provide a new tray storage facility, venison lairage facility, dray aged chiller and a replacement site office – Granted 22 May 2017.
- 2010/1301/FUL - Application for extensions to the existing Dovecote Park complex, including a new car park and car park access – Granted 11.4.2011.

1.10 The remaining history dating all the way back to 1975 refers to various new buildings, alterations, extensions to buildings, plant infrastructure, advertisements, welfare facilities and car parking all of which is a result of the sites continued growth and expansion.

2. CONSULTATION AND PUBLICITY

- 2.1 The application was advertised by site and press notice as a departure to the Local Plan and neighbours notified by letter. No neighbour representations have been received as a result.
- 2.2 **NYCC Highways Canal Rd** – No objections following confirmation that only 1 extra vehicle movement a week will access and egress from the site, this is not likely to have an impact on the highway network and therefore no objections are raised to the proposed development.
- 2.3 **Parish Council** – No response, however request details of the travel plan attached to 2010/1301/FULM.
- 2.4 **Pland Use Planning Yorkshire Water Services Ltd** – No response received.
- 2.5 **Danvm Drainage Commissioners Shire Group Of IDBs** – No response received.
- 2.6 **Environmental Health** – No objections.
- 2.7 **SuDS And Development Control Officer** – No objections.
- 2.8 **HSE** – No objections.

3 SITE CONSTRAINTS

Constraints

3.1 The application site is located outside the defined development limits, within the Green Belt and the Locally Important Landscape Area, and within Flood Zone 1 on the Environment Agency's Flood Risk Maps.

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
 SP13 - Scale and Distribution of Economic Growth
 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
 ENV 2 – Contaminated Land
 ENV15 - Locally Important Landscape Areas
 EMP 9 - Expansion of Existing Employment Uses
 T1 - Development in Relation to Highway

5 APPRAISAL

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

- Principle of Development

- Green Belt considerations
- The Impacts of the Proposal:
 - a) Impact on the Character and Form of the area
 - b) Residential Amenity
 - c) Highways
 - d) Flood Risk
 - e) Nature Conservation and Protected Species
 - f) Contamination
- The case for very special circumstances

Principal

- 5.2 The site lies beyond any settlement limit and within the designated Green Belt. The Selby and District Core Strategy in Policy SP1 promotes a presumption in favour of sustainable development which accords with the NPPF and is a material consideration. Policy SP2 entitled ‘Spatial Development Strategy’ establishes the locational principles for guiding development within Selby District, with the focus on Selby as the Principal Town, Sherburn in Elmet and Tadcaster as Local Service Centres, and identified Designated Service Villages. As the application site is positioned outside these locations Policy SP2(c) is of relevance which states:

“Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.”

- 5.3 Policy SP3 guides the development principles for proposals within the Green Belt in line with Paragraph 133 of the NPPF which states ‘the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Core Strategy Policy SP3(B) 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.”

- 5.4 Policy SP13 ‘Scale and Distribution of Economic Growth’ supports continued economic diversification within the extensive rural areas of the District as well as focusing on the economy of town and village centres. Policy SP13(C) Rural Economy supports sustainable development in rural areas which brings sustainable economic growth through local employment opportunities or expansion of businesses and enterprise. Specific examples include C.2 “The redevelopment of existing and former employment sites and commercial premises”.

- 5.5 Policy SP13 (D) further states that “In all cases, development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.”
- 5.6 Likewise the Selby and District Local Plan has an overarching employment growth policy i.e. Policy EMP9 ‘Expansion of Existing Employment Uses in Rural Area’. This policy states “Proposals for the expansion and/or redevelopment of existing industrial and business uses outside development limits and established employment areas, as defined on the proposals map, will be permitted provided:
- 1) The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity;
 - 2) The nature and scale of the proposal would not have a significant adverse effect on the character and appearance of the area, or harm acknowledged nature conservation interests;
 - 3) The proposal would achieve a high standard of design, materials and landscaping which complements existing buildings; and
 - 4) Proposals involving expansion onto adjoining land would not result in the loss of best and most versatile agricultural land and the site would be well related to existing development and well screened and/or landscaped.”
- 5.7 The above policies are overarching considerations which allow for the continued growth of rural enterprises; however the key consideration is the assessment of national Green Belt policy. The decision making process when considering proposals for development in the Green Belt is in three stages, and is as follows:
- a. It must be determined whether the development is appropriate development in the Green Belt. The NPPF and Local Plan set out the categories of appropriate development.
 - b. If the development is appropriate, the application should be determined on its own merits unless there is demonstrable harm to interests of acknowledged importance, other than the preservation of the Green Belt itself.
 - c. If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which outweigh the presumption against it.
- 5.8 NPPF Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 states when considering planning applications, Local Planning Authorities should ensure substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 5.9 Paragraphs 145 and 146 of the NPPF states the construction of new buildings as in appropriate development in the Green Belt. The exceptions to this are;

c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green belt than the existing development.

- 5.10 This proposal is for the extension to an existing building (fat processing plant) which was previously permitted as a new building and the construction of a further new building (Greaves Building) and associated infrastructure i.e. the gas tank. Therefore whilst the proposal includes extensions and new buildings it is all regarded as cumulative addition to the site within the Green Belt.
- 5.11 In terms of Paragraph 145 criteria c) of the NPPF, the term 'disproportionate' is not defined in the NPPF. On the basis of planning appeal decisions and case law it is normally considered that extensions exceeding 50% of the volume of the original building, taken either singularly or cumulatively with other extensions, constitute a disproportionate addition. Notwithstanding this the 50% volume addition of the original building 'criterion' should only be used as a guide and not a definitive rule.
- 5.12 It is also important that regard is given to cumulative impacts of successive extensions to avoid incremental additions resulting in disproportionate additions over time. In such cases a particular extension in itself may appear small, but when considered together with other extensions may be considered to constitute a disproportionate addition.
- 5.13 A number of extensions to the Dovecote Park Complex have been approved in recent years including a particularly large extension had been approved under application reference 2010/1301/FUL. This has been followed by a series of other smaller new buildings and structures and detailed in the history. The Local Planning Authorities approach has always been that cumulatively these extensions and new buildings would result in disproportionate additions over and above that of the original farm complex, whether new build or extensions, as many of the extensions are extensions to new buildings.
- 5.14 The proposed development would therefore be inappropriate development in the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, 'is clearly outweighed by other considerations' (NPPF para 144).
- 5.15 The planning statement in support of the proposal takes a different approach to this and regards the proposal being within the exceptions to Green Belt policy i.e. paragraph 145 of the NPPF (g) 'limited infilling or the partial redevelopment of previously developed land, whether redundant or in continuing use; which would not
- not have a greater impact on the openness of the Green Belt than the existing development': or*
 - where the development would re-use previously developed land and contribute to meeting an identified local affordable housing need, not cause substantial harm to the openness of the Green Belt."*
- 5.16 The supporting statement states "the proposed development clearly comprises of both infill development, in the form of the extension to the existing fat melting plant,

and partial redevelopment of the site in the form of the new beef protein building. However, notwithstanding its slightly greater floor space and volume in absolute terms and relative to the extent of the existing development on site, it does not have greater impact on the openness of the Green Belt than the existing built development within the site given its limited spatial extent, or in terms of visual extent given its position on the site in such close proximity to the site's landscaped boundary, the physical and visual relationship with the existing built development itself, and the visual inconspicuousness of the site in the immediate and wider landscape owing to the sites topography, the scale of the buildings and existing and well established landscaping.”

- 5.17 Notwithstanding the above, the Local Planning Authority disagrees with this approach and has consistently regarded the extensions to this facility to be inappropriate development. This is because the extent of the extensions and new buildings previously allowed, go beyond what would be regarded as limited infill or proportionate extensions and have been previously been justified on the basis of very special circumstances. New extensions to these new buildings or any new buildings cannot therefore accord with paragraph 145 of the NPPF. Therefore the applicant's supporting statement has also listed a series of very special circumstances to rely on, which will be discussed later in the report.

Assessment of Harm from the Proposed Development

- 5.18 In order to assess whether the proposal would result in 'any other harm' than the definitional harm by means of inappropriateness it is important to undertake the 'normal tests' applied to any planning submission in considering the impacts of the proposal.

Impact on the Character and Form of the area

- 5.19 Whilst the proposals would extend the footprint and mass of the complex and the extensions would be viewed against the back drop of the main complex of buildings which are greater in height or of the same height. The new beef protein unit is free standing, however comfortably sits within the curtilage of the existing operations and provides no encroachment into the Green Belt beyond the existing site boundaries. The extension to the fat melting plant is an extension of an existing building by simply carrying the roof downwards to form a 'lean to'. This is set to the south of the existing building and towards the nucleus of the main buildings on the site. The new gas tank is similar in height and form to a series of other buildings on the site and represents no wider visual concerns.
- 5.20 Both the buildings and plant are positioned for functionality purposes and are the same character and form of existing buildings on the site and finished in matching materials. The buildings and plant would not appear isolated additions and relate well to the current large mass of buildings on the site so as not being noticeable. Due to their location within the site and relationship with existing buildings, the additions would not contribute to unrestricted sprawl. The context of the additions in this proposed scheme is considered not to adversely affect the openness of the Green Belt and therefore, in this respect, it accords with Policy SP3 of the Selby District Local Plan and the NPPF at paragraph 133.
- 5.21 Policy ENV15 relates to design and impacts on the Locally Important Landscape Area (LILA). The buildings on the site are confined within the boundary parameters

of the business and there would be no encroachment into land outside this parameter. The impact on the LILA would therefore be minimal.

Residential Amenity

- 5.22 Due to the combination of the orientation of the site, the height, the projection and siting of the proposed scheme and distance away from the neighbouring properties, the proposal is considered not to cause significant adverse effects of overlooking, overshadowing and or oppression. It is therefore considered that the amenity of the adjacent residents would be preserved in accordance with Policy ENV1 of the Selby District Local Plan in this respect.

Highways

- 5.23 The addition of buildings and plant has the ability to increase the capacity of the site and could impact on traffic movements. This was considered by the Highway Authority who sought clarity from the applicant over the whether any additional vehicle movements would be necessary as a result of the development. The agent confirmed that vehicle movement relating to the beef fat processing will be neutral as the greaves (bio product) was previously removed from the site in a lorry as waste, whereas now it will leave the site on a lorry as a packed product. There will, however, be one additional lorry movement to site every week to deliver liquid nitrogen. This satisfied the highway officer who concluded that the proposal would not create conditions prejudicial to highway safety therefore the proposed scheme is considered acceptable and accords with policies ENV1 and T1 of the Local Plan.

Flood Risk

- 5.24 The application site is located in Flood Zone 1 (low probability of flooding). As such a sequential flood risk test is not required. The application details that existing foul sewer will accommodate foul flows and the surface water generated by the proposal will be discharged into the existing soakaway on site. The proposed increase in floorspace of 155.7 sq m will have a negligible impact on the surface water generated on site, since the area where the proposed building and extensions are to be located already comprise of an impermeable surface. On this basis no further details are required and the proposed scheme therefore accords with Policies SP15 and SP19 of the Core Strategy.

Contamination

- 5.25 The site is operational and is undertaken within large industrial buildings and converted offices. The new proposed additional building and extension would be located on hard standing land that is considered previously developed land. This being as defined in Annex 2 of the NPPF which described Previously Developed Land as land which was occupied by a permanent structure and any associated fixed surface infrastructure. There is a constraint for the site as potentially contaminated land – slaughter house, abattoir. There are no expected contaminants from other forms of land contamination. Therefore given the current use of the site and the known slaughter use operating on the site, it is considered that it is not necessary to seek land contamination information.
- 5.26 The proposal is therefore considered to be acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

Case for Very Special Circumstances

- 5.27 In relation to Very Special Circumstances (VSC's) it is necessary for the decision maker to conduct a balancing exercise by weighing the harm by reason of inappropriateness and any other harm against other circumstances in order to form a view whether those other circumstances amount to very special circumstances.
- 5.28 In terms of the above it has already been established some harm is created by reason of inappropriateness, however no harm is considered in terms of openness or any other harm i.e. visual impact in this case. A normal or common planning consideration is capable of giving rise to very special circumstances and the correct approach, it was found, is to make a qualitative judgment as to the weight to be attached to the factor under consideration. The NPPF limits itself to indicating that the balance of such factors must be such as 'clearly' to outweigh the harm by reason of inappropriate and any other harm.
- 5.29 The applicants have submitted a case for very special circumstances (VCS) and they consider that there are several significant considerations which comprise the case required to overcome the harm to the Green Belt caused by the proposal. The statement concludes no harm to openness and no harm to the purposes of including land within the Green Belt. The consideration of any other harm is as follows:
- the need for the facility in both commercial and economic terms;
 - operational considerations;
 - a lack of alternative viable sites, and the Scope for Disaggregation;
 - employment Impact;
 - other benefits associated with the development.
- 5.30 Each VSC will be discussed in turn.

The Need for the Development and Operational Considerations

- 5.31 The agent states *“This development will allow Dovecote Park to continue to expand and prosper. The facilities at Dovecote Park, by their very nature, create a large amount of beef fat which this development will allow to be processed for economic benefit. The retrospective extension to the existing fat processing plant is required to allow the beef fat to be processed so that it meets the Food Standards Agency’s requirements. This is an existing part of the business and as such it is considered that this proposal should be supported as it will allow this part of the business to continue to operate in order to sell a by-product.”*
- 5.32 *“The development of the beef protein building will allow the beef protein, which would otherwise be wasted, to be processed so that it can be used in a manner that benefits the business. This not only reduces the amount of waste generated on site but it also provides a business opportunity to diversify the business. Interest has been expressed in purchasing the beef protein and Dovecote Park have already held meetings with potential clients. As the beef fat is created on site it is not considered to be either efficient or viable to move the produce off site to process it. This is particularly relevant with regards to the extension to the fat melting plant as the building and the processing equipment are already in place. The new beef protein building is intradiscally linked to the fat melting plant therefore it would seem*

most logical and efficient to locate this new facility immediately adjacent to the existing fat melting plant as it Dovecote Park have considered how much additional produce would be made as a result of processing the fat to capture the beef protein. The proposed development represents the minimum quantum and scale of development that would be required to allow the processing to be viable.”

Lack of Alternative Viable Sites and the Scope for Disaggregation

- 5.33 In support of the above the agent states; *“The consideration of alternative sites has previously been a major consideration for the applicant in resolving the objective of meeting the identified need. The possibility of processing the beef protein and additional fat at an alternate site has been explored by our client. However, the purchase or leasing of another processing site and the additional resources that would be required in terms of the equipment, production staff, quality assurance staff, administration staff and engineers could not be justified for the quantity of beef protein and fat to be processed.”*
- 5.34 *“The setting up of a standalone site would require unrealistic returns on investment since many site functions would need to be duplicated at an alternative location. In addition, there are extra costs for setting up potential sewerage systems, power, boilers, compressed air and other services.”*
- 5.35 *“Purchase of a new site or leasing would add a prohibitive additional cost compared to the current site that is owned by Dovecote Park. When all these additional costs are analysed, the project is not economically viable. The purpose of the proposal is to provide a new facility which is interlinked to the existing facilities on site and will provide a high quality product. This will help the business adapt to the market demands which could not be achieved by splitting the operations across multiple sites.”*

Employment Considerations

- 5.36 The agent also states the revised NPPF provides that planning decisions should help to create the conditions in which businesses can invest, expand and adapt, and that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In addition, it also provides that decisions should enable the sustainable growth of all types of business in rural areas. The protection of existing jobs from potential market down turns as well the creation of an additional job and the benefits that bring to the local economy should carry significant weight in the balance of considerations.

Other Benefits

- 5.37 The submission also claims the isolated location currently occupied by the Dovecote Park complex offers considerable benefits in terms of the potential impacts on amenity or neighbouring commercial interests. This however is not regarded as a very special circumstance, nor is the fact that the proposal has very limited harm on openness.
- 5.38 Finally the application claims the development cannot be located in a more appropriate non-Green Belt location due to it being inter-related to the existing use of the site, and the lack of any other producers which can meet the need for the

development, and the costs of setting a dedicated site to meet that need elsewhere are prohibitive.

- 5.39 Officers concur with the above and that the proposal will assist with supporting the existing significant employment levels on site and help to improve the resilience of the existing business to market trends in a proportionate and sensitive way, thus bringing significant economic benefits to the area.

Conclusion on very special circumstances

- 5.40 In respect to the above justification, it is clear that this there is a clear need for these new buildings, infrastructure and extensions in order that the site continues to run effectively. It would be inefficient and unreasonable to expect these activities undertaken in these buildings and plant to be located off site. This weighs heavily in support of the proposals and is regarded as a very special circumstance. Some of the benefits listed by the applicants are not considered very special circumstances, like for instance local employment creation, however the proposals will make the site more effective and firm up its economic resilience, which will maintain the companies' ability to have a positive impact on local employment.

6 CONCLUSION

- 6.1 The proposed development by virtue of the successive extensions and additional buildings over time constitutes inappropriate development within the Green Belt. This is therefore by definition harmful to the Green Belt and as such development should not be approved except in very special circumstances.
- 6.2 The applicant has submitted a case for very special circumstances based on the essential need for the facility and lack of alternative arrangements circumstance which is accepted by officers and given substantial weight. The proposals have very limited effects upon openness and any other harm i.e. visual amenities or upon the purposes of including land within the Green Belt. It is therefore concluded that the case put forward for very special circumstances by the applicant clearly outweighs any harm by virtue of inappropriateness and any other harm in terms of the impact on openness or the visual amenities of the Green Belt in accordance with Paragraph 144 of the NPPF. Having had regard to the development plan, all other relevant local and national policy considerations, consultation responses and all other material planning considerations the proposal is acceptable in all other regards, according with Policies EMP9, ENV1, ENV15 and T1 of Selby District Local Plan and Policies SP1, SP2, SP3, SP13, SP15, SP18 and SP19 of Selby Core Strategy and the NPPF.
- 6.3 The application will also not be required to be referred to the Secretary of State as the floor area of the buildings created is less than 1000 sq m.

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:

Site Location Plan 1 - OXF10242 Mar 17.
Plan as existing - Drawing No. P04 Rev A
Elevations as existing - Drawing No. P06
Site Plan as proposed - Drawing No. P02 Rev A
Elevations as Proposed - Drawing P03 Rev A
Plan as proposed –Drawing No. P05 Rev A

Reason:
For the Avoidance of Doubt

03. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall be those currently used and those stated in the submitted plan 'Elevations as proposed' Drawing P03 Rev A i.e. profile sheeting roof and timber clad walls.

Reason:
In the interests of visual amenity and in order to comply with 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.

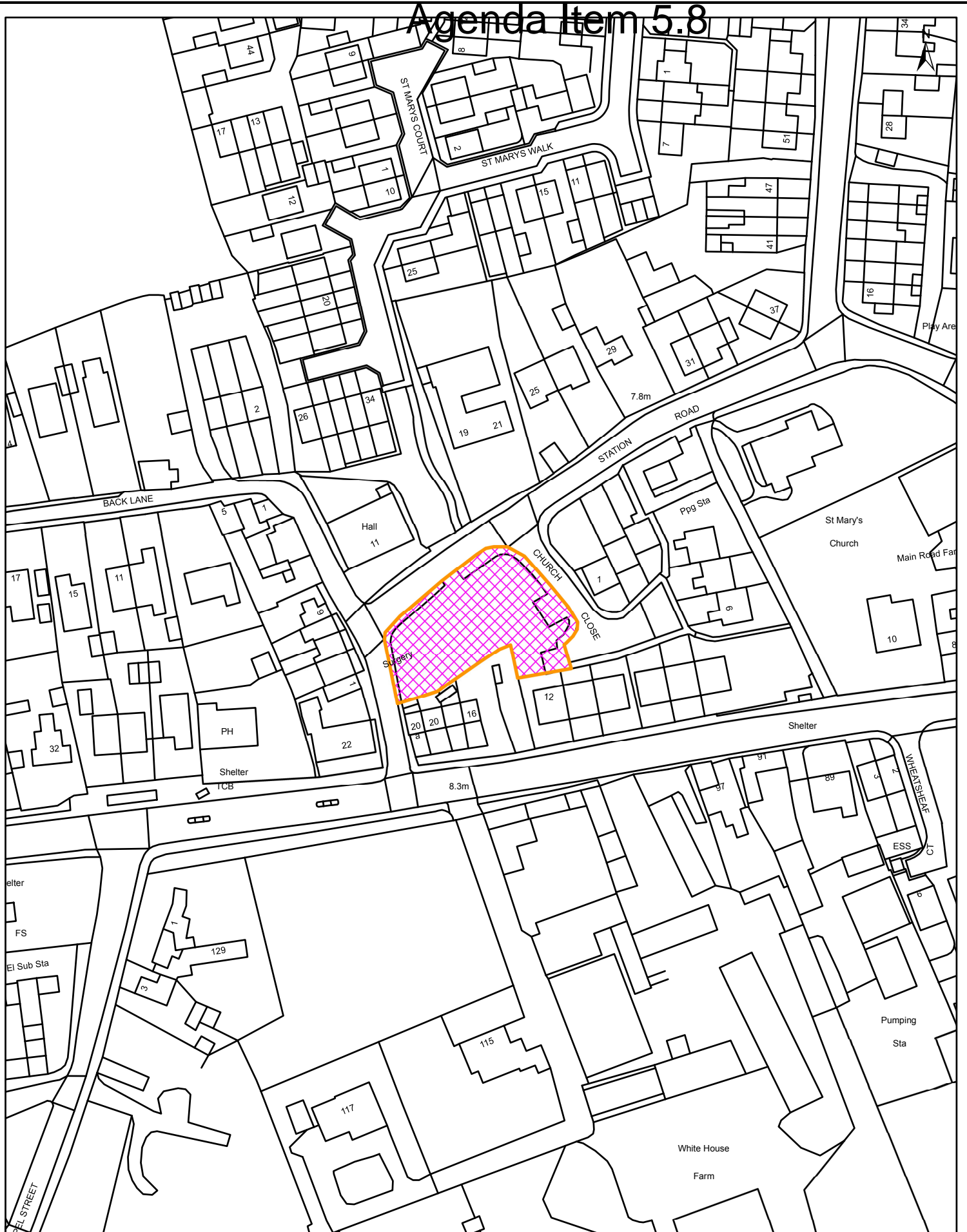
10 Background Documents

Planning Application file reference 2019/0995/FULM and associated documents.

