



Meeting: **PLANNING COMMITTEE**  
Date: **WEDNESDAY, 12 AUGUST 2020**  
Time: **2.00 PM**  
Venue: **MICROSOFT TEAMS LIVE EVENT - REMOTE**  
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](http://www.selby.gov.uk).

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

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

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

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

### 3. Chairs Address to the Planning Committee

### 4. Planning Applications Received (Pages 5 - 6)

#### 4.1. 2017/1381/FULM - Land At Viner Station, Roe Lane, Birkin, Knottingley (Pages 7 - 38)

4.2. 2020/0475/FUL - Lodge Farm, Wistow Lordship, Wistow (Pages 39 - 58)

*Janet Waggott*

**Janet Waggott, Chief Executive**

**Dates of next meeting (2.00pm)**

Wednesday, 26 August 2020

Enquiries relating to this agenda, please contact Victoria Foreman on 01757 292046 or [vforeman@selby.gov.uk](mailto:vforeman@selby.gov.uk).

This meeting will be streamed live online. To watch the meeting when it takes place, [click here](#) and then on the link under the section titled 'Media'.

**Recording at Council Meetings**

Selby District Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform Democratic Services of their intentions prior to the meeting by emailing [democraticservices@selby.gov.uk](mailto:democraticservices@selby.gov.uk)

## **Planning Committee – Remote Meetings**

### **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. 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 published on the Council's website alongside the agenda.
3. 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, giving an update on any additional representations that have been received and answering any queries raised by members of the committee on the content of the report.
5. The members of the committee will then debate the application, consider the recommendations and then make a decision on the application.
6. 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.
7. 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.
8. This is a council committee meeting which is viewable online as a remote meeting to the public.

9. Selby District Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform Democratic Services of their intentions prior to the meeting on [democraticservices@selby.gov.uk](mailto:democraticservices@selby.gov.uk)
10. The arrangements at the meeting may be varied at the discretion of the Chairman.
11. For the time being, the Code of Practice for Dealing with Planning Matters is modified so that the public speaking scheme will not apply to Remote Meetings. This is due to the need to manage the duration and security of the meetings. Instead, written representations on planning applications can be made in advance of the meeting and submitted to [planningcomments@selby.gov.uk](mailto:planningcomments@selby.gov.uk). All such representations will be made available for public inspection on the Council's Planning Public Access System and/or be reported in summary to the Planning Committee prior to a decision being made.
12. The Remote Meetings Regulations provide flexibility in light of the Covid-19 pandemic, and allow meetings to be moved, called or cancelled without further notice. For this reason, the public are encouraged to check the Council's website in case changes have had to be made at short notice. If in doubt, please contact either the Planning Department on [planningcomments@selby.gov.uk](mailto:planningcomments@selby.gov.uk) or Democratic Services on [democraticservices@selby.gov.uk](mailto:democraticservices@selby.gov.uk) for clarification.
13. A provisional Calendar of Meetings is operating, with Planning Committees usually sitting on a Wednesday every 4 weeks. However, this may change depending upon the volume of business as we emerge from lockdown. Please check the meetings calendar using this link for the most up to date meeting details:  
<https://democracy.selby.gov.uk/mgCalendarMonthView.aspx?GL=1&bcr=1>
14. To view the meeting online, find the relevant meeting from the list of forthcoming Remote Planning Committee meetings. The list of forthcoming meetings is here:  
<https://democracy.selby.gov.uk/ieListMeetings.aspx?Committeeld=135>  
  
Find the meeting date you want and click on it. This will take you to the specific meeting page. Under the section on the page called 'Media' is the link to view the online meeting – click on this link.
15. Please note that the Meetings are streamed live to meet with the legal requirement to be "public" but are not being recorded as a matter of course for future viewing. In the event a meeting is being recorded the Chair will inform viewers.
16. These procedures are being regularly reviewed as we start to operate in this way and will include reviewing the feasibility of introducing public speaking at the Remote Meetings in the future.

**Contact:**

Democratic Services

Email: [democraticservices@selby.gov.uk](mailto:democraticservices@selby.gov.uk)

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# Agenda Item 4

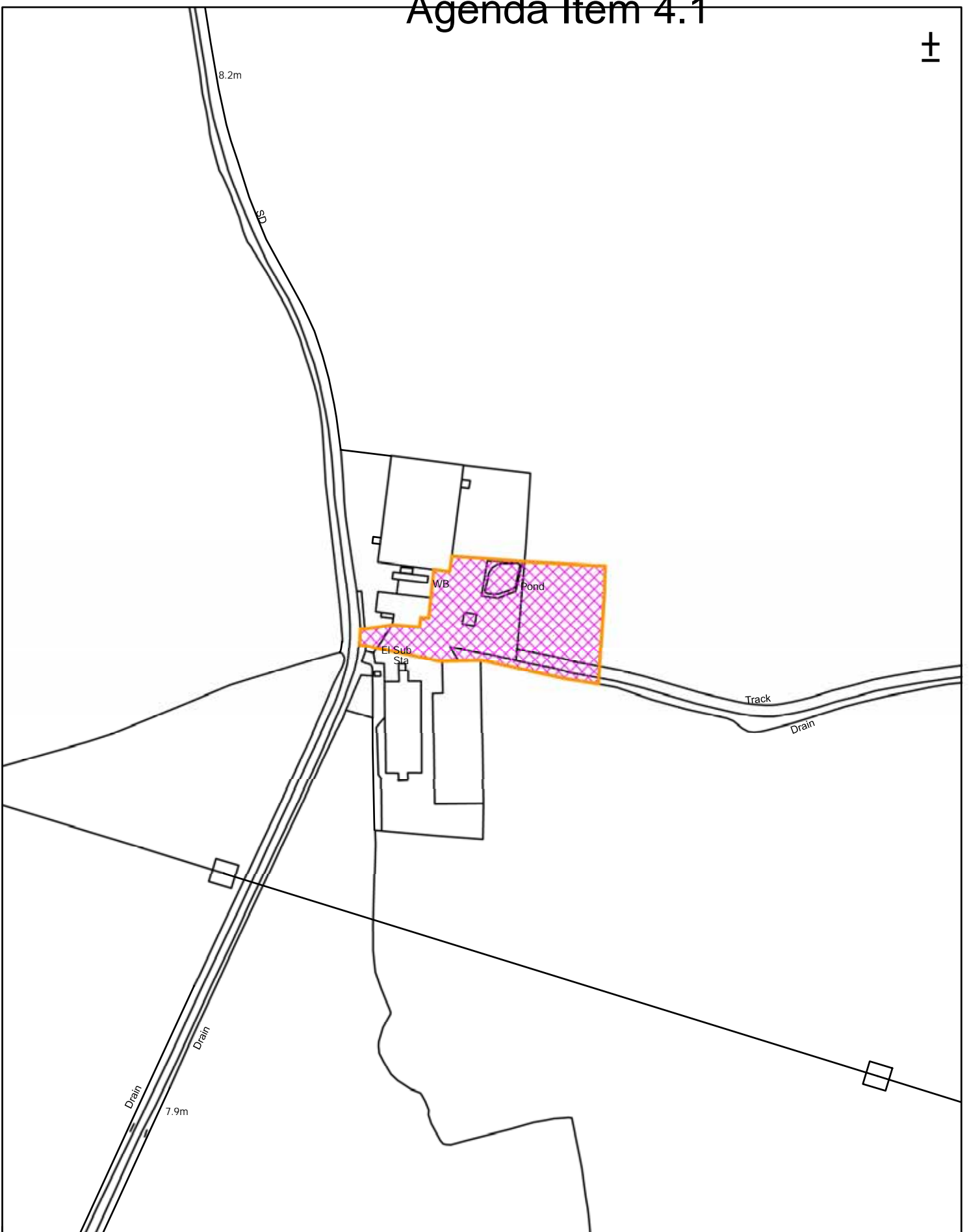
Items for Planning Committee

12 August 2020

<b>Item No.</b>	<b>Ref</b>	<b>Site Address</b>	<b>Description</b>	<b>Officer</b>	<b>Pages</b>
5.1	2017/1381/FULM	Land At Viner Station Roe Lane Birkin Knottingley	Proposed erection of a new grain store including a chemical store and roof mounted solar PV	FIEL	7 - 38
5.2	2020/0475/FUL	Lodge Farm Wistow Lordship Wistow	Conversion of the existing barn into a dwelling house after Class Q permitted approval (retrospective)	RELE	39 - 58

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## APPLICATION SITE

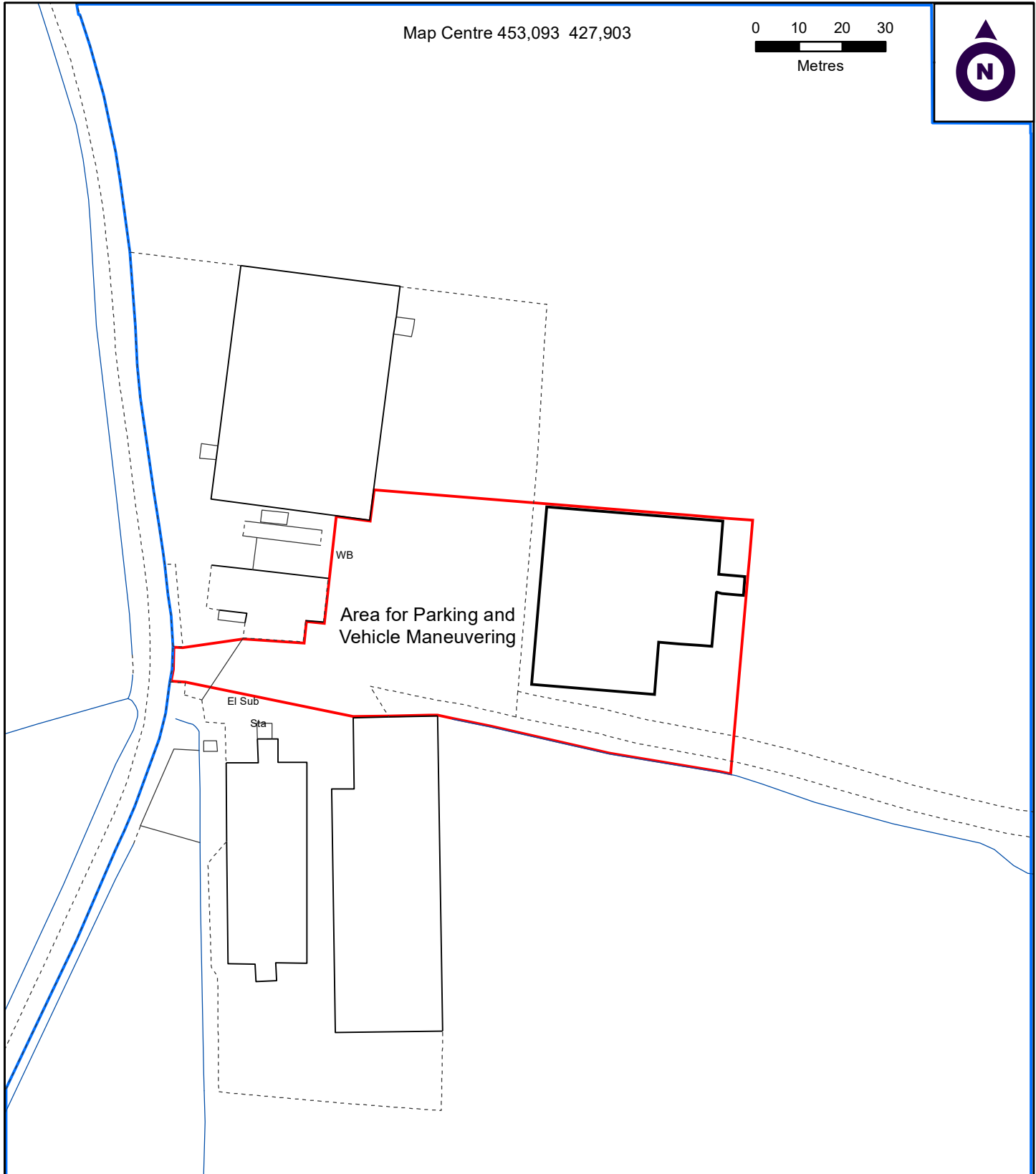
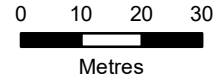
Land at Viner Station, Roe Lane, Birkin  
2017/1381/FULM