Contact Officer: Gareth Stent (Principal Planning Officer)
gstent@selby.gov.uk

Appendices: None

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APPLICATION SITE

Land off Station Road, Hambleton
2019/1159/FUL

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Report Reference Number: 2019/1159/FUL

To: Planning Committee
Date: 5 February 2020
Author: Fiona Ellwood (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/1159/FUL	PARISH:	Hambleton Parish Council
APPLICANT:	Selby District Council	VALID DATE:	19th November 2019
		EXPIRY DATE:	14th January 2020
PROPOSAL:	Erection of 2 No semi-detached and 1no detached 2 bed single storey dwellings		
LOCATION:	Land Off Station Road Hambleton Selby North Yorkshire		
RECOMMENDATION:	GRANT subject to the completion of an appropriate Section 106 Agreement		

This application has been brought before Planning Committee as the applicant is Selby District Council.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The site comprises an area of Greenfield land immediately adjacent to an existing area of housing off Station Road in Hambleton and Church Close. The adjacent properties on Church Close are a mix of low height, small, standard terraced bungalows to the southeast and stepped terraced blocks of three bungalows to the east. The site is otherwise surrounded by a mix of (majority terraced) traditional, two storey dwellings to the west side of Back Lane and the immediate south, fronting Main Road. The Village Hall is located to the north side of Station Road. Existing properties surrounding the site are built dominantly from brick, bungalows and the Village Hall modern in style.

The Proposal

- 1.2 The proposal is for the erection of 2 semi-detached and 1 detached 2 bed single storey dwellings affordable homes. The houses would be constructed of red brick

and dark grey roof tiles. The dwellings would be of simple design with front gable features.

Relevant Planning History

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

CO/1978/14812: Erection Of Nine Bungalows, Address: Station Road, Hambleton: Permitted 21 June 1978

2. CONSULTATION AND PUBLICITY

2.1 NYCC Highways

Concerns regarding the visibility splays at plot 1. The garage of the neighbouring property blocks visibility splays and therefore can't support the proposed car parking arrangements for plot 1. Recommend that the applicant reassesses the site and sees if a more suitable parking arrangement, which is not restricted on visibility, can be found. In addition visibility splays on two areas will be affected by the proposed vegetation.

Members will be updated at Committee.

2.2 Yorkshire Water Services Ltd

Makes comments and recommends conditions.

2.3 Selby Area Internal Drainage Board

No comments received.

2.4 Conservation Officer

The site is located close to a Grade II Listed Building, 22 Main Street, Hambleton. Although the listed building faces a different direction, there are direct views between the site and the listed building and the site is viewed in context with the listed building. The site therefore forms part of the setting of the listed building and has the potential to impact upon the significance of the designated heritage asset.

- No objections to the principle.
- The proposed development is for single storey bungalows with projecting gables. No other buildings of this style in the area. (There is also a concern regarding the structure on the corner cannot find details of this, however it has a close proximity to the listed buildings and its curtilage listed structures, the scale, form and design should reflect the scale of outbuildings on the opposite side of the road).
- Boundary treatments, the proposed brick piers, low wall and fence on top arrangement is also not traditional and is quite fussy detailing. To the front and side, the boundary should be a low brick wall with traditional detailing. To the rear there could be close boarded fencing.
- Material samples needed -the brick should be a red and brown mix to blend in with the area.

It is advised that further works are carried out on the design to improve it and make it more traditional and sympathetic to the setting of the listed building.

2.5 Contaminated Land Consultant

Comments awaited and Members will be updated at Committee.

2.6 Waste and Recycling Officer

External storage is shown for 3 x wheeled bins. The Council recently approved a change to the current recycling service and will shortly be moving to a wheeled bin system. This will require external storage for 4 x 240 litre wheeled bins in total - 1x refuse, 1x green waste, 2 x recycling.

2.7 Parish Council

No comments received.

Publicity

2.8 The application was advertised by Site Notice and Neighbour Notification Letters. 3 letter of representation and a petition signed by 22 people has been received. Main grounds of objection summarised as follows:

- Not needed-Already enough housing in Hambleton
- Infrastructure insufficient (schools full, water and sewage provision to capacity, public transport limited)
- Loss of amenity green space
- Loss of parking for the village hall (which doesn't have enough)
- Traffic problems on the bend in the road
- Developer should pay for grassed area beside the hall to be surfaced to compensate for parking loss
- Bedrooms to the bungalows are at the front and may give rise to complaints of noise and disturbance from activities at the hall

3 SITE CONSTRAINTS

Constraints

3.1 The application site lies within the development limits of Hambleton, a designated service village. There is a Grade II Listed Building (No. 22 Main Road - The Villa) situated to the west corner of Back Lane/Main Road. The site is located within Flood Zone.

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
SP4- Management of Residential Development in Settlements
SP5: The Scale and Distribution of Housing
SP8: Housing Mix
SP9: Affordable Housing
SP15: Sustainable Development and Climate Change
SP18: Protecting and Enhancing the Environment
SP19: Design Quality

Selby District Local Plan

- 4.7 The relevant Selby District Local Plan Policies are:

RT1: Recreation Open Space
ENV1: Control of Development
ENV2: Environmental Pollution and Contaminated Land
T1: Development in Relation to Highway
T2: Development including creation of a new access

5 APPRAISAL

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

- 1) The principle of the development
- 2) The impacts of the proposal on:
 - Historic Assets and Character and form of the locality
 - Highway Safety
 - Residential Amenity
 - Affordable Housing
 - Contamination
 - Nature Conservation and Protected Species
 - Flood Risk and Drainage

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" and sets out how this will be undertaken.
- 5.3 The application site is situated within the defined Development Limits of Hambleton which is defined as a Designated Service Village (DSV) in the Core Strategy. Policy SP2A(a) of the Core Strategy states DSVs "have some scope for additional residential and small scale employment growth" adding proposal "for development on non-allocated sites must meet the requirements of Policy SP4.
- 5.4 Policy SP4(a) sets out that in order to ensure that development on non-allocated sites contributes to sustainable development and the continued evolution of viable communities, the following types of residential development will be acceptable in principle within Development Limits. In Designated Service Villages (DSV's) this includes; conversions, replacement dwellings, redevelopment of previously developed land and appropriate scale development on greenfield land.
- 5.6 The site appears to be an area of informal open space and has the characteristics of a small village green. It is also partially utilised as informal parking for adjacent properties and on a regular basis by people visiting the village hall opposite. The area of land has no formal status and is not designated in the Local Plan as an area of recreation open space. Moreover it was previously included as part of the application site of the adjacent bungalows and was shown on the approved layout with housing. As this development has been implemented it means there is an extant consent on the site for housing development which could be completed at any time. The site cannot therefore be considered to be public open space. The proposal makes use of greenfield land within the development limits of a DSV and therefore conforms to the forms of development considered acceptable in principle within Development Limits of Designated Service Villages identified within SP4(a) of the Core Strategy.

Historic Assets and Character and form of the locality

- 5.7 Policies ENV1 and ENV24 of the Selby Local Plan, Policies SP18 and SP19 of the Core Selby Strategy and the NPPF require proposals to take account of their impacts on heritage assets. Whilst in considering proposals which effect a listed building regard has to be made of S16 (2) (or S66 (1) if it is a planning application affecting a Listed Building or its setting) of the Planning (Listed Buildings and Conservation Areas Act) 1990 which requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'.
- 5.8 In terms of the impact of the development general on the character and appearance of the locality, relevant policies in respect to design and the impacts on the character of the area include Policy ENV1 (1) and (4) of the Selby District Local Plan, and Policies SP19 "Design Quality" and SP4(c) of the Core Strategy. Significant weight should be attached to Local Plan policy ENV1 as it is consistent with the aims of the NPPF. Relevant policies within the NPPF, which relate to design, include paragraphs 124 to 131.

Heritage Assets

- 5.9 The Heritage Assets consist of 22 Main Road located on the north side of the A63 on the corner of the junction with Station Road. This is a Grade II Listed Building. In accordance with the NPPF paragraph 128 the Local Planning Authorities require the applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. A Heritage Statement has been submitted which describes the house as early-mid C19 and gives architectural detail from the listing. The Statement assesses the contribution which setting makes to the significance. 22 Main Road follows an established pattern of frontage dwellings facing the main road with its intrinsic value being the architectural features of the frontage which makes positive contribution of the setting of the house and its curtilage. Paragraph 193 of the NPPF sets out that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be)."
- 5.10 The application site is in close proximity to the Listed Building and although it faces a different direction, there are direct views between the site and the listed building and the site is viewed in the context of the listed building. The site therefore forms part of the setting of the listed building and has the potential to impact upon the significance of the designated heritage asset.
- 5.11 The Heritage Statement submitted by the applicant concludes that the setting of the building is already considered to be compromised to such a degree that the site contributes little to the status of the house. The proposed development is located on the opposite side of Station Road, a local unclassified road and the development will not obscure or detract from any important views. The rear elevation of the building would remain visible from along station road. Its architectural value would not be affected by the proposed development; there is no threat to any part of the structure as a result of the proposed build. On this basis the Heritage Statement concludes that the proposed development would not harm the setting of the historic asset.

- 5.12 The Council's Conservation Officer comments that the gabled form of these dwellings are uncharacteristic of the immediate area around the listed building. To the west, the south and the north east there are simple traditional two storey terraces built from a red and brown mixed brick which contributes to the character and local distinctiveness of the area. To the east and the north there are single storey and bungalows, however the style of these are also very simple and flat fronted with no projecting gables. In addition some concerns are raised about the boundary treatments (sections of 1.8m high brick piers, low wall and fence on top, 1.2 m high picket fencing picket fencing, sections of 11.5m & 1.8m high close boarded fencing) are fussy and should be simplified.
- 5.13 Whilst the form of the bungalows does not reflect the more traditional dwellings nearer the listed building, it is considered, these do have some impact on the setting of the listed building. However, this is considered to be less than substantial given the variety of built form in the area including other nearby bungalows and the village hall. This harm would be reduced if the materials reflect the material used on the traditional red and brown mixed brick of the listed buildings and nearby traditional buildings to the west (rather than the lighter buff brick to the east) and provided the boundary enclosures are amended to be more sympathetic and appropriate to the character of the area.
- 5.14 Materials can be secured by way of condition and the applicant has agreed to using an appropriate brick and tile and providing samples. In terms of the boundary details, amendments have been received. The revisions remove the brick and fence wall to a simple 1.8m close boarded fence at the rear and sides where it is set back from the boundary edge. These elements are considered acceptable. The details of the boundary frontage are not shown on the plan. A condition will therefore be needed requiring these details to be submitted and approved. It is noted from discussions that a low brick wall is not suitable due to the likelihood of people sitting on it. Close boarded fencing is also not considered suitable due to being out of keeping with the character of the area. The frontage boundary should more appropriately be simple low picket fencing or simple slender low rail fencing.
- 5.15 Subject to the above mentioned conditions the impact on the setting of the heritage assets is considered to be less than substantial harm. The NPPF sets out at paragraph 196 that "where a development proposal will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal".
- 5.16 In this case the public benefits are the provision of three affordable housing units for people specifically in Hambleton. The basis of this scheme has been to focus on the established housing need specifically in Hambleton which has shown a requirement for 2 bedroom housing. It has also been shown that there is a need to provide housing for those with a mobility need or chronic illness/progressive disability. This reaffirms Selby District Council's requirement to provide the appropriate housing to meet the need. This application would provide housing to meet the special needs of people on the waiting list and would free up the existing housing for others on the waiting list. The public benefits of the provision are considered to be significant and to outweigh the less than substantial harm to the setting of the listed building.

Character and appearance of the area

- 5.17 The development would result in the loss of an open green space within the built up area. The concerns of local residents in this respect are acknowledged. However,

the site does have an extant consent and has never been part of any planned recreational provision, either formal or informal for the area.

- 5.18 The site is mainly open grass but has some trees to the south boundary adjoining the rear garden of the dwellings. The application is accompanied by an Arboricultural survey. This shows the site contains 14 trees consisting of close grown individual trees close to the southern boundary and two relatively small trees close to the northern boundary. Species diversity at the site is consists of Ash, Elder, Holly, Hornbeam, Leyland Cypress, Prunus, Rowan and Sycamore. None of the trees are protected by any TPO,s and the site is not within a conservation area. Of the surveyed trees, 2 are considered to be category 'B' which is good quality and value with a significant life expectancy and should be retained if possible and incorporated into the design. The remainder are category 'C' which could be retained but are of low or average quality.
- 5.19 However, not all the trees referred to in the report are within the red line area. Trees 11-14 which includes one of the 2 category 2 trees are to the south of the red line between the bungalows and the properties fronting High Street. These would not be affected by the development. Only one of the trees that is within the red line site area is category B, a hornbeam, and this would need to be removed as it would be too close to the dwelling on plot 3. A tree within the north part of the site and a further small 3 trees on the rear boundary, all category C would be removed to facilitate Plots 1 and 2. Four other small trees on the rear boundary are shown to be retained.
- 5.20 Overall the C category trees are not considered to be of such high quality as to require retention. Moreover, they don't contribute significantly to the character or appearance of the area but provide more screening function to the dwellings on the south side of the site. Removal of the trees proposed is considered acceptable subject to a condition requiring protection of the remaining boundary trees during development. The removal of the B category tree together with the other trees within the site would result in a small negative impact on the streetscene and the visual amenity of the area.
- 5.21 It is noted that there is a small are of land remaining within the redline area which would remain outside of the garden areas. Potential exists to provide some replacement planting here which would in time give a green backdrop to the development and contribute positively to the street scene. A condition could be imposed requiring the submission of a landscaping scheme to be agreed. Subject to this, and its satisfactory implementation, it is considered the proposal would have a neutral impact on the character and appearance of the area with respect to trees.
- 5.22 In terms of design the dwelling units are simply designed bungalows and the design, character and form reflects similar bungalows on Church Close. The materials can be secured by conditions to ensure they are sympathetic to the surrounding development. Overall, the scheme is considered to take account of the character of area, in terms of its height, scale, form and type. The boundary treatment and planting should also be conditions to ensure the hedgerow is planted to soften the appearance within this open context.
- 5.23 As such the proposals are considered to comply with Policy ENV1 and ENV 28 of the Local Plan and SP18 and SP19 of the CS and with the NPPF.

Highway Safety

- 5.24 Policies ENV1 (2), of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements. Policy T1 of the Local Plan relate to consideration of the highways impacts of development. Policy T1 notes that development should be well related to existing highways networks and will only be permitted where existing roads have adequate capacity otherwise off site highways works may be required. It is considered that these policies of the Selby District Local Plan should be given significant weight as they are broadly in accordance with the emphasis within the NPPF.
- 5.25 The Highway Authority initially raised some concerns about the development not meeting requirements for pedestrian inter visibility splays for plot 1 due to the neighboring garage which blocks visibility. The applicants have responded by moving the driveways to create a 2m x 2m pedestrian visibility splay to mitigate the problem and provided further information on vehicle speeds road radius bends. Highways also raised concerns about the visibility across two corners of the site due to boundary treatments reducing visibility. Amended plans have been received and the comments from the highway authority on the revised scheme are awaited. An update will be given to Members at the meeting.
- 5.26 Residents have raised concerns about the loss of parking. The frontage of this site has no boundary and the informal wide surfaced edge has been used for casual overflow parking for visitors to the village hall. The success and popularity of the use of the hall and loss of this convenient area of parking is acknowledged. However, this site is not formally parking provision for the hall and could be developed at any time. The highway authority raised no objections to the proposal and it would not be appropriate to withhold permission on this site because a different site lacked sufficient parking at peak times.
- 5.27 The scheme is considered acceptable in terms of road safety standards and subject to compliance with the recommended conditions, the development is considered acceptable in terms of road safety and would not conflict with Policies ENV1 (2) and T1 of the Local Plan.

Residential Amenity

- 5.28 Relevant policies in respect of the impact of the proposal on residential amenity include Policy ENV1 (1) of the Selby District Local Plan. Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved for all existing and future occupants of land and buildings.
- 5.29 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighboring properties, overshadowing/overbearing of neighboring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 5.30 It is noted that no objections have been received in relation to impacts on residential amenity particularly in terms of the relationship to properties fronting Main Road, Station Road or Church Close.
- 5.31 Plot 1 is positioned close to 20 Main Road with a gap of only 10 metres between rear elevations. However, given the proposed dwelling is single storey only, it would

not give rise to overlooking of the rear windows or private amenity space of the dwellings. Moreover, there is a high wall already in place which will be maintained. The front of the dwellings would face the street and would not overlook the private amenity space of any other dwellings.

- 5.32 The dwellings are small single storey only with pitched roofs and given their size form and position they would not result in an overbearing or overshadowing impact on other nearby dwellings. Overall although modest in size they would provide a satisfactory level of amenity for future occupants. Local respondents have raised concerns about the bedrooms being at the front of the house and the potential for complaints of noise from the village hall which could then curtail the activities.
- 5.33 However, bedrooms are not uncommon at the front of houses and the level of activity at the hall is not considered to be of significant detriment in terms of noise and disturbance to residential amenity. Moreover, modern double glazing or acoustic glazing could minimize the levels of noise. The lead Environmental Health Officer has been consulted and an update will be given at Committee.
- 5.34 Overall, subject to the above and no issues raised by the Council's Environmental Health Officer, it is considered that the proposed development would not result in a significant detrimental impact on the residential amenities of the area or surrounding properties and that a good standard of residential amenity, would be achieved within the development in accordance with Policy ENV1(1) of the Local Plan and the NPPF.

Affordable Housing

- 5.35 Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District.
- 5.36 This scheme is for 100% affordable housing units. Therefore subject to a Section 106 Agreement to ensure that the units implemented are 'Affordable' and remain in perpetuity as such, the proposal is considered acceptable in respect of affordable housing policy.

Contamination

- 5.37 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. The application is supported by a contamination assessment that has been reviewed by the Council's Contaminated Land Consultant. The comments of the consultant are awaited and Members will be updated at Committee.
- 5.38 Subject to the advice of the consultant and appropriate conditions which may be recommended, the proposals would be acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

Nature Conservation and Protected Species

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

- 5.40 Protected Species are protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of a protected species is a material planning consideration. The application site is not a formal or informal designated protected site for nature conservation itself or is known to support any populations of protected species or species or habitats of conservation interest.

Flood Risk, Climate change and Drainage

- 5.41 The application site is located in Flood Zone 1 and therefore has low probability of flooding. As such a Sequential flood risk test is not required. The application details that existing foul sewer will accommodate foul flows and the surface water generated by the proposal will be discharged into mains sewer. Options for soakaways or discharge to a watercourse have been investigated and found unsuitable. No objections are received from the water bodies subject to conditions.
- 5.42 In terms of climate change then the Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate meet 8 criteria set out within the policy. Having had regard to the nature and scale of the proposal, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria of SP15 (B) of the Core Strategy. Therefore having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.
- 5.43 On this basis no further details are required and the proposed scheme therefore accords with Policies SP15 and SP19 of the Core Strategy.

6 CONCLUSION

- 6.1 Subject to the above consultation responses awaited from the Highway Officer, Environmental Health and the Contaminated Land Consultant, the scheme is considered acceptable in principle being the development of a Greenfield site within the development limits of a designated service village and would be consistent with the aims of Policies SP1, SP2 and SP4 of the Core Strategy.
- 6.2 The development would result in less than substantial harm to the setting of the heritage asset but it is considered that the public benefits of the scheme outweigh the harm. The scheme is also acceptable in terms of the impacts on the character and appearance of the area, and impact on residential amenity. Furthermore the proposal is acceptable in terms of its impact on flood risk, drainage, nature conservation and protected species, land contamination and affordable housing.

7 RECOMMENDATION

- 7.1 This application is recommended to be **Granted** subject to no issues being raised by the Highway Officers, Environmental Health Officer and the Contaminated Land Consultant and the completion of a S106 Agreement to ensure the dwellings are Affordable Housing and retained in perpetuity for such purpose and 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 following approved plans and documents, notwithstanding the details in the application form:

To be inserted later

Reason:

For the avoidance of doubt.

03. No development shall start above slab level until details of the details of the external materials 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. Notwithstanding the application details, full details of the boundary treatment for the dwellings shall be submitted for the written approval of the local planning authority and thereafter only the approved details shall be implemented.

Reason

IN the interests of visual amenity and to protect the setting of a Grade II Listed Building and in order to comply with Policy ENV1 and ENV24 of the LP

05. Before the dwellings are occupied, Waste and re-cycling bins shall be provided in accordance with the minimum requirement of 4 x 420 litre wheeled bins in total (1 x refuse, 1 x Green waste, 2 x recycling)

Reason

In the interests of providing adequate provisions for the collection and removal of waste for re-cycling

06. The site shall be developed with separate systems of drainage for foul and surface water on and offsite. Surface water shall be restricted to a maximum rate of 3.5 (three point five) litres per second.

Reason

In the interest of satisfactory and sustainable drainage.

07. Before the start of any works above slab levels on the dwellings, a landscaping scheme shall be submitted for the written approval of the Local Planning Authority to include replacement tree planting within the area of land to the rear of plot 3. The approved scheme shall be carried out no later than the first planting season following the date when the development hereby permitted is ready for occupation. All planted materials shall be maintained for five years and any trees or plants removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced with others of similar size and species to those originally required to be planted.

Reason:

To ensure that the appearance of the development is satisfactory.

08. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that any potential 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.

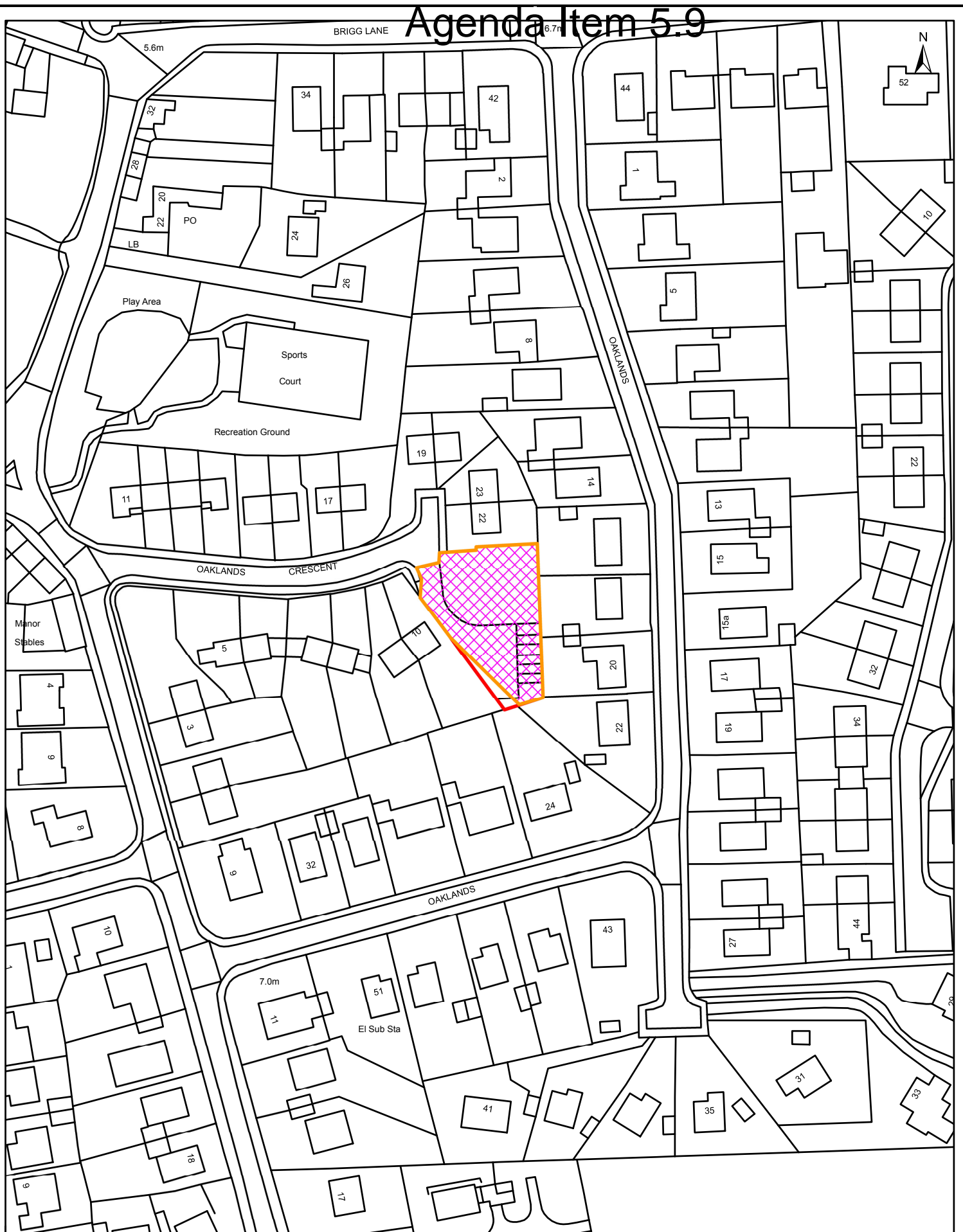
10 Background Documents

Planning Application file reference 2019/1159/FUL and associated documents.

Contact Officer: Fiona Ellwood (Principal Planning Officer)
fellwood@selby.gov.uk

Appendices: None

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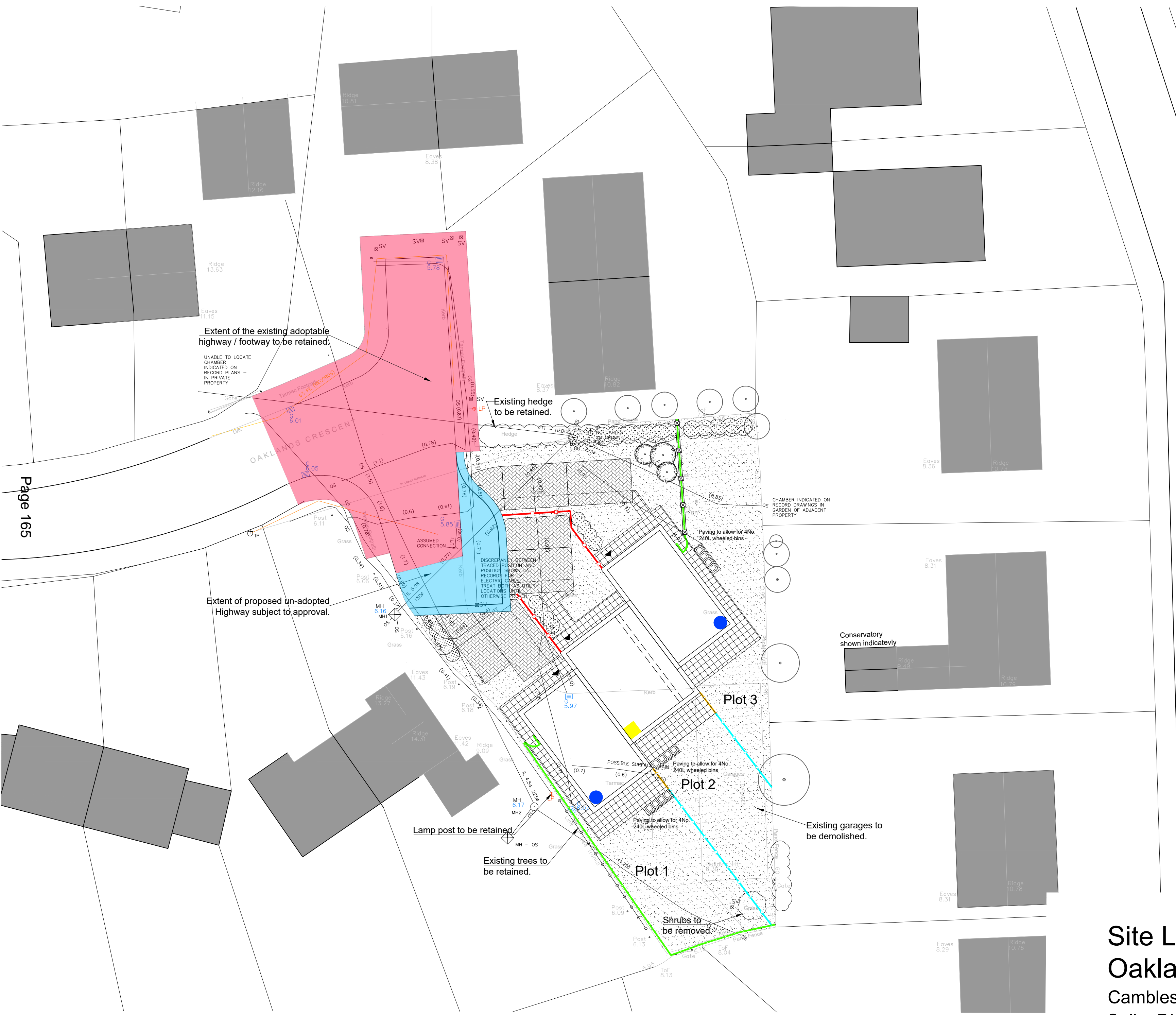
APPLICATION SITE

Land off Oaklands Crescent, Gamblesforth
2019/1234/FUL

1:1,250



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Page 165

Schedule of Accommodation

2B4P with ginnel	@ 90m ²	- 01no.
3BSP	@ 93m ²	- 02no.
		Total - 03no.
Site area	- 0.085ha	- 0.21 acres
Density	- 35.29units/ha	- 14.29 units/acre

Notes

Layout based on topographic survey by HH Surveys drawing number WSM/345/SP_2D.

Layout dependant upon confirmation of legal site boundary, Arboricultural survey, confirmation of statutory services routes & subject to Highway approval.

Drainage strategy subject to further detailed design, subject to Phase I & II Geo-technical Survey and Drainage Assessment.

Aspect distances subject to agreement with local authority.

Where necessary existing street furniture, bollards & signage to be removed / relocated by main contractor.

Key:

- 0.9m high powder coated metal railings
- 1.5m High close boarded fence with 300mm trellis
- 1.5m High close boarded fence
- 1.8m High close boarded fence
- 1.8m High close boarded timber fence with dwarf wall and brick piers
- Proposed location of new trees and soft landscaping
- Existing tree to be retained.
- Herringbone block paved parking bays incorporating 900mm wide path, demarcated with concrete pin kerb.
- Marshall's Saxon Paving or similar concrete paving to properties.

Key:

- Extent of the existing adoptable highway / footway to be retained.
- Extent of the proposed un-adopted highway subject to Local Authority approval.

Demarcation between the adopted / un-adopted surface to be agreed with NYCC Highways Dept.

Acanthus WSM Architects

The general contractor is responsible for the verification of all dimensions on site and the architect is to be informed of any discrepancy.

The status of information contained in a computer copy of this drawing shall be limited to that conveyed by the paper copy.

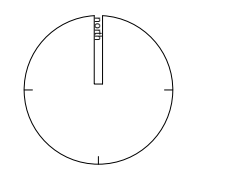
Revisions:

Rev. A	06.06.2019	NG/DRP
Layout overlaid onto topographic survey by HH Surveys dwg no WSM/345/SP_2D and adjusted to fit.		
Rev. B	11.06.2019	NG/DRP
Utility mapping survey overlaid by MET Geo Environmental drawing number P19/00624/MET/EXT/UMS/M2/GU/001. Highway updated and plot 2 handed.		
Rev. C	09.08.2019	RB/DRP
Site Layout updated and tree survey overlaid.		
Rev. D	07.10.2019	NG/DRP
Boundary treatment amended following clients comments.		
Rev. E	11.11.2019	NG/DRP
Title plans overlaid, drawing scale amended.		
Rev. F	08.01.2020	DRP/NG
Allowance made for 2m x 2m pedestrian visibility splay. Extent of the adopted and proposed un-adopted highway indicated.		

Key:

- Extent of the existing adoptable highway / footway to be retained.
- Extent of the proposed un-adopted highway subject to Local Authority approval.

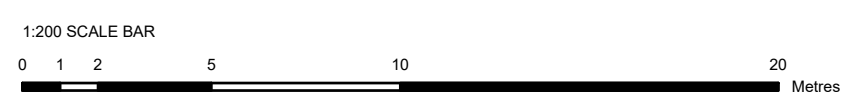
Demarcation between the adopted / un-adopted surface to be agreed with NYCC Highways Dept.



SELBY DISTRICT COUNCIL

Drawing Status	
<input type="checkbox"/> preliminary	<input checked="" type="checkbox"/> planning
<input type="checkbox"/> information	<input type="checkbox"/> tender
<input type="checkbox"/> comment	<input type="checkbox"/> construction
<input type="checkbox"/> approval	<input type="checkbox"/> record/as built
Scale	1:200 @ a2
Date	May 2019
Drawn/Checked	NG/DRP
Dwg.No	2430.05.254F

Site Layout
Oaklands Crescent
 Camblesforth, Selby
 Selby District Council



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Report Reference Number: 2019/1234/FUL

To: Planning Committee
Date: 5 February 2020
Author: Fiona Ellwood (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/1234/FUL	PARISH:	Camblesforth Parish Council
APPLICANT:	Selby District Council	VALID DATE:	25th November 2019
		EXPIRY DATE:	20th January 2020
PROPOSAL:	Erection of a terrace of three 2-storey affordable homes		
LOCATION:	Land Off Oaklands Crescent Camblesforth Selby North Yorkshire		
RECOMMENDATION:	GRANT subject to the completion of an appropriate Section 106 Agreement		

This application has been brought before Planning Committee as the applicant is Selby District Council.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The site comprises a small area of greenfield land and an area of a block of garages within an existing area of housing on Oaklands Crescent in Camblesforth. The housing surrounding the site to the north, east and south is single storey detached dwellings. Directly west of the site are two storey semi-detached dwellings.

The Proposal

- 1.2 The development would be for the erection of a terrace of three x 2-storey affordable homes with parking to the front. The dwellings would each have three bedrooms and the buildings would be set in a stepped configuration in red brick with dark grey roof tiles.

Relevant Planning History

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

2019/0939/: Demolition of block of 6 garages, Oaklands Crescent, Camblesforth, Selby, North Yorkshire. Permitted 17 October 2019

2. CONSULTATION AND PUBLICITY

2.1 NYCC Highways

No objections subject to conditions.

It should however be noted that some of the red line boundary is within the highway and as such the area concerned will need to be stopped up and a stopping up order is needed. (This can be addressed outside the planning process). If addressed, the gully and any drainage apparatus would need to be relocated. Wayleave agreement also may be needed with any utility companies which have apparatus in the area.

Second consultation on amended plans:

- Highway extent still does not reflect the records of NYCC.
- Notes no longer an intention to top up.
- Gully needs relocating

2.2 Yorkshire Water

Makes comments and recommends conditions. Some matters to be covered by Building Regulations.

2.3 Selby Area Internal Drainage Board

No comments received.

2.4 Contaminated Land Consultant

The site has previously been used as garages. A potential for made ground to be present on site was identified via the desk top study (Phase 1 report), with the contaminants of concern including metals, free cyanide, soluble sulphate, asbestos, phenol and polycyclic aromatic hydrocarbons, along with carbon dioxide and methane gas. The phase 2 investigation revealed only 1 exceedance of the assessment criteria for marginally elevated lead. All other contaminants were within acceptable limits. Ground gas monitoring was also carried out and no hazardous levels of gas were detected. The report recommends that a clean cover layer should be provided in the proposed garden areas in order to remove the contamination in the near surface soils and also break the pathway with the contamination in the soils beneath the clean cap. More detail regarding this is required, including a detailed design and verification plan. Planning conditions are recommended.

2.5 Waste and Recycling Officer

Comments about increased level of storage requirements. Concerns regarding external storage for Plot 2 being to the rear. Residents can move bins forward without bringing them through the house.

2.6 Parish Council

No comments received.

Publicity

2.7 The application was advertised by Site Notice and Neighbour Notification Letters. No letters of representation have been received.

3 SITE CONSTRAINTS

Constraints

3.1 The site is within the Development Limits of Camblesforth which is defined as a Secondary Village in the Selby District Core Strategy Local Plan. The site is located in Flood Zone 1 and within a source Protection Zone (3). There are no protected trees within or immediately adjacent to the site.

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 (CS)

4.6 The relevant Core Strategy Policies are:

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

Selby District Local Plan (LP)

4.7 The relevant Selby District Local Plan Policies are:

RT1: Recreation Open Space
ENV1: Control of Development
ENV2: Environmental Pollution and Contaminated Land
T1: Development in Relation to Highway
T2: Development including creation of a new access

5 APPRAISAL

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

- 1) The principle of the development
- 2) The impacts of the proposal on:
 - Character and form of the locality
 - Highway Safety
 - Residential Amenity
 - Affordable Housing
 - Contamination
 - Nature Conservation and Protected Species
 - Flood risk and drainage

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" and sets out how this will be undertaken.
- 5.3 The application site is situated within the Development Limits of Camblesforth. Core Strategy Policy SP2 sets out the spatial strategy for the district and states that the majority of new development will be directed towards the towns and more sustainable villages. Camblesforth is defined as a Secondary Village. Policy SP2b states that limited amounts of residential development may be absorbed inside the Development Limits of Secondary Villages where it will enhance or maintain the vitality of rural communities and which conform to the provisions of Policies SP4 and SP10.
- 5.4 Policy SP4 states that in order to ensure that development on non-allocated sites contribute to sustainable development and the continued evolution of viable communities, residential development will be acceptable in principle within the development limits of the Designated Service Villages if the proposal constitutes conversion, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built up residential frontages, and conversion / redevelopment of farmsteads). In all cases proposals will be expected to protect local amenity, to preserve and enhance the character of the local area, and to comply with normal planning considerations.
- 5.5 The remaining area next to the garages comprises a small area of greenfield that could be described as amenity open space (although it is not designated as such in the Development Plan). Saved Policy RT1 of the Local Plan states that: Proposals which would result in the loss of existing recreation open space and allotments will not be permitted unless:
- 1) The use has been abandoned and the site is not required to remedy an existing deficiency for recreation or allotment use elsewhere in the locality; or
 - 2) Alternative provision of at least the equivalent size, accessibility and quality is made within the locality to serve the needs of the existing community; or
 - 3) Sports and recreation facilities can best be retained and enhanced through the redevelopment of a small part of the site.
- 5.6 The preamble to the policy states that:
- "Important recreation open space in the form of sports pitches, children's play space and allotments has been identified on the proposals map. The omission of such a designation does not undermine the value of other recreation sites to which this policy will still apply". The loss of the open space need to be justified and weighed against other material considerations, including the delivery of affordable dwellings.
- 5.7 The open space is currently maintained by Selby DC but does not benefit from any facilities and is not directly overlooked by the surrounding houses. It is tucked away at the end of a cul-de-sac and is not readily accessible to the general public. There are no footpath links through to other parts of the housing estate which would encourage access to the site. The existing residents of Oaklands Crescent generally have both large front and rear private gardens therefore the open space has limited use/value due to its size and proximity of the surrounding properties

which includes bungalows to the north. It appears that this area of open space is disused.

- 5.8 The proximity of a significant area of Recreational Open Space, which can be accessed from Mill Lane close to the junction with Oaklands Avenue. These facilities includes a mixture of play equipment for younger/older children, picnic seating, cycle parking plus a large fenced off football pitch. It's also worth noting the facilities can be access from Oaklands Crescent without the need to a cross road. This play park includes play equipment and a football pitch and therefore provides opportunities for both formal and informal play in close vicinity of the application site.
- 5.9 On the basis of the above, it would appear that the criteria of RT1 of the Local Plan are met. The site comprises in part an area of former garages (previously developed land) and a small area of greenfield land which is located within a residential cul-de-sac. On this basis, the proposal is considered appropriate as it represents the filling of a small gap within an existing housing estate and its development would comply with SP2 and SP4 of the Core Strategy.

Layout, Scale & Appearance

- 5.10 Relevant policies in respect of design and the impacts on the character of the area include policy ENV1 of the Selby District Local Plan and policy SP19 of the Core Strategy. Section 12 of the NPPF states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. It further states at paragraph 130 that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 5.11 The immediate surrounding area is a mix of single storey detached and semi-detached bungalows, semi-detached dwellings and rows of linked terrace blocks of 3 or 4. The proposed development of this two storey terrace of three would not therefore be out of context with the character and appearance of the area. The site has a narrow frontage and the stepped configuration fits in with the site and the street scene. The houses will be constructed of red brick and dark grey roof tiles. Traditional brick detailing introduced into the elevations will enhance the connection with the neighbourhood architectural style.
- 5.12 Boundary treatment would be black railings 900mm high to the frontage with more solid close boarded timber fencing to the divisions between the gardens at the rear. The north front garden boundary would be brick wall and piers with timber close boarded fencing between the piers. Overall, the scheme is considered to take account of the character of area, in terms of its height, scale, form and type. The materials indicated are appropriate but the details should be secured by condition to ensure they reflect the surrounding context. The scheme is therefore in accordance with policies ENV1 of the Local Plan and SP19 of the Core Strategy.