1:2,500



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Map Centre 453,093 427,903



# Carter Jonas

Two Snow Hill, Birmingham, B4 6GA  
T: 0121 794 6250  
carterjonas.co.uk

Client: **J E Harley Limited**

Project: **Proposed New Grain Store and Chemical Store**

Title: **Site Plan**

Scale: 1:1250 @A4 Date: 04 November 2019

Drawn by: JJH

Dwg no: **J0008333-20-03**

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**Report Reference Number:** 2017/1381/FULM (8/51/64/PA)

**To:** Planning Committee  
**Date:** 12 August 2020  
**Author:** Fiona Ellwood (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/1381/FULM	PARISH:	Birkin Parish Council
APPLICANT:	JE Hartley Ltd	VALID DATE:	10th January 2018
		EXPIRY DATE:	11th April 2018
PROPOSAL:	Proposed erection of a new grain store including a chemical store and roof mounted solar PV		
LOCATION:	Land At Viner Station Roe Lane Birkin Knottingley West Yorkshire		
RECOMMENDATION:	GRANT SUBJECT TO CONDITIONS		

*N.B: Location Plan attached with existing buildings numbered for identification purposes.*

This application which was reported to the Planning Committee meeting of 6<sup>th</sup> June 2018 and was deferred for the following reasons which are set out in the minutes to that meeting:

*“Members felt that they required more information on the application including on the unauthorised uses of some of the buildings before they could take a decision. Some members expressed a preference for a site visit; however, it was agreed that a decision on such a visit would be taken at a later date.”*

Following this, a retrospective application, under reference 2018/0681/FULM for the Change of Use of the buildings and land from agricultural use to industrial B2 use (which included 5 Biomass Boilers for the drying and heating of woodchip) was reported to Planning Committee in December 2018 and subsequently refused permission on 6 February 2019. An appeal has been lodged against the refusal and will be the subject of a Hearing later this summer in August. See Relevant Planning History section of this report for the refusal reasons.

This application relates solely to the new agricultural grain store. In view of the time period that has passed, the report is re-written, updated and addresses the queries which arose at Committee. An appraisal has been obtained by an Independent Agricultural Consultant on behalf of the Council which justifies the need for the grain store independent of the other buildings on the site. Further information has been provided on the following:

- Blue line ownership for the entire holding.
- Further details of the farm business;
- Greater justification for the agricultural need for the building and why the existing buildings are to be discounted; and
- Advice by an Agricultural Consultant on behalf of the Council.

## **1. INTRODUCTION AND BACKGROUND**

### **Site and Context**

- 1.1 The site is located to the east of Roe Lane approximately 0.64 north of Birkin and 1.44 miles south east of Hillam. Viner Station is a farm site comprising a series of varying sized substantial steel framed agricultural type sheds of mainly grey corrugate sheet walls and roof on concrete hard-standing. There are also smaller ancillary brick stores and an open sided steel frame barn.
- 1.2 Historically the buildings were granted permission in the 1970's for agricultural grain storage and potato storage. The buildings and the surrounding land are owned by J E Hartley Ltd. The farm is managed by the applicant who is J E Hartley's grandson. The farm operates an arable rotation of wheat, oilseed rape, barley, potatoes and peas. The farm business is 1,100 hectares of owned land mainly at East Haddlesly, Hillam/Birkin, Hambleton, Towton and Headley Hall. Additionally there is a further 200 hectares at Tadcaster farmed in a partnership agreement with Velcourt.
- 1.3 There are four main buildings at Viner Station. These comprise:

Building 1 - (north) comprises four sections. The north section comprises 2 former grain stores with below ground drying. These are let to the biomass green energy company and are used for the drying and storage of woodchip and to house biomass boilers. (see relevant history section of the report). The southern section remains agricultural and has 2 below ground drying units with a total grain storage capacity of 1800 tonnes;

Building 2 - (south west side). This is a concrete floor grain store with above ground drying system. It has the capacity for 1000 tonnes of grain;

Building 3 - (central) Partly open sided. Used for temporary store (5 days only) of wet grain at harvest and throughout the year as a general purpose storage building; and

Building 4 - (South east side). Has a concrete floor and is used as a potato and fertiliser store.

### **The Proposal**

- 1.5 The proposal is the erection of a new grain store including a chemical store and roof mounted solar PV. The site layout plan identifies that the building would be located to the east of the existing buildings at Viner Station. The total footprint would be 1,656 square metres. It would be 30 metres wide, 42 metres long and 8.2 metres tall (to

the eaves). It would hold an estimated 2,500 to 3,000 metric tonnes of grain. The building will also include a new lean-to chemical store on the southern elevation which will be 12 metres wide, 30 metres long and 5.8 metres tall (to eaves). The existing chemical store on site has now been demolished. Heating and drying of grain is stated to be independent of the Biomass Boilers at the site. There would also be a small 6 metre by 6 metre fan house on the eastern elevation.

- 1.6 The building would be constructed of a similar design to the existing grain stores on site. It would be a steel portal framed construction with plastisol coated box profile galvanised steel sheet side wall cladding, natural grey concrete gain walling panels, a natural grey reinforced corrugated fibre cement roof and uPVC eaves guttering. It would include solar PV on its south facing roof and a rainwater harvesting system.

### **Relevant Planning History**

- 1.7 The following historical applications are considered to be relevant to the determination of this application:
- 1.8 A retrospective application, under reference 2018/0681/FULM for the Change of Use of the buildings and land from agricultural use to industrial B2 use (which included 5 Biomass Boilers for the drying and heating of woodchip) was reported to Planning Committee in December 2018 and subsequently refused permission on 6 February 2019 for the reasons set out below. An appeal has been lodged against the refusal.

01. *Having regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, the proposal will significantly intensify the use of the site and introduce inappropriate industrial development to the open countryside. In addition the lorry movements created by this proposal are considered to be unsustainable for this open countryside location and would affect the character of this open countryside location through the intensification of the use. It is therefore considered to be contrary to policy SP13 of the Core Strategy, saved Policy EMP8 of the Local Plan and paragraphs 83 and 84 of the NPPF.*
02. *The roads leading to the application site by reason of their poor alignments/insufficient widths/poor condition and lack of footways are considered unsuitable for the traffic which would be likely to be generated by this proposal and would interfere with the free flow of traffic with consequent danger to highway users by virtue of its proximity to the public highway network. It is considered that the proposals would result in a significant detrimental impact on the existing highway network and highways safety and would therefore not accord with Policies EMP8 (6), ENV1 (2), T1 and T2 of the Selby District Local Plan, Core Strategy Policy SP19 and the NPPF.*
03. *The applicant has failed to provide sufficient information in regards to drainage and the Council therefore cannot be satisfied that the proposals are acceptable in terms of flood risk and drainage. Therefore the proposals fail to accord with Policies SP15, SP16, SP19 of the Core Strategy, and the advice contained within the NPPF.*

2018/0290/PPP - Lawful development Certificate for replacing fossil heaters with 4 Biomass Boilers. Withdrawn 18 May 2018.

CO/1976/21480 - Weighbridge and Office - Approved

CO/1975/21479 - Agricultural Store - Approved

CO/1975/21478 – Re-siting of Grain Store - Approved

CO/1975/21460-New Grain Store - Approved

## **2. CONSULTATION AND PUBLICITY**

### **Consultation**

#### **2.1 North Yorkshire Bat Group**

No response received.

#### **2.2 County Ecologist**

Satisfied that the outcome of the Preliminary Ecological Appraisal is sufficient to determine the application in relation to ecological matters. It is agreed that the site is of low ecological value in terms of habitats and species which are legally protected or of principal importance.

Re-consultation - The further information submitted does not change the position in relation to ecology.

#### **2,3 Natural England**

No comments to make on the original or additional information.

#### **2,4 Environmental Health**

No objections to the granting of this application.  
Re-consultation -no further comments to make.

#### **2.5 NYCC Highways**

No objections.

#### **2.6 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 existing or proposed surface water system(s) have the capacity to accommodate any increase in surface water discharge from the site.  
Comments/recommendations:

- If the surface water disposed via a soakaway system, advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests needed to establish if the ground conditions are suitable for soakaway drainage throughout the year.
- If surface water is to a mains sewer system no objection, 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 consent is required as described above then a condition is necessary that any surface water discharge into any watercourses in, on, under or near the site requires consent from the Drainage Board.

Regarding the additional information, we have no further comments to make.

## 2.7 NYCC Flood Risk Management

Further response following submission of FRA as requested.

No objection subject to conditions requiring adherence with the recommendations of the FRA. Chemical Store in particular needs to adhere to proposed finished floor levels

Detailed Drainage scheme A sustainable drainage system is recommended to mitigate the risk of site generated surface water runoff, and investigations should be undertaken as to the infiltration rate and groundwater levels prior to informing a detailed drainage design.