Highways

- 5.13 Policy in respect to highway safety and capacity is provided by Selby District Local Plan Policies ENV1(2), T1 and T2 and Core Strategy Policy SP15. Policy ENV1 (2), of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements. Policy T1 of the Local Plan relates to the consideration of the highways impacts of development. Policy T1

notes that development should be well related to existing highways networks and will only be permitted where existing roads have adequate capacity otherwise off site highways works may be required. It is considered that these policies of the Selby District Local Plan should be given significant weight as they are broadly in accordance with the emphasis within the NPPF.

- 5.14 Issues have been raised by highways in relation to part of the site being within the highway and the need to stop up part of it and address the gullies and utilities. Amended plans were received which don't quite match up with the NYCC records. It is anticipated that this matter can be resolved prior to determination and does not affect the overall assessment in relation to road safety issues. Revised plans have been received which address these issues and appear to be acceptable. The highway authority have been re-consulted and an update will be given to Members at the meeting.
- 5.15 Notwithstanding the above, the highway authority does not raise any concerns regarding road safety and the scheme provides satisfactory arrangements and amount of car parking. The scheme is considered acceptable in terms of road safety standards and subject to compliance with the recommended conditions, the development is considered acceptable and would not conflict with Policies ENV1 (2) and T1 of the Local Plan.

Residential Amenity

- 5.16 Policy in respect of residential amenity is provided by SDLP policy ENV1. Paragraph 127 of the NPPF states that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 5.17 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighboring properties, overshadowing/overbearing of neighboring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 5.18 Taking the impact of each plot in turn, Plot 1 will cause some overshadowing of the rear elevation and garden area of the dwelling to the west due to it not aligning with the side of the existing house and its projection further back into the site. However, this would only be in the early morning when the sun is low. The house will still receive sunlight the remainder of the day. There would be no windows on the first floor side elevation to overlook this dwelling. Distances from the rear elevation to towards the bungalows on Oaklands would be more than 21 metres. So even though there are first floor windows which would overlook the gardens, the distance is considered acceptable and would not result in an unacceptable loss of residential amenity. Due to the size, scale and position and orientation there would not be an overbearing impact. Overall Plot 3 is considered acceptable in terms of the impact on the residential amenity of the surrounding dwellings.
- 5.19 Plot 2 would have limited impact on the surrounding dwellings being the centre of the proposed terrace of three. It would not overshadow or be overbearing on the existing residential dwellings nearby. The distance from the rear elevation to the nearest bungalow would be 21 metres. First floor windows would look towards the rear gardens of the bungalows but at this distance would be not result in a

materially harmful loss of residential amenity. Overall Plot 2 is considered acceptable in terms of the impact on the residential amenity of the surrounding dwellings.

- 5.20 Plot 3 is positioned nearer to the boundary due to the staggered arrangement of the terrace and the shape of the site. Initially it was considered to be too close to the boundary of the bungalow on Oaklands with just over 2 metres from the rear boundary and within 17 metres of the main rear elevation. This house also has a rear extension including a conservatory which is within 6 metres of the boundary. Although the rear elevation is offset at an angle to the bungalow to the east, and the first floor rear bedroom window has been positioned on the site, views would still be afforded from over the private rear garden, the conservatory and the principle rear elevation windows of the bungalow from close quarters. Normally 21 metres is the minimum acceptable distance between new dwellings. However, amended plans have now been received which pull the terrace slightly forward by 1.2m and also move the rear bedroom windows further forward along the side elevation. Minimum distances can now be achieved and the dwelling is not considered to have a materially harmful impact on the nearby dwellings. Plot 3 would cause some overshadowing of the gardens at the end of the day due its position due west. However, this is not considered to be materially harmful to the overall level of residential amenity enjoyed by the occupants.
- 5.21 As such the development is considered acceptable with respect to residential amenity and would not conflict with the aims of policies ENV1 of the LP and SP1 and SP19 of the CS.

Affordable Housing

- 5.22 Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District.
- 5.23 This scheme is for 100% affordable housing units. Therefore subject to a Section 106 Agreement to ensure that the units implemented are 'Affordable' and remain in perpetuity as such, the proposal is considered acceptable in respect of affordable housing policy.

Contamination

- 5.24 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. The application is supported by a contamination assessment that has been reviewed by then Council's contaminated land consultant.
- 5.25 The site has previously been used as garages. A potential for made ground to be present on site was identified via the desk top study (Phase 1 report), with the contaminants of concern including metals, free cyanide, soluble sulphate, asbestos, phenol and polycyclic aromatic hydrocarbons, along with carbon dioxide and methane gas. The phase 2 investigation revealed only 1 exceedance of the assessment criteria for marginally elevated lead. All other contaminants were within acceptable limits. Ground gas monitoring was also carried out and no hazardous levels of gas were detected. The report recommends that a clean cover layer should be provided in the proposed garden areas in order to remove the contamination in the near surface soils and also break the pathway with the contamination in the soils beneath the clean cap. More detail regarding this is required, including a

detailed design and verification plan. Planning conditions are recommended requiring these to be submitted.

- 5.26 The proposals are therefore acceptable with respect to contamination subject to appropriate conditions and in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

Nature Conservation and Protected Species

- 5.27 Policy ENV1(5) states that proposals should not harm acknowledged nature conservation interests, or result in the loss of open space of recreation or amenity value, or which is intrinsically important to the character of the area. Policy SP15B of the CS seeks to achieve sustainable development and sets a number of criteria which should be taken into consideration. These policies should be given significant weight as they are consistent with the NPPF.
- 5.28 The application has not been accompanied by an Ecological Assessment as this is not required given the scale of the development and the site itself. The site is an open small area of concrete hardstanding with very recently demolished garages and an area of public open mown grass. As such it is not considered that the development would harm nature conservation interests. There are no trees or vegetation on the site other than the cut grass and therefore there no ecological impacts would be expected.
- 5.29 The development is considered acceptable in terms of nature conservation and would not impact upon protected species or habitats.

Flood Risk, climate change and Drainage

- 5.30 The site is located within Flood Zone 1 as noted in the Environment Agency's flood mapping, which is defined as having a low risk of flooding. There is no requirement for a Sequential Test to be undertaken as a result. An outline drainage strategy has been provided with drawings. Foul drainage is intended to discharge to the public foul sewer in Oaklands Crescent west of the site. Surface water flooding is low risk with no measures required. In terms of drains and sewers there is currently an existing foul sewer pipe running through the western section of the site from south to north, close to the site boundary. There is also a surface water sewer running through the northern end of the site from west to east and extends out of the site boundary. The history of flood for the area does not currently suggest that the area suffers from existing sewer systems.
- 5.32 The proposed plots will have surfaces sloping away from the building envelope meaning any exceedance from the new drains will be directed towards the highway and adjacent shrubbery on the boundary. The water authority raises no concerns subject to conditions.
- 5.33 In terms of climate change then the Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate meet 8 criteria set out within the policy. Having had regard to the nature and scale of the proposal, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the

requirements of criteria of SP15 (B) of the Core Strategy. Therefore having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.

- 5.34 It is consider that the proposals are acceptable with respect to flood risk, and drainage and comply with policies ENV1 of the Local Plan and Policy SP15 of the Core Strategy.

6 CONCLUSION

- 6.1 In this respect it is noted that the scheme is intended to meet the demonstrable, objectively assessed housing needs of members of the local community. The proposed development would provide much needed single storey affordable housing within the community for residents in Camblesforth. The development is acceptable with respect to the impacts on the character and appearance of the area and would not be harmful to road safety, contamination, flood risk, drainage and nature conservation or protected species. Subject to minor amendments to satisfy the highway authority in relation to ownership and to the layout to improve residential amenity, approval is recommended subject to a S106 to secure the houses are implemented and retained in perpetuity as affordable housing and subject to conditions the scheme is acceptable subject to conditions and Informatives having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations.

7 RECOMMENDATION

- 7.1 This application is recommended to be Granted subject to the completion of a S106 Agreement to ensure the dwellings are Affordable Housing and retained in perpetuity for such purpose and 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 following approved plans and documents, notwithstanding the details in the application form:

(To be inserted into the Decision Notice)

Reason:

For the avoidance of doubt.

03. Waste and re-cycling facilities shall be provided in accordance with details to be agreed with the Council, upon agreement the scheme shall be implemented prior to the occupation of the dwellings.

Reason:

In the interests of providing adequate provisions for the collection and removal of waste for re-cycling

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

Reason:

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

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

Reason:

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

06. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the accesses to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:

- a). The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E5.
- b). Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.

All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason

In accordance with policy T1 and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

07. 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 buildings or other works until:

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

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

Reason

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

08. The development shall not be brought into use until the following the relocation of any highway drainage have been constructed in accordance with the details approved in writing by the Local Planning Authority under condition number 07.

Reason

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

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 02 have been constructed in accordance with the submitted drawing (Reference: Site Layout Plan: drawing number 2430.05.254). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times

Reason

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

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

Reason

In the interest of satisfactory and sustainable drainage.

11. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

Reason

To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network.

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

Reason

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

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

Reason:

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

14. 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.

INFORMATIVES

Highways

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

There must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the Highway Authority.

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

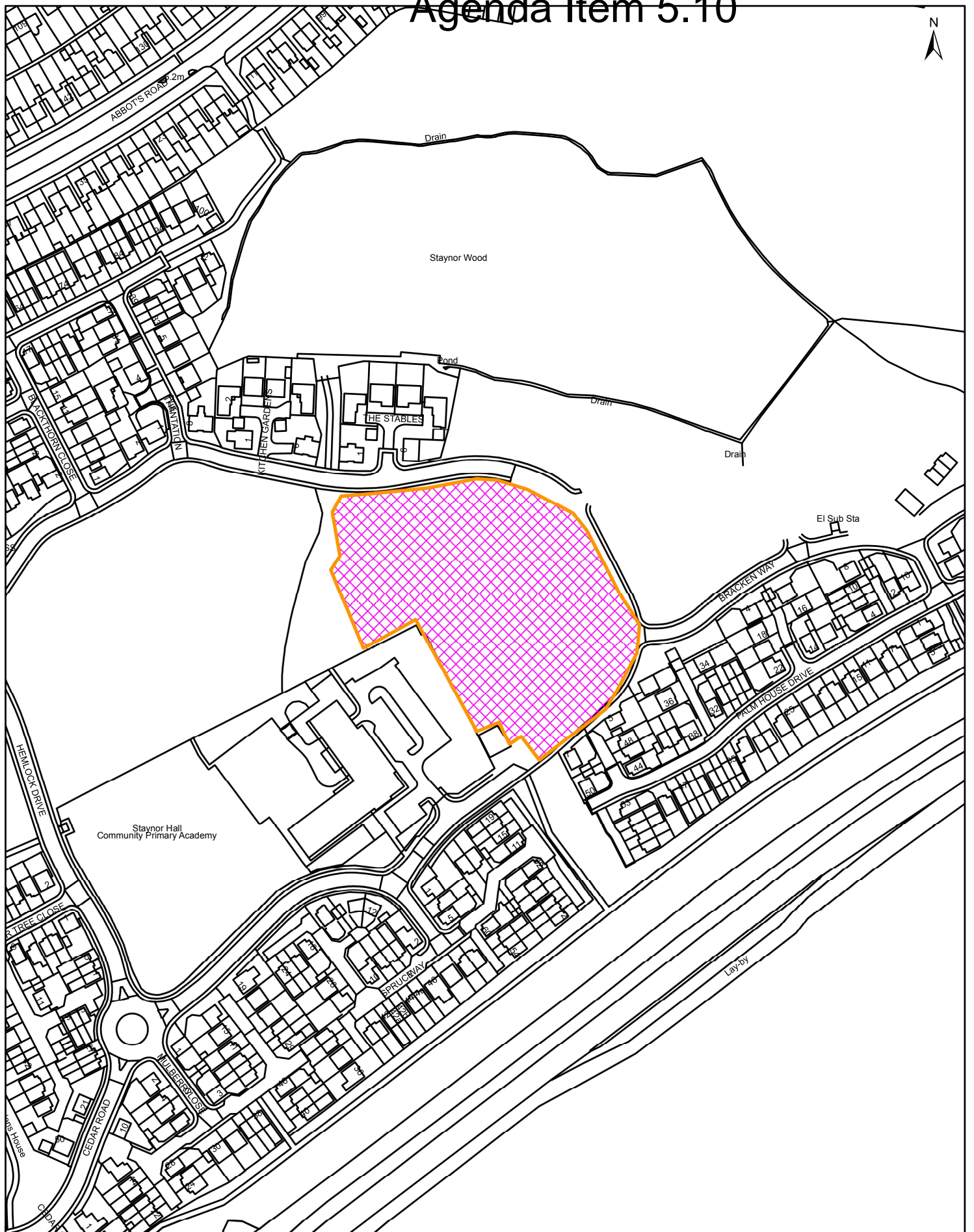
Financial issues are not material to the determination of this application.

10 Background Documents

Planning Application file reference 2019/1234/FUL and associated documents.

Contact Officer: Fiona Ellwood (Principal Planning Officer)
fellwood@selby.gov.uk

Appendices: None



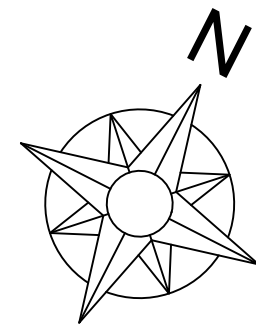
APPLICATION SITE

Staynor Hall, Abbots Road, Selby
2020/0023/MAN2

1:2,500



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Key

- Type 3 - 1800mm High Open Boarded Timber Fence
- Type 5 - 1200mm High Timber Lap Panel Fence
- Type 2 - 1800mm High Screen Wall / Fence
- Type 10 - 600mm High Knee Rail Fence
- 1800mm Acoustic High Reflective Timber Barrier
- 1800mm High V-Mesh Security Fencing
- ▨ Denotes Blocked Paved Surfaces. All other Hard Landscaped areas to be Tarmac.
- * Denotes Affordable Units
- VP Denotes Visitor Parking Bays
- Denotes Landscaping Beds
- ⊙ Denotes Street Trees
- ⋯ Denotes Soft Landscaping Areas

EXTERNAL MATERIALS KEY

PERSIMMON HOMES: -

- Ⓐ Range 'A' - Red
Main Facing: Edenhall Dunbar Mixture
Roof Tile: Northstone Derrie MkII Basalt Grey
Feature Brick: Main Body Brick
Below dpc: Main Body Brick
- Ⓑ Range 'B' - Red
Main Facing: Edenhall Edmonton Stock
Roof Tile: Northstone Derrie MkII Matt Black
Feature Brick: Main Body Brick
Below dpc: Main Body Brick
- Ⓒ Range 'C' - Buff
Main Facing: Edenhall Islington Stock
Roof Tile: Northstone Derrie MkII Antique Red
Feature Brick: Main Body Brick
Below dpc: Main Body Brick

Note:

Brick Types selected to match adjacent housing phases

STREET TREES

- H Pyrus calleryana 'Chanticleer'
Standard
8-10cm Girth Trunk
- K Sorbus aucuparia 'Joseph Rock'
Selected Standard
10-12cm Girth Trunk

Staynor Hall - Phase 3K

June 2019

Schedule of Accommodation

House Type	No Bed	Storey	Configuration	Parking Type	No. Total	
OPEN MARKET						
Persimmon						
Morden	MN	2	2	End Terrace	Space	2
Morden	MN	2	2	Mid Terrace	Space	1
Aycliffe	AY	2	1	Flat	Space	4
Moseley	MS	3	2.5	Semi	Space	2
Moseley	MS	3	2.5	End Terrace	Space	2
Moseley	MS	3	2.5	Mid Terrace	Space	1
Henley	HE	3	2	Semi	Space	1
Chatsworth	CH	3	2	Detached	Integral	2
Chatsworth	CH	3	2	Semi	Integral	2
Clayton Corner	CAC	3	2	Detached	Garage	3
Clayton	CA	3	2	Detached	Garage	1
Escrick	ES	4	2	Detached	Integral	1
Oakhurst	OA	4	2	Detached	Integral	3
Tiverton	TI	4	2	Detached	Integral	3
Marlborough	MA	4	2	Detached	Double Garage	1
Edingham	ED	5	2	Detached	Integral	2
Fenchurch	FC	5	2	Detached	Integral Double	1
					32	
TOTAL OPEN MARKET					32	
AFFORDABLE (25%)						
Aidan		2	1	Flat	Space	6
Henley		3	2	Semi	Space	3
Greyfriars		3	3	End Terrace	Space	2
Greyfriars		3	3	Mid Terrace	Space	1
					12	
TOTAL AFFORDABLE					12	
AFFORDABLE %					27%	
TOTAL: ALL DWELLINGS					44	

Revisions	Date	Description
O	22/07/19	Additional tree planting added following LPA comments. Materials schedule amended from Brickworks to Edenhall bricks. JBP
N	19/06/19	Parking arrangement amended for plots 11-17 Plot 25 swapped from CA to CAC. Plots 15-17 corrected to affordable units. Accommodation schedule updated. Tree planting added. JBP
M	29/04/19	Replan to plots 20-44. Accommodation schedule and layout updated. JBP
L	30/05/18	Updated 1.8m 'V' mesh fence position and Ruffords replaced with Chatsworths. LBB
K	10/05/18	Revised community center. AVC
J	12/04/18	Layout amended to incorporate revised Community centre design
H	14/02/17	Community centre redesigned to accommodate provision of services. JBP
G	10/10/16	Commercial and Residential Bin Store added to side of Aycliffe Flats. Bin Collection Points for plots 29, 39, 40 & 41 added to private drive.
F	30/09/16	Plot 44-45 Greyfriars omitted. Plot 44 Tiverton replaced.
E	30/09/16	Parking Amendment to LPA comments.
D	19/09/16	Layout amended to LPA comments
C	08/09/16	Parking numbers amended
B	07/06/16	Layout amended for Council
A	31/05/16	Parking Space amendments

Development
**Staynor Hall, Selby
Phase 3 - Commercial Area**

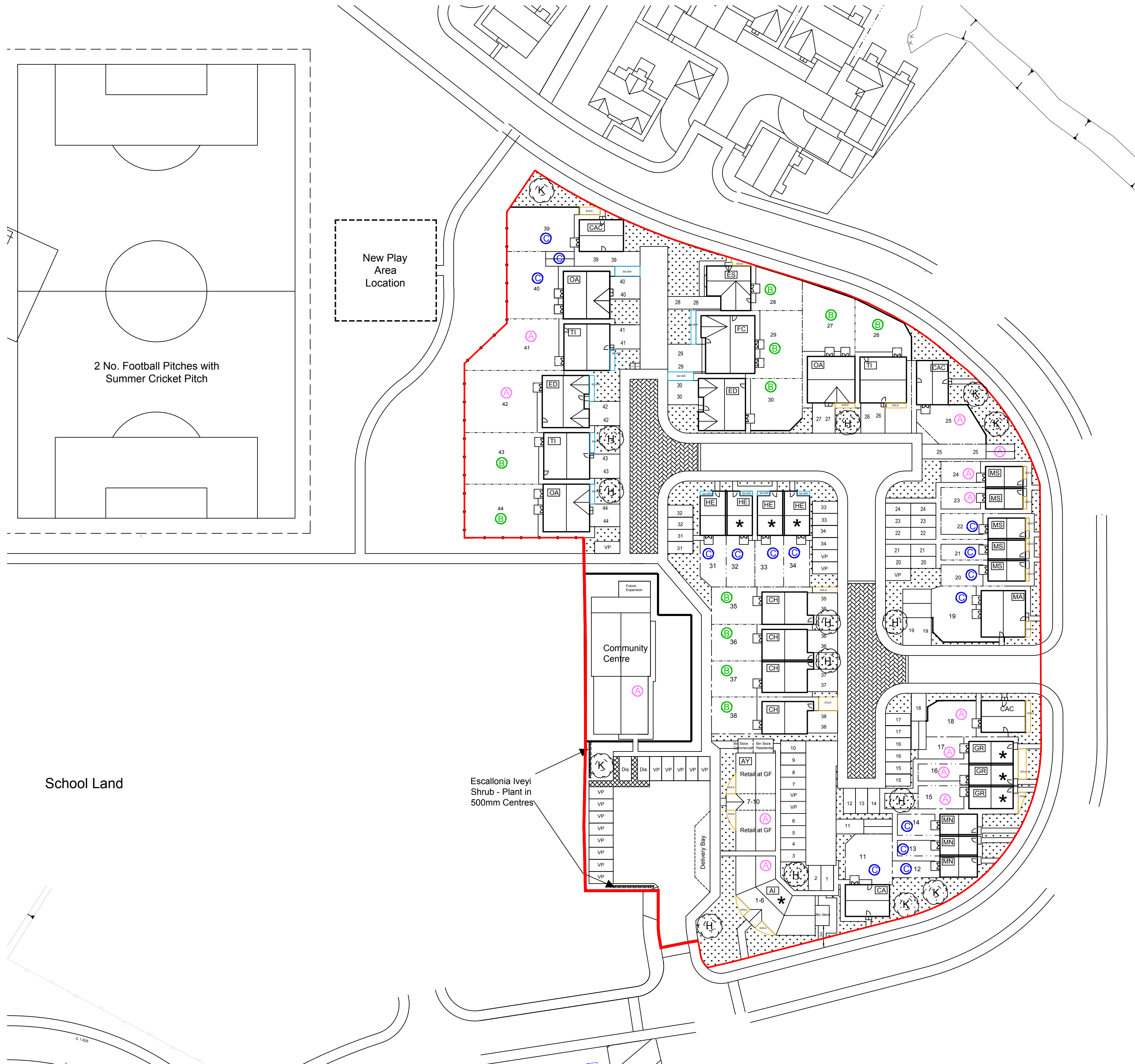
Drawing Title
Proposed Site Layout



Persimmon Homes Yorkshire
Persimmon House
Fulford
York
YO19 4FE
Tel : 01904 642199
Fax : 01904 656142
www.persimmonhomes.com

Scale: 1:500 @ A1	Drawn: GWH	Date: July 2014
File: S:\Drawings\Selby, Staynor Hall - Phase 3\Architectural\Commercial Land		

Drawing No. Central/001	Rev O
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Report Reference Number: 2020/0023/MAN2

To: Planning Committee
Date: 5th February 2019
Author: Chris Fairchild (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0023/MAN2	PARISH:	Selby Town Council
APPLICANT:	Persimmon Homes Yorkshire	VALID DATE: EXPIRY DATE:	10th January 2020 7th February 2020
PROPOSAL:	Non material amendment of 2015/0580/EIA Reserved matters application for the erection of No.44 dwellings, community facilities and retail units following outline approval 8/19/1011C/PA (CO/2002/1185)		
LOCATION:	Staynor Hall Abbots Road Selby		
RECOMMENDATION:	GRANT		

This application is seeking approval for a non-material amendment (Section 96A) to a major planning approval that included an Environmental Statement.

Non-material amendments to applications that were accompanied by an Environmental Statement are not listed as types of application that must go to Planning Committee, nor is there express reference that they can be determined by Officers. Given this position, officers are minded the most transparent approach is to refer the matter to Planning Committee for decision.

1 The Proposal

1.1 The current application comprises a Section 96A application to vary condition 14, (approved plans) of application 2015/0580/EIA. The revision does not impact on the house numbers which remains at 44. The affordable housing number remains unchanged in relation to previously approved levels. The main changes include:

- Design and Layout of Residential Element;
- Reconfiguration of Parking Areas;
- Design and Layout of Community Centre;
- Landscaping; and

- Introduction of a New Condition.

1.2 The proposed amendments are identical to those previously submitted within a Section 73 application (ref. 2018/0931/EIA) considered and found acceptable by Members at October 2019. This report will set out the remit and limits of a Section 96A application and whether the proposed changes can be considered non material, rather than minor material, and a decision issued on this basis.

2 CONSULTATION AND PUBLICITY

2.1 Planning Practice Guidance (PPG) (Paragraph: 005 Reference ID: 17a-005-20140306) makes clear that non-material applications are not applications for planning permission and therefore the statutory provisions relating to consultation and publicity do not apply. Instead, local planning authorities have discretion on whether and how they choose to inform other interested parties or seek their views.

2.2 Whilst the Council are not statutorily obliged to undertake consultation, for the sake of transparency, the same parties consulted within the determination of the Section 73 application have been re-consulted.

2.3 At the time of writing, no responses to this application have been received.

3 POLICY CONSIDERATIONS

3.1 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.

3.2 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

3.3 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.

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

“213....existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

Selby District Core Strategy Local Plan

3.5 The relevant Core Strategy Policies are:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Development Strategy
- SP4 Management of Residential Development in Settlements
- SP5 The Scale and Distribution of Housing
- SP8 Housing Mix
- SP19 Design

Selby District Local Plan

3.6 The relevant Selby District Local Plan Policies are:

- ENV1 Control of Development
- ENV2 Environmental Pollution and Contaminated Land
- T1 Development in Relation to Highway
- T2 Access to Roads

3.7 It should be noted that Section 38(6) does not apply to an application under s.96A.

4 APPRAISAL

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

1. Principle of development
2. Summary of Proposed Changes
3. Consideration of Materiality

Principle of Development

4.2 The power to make non-material changes to ‘planning permissions’ is provided by Section 96A of the Town & Country Planning Act 1990 (as amended) (“the Act”), which states:

- (1) *“A local planning authority may make a change to any planning permission relating to land in their area if they are satisfied that the change is not material.*
- (2) *In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted.*
- (3) *The power conferred by subsection (1) includes power—*
 - a) *to impose new conditions;*
 - b) *to remove or alter existing conditions.”*

4.3 This application seeks a non-material amendment of a reserved matters approval. Relevant to the consideration of this application is the High Court Judgement of R

(on the Application of Fulford Parish Council) v City of York Council [2019] EWCA Civ 1359 (“the Judgement”). This case confirmed that the statutory power conferred by Section 96A of the Act to make non-material changes to a planning permission includes the power to make non-material changes to conditional approvals of reserved matters.

4.4 At Paragraph 35 of the above Judgement, Lord Justice Lewison found that:

“The “planning permission” to which section 96A refers is the package consisting of the grant of planning permission itself, together with any conditions to which the grant is subjected, whether the conditions are imposed at the time of or subsequent to the grant of permission. An application for an amendment to an approval (or conditional approval) of reserved matters is, in my judgment, an application for the alteration of an existing condition; which is expressly permitted by section 96A (3) (b).”

4.5 Plainly put, in the context of outline consents/reserved matters a “planning permission” constitutes both the outline consents and reserved matters approval and that an alteration of a condition on a reserved matters approval is allowable under Section 96A – providing changes are truly non-material in themselves, or cumulatively alongside other Section 96A approvals.

4.6 Planning Practice Guidance (PPG) confirms there is no statutory definition of ‘non-material’. The PPG notes this is due to the need to consider the context of a scheme – an amendment that is non-material in one context may be material in another. In this instance, the context of this planning permission consists of a 1,200 dwelling site, this is a substantial permission and consequently the scale of changes that can be considered non-material increases in a proportionate manner.

4.7 In summary, case law confirms that conditions on reserved matters approvals can be amended under the provisions of Section 96A of the Act providing local planning authorities are satisfied that the amendment sought are non-material. The principle of the application is therefore acceptable.

4.8 There is no definition of what constitutes non-material and instead guidance allows for a pragmatic view to be taken on the scale of the change proposed in comparison to the parent planning permission. This report will go on to identify the proposed changes and consider whether they are non-material: providing this is the case, officers recommend that the Section 96A application be approved.

Environmental Impact Assessment (EIA)

4.9 Section 96A applications are not a subsequent application as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (“the Regulations”) as it is not required by or under a condition of the planning permission and approval is not required before the development permitted by the permission is begun.

4.10 Therefore, Regulation 9(2) of the regulations does not apply. As such, there is no statutory need for either a new environmental statement or a reassessment of the previously submitted environmental statement.

Summary of Changes

Design and Layout of Residential Element

- 4.11 Plots 25 – 27 now comprise three detached houses that front the road, whereas previously this consisted of one detached house and a pair of semi-detached houses together with a detached garage. Plots 35 – 38 now propose two detached houses and a pair of semi-detached houses instead of three detached houses. Plots 39 – 44 on the revised plan shows six different detached houses compared to 5 detached and one pair of semi-detached.
- 4.12 At each of these plots, Officers consider the proposal retains a satisfactory design and layout, does not change the amenity enjoyed by any residents and is therefore considered non-material.
- 4.13 The Chatsworth house type has been introduced, a substitution for the Rufford house type; the main difference being an increase in ridge height. It is not considered that the increase in ridge height is incongruous with that of surrounding properties, impacts on the character of the area, or harms amenity of future residents. This change is considered to be non-material.
- 4.14 The revisions also include a change to the type of bricks previously approved. The proposal now seeks to utilise Braithwell Brindle, Langold Buff and Anston Red bricks. These have been picked to replicate the bricks being used on Phase 3F (directly to the north and east of the site). It is considered that the use of brick types already present on site is appropriate and does not materially alter the planning permission.

Reconfiguration of parking areas

- 4.15 It is proposed the on-site parking for two dwellings will be relocated within a remote car parking area, one additional parking space is provided as a result of this proposal. Remote car parking has already been found within the reserved matters consent – being a balance between minimising crime through layout considerations and providing a ‘visually pleasing street scene.’ The proposed change is considered non-material.

Design and Layout of Community Centre

- 4.16 The general location of the community centre remains unchanged, and the repositioning is de minimis. The revised design removes the previously approved split roof; whilst this was considered to provide an element of visual interest it does not materially detract from the overall building and is considered acceptable as a non-material amendment.

Landscaping

- 4.17 The changes to the location of certain house types and a drainage easement has necessitated changes to the position of some trees on site albeit the quantum of planting approved on the extant reserved matters has been maintained and remains acceptable. It is considered the changes to the positioning of the landscaping is acceptable and constitutes a non-material change.

New Condition

- 4.18 Section 96A applications allow the addition of conditions to a planning permission. To address the absence of measures to improve air quality from the reserved matters consent it is considered reasonable to include a condition for the provision of electric charging in those dwellings that have a garage. This change would have a non-material effect on the planning permission.

5 CONCLUSION

- 5.1 The extant reserved matters application granted consent for the erection of 44 dwellings, a community centre and shops.
- 5.2 This Section 96A application seeks revisions to the location of particular house types, the introduction of one house type, minor changes to the parking layout, amendment to the design and layout of the community centre and slight change to landscaping.
- 5.3 It is considered that these changes, by virtue of their scale and nature will not result in a development which is materially different from the existing planning permission, and in accordance with the requirements of Section 96A it is considered that the effect of the proposals are non-material to the extant permission

6 RECOMMENDATION

- 6.1 This application is recommended to be GRANTED subject to the following conditions:
1. The development shall be carried out in accordance with the following plans:
 - Central/001 Rev O - Proposed Site Layout
 - Central/003 Rev F - Proposed Community Centre
 - AY-R / A3-Planning / 01 Rev B - Aycliffe Apartments & Ground Floor Retail Planning Drawing
 - Staynor Hall_AI_A1_Planning 01 Rev A - Aidan House Type Plans
 - Staynor Hall_AI_A1_Planning 02 Rev A - Aidan House Type Elevations
 - CCA-WD10 Rev G - Clayton Corner Plans & Elevations (Planning)
 - Staynor Hall / CA / A3-Planning / 01 - Clayton Planning Drawing
 - Staynor Hall_ED_A3-Planning 01 - Edlingham House Type Plans
 - Staynor Hall_ED_A3-Planning 02 - Edlingham House Type Elevations
 - Staynor Hall_ES_A3-Planning 01 - Escrick House Type Plans
 - Staynor Hall_ES_A3-Planning 02 - Escrick House Type Elevations
 - Staynor Hall_FC_A3-Planning 01 - Fenchurch House Type Plans
 - Staynor Hall_FC_A3-Planning 02 - Fenchurch House Type Elevations
 - Staynor Hall / GR / A3-Planning / 01 - Greyfriars Planning Drawing
 - Staynor Hall_HE_A3-Planning 01 - Henley House Type Plans
 - Staynor Hall_HE_A3-Planning 02 - Henley House Type Elevations
 - Staynor Hall_MA_A3-Planning 01 - Marlborough House Type Plans
 - Staynor Hall_MA_A3-Planning 02 - Marlborough House Type Elevations
 - Staynor Hall / MN / A3-Planning / 01 - Morden Planning Drawing
 - Staynor Hall / MS / A3-Planning / 01 - Moseley Planning Drawing
 - Staynor Hall_OA_A3-Planning 01 - Oakhurst House Type Plans
 - Staynor Hall_OA_A3-Planning 02 - Oakhurst House Type Elevations

- Staynor Hall_TV_A3-Planning 01 - Tiverton House Type Plans
- Staynor Hall_TV_A3-Planning 02 - Tiverton House Type Elevations
- CTWD10 Rev F - Chatsworth Plans & Elevations (Planning)
- Swept Path Analysis LTP/2598/T1/001/01 Rev O

Reason:

For the avoidance of doubt

2. Where houses are provided with a garage, one standard EV Charging Unit per dwelling shall be provided prior to the occupation of the dwelling to which it relates.

Reason:

In the interests of ensuring air quality and improve low carbon usage of the site.

7 LEGAL ISSUES

Planning Acts

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

Human Rights Act 1998

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

Equality Act 2010

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

8 FINANCIAL ISSUES

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

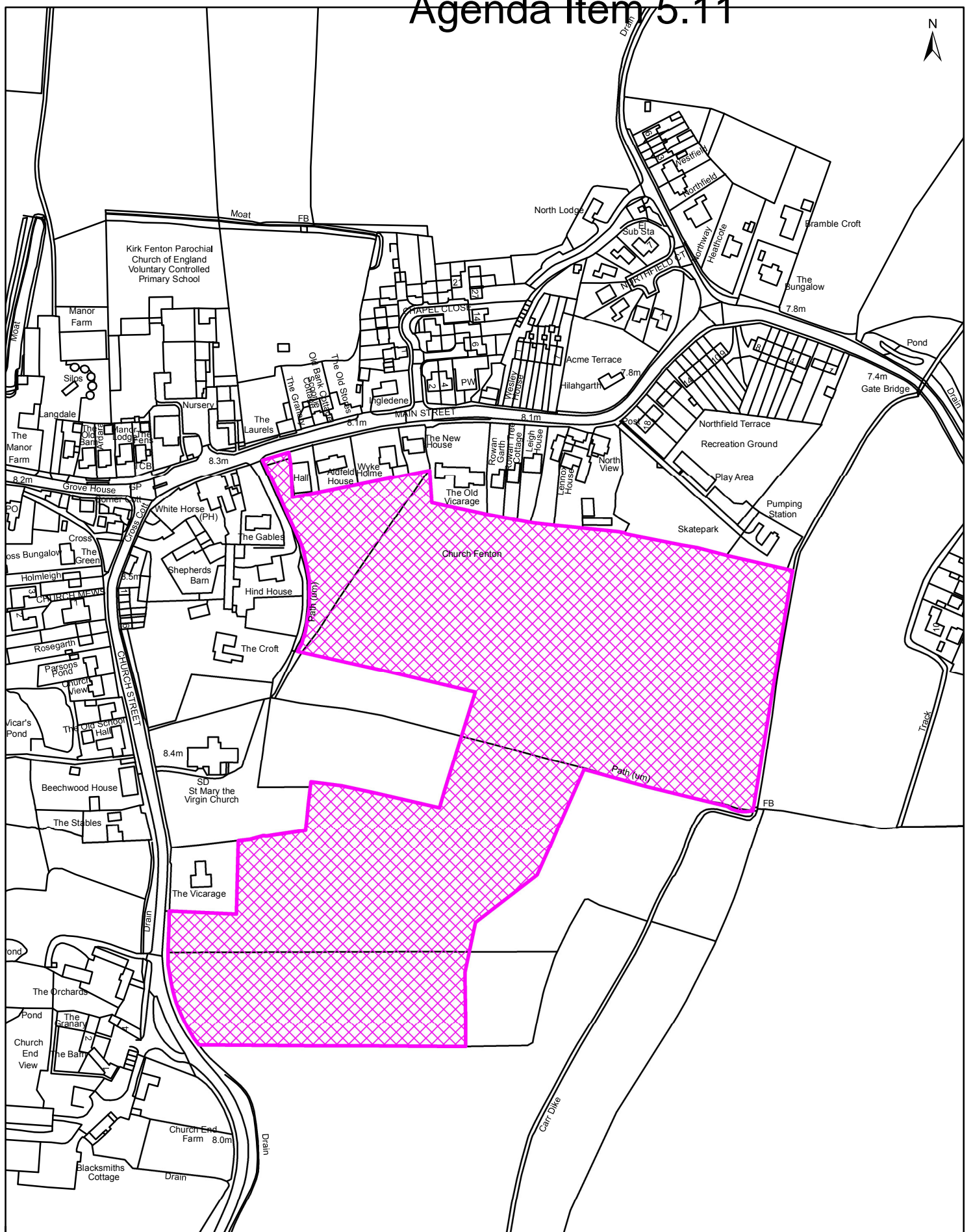
9 BACKGROUND DOCUMENTS

- 9.1 Planning Application file reference 2020/0023/MAN2 and associated documents.

Contact Officer: Chris Fairchild (Senior Planning Officer)
cfairchild@selby.gov.uk

Appendices: None

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APPLICATION SITE

2017/0736/REMM

Land south of Main Street, Church Fenton

1:3,000



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LAND OFF CHURCH STREET, CHURCH FENTON

- SITE LAYOUT LAYERS KEY:**
- 1800 HIGH DOUBLE SIDED SCREEN FENCE
 - - - 1800 HIGH CLOSE BOARDED TIMBER FENCE
 - PROPOSED NATIVE SPECIES HEDGE
 - PROPOSED STOCK PROOF FENCE
 - - - 1200 HIGH METAL SPIKE RAILINGS
 - EASEMENT/BUFFER
 - DENOTES TURF
 - TITLE BOUNDARY
 - INDICATIVE CAR PARKING SPACE
 - DENOTES BLOCK PAVING
 - TREES/HEDGES TO BE RETAINED
 - NOTE: FOR DETAILED LANDSCAPING SEE LATEST LANDSCAPE MASTERPLAN
 - 0.00 FINISHED FLOOR LEVEL

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ACCOMMODATION SCHEDULE

1 1879 SQ.FT		18, 20 1255 SQ.FT	
2, 3 1670 SQ.FT		19 1274 SQ.FT	
4 2354 SQ.FT		21 1673 SQ.FT	
5 1996 SQ.FT		24 1461 SQ.FT	
6, 7, 12, 13 1439 SQ.FT		26, 27, 28, 29 930 SQ.FT	
8, 25 1224 SQ.FT		30, 31 1646 SQ.FT	
9, 11, 23, 41, 42, 47, 48 2045 SQ.FT		32, 38 1392 SQ.FT	
10 2377 SQ.FT		33, 39 1392 SQ.FT	
14, 15 14- 1570 SQ.FT 15- 1156 SQ.FT		34, 35, 36 1006 SQ.FT	
16 1259 SQ.FT		40, 43 1439 SQ.FT	
17, 22, 37 1277 SQ.FT		44, 45, 46 930 SQ.FT	
		49, 50 930 SQ.FT	

AMENDED DRAWING



strata homes limited | quacy point | lakeside | doncaster | DN4 5PL
t: 01302 308508 www.strata.co.uk

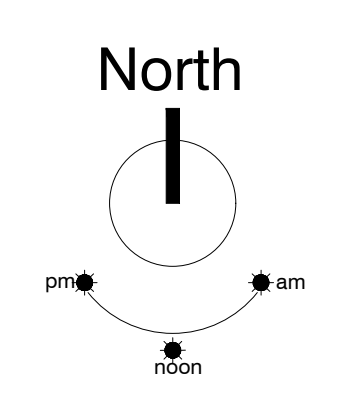
scale: 1:500@A0 | drawn by: WS | date: 04/04/19

Project: Land off Church Street, Church Fenton

Drawing: Planning Layout

Drawing Number: 18-CF-BH-01 | Revision J

Planning Ref: N.A



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Report Reference Number: 2017/0736/REMM (8/62/272C/PA)

To: Planning Committee
Date: 15 January 2020
Author: Fiona Ellwood (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/0736/REMM	PARISH:	Church Fenton Parish Council
APPLICANT:	Strata Homes	VALID DATE: EXPIRY DATE:	13th July 2017 12th October 2017
PROPOSAL:	Reserved matters application relating to appearance, landscaping, layout and scale for erection of 50 dwellings of approval 2015/0615/OUT for outline application to include access for a residential development		
LOCATION:	Land South Of Main Street Church Fenton Tadcaster North Yorkshire		
RECOMMENDATION:	GRANT SUBJECT TO COMPLETION OF A DEED OF VARIATION TO S106		

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.

This application has been brought back before Planning Committee due to deferral of the application at the 15th January 2020 Planning Committee. Members resolved to defer the application due to intermittent availability of Public Access, whereby objectors where unable to access relevant documents was given due consideration and further representations were received.

1.0 INTRODUCTION AND BACKGROUND

The Site and Context

- 1.1 The application red line site relates to a series of agricultural fields south of Main Street and East of Church Street, Church Fenton. The site sweeps round from Church Street around the rear of St Marys Church up to the rear of the parish hall

on Main Street and along the rear of the properties along Main Street. The site then follows the dyke south from the Pumping Station and then steps in before sweeping back on Church Street. The fields are laid to crops.

The Proposal

- 1.2 This is a reserved matters application with layout, scale, appearance and landscaping being sought for approval. The layout plan provides for 50 dwellings on the northern part of the red line area. Vehicular access was approved at the outline stage and provides for an access road from the south east before the entrance to the village. An emergency access route and pedestrian link would be provided through to the Main Street from the North West corner of the site adjacent to the western side of the Parish Hall. Open space would be provided mainly on the east of the housing with areas of open space through the centre of the site flanking the east to west footpath to the Church. In addition the 'left over' areas around the north-west corner around the emergency access and the areas around the Church and the vicarage to the south would be public open space.

Relevant Planning History

- 1.3 The following permissions and approvals are considered to be relevant to the determination of this application.