Soakaway testing must be conducted to BRE 365 standard. Should ground conditions not prove suitable attenuation will need to be provided and discharge off site limited to the greenfield rate to be agreed with the local drainage board. The consent of the board will be required for discharge rates and any outfall that is proposed as part of the detailed design.

Conditions recommended.

## 2.8 Parish Council-Hillam

- Concerns regarding reports of increased haulage traffic
- Concerns regarding other business activity on the site that has led to the new building being needed i.e. current farm buildings being leased out to a different company for another purpose - should a change of use be applied for?

## 2.9 Parish Council Birkin

- Proposal is a cover up for larger premises for more Bio Mass Boilers on an industrial scale. (Location plan title is misleading)
- Grain store and vinery buildings rented out and already in use by Bio Mass Company
- Pea production not mentioned in the predicted tonnage
- New grain store unjustified due to existing grain stores being used for other purposes.
- HGV's and other heavy traffic associated with the use causing problems for local traffic and damage to roads and verges.
- Increased traffic associated with the grain store and the Bio Mass company is harmful to road safety and amenity and local roads are unsuitable
- If permission is granted conditions should be placed restricting HGV movements

## 2.10 Representation

2.11 The application has been statutorily advertised by site and press notice. No neighbours adjoin the site but the nearest, Roe Lane Nursery has been notified by letter. Letter of objection from 20 individuals have been received with comments made summarized below:

- Not appropriate development in the Green Belt.
- Planning Statement refers to agricultural unit that covers 1300 ha. No blue line plan to indicate where this land is in relation to the site. The National Validation requirements stipulate that a Location Plan should indicate, edged blue, the land owned. The application is invalid. Should show the whole 1300 ha claimed to comprise the agricultural holding and would establish the planning unit.
- The agricultural holding comprises more than one planning unit. The Planning Statement refers to an additional 200 acres being farmed by Velcourt. Other elements of the applicants 1100 ha. may also be within different planning units.
- The importance of ascertaining the planning unit relates to the decisions in *Warnock v SoS for the Environment & Dover DC* (JPL 590 Sept 1980) and *Fuller v SoS for the Environment & Dover DC* (JPL 854 Dec 1987) which addresses the issue of agricultural activities falling into business use classes where they serve more than on planning unit (as distinct from an agricultural holding).
- The former Grain Store appears to be of similar size to the new store. This undermines the need for a new building. Need for building not demonstrated. Huge storage increase for a small increase in land.
- Need for the additional grain storage is driven by letting half the existing storage space to a different business (Biomass boilers which has nothing to do with the agricultural business) and is not driven by increased productivity.
- It is not clear, whether grain will be stored or dried in the former Grain Store and also whether heat from the biomass boilers now installed in the former Grain Store will provide heat for the new store.
- The use within the existing Grain Drying Store appears to be of much greater capacity than the heating equipment that it replaced.
- J E Hartley have other buildings nearby at Birkin which are suitable. The existing farming enterprise appears to have either leased its holdings to a farm management company or employed them to run the farm.
- Hard surfaces have been created and timber appears to be being stored. There may be storage of biomass wood chip within the former Grain Store. There is use of the land and building(s) for open storage and processing. This appears to be a commercial production plant for biomass wood chip which would be a business use, both unauthorised and inappropriate. Evidence of felled trees and wooden pallets being brought to site, stored and chipped. If used timber is being processed it would constitute a waste recycling activity and require licensing.
- The site is immediately adjacent to Green belt and is prominent in views to and from the Green Belt.
- A pond has been filled in recently which would prevent a survey for newts.
- It is not evident where access to the building is and how this relates to existing hard surfacing. Further hard surfacing will be required. This would need to be addressed by the flood risk assessment and that should also explain whether the former pond provided any function in the existing surface water disposal arrangements.
- Ecology survey not credible as it lacks mention of species evident in the locality.

- Roads not suitable, single track, no pavements, small bridges, flooded roads (narrow, damage to verges) for additional Heavy traffic & HGV's-danger to pedestrians, cyclists, horse riders and other road users.
- Work at Viner station is already audible from nearby Birkin village. Further expansion would impact negatively in terms of noise and disturbance.
- Traffic is 24/7 and harmful to local amenity.
- Flood zone 2 – query if alternatives been considered?
- Increased pollution.
- Industrialisation and harm to the countryside.
- Concerns over future industrial use of the new building.
- Should be at Kellingley using rail facilities.
- Houses being damaged by the shudder of HGV's on small roads.
- Drainage not addressed.
- FRA does not take account of new impermeable concrete hardstanding.
- No details provided of the internal structure of the building, entrances etc.
- New concrete hardstanding and bund have been constructed but are not within the red line area identified on the plans.
- Processing/storage of crops from another farm means the process is industrial rather than agricultural.
- Suggest condition limiting the use solely for the purpose of drying and storage of grain produced from the farms shown edges blue on Plan No. J0008333-18-02 DATED 02.05.2018

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The site lies in open countryside but is **not** in the Green Belt. The land to the west of Roe Lane falls within the Green Belt, whereas Viner Station is on the east side of Roe Lane. The whole site is within Flood Zone 2 and therefore has medium risk of flooding. 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.

### **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

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 (LP)**

4.7 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development

EMP9 – Expansion of existing employment uses in the countryside.

EMP13 - Control of Agricultural 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 in the open countryside
- Impact on the character and form of the open countryside
- Impact on residential amenity
- Highway Safety
- Biodiversity and Ecology
- Flood Risk and Drainage
- Other Matters.

### **Principle of the development in the open countryside**

5.2 Policy EMP13 1) of the Selby District Local Plan (LP) allows agricultural development provided that the proposal is necessary for agricultural purposes. Other criteria of this

policy in relation to design, highways, and impact on the character of the area are considered under subsequent sections of this report. In order to determine whether the proposal is acceptable in principle and whether it complies with this policy it is necessary to consider firstly if the proposal is agricultural development and if so whether the building is necessary for agricultural purposes.

- 5.3 The information from the applicants states that the farm business, originally JE Hartley, diversified in the 1970's into arable crops and peas. The Viner Station was established for podding the peas by machine but has for many years been used for agricultural grain storage and a potato store. The farm has a standard crop rotation of 1,100 hectares with wheat as the main combinable crop. The agricultural business includes several parcels of land which are geographically dispersed. A plan providing details of the land owned and its locations has been provided. Historically grain from all these parcels of land (with the exception of the recently added Velcourt land at Headley Hall) has been stored at Viner Station.
- 5.4 The applicant provides information indicating that, following a review, the farm business expanded into a partnership with Velcourt which brought a further 200 hectares to the agricultural business as well as spreading of labour and machinery. The plan has been to expand the production of wheat, barley and oil seed rape within the existing and additional land. This will require drying and storage for approximately 6,000 metric tonnes. Currently the farm (at the Viner Station unit) has 1,800 tonnes of storage available in a purpose built grain store and a further 1,000 in a four bay store with no underground ducting.
- 5.5 The applicant states that the need for more grain storage for this business arises due to both an increase grain production across the acreage and the intention to store it for much longer. Traditionally in farming the grain was stored for only a short period after harvest time then sold. The construction of proposed building will provide expanded and improved modern facilities which would be used to store grain from harvest time for a longer period until the following May. At least half of the grain would be sold on a 'cash & carry' basis. As a result the farm needs increased storage for a further 2500 to 3000 metric tonnes.
- 5.6 In addition to the proposed grain store, the proposal also includes for a new chemical lean-to store (attached to the grain store) to replace the existing chemical lean-to store at the Viner Station. Integrated Farm Management and Integrated Pest Management are stated by the applicants to be key drivers in decision making regarding the use of natural resources and pesticides. The construction of a new dedicated chemical lean-to, storage and filling area at the Viner station is stated to bring a multitude of benefits to the business, site and local environment. The new build will not only take advantage of some of the latest forms of technology regarding the handling of sprayer tank washings and waste pesticide handling methods, but will also aim to reduce surface run-off into nearby streams and rivers by including rain water harvesting equipment as an integral part of the design.

Key Benefits of the new chemical store are stated to be:

- Fully insulated to ensure high value pesticides are properly stored and protected from external varying climatic conditions and tampering from trespassers.
- Indoor adjoining storage / filling areas to promote staff well-being and improved health and safety by employing the use of trollies and pallet trucks to transport chemical containers between sites, reducing manual handling of containers and worker fatigue.

- Any spillages will be fully contained within the storage area, draining into a central gulley and pumped directly into the bio-bed filtering system.
  - To promote an open and tidy working area, allowing suppliers and forklifts to efficiently and safely unload and deliver pesticides.
- 5.7 The grain store is stated to be for the purposes of storing grain produced by the agricultural business. It is not intended to be used for further biomass boilers and energy production which was a concern of objectors. Moreover, the applicants have confirmed it is not intended to be used to store grain from other agricultural businesses.
- 5.8 Objectors refer to the importance of ascertaining the planning unit and refer to the decisions in *Warnock v SoS for the Environment & Dover DC* ([1980] J.P.L. 690) and *Fuller v SoS for the Environment* ((1988) 56 P. & C.R. 84) which address the issue of agricultural activities falling into business use classes where they serve more than one planning unit (as distinct from an agricultural holding). An objector considers that this building would serve at least 5 planning units and therefore the use must be industrial not agricultural. The *Warnock* case relates to the holding and storage and onward transport of livestock held commercial lairage found not to be agricultural use.
- 5.9 In the *Fuller* case, it was concluded that there is no reason why the 'agricultural unit' should define the 'planning unit' where the unit is broken up geographically. The Court held that the planning unit remains a question of fact and judgement for the decision-maker and the planning unit is not necessarily the same as the agricultural unit. On the basis of this judgment the objector concludes this agricultural unit comprises several planning units. There have been a number of cases where the courts have considered a decision-maker's approach to whether separate parcels of agricultural land form the same or different planning units. The consistent finding is that the issue is one of fact and degree for the Council/Inspector; another important case on planning units is *Burdle v SoS for environment 1972* which recognised that the planning unit is normally regarded as the unit of occupation unless some smaller area, both physically and functionally separate, can be defined.
- 5.10 The degree of separation is an important consideration in determining the planning unit. The plans provided by the applicant show the geographical spread of multiple parcels of land. A planning unit is normally regarded as the unit of occupation and implies a mainly single contiguous area, however, an agricultural holding may comprise widely scattered areas of land and cover a very large area, but which nevertheless constitute a single agricultural business; the agricultural business of J E Harley is clearly extensive and comprises several geographically dispersed parcels of land. These are as follows:
1. Land at Headley Hall – contains no farm buildings
  2. Towton - contains buildings - (none suitable for grain storage)
  3. Monk Fryston (Siddle farm)- contains no farm buildings
  4. Hillam/Birkin - including Viner station (buildings described above) and Birkin House Farm (farm buildings but unsuitable for grain storage)
  5. East Haddersley - contains no farm buildings
- 5.11 The above parcels of land are physically separated and geographically widely dispersed. The majority of farm buildings for the agricultural business are located at Viner Station. These buildings serve the agricultural unit as a whole and the crop production from the various parcels of land is all produced and stored for the one agricultural unit. The use taking place across all the parcels of land is primarily

agricultural. Although functionally linked, the parcels of land (described in 1-5 above) are all considered to be separate planning units. The group of buildings and surrounding land at Viner Station is considered to constitute one planning unit.