1.4 2015/0615/OUT- Permitted 03/12/2015

Outline application to include access for a residential development on land to the south of Main Street, Church Fenton was granted subject to 30 conditions and a Section 106 agreement to secure the following:

- Affordable Housing - 40% (unless an alternative figure is justified in accordance with the Affordable Housing SPD and agreed by the Council). Tenure split- 30-50% Intermediate housing and 50-70% Rented Housing/ Allocation of the units and delivery.
- Waste and recycling contribution - Amount and Phasing of payment
- Education contribution - towards Kirk Fenton Primary School, and
- Open Space – Extent/Layout/Delivery/Maintenance and Management

- 1.5 A Deed of Variation to the S106 was completed on 19 September 2016 which amended the wording to the definition of the term 'Application' to exclude reference to the number of dwellings.

1.6 2016/0463/MAN- Permitted 15/04/2016

Non-material Amendment to approval 2015/0615/OUT which amended the conditions referencing plans. The change resulted in reference to the location plan only which is a red edge plan around the application and to remove the inclusion of the indicative layout plan which should not have been included in the list of plans.

2.0 CONSULTATION AND PUBLICITY

2.1 All immediate neighbours were informed by letter, a site notice has been erected, an advert placed in the local press and statutory consultees notified.

2.2 Conservation Officer

Comments made raising a series of concerns (plans amended following these and are discussed in the report):

- The main concern is impact upon the significance of the Grade I listed St Marys Church, the setting of which is considered to include the majority of the village and the agricultural fields to the east and south. The proposed development is still considered to cause less than substantial harm to the significance of this church due to the amount of new housing proposed within its setting.
- Development located too far south and too close to the Church.
- Historic link between the Church and former vicarage in the north would be lost.
- Impact upon the views to and from the Church from across the fields or the vicarage or how the context of the Church will change as a result of the new housing development.
- Harmful impact on The Old Vicarage to the north – Listed Grade II plans show at least 6 houses backing (now amended) onto the garden.
- Consideration needed of the impact upon The Croft, a Grade II listed building located to the west.
- An elevation plan/section plan/photomontage should be produced between the development and the listed buildings to show how the development will look in context with the listed buildings.
- The development still reads as a new housing development separate from the village of Church Fenton, this is caused by lack of integration and access to the site being from the bottom of the field and to the south of the Church rather than from the village main street.
- Still some concerns over some design details in relation to large areas of hardstanding, car park areas, the 2 ½ storey houses (limited examples within Church Fenton, uncharacteristic canopies, door and windows details.

2.3 Contaminated Land Consultants

Further information needed before any of the conditions on the Outline consent can be discharged.

2.4 Designing Out Crime Officer

Detailed list of informative comments made about the security of the design and layout.

2.5 **Environment Agency**

(Re-consulted due to change in zoning from Flood Zone 1 to Flood Zone 2). Flood Risk Standing Advice for 'lower risk' development proposals on the government website should be viewed before making a decision.

2.6 **Environmental Health**

Comments relate to the original submission as a housing scheme for 100.

If more than 100 car spaces outside an Air Quality Management Area (AQMA) - recommend that the applicant incorporates good design in the interest of air quality. This may include the provision of Electric Vehicle (EV) charging. Recommend a Construction Management condition to protect residential amenity.

Further comments received April 2019 on the revised scheme for 50 dwellings stating that the above comments still apply.

2.7 **Historic England (Oct 18)**

Consultation on revised plans.

Confining dwellings to northern half and reduction in numbers has reduced the level of harm to the setting and significance of the listed building. Welcome the retention of land to the south of the church as arable as this will preserve more of the current rural agricultural setting of church which contributes to its significance.

Specific comments on the Planning Layout given in relation to keeping open space areas informal.

Original concerns on the outline application re-iterated in that the development will still cause harm through the change in character of the northern part of the site and the reduction in the extent of the rural setting which currently wraps around the church from north-east to south. A clear and convincing justification for this harm should be weighed against the public benefits taking into account the considerable importance and weight which should be afforded to the preservation of the setting of the listed building.

2.8 **Landscape Architect**

Generally agree to the revised layout. Detailed landscape proposals for the POS are still outstanding, particularly to the southern side of the site including detail of the highway sightlines and substation, detail of the suds pond, roadside verges (between the access road and hedgerow), stock-proof fence detail. The POS / Church boundary to the SW side should remove proposed trees and maintain gaps and views of the church. There is still need for further maintenance management information for the POS in relation to the S106.

2.9 **Natural England**

Natural England currently has no comment to make on the reserved matters.

2.10 **NYCC- Education Directorate**

As per S106 agreement (2015/0615/OUT) signed December 2015 the Local Authority would still require the full developer contribution as stated in this agreement.

2.11 **NYCC Fire & Rescue Service**

No objection/observation at this stage. Further comment will be made when a statutory Building Regulations consultation is made.

2.12 **NYCC Heritage Officer**

The outline planning permission includes a condition (No. 27) relating to archaeological mitigation. On the basis that the outline conditions remain active for the current phase of the development - no further comments to make on the reserved matters themselves.

2.13 **NYCC Highways**

Comments made, minor amendments suggested and conditions advised on the revised scheme.

2.14 **North Yorkshire Bat Group**

No comments received.

2.15 **Public Rights Of Way Officer**

Informative suggested with respect to the existing PROW's on site. Response with regard to the Public Rights of Way running across the site remains the same. This applies to all three of the routes which we have previously advised will be affected. Note, with some concern, that only one of these is highlighted on the latest site layout plan.

2.16 **Ramblers' Association**

No comments received.

2.17 **Rural Housing Enabler**

Revised plan shows 10% (5 units). All five meet the Nationally Described Space Standards. The units are well positioned in the layout and are indistinguishable from the remaining development. Advise for confirmation of tenures and the developer to make early contact with a Registered Provider.

2.18 **Selby Area Internal Drainage Board**

The application will increase the impermeable area to the site and the applicant will therefore need to ensure that any surface water systems installed have the capacity to accommodate any increase in surface water discharge from the site. Comments made and condition/ Informatives suggested.

2.19 SuDS

No comments to make.

2.20 SDC- Urban Design Team

Initial comments on the submitted scheme raise a series of concerns which are summarized below.

- Attempts have been made to address serious and fundamental issues under the constraints offered by the approved Outline Application.
- Layout is considerably improved. Serious attempts made to tame the dominance of the street layout and create more informal spaces and areas of simplified street scene, where the proposed buildings define the street as opposed to regimented highway designs.
- Spaces around dwellings have also been improved where garage courts and side gardens have been used to create a more unique and varied street scene.
- More distinctive forms that better reflect some of the character of the village are included -some short rows of terrace units that positively front the spaces and 'double fronted' houses. These help define the street scene and create a more 'organic' or vernacular approach that is something of the like of typical settlements in this area.
- Some parking courts have also been utilised to help minimise harmful frontage parking.
- Materials suggestions include maintaining simple high quality brick with some limited use of render. The use of buff brick, or mixed brick should be resisted.
- The scheme is still standard house types and a layout that is not based on local characteristics.
- There is some toning down of the uniformity of these house types has been achieved, but ultimately such a street scene will still be very visible within the landscape and potentially affect key views towards the Grade I Listed Parish Church of St Mary.

Conclude on latest revisions that much has been done to create a better scheme to this site. Details of materials and landscaping and sensitive highway standards and conditions are key. The reality is however that this proposal is not the gentle evolutions that characterised the majority of the village. It is being undertaken by a housebuilder with a certain standard product and built in one phase. Whilst it is possible to change certain elements therefore of this product, it is very difficult, without significant willingness, to create an overall design that is 100% of the place. As such the planning balance of weighing this against other harm or benefits of this scheme would need to be undertaken.

2.21 Yorkshire Wildlife Trust

Pleased with variety of ecological enhancements suggested but the ecological suggestions in the Landscape Masterplan will need to be conditioned and a plan provided as to where bat boxes, bird boxes and deadwood and rubble piles will be positioned. This will enable a possible enhancement of biodiversity on the site as suggested in the NPPF.

2.22 Yorkshire Water Services Ltd

Comments made but no objection subject to in principle to the development being constructed in accordance with drawing E16/6722/004C (revision C) dated 11/09/2018,

2.23 Parish Council

Summary of comments:

Wish to reconfirm its fundamental objection to the reserved matters application, and its view that it should be refused. Contrary to the draft Neighbourhood Plan which will be subject to its S14 consultation shortly.

Felt that there were good grounds for refusal of the outline application (particularly in the light of the comments by Historic England) but accepts that this consent was granted and has considered this application in the light of that decision.

Comments on scheme as originally submitted:

- Scheme ignores the previous negotiations to 50 dwellings in the northern part.
- Would destroy traditional characteristics of the village, which includes open views of Parish Church from the south and east, and traditional linear character.
- The cumulative impact of housing in Church Fenton is leading to increasing urbanisation of the village with the loss of green space and the linear village character.
- Loss of 2 footpaths.
- The Design and layout is poor and is contrary to the approved Village Design Statement.
- This is particularly important for a site which is close to the Church and a number of Listed Buildings.
- Agree with the comments made by the Urban Design/ Heritage Officer.
- The emerging Neighbourhood Plan intends to establish a Conservation Area in this part of the village which would include the Parish Church and all current Listed Buildings. Any development on this site should be assessed in the context of a proposed Conservation Area which this proposal fails to do.
- The proposal has an excessive number of dwellings off a single access road which creates issues of emergency access, lack of permeability and linkage with the rest of the village. The layout would create an alien estate that would seem separate from the rest of Church Fenton.
- Poor provision for visitor parking. Design of this scheme would lead to domination by vehicles.
- Poor grounds conditions exist which have not being properly assessed in geotechnical submissions.

Re-consultation on recent revised scheme - Advise Refusal

- It was assumed Selby DC would be sympathetic to its sensitive location (close to the listed Parish Church), and the scheme would be of a design and layout that was appropriate in the heart of a village. The current proposal is an estate development with estate type houses that have no local character. Should be refused unless there is a substantial redesign.
- The indicative plans for the outline approval showed 50 dwellings. This proposal represents an 8% increase in the numbers. More pertinently the additional units seemed to have been squeezed in requiring urban parking courts and backland development.
- The 3 storey dwellings are inappropriate when the Village Design Statement considers three storey dwellings are inappropriate in Church Fenton especially this sensitive location.
- The development makes little or no effort at integrating with the existing village and that it will back on to an area that had been discussed as a future possible conservation area with the support of Historic England.
- The open space is poorly located. The area alongside the access road is unsuitable for play space. The area to the east is primarily a drainage basin which will make it unavailable for parts of the year. All the space is divided from the community by highways which make it unsuitable as play space for unaccompanied children. A layout which creates an area of "Green" overlooked by dwellings would be more usable and more appropriate in a village location.
- A revised Design and Access Statement should be submitted as there has been a major change from the original submission.
- Should include an element of affordable housing indistinguishable from the remainder of the development, and preferably be shared ownership.
- The development obstructs a Public Right of Way which runs across the site. The Council is unaware of any application for a footpath diversion. The Council would object to this diversion due to the historic significance of the link between the old Vicarage and Church.
- It is unclear what steps would be taken to prevent the emergency access being used illegally by vehicles.
- Evidence has been identified regarding running sand in the area, and this is not properly addressed in this application.

2.24 Neighbour Summary

The application was advertised by site notice and local press notice and neighbour notification resulting in responses from 36 individuals and a further 46 individuals responding to the re-consultation. Comments on the originally submitted scheme are summarised below:

Main grounds of concerns are summarised below:

Principle of Development

- Fundamental objections to any housing on the site
- This is not the appropriate place for a large housing development in Church Fenton
- The Council now has a 5 year housing land supply and so this should be refused

- Disregards the Outline Permission more than doubles the quantity of housing
- Contrary to the development plan
- Conflicts with Green Belt Policy (*Officer Note - The site is not Green Belt land*)
- 40% Affordable Housing is not delivered
- Doesn't comply with Policy SP16 as 10% of energy supply needs to come from renewable sources

Character/Layout/Appearance/Heritage

- Out of scale and character with the village setting
- Adverse impact on setting of Listed Buildings
- Detailed comments on the layout
- buffer zone now filled with houses
- Footpath to vicarage would be lost
- The development does not integrate with the village
- Significantly increased density of housing from outline harms character of the area
- Need for a wide landscaped buffer to prevent the existing housing on main street from being overlooked
- Agreement with comments of the Urban Designer and the Conservation Officer about the poor character and design of the housing layout.
- Quality of housing design is poor

Residential Amenity / Noise

- Air quality impacts from number of houses
- Noise impacts from construction will impact on existing residents
- Impact on the privacy of existing occupiers
- Proximity of new development to existing properties
- Impact on the amenity / light of adjoining occupiers
- Boundary concerns form houses adjoining the site
- Rooms in the roof will overlook existing dwellings
- Reduction in local school children's ability to access walks and nature outings
- Proximity of housing to village hall – noise and disturbance to new occupants could arise from the activities

Drainage and Flood Risk and Climate Change

- Local Utility systems -drainage and sewage infrastructure inadequate

Highways / Parking /PROW's

- Increased congestion on Church street during services
- Increase in cars and commuting adding to highway problems
- Loss of a PROW unacceptable
- Developers suggestion that PROW is no longer used is misleading and untrue
- Main access is on a sharp bend- unsafe-lack of visibility- conflicts with farming traffic-no footpaths
- Covenants requested for construction traffic to protect the amenity of school children and residents

Services and Facilities

- Facilities in the settlement will not be able to cope with all this additional development
- School is at capacity
- Applicants claim that the development will encourage more facilities in services in the village is unfounded
- Church Fenton is a Designated Service village but has very limited services and facilities

Ecology

- Adverse impact on hedgerow habitat
- Loss of Wildlife Habitat
- Doesn't create ponds or habitat to encourage wildlife
- Loss of Grade 3b Agricultural Land

Other Matters

- Residents appear to have no influence over planning decisions
- Area of land to the east of the current vicarage could provide an extension to the churchyard. (Not a material planning consideration)
- Parish Council are preparing a Neighbourhood plan and this scheme would be contrary to its principles
- The developers should confirm that they will not remove hedgerows and confirm arrangements for their future
- Areas are stated to have instability and therefore pile drives for foundations could cause subsidence to existing buildings
- Ground conditions are unsuitable
- Original outline application suggested an area of land could accommodate a churchyard extension. This has been removed. Request it is re-instated.
- Anomalies on the plans pointed out
- Assurance was given at the Outline application that the scheme was for 50 houses –this application should be a fresh full planning application
- Safety aspect due to being on the flight path of East Leeds Airport leading to a reduction in emergency landing places putting nearby properties at risk
- Adverse impact on the value of nearby residential dwellings
- Flawed consultation process - (those with lack of internet access and there have been problems uploading comments)

In support

- Affordable Housing would help retain young adults in the locality

Re-consultation on the revised plans took place in October 2018 resulting in responses from 48 individuals including a letter from the Member of Parliament, Nigel Adams and a further letter from the MP dated 14th January 2020. A further representation from Planning Consultants (Advanced Planning) was received on the day of the October committee. The issues were raised following re-consultation:

Principle of Development

- No's of houses should be limited to 50

- Application description should be accurate
- Contrary to the NPPF
- Overwhelming objection by the entire community
- The Draft Neighbourhood Plan identifies the site as valuable community green space and should be given weight as a material consideration in the decision process-insufficient weight attached in the officers report
- Application should be deferred until the Legal opinion on behalf of the resident of Church Fenton has been fully considered
- The district now has a 5 year housing land supply and therefore the benefits of the additional housing no longer exist

Character/Appearance/Heritage

- Too many houses backing onto Grade II Listed -The Old Vicarage, Main Street – huge adverse impact on setting
- Heritage Impact Assessment is repeated from the Outline application and repeats its factual inaccuracies in relation to downplaying the significance and setting of The Old Vicarage
- Church Fenton will change in size from a village to a town
- Still Out of scale and character with the village setting despite reduction in numbers
- Cramming, too dense
- No improvement on house designs
- No communal space within the development is provided
- Standard Housing estate design which fails to reflect the historic character of the village and fails to comply with SP4 of the CS and with the NP
- Position of substation will impinge on potential future development of the village hall and should be re-sited within the housing development.
- Some garages too close to hedging
- Some of the green spaces are inaccessible and unusable and reference is made to Natural England guidance on Accessible Natural Green space
- Existing Green spaces within Church Fenton are used by established nursery. The ability for the children to access pedestrian pathways and countryside footpaths is an important consideration
- Off the peg house designs
- Harmful impact of highway design

Residential Amenity

- Still too close to existing housing- loss of amenity due to overlooking/loss of privacy
- Rooms in the roof cause direct overlooking of existing dwellings
- Garden dimensions are not mentioned on the plans- lack of clarity to proximity
- Residents' concerns have not been addressed with these revised plans

Drainage and Flood Risk

- Increased risk of flooding
- Developers should pay for a new water pipeline
- Object on the grounds of Flood risk due to the site now being in Flood Zone 2
- Full consideration of the change in the Flood Risk should be given

- Historic England should be re-consulted due to the change in Flood Zone and the impact of the flooding on the Church and other listed properties
- Proposed dwellings do little to address environmental issues affecting the climate
- Mortgages may be more difficult, more expensive or not available due to the flood risk
- FLOODRE is an insurance scheme which enables property owners to obtain flood cover at a reasonable price but is not available to houses built after 2009. Therefore if these houses are built the insurance under this scheme would not be available
- Less than 4 weeks after the grant of outline, severe flooding affected much of Selby District. Many properties including in Fenton were flooded. This led to review of the flood risk areas. Query condition 22 and the original objective to reduce flood risk to properties
- Query the lack of regard to the Barristers opinion provided and makes points about the implications of the change in Flood Zone
- Visual harm impact of raising of ground levels to mitigate flood risk
- Need for Sequential Testing – no sequential test done on this application or an updated flood risk assessment

Highways / Parking /PROW's

- PROW to The Old Vicarage needs amendment to prevent a hazard of a cattle grid on the driveway
- Purpose of emergency access is unclear- concerns over use as a main access
- Any new housing development should require a contribution towards road improvements to help reduce traffic congestion
- Suggestions that the access has changed raising queries about the visibility and congestion around the site entrance
- Emerging NP requires 2 parking spaces in addition to garaging to be provided due to Church Fenton being a car dependant location.
- Access point has moved and highways don't appear to have been re-consulted.
- Access point is on a dangerous bend and is a safety concern

Ecology/Nature Conservation

- Bats have been noted and concerns expressed that the Bat group have not responded
- Object on grounds of lack of information about bats

Ground Subsidence

- Concerns raised in the Preliminary Investigation regarding the possibility of subsidence are not addressed by the developer. There could be significant impact on existing properties especially those without foundations. Specialist site investigation is needed and development should not be permitted without this

Viability

- Object to reduction in 40% Affordable Housing without seeing the evidence. No evidence of viability is available publically. Reference made to Para 56 of the NPPF
- Affordable Housing Viability information – only the Executive summary has been made publically available. This is not in accordance with the practice guidance. Exceptional circumstances are needed to withhold this information
- If the AH was the public benefit outweighing the harm to the historic setting then public benefit no longer exists to justify the scheme

Services and Facilities

- Bus services are even more limited and this will increase car usage

Open Space

- Concerns about the levels of protection for the open space to the south of the church shown as arable land

Other Matters

- Security concerns on layout, boundaries and density
- Lack of affordable housing
- Affordable Housing should be dispersed in the site
- Nothing to stop developers coming back with further numbers
- Consultation period has been too short
- Determination lacks transparency and provides grounds for a legal challenge in the high court

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The site is outside the defined development limits of Church Fenton as defined in the Local Plan. Church Fenton is a Designated Service village (DSV) as identified in the Core Strategy. The site is therefore located within the open countryside.
- 3.2 St Mary's Church abuts the western edge of the application site which is a Grade I Listed Building. Other Listed Buildings (Grade II) adjoin the site including dwellings the 'Old Vicarage' to the north adjacent to the village hall and 'The Croft' to the west.
- 3.3 A Public Right of Way (PROW) crosses the site from the east across open countryside leading to the church. There are also PROW's from the church leading to the main street and to the old vicarage.
- 3.4 When the outline permission was granted, the application site was mainly located within Flood Zone 1 (less than 1 in 1,000 or 0.1% chance of flooding in any year), which has a low probability of flooding. Part of the site (mainly the land to the east) was located within Flood Zone 2. However, in July 2018 the Environment Agency Flood Risk maps were updated and all of the application site has been assessed as being in Flood Zone 2 – i.e. having between a 1 in 100 and 1 in 1,000 annual

probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.

Policy Context

- 3.5 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 3.6 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
- 3.7 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 3.8 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

The relevant Core Strategy Policies are:

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

Selby District Local Plan

The relevant Selby District Local Plan Policies are:

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

Supplementary Planning Documents

- Affordable Housing Supplementary Planning Document 2013
- Developer Contributions Supplementary Planning Document March 2007

Church Fenton Neighbourhood Plan- The plan has recently been at the consultation stage before submission with the time period for comment ending 31 May 2019.