- 5.12 An objector considers this proposal to unacceptable on the basis that it is a commercial use. However, commercial grain stores usually exist to serve several agricultural businesses and are owned and operated independent of farms with the space being rented out on a commercial basis to any farmer requiring additional grain storage. The grain stores at Viner Station are not operated on this basis. The new store is intended to serve only this one agricultural business (J E Hartley) albeit from several separate planning units. Only the grain produced by this agricultural business as a whole will be stored in the new building. It is not intended to be let commercially to store grain from other agricultural businesses or to be used for any reciprocal arrangements with other farms outside the agricultural business. Therefore even though the existing grain stores and the proposed new grain store would serve multiple planning units, the use is still considered to be agricultural not commercial. As such the grain store is essentially intended for rural farming purposes and is not intended to serve other farm businesses or for warehousing for other products or other commercial uses. A planning condition could be imposed to limit the use of the building to grain storage only.
- 5.13 Although there are secondary activities within the unit, namely the Biomass business, planning permission for this has not been granted. It is important therefore to note that at the present time the current lawful use of all the land and buildings at Viner Station is considered to be solely agricultural. Should the Biomass Business be granted permission on appeal then Viner Station site would become a mixed commercial and agricultural use site.
- 5.14 It is therefore concluded that even though there are multiple planning units, these are part of just one agricultural business. This is common and typical of most large farming businesses today. The proposed development is considered to be agricultural in use and therefore in accordance with EMP13 (1) it is can be permitted provided it is necessary for agricultural purposes.
- 5.15 Turning to the question of whether the scale and size of this proposed large new building is necessary for grain storage for this agricultural holding, it may not be appropriate to grant permission if capacity still exists within the existing range of buildings at Viner station. Given that a large portion of the buildings are currently occupied by an unauthorised change of use, this scheme could only be supported if the new grain store is justified over and above the capacity of the existing buildings which have been taken up by the Biomass Boilers which are not associated with the agricultural use of the site.
- 5.16 There are 5 Biomass boilers. One of which is providing heating to the existing grain store. Four boilers are operating separately to the farming business by Woodyfuel Ltd and are being used to create woodchip fuel for the Biomass boiler business off site.
- 5.17 Advice has been sought by Selby District Council from an independent Agricultural Consultant on firstly whether the size of the proposed grain store is justified on the basis of the crop production of the Agricultural unit and secondly on whether, if the unauthorised biomass green energy production business were to cease and the buildings were again available for grain storage, whether the size and scale of the new storage building would still be justified.

- 5.18 The Agricultural Consultant concluded that the central section of Building 1 should not be included in the grain storage calculation but reserved for storage of fertiliser, seed corn and machinery. The fact that these had been stored at various times in Building 3 (partly open sided) but had been water damaged in heavy rains was also highlighted. The appraisal concludes that;
- With the central section of Building 1 excluded from the calculations, then, with the new building erected there would be a grain storage capacity of 8,905 cubic metres and the storage requirement would be 8,679 cubic metres. The capacity assumes every section of every store is full to capacity. With 7 different crop types, it's unrealistic to assume all the storage areas would be filled to capacity and therefore it can be concluded that the grain storage provided by the existing and the proposed building would be appropriate to the farming enterprise concerned.
  - It makes complete sense to continue to rent out the potato store to a local farmer. This is the most appropriate and lucrative use of Building 4.
  - The chemical store proposed is appropriate for purpose as there is no modern storage for the farm sprayer or chemicals.
  - If the business is to invest in a new grain store which the Agricultural Consultant concluded to be justified, then it would be appropriate for it to satisfy the requirements without the central section of Building 1.
  - The proposed grain store and chemical store is completely appropriate development for a farming business of this size and type, even with the assumption that the boilers and woodchip business are completely removed from the site.
- 5.19 On the basis of the above appraisal the size and scale of the proposed new building is considered to necessary for the purposes of this agricultural business even with the assumption that the biomass boilers are removed together with the woodchip drying business. As such the proposed development is considered to necessary for this agricultural business.
- 5.20 It is therefore concluded that the proposed development is agricultural development which is necessary for the agricultural unit and therefore it complies with Policy EMP 13(1) of the LP.
- 5.21 In addition to Policy EMP13 of the LP, Policies SP1, SP2 and SP13 of the Core Strategy and EMP9 of the LP are of some relevance. Policy SP1 of the CS Policy sets out the positive approach when considering development proposals that reflects the presumption in favour of sustainable development contained in the NPPF. SP2 of the CS sets out the locational strategy for the district and limits development in the open countryside 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 to 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, or other special circumstances. EMP9 sets out that proposals for the expansion and/or redevelopment of existing industrial and business uses outside development limits will be permitted provided it meets a number of criteria in relation to the impacts of the development (highways, character and appearance of the area, design) which are discussed in the following sections of this report.
- 5.22 Policy SP13 of the CS aims to give support to developing and revitalising the local economy. In relation to the rural economy, SP13 seeks to support sustainable



development which brings sustainable economic growth through local employment opportunities or expansion of businesses and enterprise including, well-designed new buildings and the diversification of agriculture and other land based rural businesses. This is consistent with the advice in paragraph 83 of the NPPF which supports this approach. This states that:

“Planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, through conversion of existing buildings and well-designed new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses.”

Policy SP13 of the CS requires that in all cases the development is sustainable and is appropriate in scale and type to its location and does not harm the character of the area and seeks a good standard of amenity.

- 5.23 In view of the above conclusions that the proposal is an agricultural use, then the application should be judged against Policies EMP13 of the Local Plan. However, even if the view of the objector were to be taken that the buildings at Viner Station are a mixed use of commercial and agricultural due to the multiple planning units, then it is clear that this is an established rural business which requires a rural location. EMP9 sets out that proposals for the expansion and/or redevelopment of existing industrial and business uses outside development limits will be permitted provided it meets a number of criteria in relation to the impacts of the development (highways, character and appearance of the area, design) which are discussed in the following sections of this report. Paragraph 84 of the NPPF also states that “planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport)”.
- 5.24 Historically, the farm business at Viner Station has for many years served as an agricultural grain storage facility for the various parcels of land which make up this agricultural business. As such a proportion of grain stored here comes from the Viner Station planning unit itself and a larger proportion already come from the remainder of the agricultural business (the other planning units). There are three key changes which have resulted in the need for the additional grain store. Firstly, grain production is to be increased across the entire holding and secondly a further 200 hectares of land (in crop production) have been added to the size of the holding. Thirdly it is intended to store the grain for longer. For these reasons there is a need for an increase in the capacity grain storage at Viner Station.
- 5.25 The proportion of the total amount of grain arriving for storage from outside of the Viner Station Planning unit will increase due to the additional 200 hectares added to the agricultural business. However, some of the increase is also be due to increased grain production across the whole holding including at the Viner station unit. As such, the introduction of a further grain store at the Viner Station site to serve the entire agricultural holding would not materially change the existing use of the Viner Station site itself but would be an expansion of its existing facilities which already store grain for the entire holding. Although exact figures of the amounts of grain coming from the

various parcels have not been provided, the overall change is not considered to result in a material change of use at Viner Station given its historic use serving the entire holding.

- 5.26 Objectors refer to the use being 'inappropriate' development for this location and mention that it is Green Belt. They argue that the proposal is a mixed commercial and agricultural use would not fall within the exceptions set out in paragraph 145 of the NPPF. However, the site is not within the Green Belt. The erection of new buildings in this open countryside location that is not Green Belt is not subject to the same higher tests. Moreover, it is Officers' opinion that the use is agricultural not commercial which would be appropriate in the Green Belt.
- 5.27 The proposed scheme is considered to contribute towards and improve the local economy and allows for continuation, expansion and improvement of an existing established agricultural business. The continued central storage of grain for the farm business makes sense rather than transporting it all further afield to an industrial site. The proposed scheme is considered to be appropriate development in this countryside location and is agricultural development.
- 5.28 Overall it is concluded that the proposed development complies with Policies EMP13 of the LP. Subject to the consideration of the criteria below, the proposal also complies with Policies SP1, SP2 and SP13 of the CS and with EMP9 of the LP. These policies even though they were adopted before the publication of the framework are still consistent with the advice within paragraphs 83 & 84 of the NPPF and can therefore be afforded considerable weight.

#### **Impact on the character and form of the open countryside**

- 5.29 The LP aims to support the modernisation and expansion of the agricultural industry subject to ensuring it does not threaten the character of the landscape amongst other things. EMP13(2), (4) and (5) as well as EMP9 and SP13D seek to achieve this aim.
- 5.30 The proposed grain store would be located within the field adjacent to the existing farmyard.
- 5.31 The proposed building would be constructed of a similar design to the existing grain stores on site. It would be a steel portal framed construction with plastisol coated box profile galvanised steel sheet side wall cladding, natural grey concrete gain walling panels, a natural grey reinforced corrugated fibre cement roof and uPVC eaves guttering. It would include solar PV to its southern facing roof and a rainwater harvesting system.
- 5.32 The design of the proposed building is commensurate to its stated intended use as an agricultural building. The proposal due to its design, size, height and siting is considered to be in keeping with the character and form of the other agricultural buildings on the site. Moreover, it would be located adjacent to and would be seen against the backdrop of the existing buildings at the Viner Station and would therefore be in keeping with its surroundings. It is therefore considered that the proposed development would not have an adverse impact upon the visual amenity of the open countryside. However, given the scale of the new building on the edge of the farmstead it is considered that it would benefit from a landscaping scheme around the north, east and southern sides which would in the longer term provide screening, soften its impact and contribute to biodiversity. Policy EMP13 criterion 5 requires agricultural development to be adequately screened and landscaped. A condition

can be imposed requiring full details to be submitted and agreed should consent be granted. The applicants have agreed to this approach.