4.0 APPRAISAL

4.1 Objectors raise issues about the principle of the development and stress the overwhelming objection of the community to the development of this site. However, since the principle of development and the access have been established under the outline planning permission (reference 2015/0615/OUT) and this Reserved Matters application was submitted within the required timescale, the principle of the development is not a matter for reconsideration and the Council is not in a position to refuse approval to the reserved matters on grounds going to the principle of the development. Mention is made that the scheme does not accord with the emerging Church Fenton Neighbourhood Plan. Whilst the plan does refer to this site and the importance of maintaining the views of St Mary's Church, the plan is at the pre-consultation draft stage and the weight to be attached to it is very limited.

4.2 Similarly, objectors concerns about the capacity of the villages services and facilities to cater for the 50 houses is not a matter for consideration on this application. The main issues to be taken into account when assessing the reserved matters application are:

- Impact on the Character and Appearance of the Area and on Heritage Assets
- Impact on Residential Amenity
- Impact on Highway Safety
- Provision of Recreational Open Space
- Flood Risk
- Nature Conservation and Protected species
- Affordable Housing
- Other Issues

Impact on the Character and Appearance of the Area and on Heritage Assets

4.3 Approval of reserved matters in relation to layout, scale, appearance and landscaping is sought. The application red line area is 7.4 hectares covering a large belt of land south of properties on Main Street and extending around and beyond

the church and vicarage to the south on Church Lane. In terms of the layout, this reserved matters application, as originally submitted, provided for 104 houses spread over the red line area, north and south with an undeveloped belt across the central area maintaining the open footpath route to the church.

- 4.4 It was established under the outline planning permission that only the area of development in the northern part of the site would be acceptable. An indicative layout was negotiated which provided for 50 houses and was superseded from the original indicative scheme. Although the outline permission granted did not specify the housing numbers nor did it include a parameters plan, the officer's report clearly set out the case for developing the northern area only, based on the impact on the Grade I Listed Church. The negotiated indicative plan was fundamental to the decision taken at planning committee in November 2015.
- 4.5 As such, in terms of the layout, officers have firmly resisted this reserved matters application which sought to utilise the full amount of the red line site for housing and to maximise the development potential. The scheme has been repeatedly and successively amended until it reverted back to the 50 houses in the northern area in a similar coverage to the indicative outline plan.
- 4.6 The access was agreed at the outline stage and is to the south of the vicarage on Church Lane. However, the alignment of the spine road has been improved and moved closer to the west in order to minimise the amount of 'leftover' land to be managed as open space and to have a winding route more characteristic of a country lane. It is also reduced in width to provide a footpath on the west side only with grass verge and hedgerow to the east as a field boundary. The undeveloped area to the east of the spine road within the red line is now indicated to be incorporated back into the open agricultural land. The informal open space area is located on the eastern part of the site which can act as a buffer and transitional area to the open countryside beyond. Existing PROW's are now all to be retained.
- 4.7 The character of the village is mixed and there have been a number of modern estate developments on the west side of the village. However, around the periphery of application site, the character is an evolved one with a loose arrangement of individual dwellings of varying styles and sizes fronting the Main Street and Church Lane. The planning layout is now identified on drawing No 18-CT-BH-01 Revision G. In terms of the scale and appearance this housing layout this is considerably improved since the initial scheme was submitted.
- 4.8 The main changes are that the scheme now reflects a less formal layout and incorporates more informal spaces. Spaces around dwellings have also been improved where garage courts and side gardens have been used to create a more individual street scene. The variety of house types, including short rows of terrace units amongst detached and semi-detached housing better reflect the mix of housing in the village and help tone down the uniformity. Some parking courts have also been utilised to help minimise harmful frontage parking and to help remove the dominance of the car parking within the layout. The materials include brick variations with some limited use of render. The scheme still incorporates standard house types but attempts are made to vary these. A street scene drawing (plan ref: 18-CF-BH-01 Rev D) has been provided which demonstrates that the proposed dwellings would have a variable appearance. Details of materials have been submitted but officers have not agreed these due to the use of buff brick and render on some houses which is considered inappropriate for this location. However, a condition can be added requiring details of materials to be submitted and approved.

Overall the scheme is closer in form to the indicative layout provided at the outline stage.

- 4.9 In terms of landscaping, the Councils Landscape Architect has been consulted and has contributed throughout the negotiations on this scheme. A landscape Master Plan (Plan ref: R/1987/11\F) and corresponding landscape detail (sheets R/1987/12A, R/1987/13A, R/1987/14A) within the development have been provided. Further information and clarification is needed in relation to the design of the SuDS basin and how this could be successfully integrated into the public open space (POS), to avoid it potentially being a steep-sided engineering solution which could require fencing for safety. It is therefore considered reasonable and necessary to attach a condition requiring further details of the pond to be submitted to and approved.
- 4.10 Objectors have raised concerns about some garaging being too close to existing hedging. This could only be the case for plots 9 & 10. At the time of writing this report, this has been drawn to the developer's attention with a view to increasing the gap to ensure the hedge is not harmed. An update will be given at the meeting. In terms of the position of the green space being inaccessible. The main areas of open space are to the east of the site directly accessible from the new housing, to the west directly accessible from the emergency access and public footpaths linking it to the village and from the new housing. These areas meet the requirements for public open space within the development. The remaining areas to the south either side of the access road are the residual areas within the red line which were considered unsuitable for housing development. The area east of the access road is to be retained as arable land and managed by the landowner. The area to the west has been reduced in size as far as is practicable by the alignment of the road and will be landscaped as informal open areas. Given the overall layout, it is considered that sufficient accessible public open space is provided within the development. Moreover, links to the existing footpath network are retained and should not therefore impede the ability of local children's groups to access the wide countryside and its established footpaths.
- 4.11 In addition detailed planting schedule for some parts of the POS are still outstanding, particularly to the southern side of the site. It is considered important that gaps and views of the church are maintained and some amendment to the indicative landscape detail in this area is required to achieve this. Objector's comments about the lack of communal space within the developed area are noted. However, given the large amount of informal open space provided around the development, it is considered unreasonable to require more provision.
- 4.12 The position of the substation was moved from near the southern access to the site to a position within the public open space at the northern end of the site to the south of the village hall. Objectors recently raise concerns that this could impact on any future re-development plans for the village hall. However, the substation is a small structure and would be positioned outside the site of the village hall which currently has a blank rear elevation facing the site of the substation. No details of any firm plans to redevelop the village hall have been provided nor has any information been provided on how this substation could negatively impact on any such proposals. At the present time the proposed location is considered acceptable and it would not be reasonable to require its location on the basis of unknown future proposals.
- 4.13 Although the 'timing and implementation' of the open space provision are covered by the S106 agreement, this does not cover the implementation of landscaping

within the developed areas or the additional areas of land over and above the open space requirement. Therefore a condition is necessary to ensure the full landscaping schedule is completely implemented.

- 4.14 Taking into account the totality of the scheme with its standard of layout, design, materials and landscaping the proposals are considered to comply with Policy ENV1 of the Local Plan which requires proposals to provide a good quality of development which takes account of the surrounding area. In this respect the development is compatible with the Development Plan.
- 4.15 Policy SP19 of the Core Strategy sets a higher test requiring development to contribute to enhancing community cohesion by achieving high quality design and having regard to local character, identity and context of surroundings including historic townscapes, settlement patterns and the open countryside. SP19 b) requires development to “Positively contribute to an areas identity and heritage in terms of scale, density and layout”. This is assessed more fully below.

Heritage Assets

- 4.16 Relevant policies within the NPPF which relate to development affecting the setting of heritage assets include paragraphs 189 to 198.
- 4.17 As indicated in this report, the proposed development will give rise to less than substantial harm to the setting of designated heritage assets. With this in mind, Paragraph 196 of the NPPF states that *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”*.
- 4.18 Paragraph 196 of the NPPF should be read in conjunction with paragraph 193 of the NPPF which states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”*. This wording reflects the statutory duties in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990.
- 4.19 Whilst considering proposals for development which affects a Listed Building or its setting, the statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'.
- 4.20 In the case of *Barnwell Manor Wind Energy Ltd v E.Northants DC, English Heritage, National Trust & SSCLG [2014] EWCA Civ 137*, it was held that in enacting Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990, Parliament intended that the desirability of preserving the significance of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise. In *The Forge Field Society and Others, Regina (on The Application of) v Sevenoaks District Council [2014] EWHC 1895 (Admin)* Lindblom J confirmed that the desirability of preserving the significance of listed buildings

should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise.

- 4.21 Setting is defined in the NPPF as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. The recent Court of Appeal decision in *Catesby Estates Ltd v Steer [2018] EWCA Civ 1697*, confirmed that the identification of setting and its extent is not a matter for the court, and will always be a matter of fact and planning judgment.
- 4.22 The site is located adjacent to a Grade I Listed Building (St Mary's Church). In addition there are Grade II Listed Buildings adjoining the site, the Croft to the west and the Vicarage to the north. The application site forms part of the setting of the listed buildings and contributes to their significance. The impact of the proposal on the setting of the Listed Buildings is therefore a fundamental issue and is intrinsically linked to the impact on the character and form of the surrounding area.
- 4.23 An assessment of the significance and the impact of the development on the setting of the Listed Buildings was undertaken at the outline planning application stage. It was concluded, on the basis of the revised indicative layout, which removed any development (other than the access road) from the southern part of the site, that the development resulted in less than substantial harm to the significance of the designated Heritage Assets. Moreover, the harm was assessed and considered to be outweighed by the public benefits of the proposal in terms of the housing provision. principle was established at the outline application stage.
- 4.24 The comments from numerous objectors on the harm to the setting of the Listed Church and the surrounding Listed Buildings are noted. As outlined above, the principle of development on the site has been established in the outline permission. In determining the outline permission, significant consideration was given to the potential harm to heritage assets, which was itself afforded great weight. This consideration was based on the indicative layout plan provided by the developers; the Council determined that there would be less than substantial harm which was outweighed by the economic, social and environmental benefits of the scheme. For the purpose of this reserved matters application, the details of the layout and scheme now provided have been compared with those of the indicative scheme to see whether they will result in any additional harm to the significance of the heritage assets. Regard has also been had to the comments made by Historic England.
- 4.25 In terms of the impact on the setting of the Grade I Listed Church, the layout is an improvement on the outline indicative layout plan. The coverage of the housing development is essentially the same although the development is pulled back further north from the centre of the site. The open views towards the church from the south and south east are maintained. The indicative layout had dwellings whose side elevations and side boundaries faced south towards the church. However, the layout now provides for houses along the south edge re-orientated to face towards the church creating a street scene and some sense of place. This is an improvement on the scheme as originally submitted when viewing the development from the public footpath through the centre of the site leading to the church. The houses closest to the church as indicated in the Street Scenes plan (Ref 18-CF-BH-SS-01 Revision D) are varied in form with detached and terraced dwellings.

- 4.26 In terms of the impact on 'The Croft', a Grade II Listed dwelling, the layout is also an improvement on its setting compared with the indicative layout. The Croft is set well back from the site boundary within its own extensive grounds. The scheme maintains the public footpath which runs along its rear boundary within a strip of open space. The indicative scheme showed a solid row of housing nearest to the Croft, the layout now provides a detached dwelling with generous spaces either side or a pair of semi-detached dwellings to the north. This 'loosening' and variation to the housing layout is an improvement on the indicative layout providing more gaps and space and less concentration of new housing around the rear views towards the Listed dwelling.
- 4.27 In terms of the impact on 'The Old Vicarage' to the north, a Grade II Listed Building, the indicative layout showed three dwellings in a solid row with little gap between them adjoining the rear boundary to The Old Vicarage. This reserved matters application as originally submitted indicated 6 dwellings backing on to the Old Vicarage plot. These have been reduced to two dwellings within generous spacing between them. As such the gaps and views into and out of this listed property are improved both from the original submission and from the outline indicative layout. The footpath link between the Old Vicarage and the Church, which is a historic link and a PROW would be maintained.
- 4.28 An objector has raised concerns that raising of land levels as a flood risk mitigation measure would have a harmful impact on the setting of the Heritage Assets due to the increased visual prominence of the dwellings. However, condition 23 of the outline consent states that *"There shall be no ground raising in Flood Zone 2"*. As such this concern is unfounded.

Further comments suggest the harm to the historic environment needs to be weighed up again against the public benefits. However, this was undertaken at the outline stage and the approval was considered acceptable on the basis of the indicative plan showing housing in this is northern section of the site. This cannot be re-considered on this reserved matters application. The objector considers the next step is to obtain an extremely high quality and bespoke scheme. However, there are no parameters imposed by way of condition on the outline consent to require such a high benchmark.

- 4.28 The comments of the Urban Designer and the Conservation Officer have been instrumental in achieving the overall changes to the scheme achieved so far. Furthermore recent changes in response to local objections raised and to the overall design and layout have resulted in the removal of the 2.5 storey houses in proximity to the Listed Buildings which were considered to be too prominent. A revised massing plan has now recently been received which relocates them within the central eastern part of the residential site.
- 4.29 It is noted that the Conservation Officer and the Urban design team conclude that the scheme is still *"not the gentle evolutions that characterised the majority of the village. It is being undertaken by a housebuilder with a certain standard product and built in one phase"* and *"still reads as a new housing development separate from the village of Church Fenton"*, and *"ultimately such a street scene will still be very visible within the landscape and potentially affect key views towards the Grade I Listed Parish Church of St Mary"*. However, much has been done to create a better scheme to this site in line with the original indicative layout upon which the original assessment was made. Implementation with appropriate materials and all

the landscaping will be important in softening the impact of an estate form of development.

- 4.30 Having regard to the location of the proposed development and the context of the site, it is considered that the layout, scale, appearance and landscaping of the proposed development is, on balance, acceptable subject to conditions requiring further details as mentioned above.
- 4.31 Overall it is concluded that there would be no additional harm to the setting of the Listed Buildings beyond that which was associated with the outline application. Despite objector's comments, it is not considered necessary to re-consult Heritage England specifically regarding the change to the Flood Zoning. In conclusion there is no change to the original assessment in that the development would result in less than substantial harm to the significance of the Heritage Assets. Moreover, the harm, even having special regard to the desirability of preserving the setting of the Listed Buildings and the need to give this considerable importance and weight, will still be outweighed by the public benefits of the proposal in terms of the housing provision as identified at the time of the outline application. In this respect no further conflict with the aims of Policies SP18 and SP19 of Selby District Core Strategy is identified. For these reasons the scheme would also not fail the statutory test in Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990.
- 4.32 In terms of the Development Plan, the detailed scheme now under consideration, as referred to above, is considered to comply with Policy ENV1 of the Local Plan In terms of Policy SP19 and in particular SP19 b), this needs to be weighed in the balance. The development is not considered to contribute positively to the areas identity due simply to the presence of a large modern housing estate and the repeat forms of housing design which are at odds with the evolved, random and individual character and pattern of housing characteristic of the edges of this settlement. However, balanced with this is the securing of the open space through the centre of the site and to the south with a high quality landscaping scheme will contribute to a high quality setting to the southern and eastern sides of the village and to the views towards and setting of the Listed Buildings. This would be secured and maintained for the long term. For these reasons, on balance the development is considered to comply with SP19 of the Core Strategy.

Recreation Open Space

- 4.33 Policy RT2 of the Selby District Local Plan requires proposals for new residential development comprising 5 or more dwellings to provide recreational open space at a rate of 60 square metres per dwelling. For schemes of 50 dwellings or more, provision within the site is normally required. The S106 controls the delivery of the POS and its future maintenance and require 0.3 hectares (equates to 60 sqm for 50 dwellings) to be in a location agreed.
- 4.34 The submitted proposed layout demonstrates that recreation open space would be provided to the east of the proposed dwellings and at various undeveloped areas within the red line site. The total amount of provision would be 1.82 Hectares (4.5 acres). This is significantly in excess of the 60 square metres per dwelling required by Policy RT2 and the Section 106 Agreement. The generous amount of open space is due to the need to retain the open character and views of the Grade I Listed Church and therefore large amounts of land within the red line area need to remain undeveloped. These need to be managed to ensure they don't become neglected eyesores which could be harmful to the setting of the Listed

Buildings and would detract from the locality. A Landscape Management Plan has been provided which covers the first 5 years with a system in place for reviewing operations at the end of the 5 years to allow the plan to be updated in accordance with site conditions. It covers works detailed in the landscape drawings and the landscape conditions. The work would be implemented by a Landscape contractor and subsequently managed by a management company. A Deed of Variation to the S106 is required to ensure that all of the open space within the redline area is laid out, landscaped, managed and maintained as Public Open Space and not just the 0.3 hectares identified in the original S106 agreement and to tie in the management plan.

- 4.35 In terms of the nature of the Public Open Space, Church Fenton already has an equipped play area close to the north east corner of this site. The plans submitted therefore provide for the layout and landscaping of land within the site as 'informal' public open space which contains landscape planting, footpaths and seating within the layout. The general arrangement proposed is acceptable in principle although and further detail can justifiably be dealt with through the imposition of a planning condition.

Objectors raise concerns about the levels of protection for the open space south of the church shown as arable land. This is noted and it is not included in the area of public open space which all other undeveloped areas of the plan will be. This area is included in the red line area which has outline planning consent for housing. However, the time period for submitting any further reserved matters applications for this part of the site has expired. It would of course be open to any developer or the landowner to submit a full planning application or a further outline application for this part of the site. Officers consider there would be strong grounds for refusal on the basis of the current 5 year land supply and on the harm to the setting of the Grade I Listed Church and the harm to the character and appearance of this part of the village. .

- 4.36 The existing S106 Agreement prevents work commencing until the "Open Space Specification" has been fully agreed in writing with the Council. It also prevents the occupation of any dwelling until the open space has been provided in accordance with the approved works or the management arrangements for the land have been agreed.
- 4.37 Overall it is considered that the details submitted are acceptable in terms of the impact on the character and appearance of the area and for the setting of the Heritage Assets subject to the completion of the above mentioned Deed of Variation to the S106. A draft has been received at the time of writing this report.

Impact on Residential Amenity

- 4.38 To the north and west of the application site are existing residential properties fronting onto Main Street and Church Lane. The land to the south and east is undeveloped open countryside.
- 4.39 Given the size, siting and design of the proposed dwellings and their relationship to neighbouring residential properties outside the application site, it is not considered that the proposals would result in any significant adverse effects of overlooking, overshadowing or oppression on the residential amenities of any neighbouring residential properties outside the application site. The distances between the new dwellings and existing dwellings has been amended to more than meet the

minimum separation distance requirements. Moreover, the layout has been further amended to reduce the density of dwellings on the northern periphery to maintain gaps. The concerns of residents regarding overlooking from 2.5 storey dwellings have been noted. However, where the 2.5 storey dwellings adjoin existing dwellings on Main Street, the second floor dormer windows face south or east and are not on the north roof elevation facing existing dwellings. Objectors have referred to the lack of a buffer between existing dwellings and the new which does not reflect the buffer shown on the indicative layout plan. However, the layout is now very similar to the indicative plan in terms of the distances between the dwellings. While the proposals would have an effect on views from existing neighbouring properties, this is not a material consideration which can be taken into account in the determination of this application.

- 4.40 Given the layout, scale, appearance and landscaping of the proposed dwellings, it is not considered that the proposals would result in any adverse effects of overlooking, overshadowing or oppression on the residential amenities of any residential properties within the application site. Furthermore, the proposed dwellings would each benefit from an adequate amount of useable external amenity space for the occupiers of the proposed dwelling.
- 4.41 It is noted that concerns have been raised by neighbouring residential properties regarding the impact of the construction works on the residential amenities of neighbouring properties. In terms of air quality the comments of the Environmental Health Officer are noted and have been drawn to the attention of the developer. However, the number of dwellings is now reduced from 100 to 50. Condition 09 requires all construction access via Church Street. Condition 18 of the outline consent requires a scheme to be submitted for approval of construction on-site parking and materials storage. The outline consent does not include a general construction management plan and therefore it is not possible to impose such a condition at this reserved matters stage.
- 4.42 Other concerns raised relate to the proximity of the village hall and the potential for the activities in the hall to disturb new residents. However, there are already residential dwellings in closer proximity to the hall. As such it is not considered that the existence of these new dwellings would be likely to have grounds for curtailing its activities on the grounds of noise and disturbance.
- 4.43 Comments have been made regarding a loss of school children's ability to access country walks and nature outings. However, no specific details of how this development would impact on these on a permanent basis have been provided. The footpath links through the site would be maintained and a large amount of informal public open space would be provided. As such the development would be likely to enhance the children's access to open space.
- 4.44 Having regard to the above, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policy ENV1 (1) of the Selby District Local Plan and within the NPPF.

Impact on Highway Safety

- 4.45 The access to the site has been established through the outline permission. Appropriate conditions are attached to the outline consent. In terms of parking, turning and manoeuvring within the application site, the submitted proposed layout plan demonstrates that each dwelling would benefit from parking space within the

curtilage of each dwelling and garages are provided. NYCC Highways have been consulted on the proposals and were involved in discussion about the road layout in order to achieve a more flexible and informal arrangement and to move away from the traditional anywhere design of new housing estates. Comments from the Highway Engineer have been received on the revised plans which are considered acceptable subject to minor amendments in relation to the emergency access width (further amended plans now received to meet this requirement) and appropriate conditions.