- 5.33 The development will also include solar panels covering almost the entire southern side of the roof slope. Given the utilitarian design of the building and its materials it is not considered that the solar panels will harm the character and appearance of the building or the area. Moreover, they will contribute to a more sustainable form of development in this location.
- 5.34 Objectors have raised concerns that an embankment and hardstanding created without planning permission. These are within the blue line area of this application but form part of the refused scheme to change the use of buildings to a biomass energy production business. These will be a matter for consideration on the refused scheme currently at Appeal.
- 5.35 The proposal is therefore considered to be acceptable with respect to the impact on the character of the area and the visual amenity of the open countryside. The proposed scheme, subject to the attached landscaping condition to secure compliance with EMP 13(5), therefore accords with Policies ENV1 and EMP13 of the Selby District Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

#### **Impact on Residential Amenity**

- 5.36 The concerns of local residents about noise associated with the use are noted. However, the majority of objections and concerns related to the Biomass wood-chipping use. Due to the combination of the orientation of the site, the size, scale and siting of the proposed scheme and distance away from the neighbouring properties, the proposal is considered not to cause any significant adverse effects on the amenity of the adjacent residents. Regarding the fan house, queries were raised about whether a condition is required to limit noise at the boundary. The Council's Environmental Health Officer has been consulted and considers a condition is unnecessary. This is because the site is some distance from any independent residential properties being over 1km with a direct line of site. The nearest receptor is to the south east so not directly in line with the entrance doors. The fan house is enclosed not like on other sites which have louvered side walls or are open. Moreover, the other fans on the site have not led to complaints and a noise assessment was carried out which showed noise levels not sufficient to cause sleep disturbance and well below daytime noise levels in the area. The EH officer raised no objections to the proposal and it is considered that there are no compelling reasons to depart from the guidance of the Council's specialist officer. The proposed scheme therefore accords with Policies ENV1 and EMP13 of the Selby District Local Plan, Policy SP19 of the Core Strategy.

#### **Highway Safety**

- 5.37 Policy EMP13 criterion (3) requires that proposals should not create conditions prejudicial to highway safety. Similarly Policy EMP9 Criterion (1) has the same requirement. The NPPF at paragraph 109 sets out that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The proposed scheme would utilise the existing access and access tracks surrounding the farm complex. The submitted Design and Access Statement states that, the associated traffic in harvest year 2018 in the form of articulated lorries

accessing via Roe Lane for the out loading of harvested primary produce as 'harvest moved' with the current storage capacity of 2800 mt would result in a total of 148.3 outloads conducted between the period of mid-July to mid-September.

- 5.38 The Design and Access Statement then goes on to advise of the potential reduction in outloads for harvest 2018 that a new grain store facility at the Viner station could provide in that the proposed grain store facility has the potential to reduce the number of outloads during the period of July 15th – Sept 15th (approximately) by 91.4 outloads. Storing grain for a longer period on site will result in the grain movements from the site being spread across the year. It is advised that this would significantly reduce on farm traffic improving health and safety amongst workers. The applicant considers that it would also help to reduce traffic and congestion levels on key surrounding link roads, allowing the workload of out-loading to be spread throughout the remaining and following year. Taking account of the above, the applicant considers that vehicle movements associated with the proposal would have a limited effect on residential areas or nearby roads.
- 5.39 Objections have been made in regard to the increased traffic generation from HGV's and farm vehicles and the adverse impact on road safety conditions locally for pedestrians, cyclists, horse riders and vehicles. The deterioration caused to roads and verges has also been a source of concern. However, the majority of these concerns relate mainly to traffic that has been generated by the Biomass boilers.
- 5.40 The Highway Authority have been re-consulted recently in relation to this application solely for the grain store. They comment that "*From the information available on this application, I note that the potential grain store would instead of creating potentially 15 HGV movements a week over approximately 10 weeks, the proposal would spread the HGV movements over the year. Therefore, resulting in approximately 3 HGV movements a week. With this in mind I would stand by the previous recommendation of no objections*". In summary, the Highway Authority raises no objections on highway grounds to this proposal.
- 5.41 It is considered reasonable to rely on the advice of the specialist consultee in relation to technical highways issues and it is therefore considered that this proposal would not result in a significant detrimental impact on the existing highway network and would accord with Policies ENV1 (2), EMP9 (1), EMP13 (3), T1 and T2 of the Selby District Local Plan, Core Strategy Policy SP19 and the NPPF.

### **Biodiversity and Ecology**

- 5.42 Policy EMP 13 (6) of the Local Plan requires that agricultural development does not harm nature conservation interests. Policy SP13 of the Core Strategy supports developing the local economy but 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. A Preliminary Ecological Appraisal has been submitted in support of the application which advises that based on the nature of the proposed development; the distance between the site and protected sites and the nature of the protected sites, that the proposed development is not predicted to result in any significant effects on protected sites. No Habitats of Principal Importance are present at the site. None of the habitats at the site are assessed as being of value at greater than the site level. In addition to this the submitted report advises that based on the habitats present and the site location, the site is not considered likely to support a notable breeding bird assemblage although Species of Principal Importance such as skylark could potentially breed on the site in small numbers.

- 5.43 The submitted report states that no waterbodies potentially suitable for breeding great crested newts have been identified within 500 metres of the site. It is therefore considered very unlikely that great crested newts would occur at the site and no further surveys or mitigation measures for bats are considered necessary. In addition to this it states that no evidence of badger or other notable fauna was observed at the site. Brown hare, a Species of Principal Importance in England, could potentially occur within the site on an occasional transitory basis. No further surveys or mitigation measures for other fauna are considered necessary.
- 5.44 Objectors have raised concerns that a pond has been filled at the site. A preliminary Ecology appraisal was submitted with the application in March 2018. This stated that:
- “No waterbodies potentially suitable for breeding great crested newts were identified within 500 metres of the site. It is therefore considered very unlikely that great crested newts will occur at the site. A pond is shown on the Ordnance Survey 1:1250 map of the site; however, at the time of the survey this area comprised bare ground”.*
- The applicants confirmed that there was an open hole of water on the site devoid of life that was filled in for health and safety reasons.
- 5.45 The County Ecologist has been consulted on the application and is satisfied that the outcome of the PEA is sufficient to determine the application in relation to ecological matters. The County Ecologist confirms that they agree with the findings of the PEA - notably, that the site is of low ecological value in terms of habitats and species which are legally protected or of principal importance.
- 5.46 Paragraph 170 of the NPPF advises that planning decisions should contribute to and enhance the local environment through a number of means. Paragraph 175 d) of the NPPF advises that opportunities to encourage biodiversity improvements in and around developments should be encouraged especially where this can secure measurable net gains for biodiversity. The applicant has been asked to provide a landscaping scheme which could soften and in time screen the proposed large-scale building. This could also encourage local wildlife and contribute positively to biodiversity and ecologically enhance the area. Such a scheme could be secured by means of a planning condition requiring full details of the size, position and species to be planted.
- 5.47 As such it is considered that the proposed development would not harm any acknowledged nature conservation interests or protected species and the proposed scheme therefore accord Policies EMP9 (4), EMP13(6) & (7) and ENV1(5) of the Selby District Local Plan and Policy SP18 of the Core Strategy and the NPPF

### **Flood Risk and Drainage**

- 5.48 Paragraphs 5.37 – 5.41 of the Planning Statement provide details in relation to the site’s location within a flood risk area and the implications for the proposal. The proposed development is classified as Less Vulnerable development in accordance with Table 2 of the Flood Risk and Coastal Change Planning Practice Guidance (PPG). The site is part of an existing agricultural holding and the proposal is for a building linked to this use. The nearest tidal river is the River Aire which is 1.47km south of the site. Between the site and the River Aire is Birkin village which benefits from flood defences. Therefore, the risk of the site and the access becoming flooded before being able to leave the site is very minimal.

- 5.49 The application site is located within Flood Zone 2 and a Flood Risk Assessment (FRA) has been submitted. Paragraph 158 of the NPPF states “The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding”. The strategic approach should be used in areas known to be at risk now or in the future from any form of flooding.
- 5.50 A sequential assessment has been submitted which has narrowed down the area of search to the agricultural holding of the farm within the immediate area of the application site. The submitted sequential test undertaken by the applicant’s agent provides for a justification not to locate the grain store in relation to parcels of land which are located in flood zone 1, to support the proposed grain store which is located in flood zone 2.
- 5.51 The submitted sequential test acknowledges that the farm business has an overall cropping area of 1,300 hectares. This cropping area is located across the Selby District within Birkin, Haddlesey, Temple Hirst, Siddle, Towton and Hillam which includes owned, rented and contracted farmed land. The justification for narrowing to the area of search for the Sequential Test states that that Viner Station is centrally located within the landholding. It is also the location for the other existing grain stores used by the farming business. There are only two farmsteads within the landholding, Viner Station and Birkin House Farm. The rest of the land farmed by the business is remote and does not have a suitable grid connection for electricity.
- 5.52 It is noted that the applicant owns which is at less risk of flooding. It is also noted that a large amount of the applicants land is within Flood Zone 3. Planning Practice Guidance on applying the sequential test states that “...a pragmatic approach should be take on the availability of alternatives”. In this case it would not be practical to position this grain store on remote land, away from an electricity supply or separate to the existing grain stores. Moreover, this could result in increased vehicle movements and a greater impact on the character and appearance of the rural areas by constructing a new building away from existing farm buildings. As such it is considered that there are pragmatic reasons to justify the location and officers agree with the conclusions of the submitted sequential test as there is nowhere else practically available within a lower flood risk zone.
- 5.53 Where it is not possible for development to be located in zones with a lower risk of flooding the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance. Land and buildings used for agriculture are within the ‘less vulnerable’ classification and therefore it is considered that the exception test does not need to be applied and the development is appropriate in flood risk zone 2.
- 5.54 Objectors have raised concerns regarding that the pond would attenuate run off and this should also be taken into account when assessing run off from the site. The submitted FRA makes recommendations regarding finished floor levels and for infiltration rates to be testes and a sustainable drainage design to be submitted for approval. Conditions can be imposed requiring these and are attached in the recommendation.

- 5.55 The Local Lead Flood Authority have advised that they have no objections to the proposed development should it proceed in line with the recommendations of the submitted flood risk assessment and recommended conditions. These are set out in the recommendation. The proposed scheme is therefore in accordance with the advice contained within the NPPF in relation to prevention of flood risk.
- 5.56 Yorkshire Water have been consulted on the application; however, no response has been received. Selby Area Internal Drainage Board has also been consulted on the application and have raised no objections subject to the imposition of a surface water drainage condition.
- 5.57 On the basis of the above the proposed scheme subject to the proposed conditions which would ensure finished floor levels would make the development safe and for the drainage and infiltration rate details to be agreed to ensure flood risk is not increased elsewhere, it is considered the proposed development would be acceptable in terms of flood risk and drainage and therefore accords with Policies SP15, SP16, SP19 of the Core Strategy, and the advice contained within the NPPF.

### **Other Matters**

- 5.58 One objector raised an issue in relation to the blue line plan received and validation requirements. The relevant validation requirements are that the application site should be edged clearly with a red line. It should include all land necessary to carry out the proposed development – for example, land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings. A blue line should be drawn around any other land owned by the applicant, close to or adjoining the application site. As such, even though not all the land owned was identified in the application details, the applicant met the standard requirements identifying the land owned immediately around the application site.
- 5.59 A request for further information can be made under section 62(3) TCPA 1990 if meets the tests in section 62(4A). In this case, further details of the extent of land owned was requested by the Council (and provided) in order to assist with establishing what is the planning unit and to assess whether the development is agricultural or commercial. Officers consider that sufficient information was received from the applicant in order to fully assess the application.

## **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, the proposed development would be acceptable in principle in this location taking into account the presumption in favour of sustainable development, flood risk, reducing carbon emissions and the effect of climate, the impact on economic development, impact on the character and form of the open countryside, impact on residential amenity, highway safety and biodiversity. The application is therefore considered to be in accordance with Policy T1, T2, ENV1 and EMP13 of the Selby District Local Plan, Policies SP1, SP2, SP15, SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

## **7 RECOMMENDATION**

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

1. The development hereby granted permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To ensure compliance with Section 91 of the Town and Country Planning Act 1990 as amended. standard 3 years

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

(To be inserted into the Decision Notice)

Reason: For the avoidance of doubt.

3. The materials to be used in the construction of the external surfaces of the building hereby permitted shall be those stated below:

- Concrete wall panels - Marley Eternit Profile 6 panels in Natural Grey (standard finish)
- Composite wall sheets - Plastisol sheets, Olive Green (RAL 6003)
- Composite roof sheets - Plastisol sheets, Goosewing Grey (BS10A05)
- Emmerson Doors Limited single skin non-insulated electrically operated chieftain type steel roller shutter doors. Galvanised shutter curtain with primed steelwork (red oxide, black and grey).

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

4. No development shall commence above slab level until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall provide bunding and a belt of planting around the north, east and southern sides of the grain store hereby approved and shall provide a planting scheme which will enhance biodiversity. The details shall include:

- Details of the species, location, planting density and stock size on planting of all trees and shrub planting
- Details of how the above can secure measurable net gains for biodiversity.
- Details of the measures for the management and maintenance of the approved landscaping.

The approved details shall be implemented fully and comply with condition 5 and 6 below.

Reason: In the interests of visual amenity and to enhance the biodiversity of the site and in order to comply with Plan Policy ENV1.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first bringing into use of the buildings or the substantial completion of the development, whichever is the sooner.



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

6. If, within a period of five years from the date of planting, any tree (or any tree planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree within 2 months of being requested to do so by the local planning authority.

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

7. No development of the drainage systems approved by this permission shall be commenced until the Local Planning Authority has approved a scheme for the provision of surface water drainage works. Any such scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use. The following criteria should be considered.
  - If the surface water disposed via a soakaway system, advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests needed to establish if the ground conditions are suitable for soakaway drainage throughout the year.
  - If surface water is to a mains sewer system no objection, 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.

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

8. The development shall be carried out with strict adherence to the recommendations of JOC Consultants Ltd "Development at Viner Station, Birkin, Selby - Flood Risk Assessment" dated 9th April 2018. In addition the finished floor levels for the chemical store will be 300mm above the level of the part of the site which appears to be above the 0.1% AEP flood level, i.e. 8.30m AOD.

Reason: In the interests of flood risk mitigation and pollution prevention.

9. The development shall not commence until details of finished floor levels of the development hereby approved have been submitted and approved in writing by the Local Planning Authority. Finished Floor Levels should be set above the 1 in 1000 year plus climate change defended flood level with an additional 300mm freeboard above the flood level. The development shall be carried out in accordance with the approved scheme satisfying this condition.

Reason: In the interest of amenity of the occupiers of the adjoining properties and flood risk mitigation

10. Before the development commences details shall be submitted for the written approval of the local planning authority to provide for the following. Soakaway

Testing Percolation testing to determine soil infiltration rate are to be carried out in accordance with BRE 365 Soakaway Design (2003) and CIRIA Report 156 Infiltration drainage - manual of good practice (1996). Method of test must be relevant to proposed SuDS. Testing must be carried out at or as near as possible to the proposed soakaway location (No greater than 25m from proposed soakaway for uniform subsoil conditions. For non-uniform subsoil conditions testing must be carried out at the location of the soakaway). Testing must be carried out at the appropriate depth for proposed SuDS (e.g. invert level, base level of soakaway etc.) relative to existing ground levels. Three percolation tests are to be performed at each trial pit location to determine the infiltration rate, where possible. Where slower infiltration rates are experienced, testing must be carried out over a minimum period of 24 hours (longer if 25% effective depth is not reached). 25% effective depth must be reached. Extrapolated test data will not be accepted.

Reason: to ensure viability of infiltration and to inform the detailed drainage design

11. Storage Requirements and Maintenance - Greenfield Site Development shall not commence until a scheme restricting the rate of development flow runoff from the site has been submitted to and approved in writing by the Local Planning Authority. The flowrate from the site shall be restricted to a maximum flowrate of 1.4 litres per second for up to the 1 in 100 year event. An allowance shall be included for climate change effects. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility. No part of the development shall be brought into use until the development flow restriction works comprising the approved scheme has been completed. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.

Reason: To mitigate additional flood impact from the development proposals and ensure that flood risk is not increased elsewhere.

12. No development shall commence on the drainage for the site until a scheme for the drainage of surface water has been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall be undertaken as approved in accordance with the timescales indicated within the approved scheme.

Reason: To ensure viability of infiltration and to inform the detailed drainage design having regard to Part 10 of the NPPF.

13. The agricultural grain store hereby approved shall be used solely for the purpose of storing and drying grain produced from the land within the blue line area of the agricultural business as indicated in the application details on plan reference J005800-18-17 Dated 13 July 2018 and shall not be used for the storage and drying of grain from other land or farms.

Reason

To prevent the commercial use of the grain store beyond the applicant's farm business.

INFORMATIVES

A suitably worded informative which ensures that removal of any features with potential to support nesting birds is undertaken outside of the bird breeding season, generally taken to be 1st March to 31st August inclusive. This is to ensure compliance with the Wildlife and Countryside Act 1981 (as amended). If any works need to take place during this time then the habitats must first be checked by a suitably qualified ecologist and if birds are found to be nesting then works will have to be delayed until chicks have fledged.

## **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 2017/1381/FULM and associated documents.

**Contact Officer:** Fiona Ellwood (Principal Planning Officer)  
[fellwood@selby.gov.uk](mailto:fellwood@selby.gov.uk)

### **Appendices:**

Appendix 1 - Site Images, 2017/1381/FULM

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## Appendix 1 - Viner Station Site Images

APPLICATION NUMBER:	2017/1381/FULM	PARISH:	Birkin Parish Council
APPLICANT:	JE Hartley Ltd	VALID DATE: EXPIRY DATE:	10th January 2018 11th April 2018
PROPOSAL:	Proposed erection of a new grain store including a chemical store and roof mounted solar PV		
LOCATION:	Land At Viner Station Roe Lane Birkin Knottingley West Yorkshire		



Aerial view of the site



View along Roe Lane looking towards Viner Station on the left



Above and below-View along Roe Lane looking south. Viner station forecourt on the left