- 4.46 Objectors raise concerns over the position of the access, increased congestion and increased parking on Church Lane are noted. However, the access was considered and approved on the outline application. No changes are proposed to the access position. The reduced road width and its alignment within the site don't affect road safety at the junction with Church Road/Ash Lane.
- 4.47 Regarding the PROW's within the site, these are all now to be retained. However, the route and condition of the PROW beyond the application site are not matters for consideration on this application. The Highways officer and the PROW officer are satisfied with the amended details of the layout. The requests of some respondents in relation to the need for management of construction traffic for the safety of school children have been noted. However, as mentioned in the above section on Residential Amenity, condition 09 requires all construction traffic to be via the new access on Church Lane and not via the emergency access from Main Street.
- 4.48 Some responses have queried the purpose of the emergency access and raised concerns that this could be used as a main access. This is necessary from a highway safety aspect but the design would be such that its use as a secondary vehicular access would not be possible. Any non-emergency use is mitigated by the design. Further representations suggest the Highway authority have not responded to revised plans and the parking provision and access are unacceptable. However, the highway authority was consulted and makes comments about minor adjustments needed to the visibility splay. Amendments have been requested and an update will be given at the meeting.
- 4.49 Having regard to the above, it is considered that the proposal is acceptable in terms of highway safety and is therefore in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and the NPPF.

Flood Risk

- 4.50 At the time of granting the outline permission the majority of the site was within Flood Zone 1 on the Environment Agency Flood Zone Maps, with only a small part on the north east corner being within Flood Zone 2.
- 4.51 The Outline Planning Application was accompanied by a flood risk assessment (the FRA) which provides at para 1.3;

"The aforementioned site is predominantly in an area classified by the Environment Agency as Flood Zone 1, the low risk area; however the northeast corner of the plot lies within the fluvial Flood Zone 2, an area with a 'medium' probability of flooding by rivers. The plan area of the site is approximately 7.5ha of which approximately 1.0ha is Flood Zone 2. All developed areas within the site will be entirely located in Flood Zone 1."

4.52 The outline permission was granted subject to condition 22 which states that;

“All dwellings shall be located in flood zone 1 as stated in paragraph 1.3 of the FRA introduction.

Reason

To reduce flood risk to properties.”

The reserved matters application was submitted in 2017 since which negotiations have been ongoing over the layout and designs. In July 2018, the Environment Agency updated the flood risk maps and the entire application site is now located within Flood Zone 2.

4.53 The Environment Agency has been re-consulted. They point out the site is in Flood Zone 2 and recommend the local planning authority view the online Flood Risk Standing Advice (FRSA) before making a decision on the application. The online FRSA advises needs to satisfy itself with regard to the need for a sequential test and if this is satisfied to check if an exception test also needs to be done.

4.54 However, a decision has already been made on this through the grant of the outline consent, and only those matters reserved for subsequent approval can be considered here.

4.55 In view of the change to the Flood Risk Zone and the wording of the conditions attached to the Outline Consent, legal opinion on the implications of the updated flood risk maps has been sought.

4.56 The Council's view of the correct interpretation of condition 22 is that it restricts the location of dwellings to the area described as Flood Zone 1 in paragraph 1.3 of the FRA (accompanying the outline permission) and not that dwellings may now only be located in an area which is now classed as a Flood Zone 1 area, as defined by the updated Environment Agencies Flood map. On this basis, it is concluded that the reserved matters scheme complies with the requirements of condition 22 of the Outline consent.

4.57 Policy SP1 of the Core Strategy sets out the Councils approach to the presumption in favour of sustainable development unless the adverse impacts of granting permission significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole.

4.58 Although the flood risk of the site has changed, this does not put the development in conflict with the Development Plan which does not exclude development in Flood Zone 2. Moreover, it is a material consideration that principle of the development on the land has already been established by the Outline Planning Permission. *(A local planning authority is not entitled to refuse to approve reserved matters on grounds going to the principle of the development itself and therefore already implicit in the grant of the outline planning permission: Lewis Thirkwell Ltd v SSE (1978)).* The Council is therefore unable to refuse the scheme on this basis. The Environment Agency raised no specific objections or when re-consulted on this application on the acceptability of that assessment. It would not therefore be appropriate to require re-consideration of this issue or require a sequential test to be done at this stage as this would be going back to reconsider the principle of the development.

- 4.59 Notwithstanding this it would be appropriate to impose a condition requiring the details of finished slab floor levels to be required for the approval of the local planning authority to ensure the development is resilient to flooding without increasing ground levels within the site or increasing the risk of flooding elsewhere.
- 4.60 Objectors make comments that the proposed dwellings do little to address environmental issues affecting the climate. However, the Design and Access Statement sets out a number of measures aimed to achieve sustainable environmental solutions. These included, buildings orientated to take advantage of passive solar heating, high levels of thermal performance, low U-values for building components, measures to reduce heat loss, measures to reduce water consumption, Suds Strategy to attenuate surface water during storms, durable low maintenance materials. In addition, the dwellings will need to meet the latest Building Regulations standards in terms of insulation and reduced energy consumption. Moreover, there are no specific environmental standards or conditions attached to the consent and therefore, making higher or additional standards a requirement on this reserved matters application would be re-visiting the principle of the development.

Objectors comments regarding difficulties obtaining mortgages and flood risk insurance are noted. However, these are not material planning grounds on which to base a refusal of this reserved matters scheme.

- 4.61 Subject to such a condition the scheme is considered acceptable in terms of flood risk and would not conflict with Policy SP1 of the CS or with the NPPF.

Affordable Housing

- 4.62 The outline scheme and associated Section 106 agreement secured 40% on site provision of affordable housing, with a tenure split of 30-50% Intermediate and 50-70% Rented. Clauses within the S106 also require confirmation of the phasing plan for delivery and set the parameters for the allocation of units to occupiers.

- 4.63 The Section 106 Agreement provides that;

“...the units of affordable housing shall comprise 40% of the total number of dwellings on the site (rounded up to the nearest whole dwelling), unless an alternative figure is justified in accordance with the Affordable Housing SPD and agreed by the District Council...”

- 4.64 The objector's comments about the reduced quantity of affordable housing are noted. However, the quantity of Affordable Housing provision has been under negotiation and the Council has sought the advice of the District Valuer (DV) on this matter. Due to a number of reasons, there are abnormal building costs on this site including the substantial length of access road relative the number of houses provided. The DV has advised that the development can support the provision of only 5 units which amounts to 10% provision. The objector's comments about these figures not being on public access are noted. However, an Executive Summary of the viability information has now been provided (attached in Appendix 1) and is available publically at the time of writing this report in accordance with national policy and guidance. Further comments received quote the guidance in the NPPG which sets out that such information should only be withheld in exceptional circumstances and none have been demonstrated in this case. However, the viability appraisal contains commercially sensitive financial information and it is

considered that this constitutes the exceptional circumstances appropriate to maintain confidentiality in this respect. The viability appraisal has been the subject of thorough scrutiny independently by the District Valuer resulting in the level of provision now proposed.

- 4.65 The developers have agreed to this level of provision. An affordable housing plan has now been received identifying units 35, 36, 33, 45 and 46 of the layout. These are well spaced and integrated amongst the market housing. The developers confirm that the houses will be constructed to Homes and Communities Agency Design and Quality Standards and will have the same external design so as to be distinguishable from the market units. The units would comprise a mix of 3 rented and 2 intermediate units.
- 4.66 The Council's Rural Housing Enabler has been consulted on the updated proposals but raised no objections to the previously submitted details and advises that the applicant should make early contact with a partner Registered Provider on order to confirm that the number, size and type of the units are acceptable to them.
- 4.67 Objectors refer to the reduced quantity of Affordable Housing suggesting the public benefits which were weighed up in the balance are no longer there. However, the Council's policy as set out above is clear and requires up to 40% provision. The benefits at the outline stage were considered to be the provision of housing not specifically affordable housing. In light of the circumstances and the assessment by the DV this level of 10% provision is deemed to be acceptable. As such the requisite number of affordable units, the type, position and design are in accordance with the S106 agreement can be provided and the proposals accord with Policy SP9 of the Core Strategy which seeks to negotiate up to 40% maximum of total new dwellings on all market housing sites above the threshold of 10 dwellings.

Other Matters

- 4.68 Objectors refer to Policy SP16 of the Core Strategy (which aims to improve resource efficiency through a number of measures) and point out this scheme does not provide 10% energy supply from renewable sources. However, this is a requirement of condition 20 of the Outline Consent and is not a matter for consideration on this application.
- 4.69 Numerous comments and concerns were raised in relation to the capacity of utilities for drainage and sewage and the likely increase in flooding. Conditions were attached to the Outline consent requiring details of drainage to be submitted and approved. These are not a matter for consideration on this application. Scale, layout, design and landscaping are the matters for approval. The utility authorities have been consulted and have not raised new issues in relation to the matters under consideration.
- 4.70 A number of responses suggested that the developers are likely to come back in the near future with an increase in housing numbers again. The Council cannot prevent a developer from seeking to do so. However, this scheme has been agreed on the basis that a more intensive scheme would be materially harmful to the character and appearance of the area and to the setting of the listed buildings. Moreover, a Deed of Variation to the S106 agreement is required before this permission is granted to ensure the 'leftover' areas of open space are retained as such and the landscaping scheme is implemented in full. It is officer's opinion that

any increased numbers could be firmly resisted for sound material planning reasons.

- 4.71 In terms of ecological impacts, objectors raise numerous concerns which were considered at the outline planning stage. The consent requires, under condition 24, that the development to be implemented in accordance with the recommendations and mitigations of the Ecological Assessment dated June 2015. Similarly the loss of the Agricultural land is not a matter for consideration on this application.
- 4.72 Those representing the Church have raised the issue that the indicative layout suggested land could be available for a graveyard extension. However, this was shown as a 'potential' on an indicative plan. There was no requirement to provide this nor can it be insisted upon as it is not reasonably related to the development nor is it required in planning terms to make the development acceptable.
- 4.73 Comments have been raised in terms of the land stability and the potential for the site to result in damage to existing buildings. No evidence has been provided to substantiate the likelihood of such damage or to demonstrate that the land is unstable. Notwithstanding this, Policy SP19 (k) sets out that a key requirement that new residential development should meet is the need to "preventing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water, light or noise pollution or land instability". Land instability can cause damage to local property and associate infrastructure and the planning system can try to minimise the risks and effects and help ensure development occurs with appropriate precautions. However, the applicants submitted a technical Geo-environmental Appraisal with this application which investigated ground conditions and ground related issues including previous mining. It is considered expedient to impose a condition requiring the development to take place in accordance with the recommendations and measures advised in that report.
- 4.74 The safety of planes to and from East Leeds Airport has been raised but there is no evidence to suggest that the development of this site would compromise planes on their flight path to and from the airport or lead to a reduction in safe emergency landing spots.
- 4.75 Loss of value to existing property is raised as an objection. However, this is not a material planning consideration.
- 4.76 Objectors note that that bats have been seen at the site, and make concerns on the lack of information on bats, and that the Bat group have not responded. However, an Ecological Appraisal was submitted at the outline planning stage. It concluded that further assessment of bat activity was not considered necessary. Condition 24 of the Outline consent requires the development to be carried out in accordance with the mitigation measures set out in that Ecological Appraisal. Further consideration of this is not required on this reserved matters application which seeks approval of the layout, landscaping and scale of the development.
- 4.77 In terms of the claims of a flawed public consultation process and any disadvantage to non-internet users, the application has been advertised in accordance with the Councils policy by advertising in the local press, by site notice and by direct notification of neighbours whose land adjoins the site. The opportunity has existed to respond either on line or by writing to the Council. All representations received, whether within the time period or not, have been fully considered on this application.

As such the claims have no foundation. Comments that residents appear to have no influence over planning decisions is equally without foundation. Whilst the Council are not able to acknowledge and respond individually to each letter, the weight of public opinion is a contributing factor to achieving change to a scheme.

5.0 Conclusion

- 5.1 The application site benefits from an outline planning permission, which considered the principle of the development and access (reference 2015/0615/OUT) with all other matters (layout, scale, appearance and landscaping) reserved for future consideration. Therefore, the principle of the development and access has been established through the outline planning permission and only those reserved matters (layout, scale, appearance and landscaping) can be considered at this stage.
- 5.2 Having assessed the proposals against the relevant policies, the reserved matters for the layout, scale, appearance and landscaping are considered to be acceptable subject to the completion of a Deed of Variation with respect to the amount of open space provision. The details ensure that the proposal would not result in detrimental impacts on the character and appearance of the area, the residential amenity of the occupiers of neighbouring properties or highway safety.
- 5.3 In relation to Heritage Assets overall it is concluded that there would be no additional harm to the setting of the Listed Buildings beyond that which was anticipated at the outline application stage. In conclusion there is no change to the original assessment in that the development would result in less than substantial harm to the significance of the Heritage Asset. Moreover, the harm, even having special regard to the desirability of preserving the setting of the Listed Buildings, will still be outweighed by the public benefits of the proposal in terms of the housing provision. It would not conflict with the aims of Policies SP18 and SP19 of Selby District Core Strategy and would not fail the statutory test in Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990.
- 5.4 The proposed development is therefore considered to be acceptable having had regard to Policies ENV1, ENV2, T1, T2, RT2 and CS6 of the Selby District Local Plan, Policies SP1 SP2, SP4, SP5, SP8, SP9, SP15, SP16, SP18 and SP19 of the Core Strategy and the NPPF.

6.0 RECOMMENDATION

- 6.1 **This application is recommended to be GRANTED subject to the satisfactory completion of a Deed of Variation to the Section 106 Agreement to vary the amount of public open space provision and subject to the following conditions;**

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

Planning Layout	18-CF-BH-01-Revision H
Affordable Housing Plan	18-CF-BH-01 Revision G
Emergency Access Plan	18-CF-BH-EM-01 Revision G
Massing Plan	18-CF-BH-MA-01 Revision G
Materials Plan	18-CF-BH-MAT-01 Revision G
Areas Plan	18-CF-LD-AR-01 Revision G

Landscape Master Plan	R/1987/11J
Landscape Details	R/1987/12D
Landscape Details	R/1987/13B
Landscape Details	R/1987/14A
Landscape Management Document	April 2019
House Type Pack	Dated February 2019
Garage Type Pack	Dated August 2018
Close Coupled Substation	GTC-E-SS-0012_R1_7_1_OG_1
Double Boarded Fencing	SD10.EX.110
Fence-Post and Wire	April 2019
Main Road and Sewer Plan	E16/6722/004C (Preliminary Issue)

Reason:

For the avoidance of doubt.

- 02 Notwithstanding the Materials Plan indicated in Condition 01 above, no development of the dwellings above foundation level shall commence until details of the materials to be used in the construction of the exterior walls and roofs 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.

- 03 Notwithstanding the submitted Landscape Master Plan (R/1987/11J), Landscape Details, (R/1987/12D, R/1987/13B, R/1987/14A) and the Areas Plan (REF- 18-CF-LD-AR-01 Revision G), no development shall commence until a full detailed landscaping scheme and tree and shrub planting scheme for all the Public Open Space areas as indicated on the Areas Plan, has been submitted together with a Phasing Plan for the implementation of both the landscaping scheme within the housing development area and the Public Open Space Areas has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include:-

- Identification of all existing trees and shrubs to be retained setting out measures for their protection throughout the course of development
- Details of the species, location, planting density and stock size in respect of all tree and shrub planting.
- Details of replacement hedge planting at the main access to Church Lane
- Details of the surface materials of the footpaths
- Details of the benches and bins and any other street furniture
- Details of the Suds drainage basin area (including cross sections) which should provide for a basin that can be integrated into an area of public open space without the need for fencing to ensure safety.
- Details of stock proof fencing where the site adjoins open fields to the east
- Details of the measures for the management and maintenance of the approved landscaping
- Details of the proposed open space land management regime in perpetuity.

All planting, seeding or turfing comprised in the approved phasing plan and landscaping, tree planting scheme shall be carried out in the first planting and seeding seasons following the first occupation of the buildings or the substantial

completion of the development, whichever is the sooner. Any trees or shrubs which die, are removed or become seriously damaged or diseased within the first five years following completion of the development shall be replaced in the next planting season with others of similar size and species. The drainage basin area shall be constructed in accordance with the approved details only and thereafter maintained as such for the lifetime of the development.

Reason - in order to ensure implementation of the landscaping and open space scheme and the preservation and planting of trees and landscaping in accordance with s.197 of the Act and in the interests of visual amenity and in order to comply with saved Policy ENV1 of the Selby District Local Plan.

04 The site layout shall incorporate the following measures;

- a) All access roads shall be constructed with speed humps or raised tables the details of which will have received the prior written approval of the Local Planning Authority.
- b) Plots with integral garages shall be set back to ensure a minimum of 6 metres drive length between the back of the footway and the garage door
- c) All boundary details should not be greater than 600mm above road level for a distance of 2 metres back from the rear of the footway
- d) The emergency access shall be 3.7 metres wide with lockable bollards
- e) Trees should not be planted within 1.5m of any footway and 2.5 metres of any road.

Reason

In the interests of road safety measures and to comply with Policy T1 of the Local Plan.

05 The development shall take place in full accordance with the recommendations and measures advised in sections 1.4, 1.5 and 1.6 of the Geo-environmental Appraisal by Lithos dated June 2017.

Reason

To minimise the risks of harm to human health, local property and associated infrastructure from potential Land instability and contamination and to comply with the requirements of Policy SP19 of the Core Strategy

7.0 Legal Issues

7.1 Planning Acts

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

7.2 Human Rights Act 1998

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

7.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the

conflicting matters of the public and private interest so that there is no violation of those rights.

8.0 Financial Issues

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

9.0 Conclusion

9.1 As stated in the main body of the report.

10.0 Background Documents

10.1 Planning Application file reference 2017/0736/REMM and associated documents.

Contact Officer: Fiona Ellwood, Principal Planning Officer

Appendices: Appendix 1 – Executive Summary

EXECUTIVE SUMMARY

This Viability Appraisal accompanies the Reserved Matters application to support a reduced affordable Housing contribution in line with the provisions of the agreed Section 106. The proposed scheme is for 50 units.

The Viability Guidance published in Jul 2018 by The Ministry of Housing, Communities & Local Government requires that:

“Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan.”

The Peter Brett Associates (PBA) Community Infrastructure Levy Economic Viability Assessment (dated September 2013 and subsequently updated in November 2014) is the most recent Viability Assessment informing the plan. The CIL EVA states a number of assumptions in terms of inputs. We have compared these inputs to our own assumptions where relevant below:

Input	Current Assumption	CIL EVA Assumption
Gross Development Value (GDV)	£16,153,230 (£215 250psf)	N/A - not site specific.
Benchmark Land Value Including Landowner Premium	£188,000 per acre	£364,225 per acre
Acquisition Costs (Agents & Legal Fees)	0.75%	1.5%
Developer Return	20% profit on GDV	20% profit on GDV and 6% on affordable units
Build Costs	BCIS lower quartile average +10% for external works	BCIS median + 10% for externals
Contingency	5%	5 %
Abnormal Costs	£2,713,236	N/A – not site specific.
Professional Fees	6%	8 - 10%
Sales & Marketing	3%	3%
Finance	6.5%	7.0%

Based on these assumptions the proposed developer contributions are as follows:

S106 Item	Proposed Contribution	Policy / S106 Requirement
Affordable Housing	5 units (10%)	40% (20 units)
POS Contribution	£298,070	£298,070
Education Contribution	£183,546	£183,546
Waste & Recycling Contribution	£3,510	£3,510

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.



DISTRICT COUNCIL

Tel: 01757 705101
www.selby.gov.uk

Planning Committee 2019-20



John Cattanach, Chair (C)
Cawood and Wistow
01757 268968
jcattanach@selby.gov.uk



Mark Topping (C)
Derwent
mtopping@selby.gov.uk



Keith Ellis (C)
Appleton Roebuck & Church Fenton
01937 557111
kellis@selby.gov.uk



John Mackman, Vice-Chair (C)
Monk Fryston
01977 689221
jmackman@selby.gov.uk



Ian Chilvers (C)
Brayton
01757 705308
ichilvers@selby.gov.uk

Page 233



Don Mackay (I)
Tadcaster
01937 835776
dbain-mackay@selby.gov.uk



Mike Jordan (YP)
Camblesforth & Carlton
01977 683766
mjordan@selby.gov.uk



Robert Packham (L)
Sherburn in Elmet
01977 681954
rpackham@selby.gov.uk



Paul Welch (L)
Selby East
07904 832671
pwelch@selby.gov.uk

Substitute Councillors



Chris Pearson (C)
Hambleton
01757 704202
cpearson@selby.gov.uk



Richard Musgrave (C)
Appleton Roebuck & Church Fenton
07500 673610
rmusgrave@selby.gov.uk



Tim Grogan (C)
South Milford
tgrogan@selby.gov.uk



David Buckle (C)
Sherburn in Elmet
01977 681412
dbuckle@selby.gov.uk



John McCartney (I)
Whitley
01977 625558
jmccartney@selby.gov.uk



Keith Franks (L)
Selby West
01757 708644
kfranks@selby.gov.uk



Steve Shaw-Wright (L)
Selby East
07711200346
sshaw-wright@selby.gov.uk



Stephanie Duckett (L)
Barlby Village
01757 706809
sduckett@selby.gov.uk

(C) – Conservative (L) – Labour (I) – Independent (YP) – Yorkshire Party