View within the farm site looking south



View from the east of Viner station looking west back towards the buildings

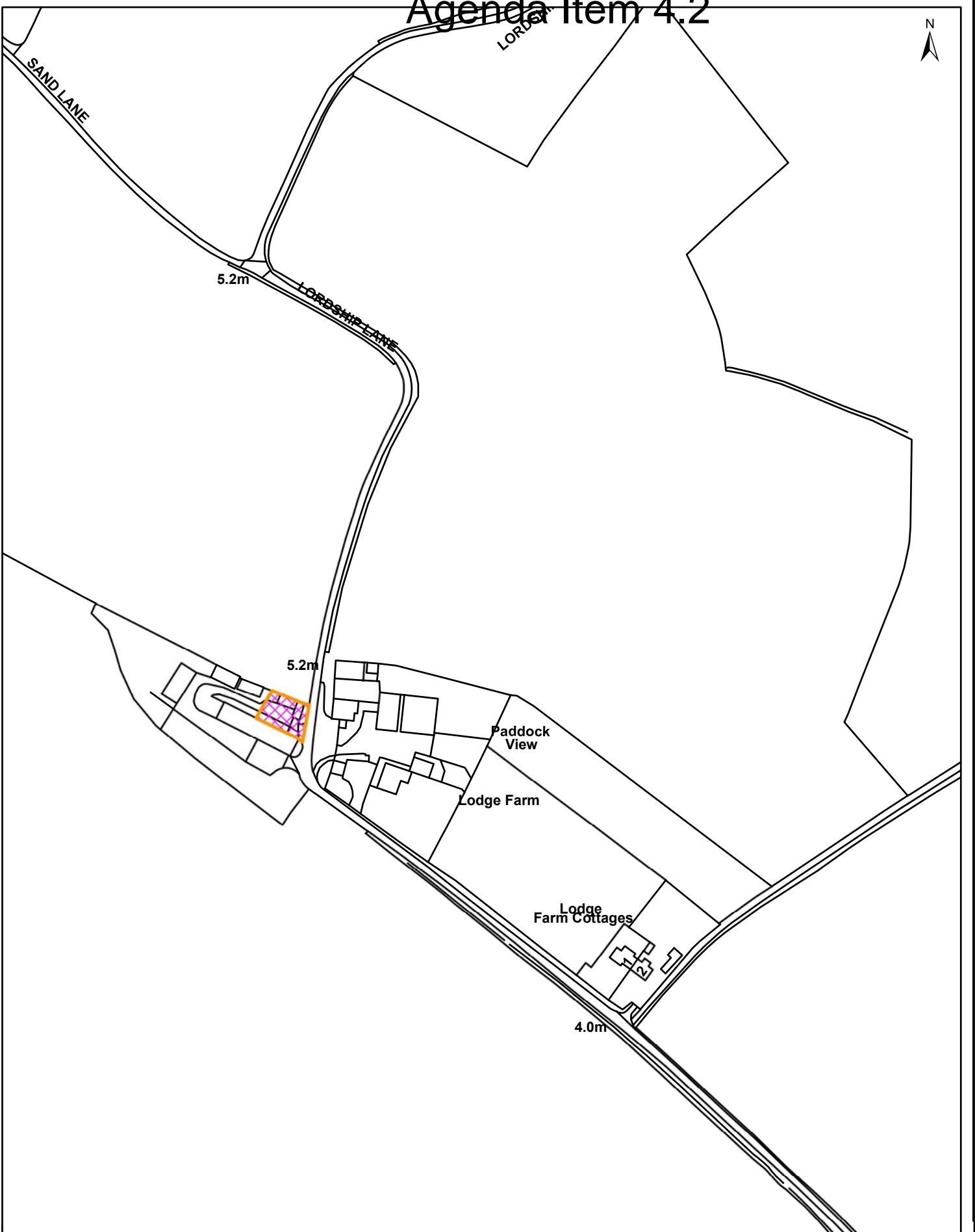


View from the east of Viner station looking west back towards the buildings



View from the east looking towards the south east elevation of the potato store





## APPLICATION SITE

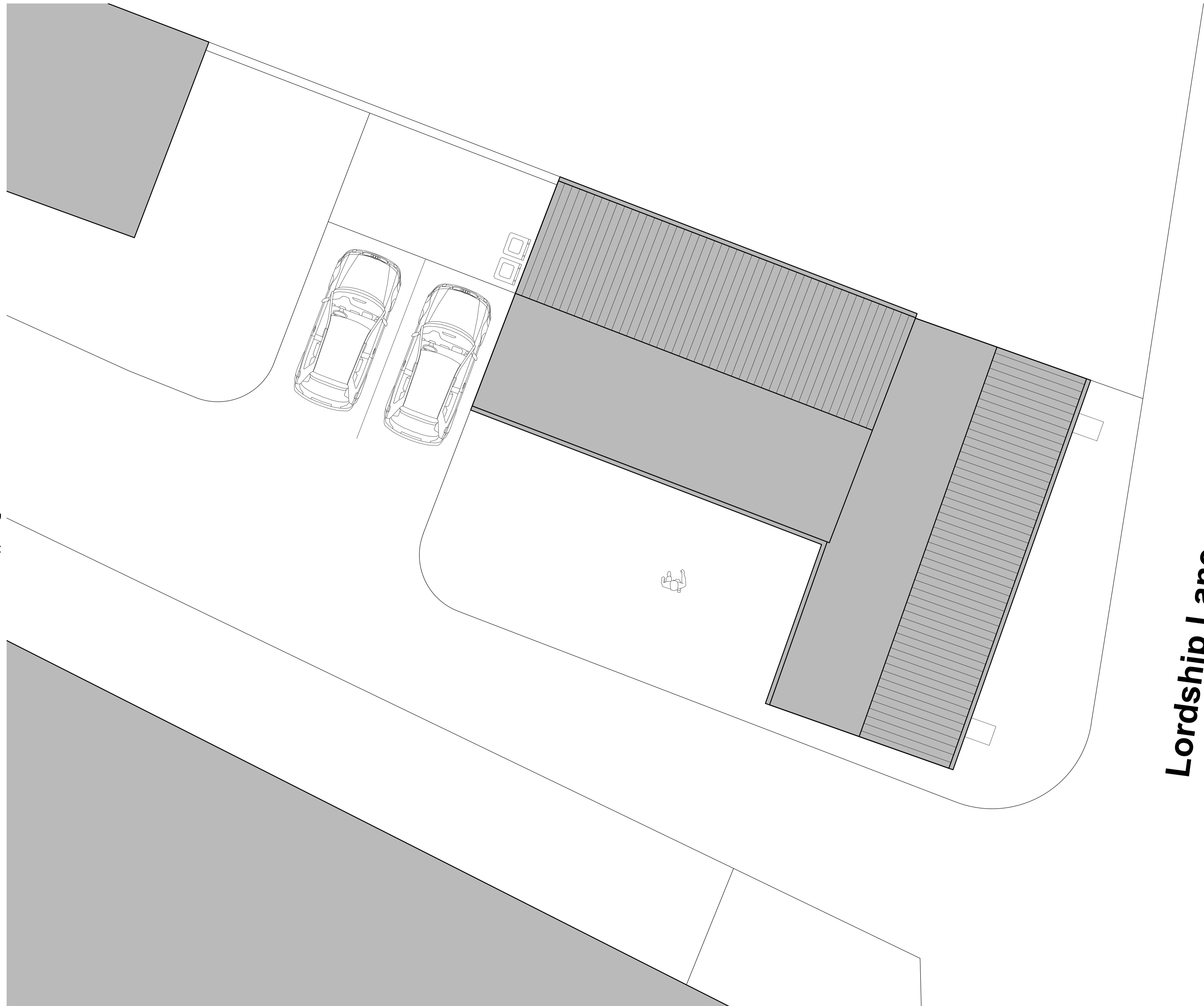
2020/0475/FUL

Lodge Farm, Wistow Lordship, Wistow

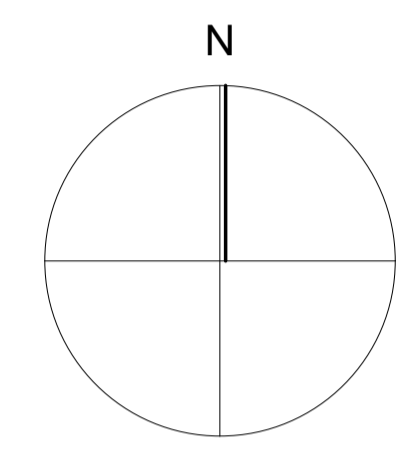
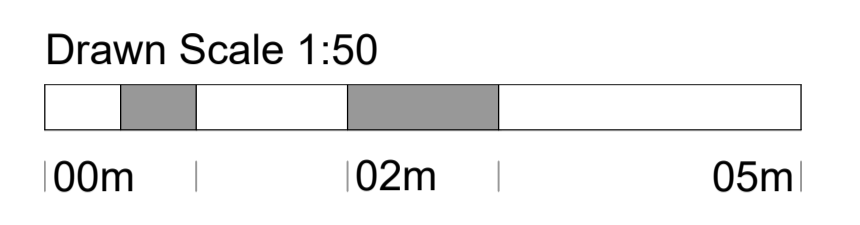
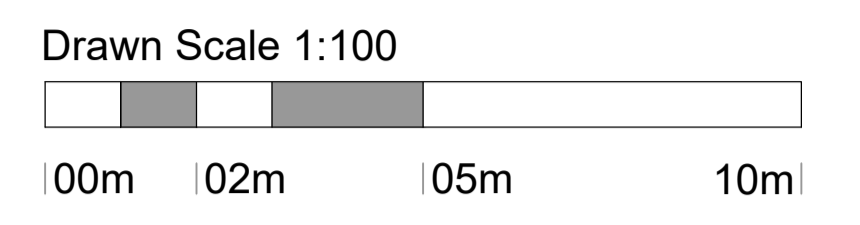
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"For the purposes of Planning Consent the following applies to any copy of this drawing made by the Local Authority:  
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SAFETY HEALTH AND ENVIRONMENTAL INFORMATION	
In addition to the hazards / risks normally associated with the types of work detailed on this drawing, note the following significant risks and information.	
It is assumed that all works will be carried out by a competent contractor, working where appropriate, to an approved method statement.	
CONSTRUCTION	1. None.
MAINTENANCE	1. None.
DEMOLITION	1. None.

Issue Purpose: PLANNING APPLICATION

AHJ architects  
 The Courtyard  
 12a Commercial Road  
 Skelmanthorpe  
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Client	Mr Lee Hirst	Issued From	
Project	1938 : Lodge Farm Wistow : Barn Conversion	Date	April 2020
Title	Proposed Site Plan	Scale	1:50 @ A1
Drawn	BH	Auth	BH

Drawing Number	Revision	Do not scale from this drawing. Work to typical dimensions, and any discrepancy to be reported to the Architect. Refer to larger scale drawings where available.
1938 - D - 20 - 017	-	

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**Report Reference Number: 2020/0475/FUL**

**To: Planning Committee**  
**Date: 12 August 2020**  
**Author: Rebecca Leggott (Senior Planning Officer)**  
**Lead Officer: Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2020/0475/FUL	PARISH:	Wistow Parish Council
APPLICANT:	Mr Lee Hirst	VALID DATE:	15th May 2020
		EXPIRY DATE:	10th July 2020
PROPOSAL:	Conversion of the existing barn into a dwelling house after Class Q permitted approval (retrospective)		
LOCATION:	Lodge Farm Wistow Lordship Wistow Selby North Yorkshire YO8 3RS		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as the proposal is contrary to the requirements of the development plan (namely Criterion 1 of Policy H12 of the Selby District Local Plan) but it is considered there are material considerations which would justify approval of the application.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site is located outside the defined development limits of Wistow and therefore located within the open countryside.
- 1.2 The application site consists of an existing redundant brick built agricultural barn, which originally belonged to Lodge Farm. The building is of a traditional style, two storeys in height constructed of a range of traditional brick and under a pantile roof.
- 1.3 The application site already benefits from planning permission to convert the building in question to a dwelling under application reference, 2019/0112/ATD. This was

permitted under class Q of the General Permitted Development Order prior approval procedure.

### **The Proposal**

- 1.4 The proposals are for the conversion of an existing agricultural barn into a dwelling house.
- 1.5 The proposals make minor changes to originally approved application reference 2019/0112/ATD. These include a number of changes to openings on the north, east and west elevations. It is noted that the new openings have already been cut out and therefore the proposals are part retrospective.

### **Relevant Planning History**

- 1.6 The following historical applications are considered to be relevant to the determination of this application.
  - 2019/0900/S73, Section 73 application for prior notification for the change of use of 2no agricultural building to 2no dwellings without complying with condition 02 of approval 2019/0112/ATD dated 30 May 2019. WDN 21-MAY-20
  - 2019/0783/DOC, Discharge of conditions 3 (materials) and 5 (drainage) of approval 2019/0112/ATD Prior notification for the change of use of 2no agricultural building to 2no dwellings, Decision: COND, Decision Date: 15-OCT-19
  - 2019/0112/ATD, Prior notification for the change of use of 2no agricultural building to 2no dwellings, Decision: PER, Decision Date: 30-MAY-19
  - 2016/0163/ATD, Prior notification for the change of use of agricultural building to 2 dwellings (Use Class C3) and associated operational development, Decision: PER, Decision Date: 07-APR-16

## **2. CONSULTATION AND PUBLICITY**

- 2.1. **Landscape Consultant** – The landscape architect has raised no objections to the proposed development.
- 2.2. **NYCC Highways Canal Rd** – NYCC Highways have raised no objections to the proposed development subject to the following conditions: (1) Altered Private Access and Verge Crossing, (2) Provision of Approved Access, Turning and Parking Areas.
- 2.3. **The Ouse & Derwent Internal Drainage Board** – The IDB have raised no objections to the proposed development subject to a number of standard conditions relating to: (1) soakaways, (2) mains sewers, (3) ordinary water courses, (4) obstructions and (5) main rivers.
- 2.4. **Land Use Planning Yorkshire Water Services Ltd** - No response within the statutory consultation period.
- 2.5. **Environmental Health** – The Environmental Health Officer has raised no objections.
- 2.6. **Natural England** - Natural England have raised no objections to the proposed development.

2.7. **North Yorkshire Bat Group** - No response received.

2.8. **Yorkshire Wildlife Trust** - No response received.

2.9. **County Ecologist** – The Ecologist has noted that application is to allow alterations to the previously-converted building. Therefore, has concluded that, if this is the case and no significant structural works to the roof are involved, then no ecological surveys are required.

2.10. **The Environment Agency (Liaison Officer)** – The EA Officer has raised no objections to the proposed development subject to compliance with details provided within the flood risk assessment. Comments have also been provided regarding the potential requirement for an environmental permit from the EA in respect of drainage.

2.11. **Contaminated Land Consultant** – The Contaminated Land Consultant has raised no objections subject to a standard condition relating to the reporting of unexpected contamination.

2.12. **Parish Council** - Wistow Parish Council have raised no objections to the proposed development. However, have raised concerns about the sewage drainage arrangements.

2.13. **Neighbour Summary** - All immediate neighbours were informed by letter and a site notice was erected. Resulting in no letters of objection being received.

### **3. SITE CONSTRAINTS**

#### **Constraints**

3.1. The application site is located outside the defined development limits of Wistow and therefore is located within open countryside. The application site is located within Flood Zone 3, which has a high 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
- SP19 - Design Quality
- 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 Selby District Local Plan Policies are:

- ENV1 - Control of Development.
- ENV2 – Pollution and contaminated land
- T1 - Development in Relation to Highway
- T2 - Access to Roads
- H12 – Conversion to residential use in the countryside

## **5. APPRAISAL**

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

- Principle of the Development
- Conversion to Residential Use in the Open Countryside
- Impact upon Residential Amenity
- Flood Risk and Drainage
- Contamination
- Nature Conservation and Protected Species
- Affordable Housing



## **The Principle of Development**

- 5.2. The application site lies to the west of Lordship Lane set within a cluster of agricultural buildings. The buildings originally formed part of Lodge Farm but some of these have now been sold off separately.
- 5.3. The application site lies outside of any defined development limits and therefore is located within open countryside. The building to be converted is an old brick-built agricultural barn, which was redundant and is now currently being converted under application, 2019/0112/ATD.
- 5.4. The principle of the re-use of rural buildings for residential use is supported by Core Strategy Policy SP2 and its commentary (para 4.31). Policy SP2A (c) of the Core Strategy states that “Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances .”
- 5.5. The re-use of redundant or disused buildings is seen as an exception to avoiding isolated new homes and the commentary to the policy includes that it would lead to an enhancement to the immediate setting. Policy SP2 (c) qualifies the re-use as ‘preferably for employment purposes’. However, paragraph 79 of the NPPF has no such qualification and allows for residential conversions if the development would re-use redundant or disused buildings and enhance its immediate setting.
- 5.6. Overall, it is noted that the use the building in question as residential has already been established as acceptable under application reference, 2019/0112/ATD. Furthermore, the proposed amendments to the originally approved plans and drawing by way of new openings are considered acceptable in principle.

## **Conversion to Residential Use in the Open Countryside**

- 5.7. The principal tests in SDLP Policy H12 of relevance here are summarised below together with Officer comments.
- 5.8. In respect of criterion one, “*Unsuited for business use*” a lack of information has been submitted in order to demonstrate that the building is unsuitable for business use. Though it is noted that Policy H12 (1) of the Selby District Local Plan requires that the conversion of rural buildings to residential use in the open countryside will only be permitted where (amongst other criteria) it can be demonstrated that the building or its location is unsuited to business use or there is no demand for buildings for those purposes in the immediate locality. It is noted that, this is not a requirement of paragraph 79 of the NPPF, which is a material planning consideration.
- 5.9. In respect of criterion two, “*Best reasonable means of conserving a building of interest and would not damage the fabric and character of the building.*” The building is not of any significant architectural or historic interest and given external changes are limited to new openings, it is not considered that the proposals would damage the fabric and character of the building.

- 5.10. In respect of criterion three, “*Structurally sound and capable of re-use without substantial rebuilding*”. From a site visit it was evident that the building in question is structurally sound and subsequently the current proposal involves no rebuilding further than those already approved via application reference, 2019/0112/ATD. Overall, it is considered that the building is structurally sound and is capable of reuse without substantial rebuilding.
- 5.11. In respect of criterion four, “*The proposed re-use or adaptation would generally take place within the fabric of the building and will not require extensive alteration/rebuilding or extension.*” Some external works are required such as the removal of the outside steps in order to construct at the appropriate floor levels. However, it is not considered that this would be extensive. Further to this, there would be limited external works to the existing buildings which include the insertion of a number of new openings.
- 5.12. In considering the differences the proposals would create compared to the fall back, 2019/0112/ATD. On the north elevation there would be one less window at ground floor level and one additional window at first floor level. There are no proposed changes to the east elevation to those already approved. On the south elevation there would be one additional ground floor window on the gable end, amendments to the other ground floor openings to introduce floor length glazing and alterations to two of the first-floor windows. On the west elevation there would be the introduction of a Juliet balcony and the removal of a ground floor window.
- 5.13. In respect of criterion five, “*The conversion off the building and ancillary works, would not have a significant adverse effect on the character or appearance of the area or the surrounding countryside.*” It is that the wording within the commentary for Policy H12 states, “Since the reason for permitting residential use contrary to normal countryside policies is to preserve attractive buildings in their setting, it is important to ensure that the conversion can be carried out sympathetically without damaging the intrinsic character of the building and without substantial rebuilding, extension or alteration.” The brick built rural buildings in question are not considered to be “attractive” buildings. However, the proposed scheme would retain the majority of the external fabric of the building (walls) with the exception of the insertion of the new openings and replacement roof tiles.
- 5.14. It is noted that the proposal would retain most of the original materials with the exception of changes to the new doors and windows. These would be UPVC windows and doors as described on the submitted applications form. These are considered acceptable. Overall, there would be a limited impact on the local character of the area.
- 5.15. In respect of criterion 6, “*The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity.*” The site is from an existing access and the scheme proposes sufficient parking. Furthermore, NYCC Highways have been consulted and have raised no objections subject to a number of conditions relating to an altered access also a standard condition relating to access, turning and parking areas.
- 5.16. Subject to the aforementioned conditions, it is considered that the proposal is acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1, T2 and H12 (7) of the Local Plan and paragraphs 108 and 109.
- 5.17. The policy concludes that conditions may be imposed on any permission to control future extensions or alterations, including the removal of permitted development rights.

## **Impact upon Residential Amenity**

- 5.18. 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.
- 5.19. 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.
- 5.20. It is noted that no objections have been received in relation to impacts on residential amenity.
- 5.21. To the north of the proposed development would be open fields. To the east of the proposed development would be the highway, Lordship Lane. Further to this, another agricultural building is being converted to a dwelling in accordance with approved application reference, 2019/0112/ATD. To the south of the proposed development would be other agricultural buildings and open fields. To the west are more agricultural buildings and open fields.
- 5.22. In respect of overlooking there would be a number of openings on all elevations. In respect of the east elevation facing the closest future dwelling there would be three windows at ground floor level and three windows at first floor level. However, given the separation distances, highway Lordship Lane and that windows have already been approved in these locations. The proposals are considered acceptable in respect of overlooking. In respect of overshadowing, given the proposals relate to an existing building it is not considered that there would be any additional impacts on overshadowing.
- 5.23. The proposed dwelling would benefit from good sized private amenity areas, which are considered acceptable to provide a private amenity area for the future occupants of the additional proposed dwellings.
- 5.24. Overall, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policies ENV1 (1) and H12 (7) of the Selby District Local Plan and national policy contained within the NPPF.

## **Flood Risk and Drainage**

- 5.25. The application site is located within Flood Zone 3 which has a high probability of flooding and the proposal is supported by a Flood Risk Assessment.
- 5.26. The proposal is essentially a 'change of use', however does involve some minor operational development i.e. the building of a garage. Proposals which are exempt from requiring a sequential test are minor development, which include the following taken from the August 2019 Selby District Council 'Flood Risk Sequential Test Developer Guidance Note';
- *Changes of use except for changes of use to a caravan, camping or chalet site, or to a mobile home or park home site.*

- 5.27. Therefore, for the purposes of a sequential testing, this application is a 'change of use' and no sequential test is required. The exception test is also not necessary.
- 5.28. The Environment Agency have been consulted and have raised no objections to the proposed development. The submitted FRA is considered acceptable subject to an appropriate condition requiring the development to be carried out in accordance with the recommendations contained within the FRA.
- 5.29. In terms of drainage, the submitted application form sets out that surface water would be disposed of via a sustainable drainage system and the foul sewage would be disposed of via septic tank.
- 5.30. The Ouse and Derwent Internal Drainage Board, Yorkshire Water and the Environment Agency have been consulted on the proposals and none have raised objections to the proposals. The IDB have suggested a condition relating to the disposal of surface water drainage, which could be attached to any permission granted. The Environment Agency have advised that an Environmental Permit may be required for the septic tank and that the proposals would need to comply with the 'General Binding Rules'. It is also noted that, Environmental Health have raised no objections to the septic tank.
- 5.31. Overall, the proposals are considered to be acceptable in terms of drainage, and flood risk and therefore accord with Policies SP15, SP16, SP19 of the Core Strategy, and paragraphs 158, 159 and 160 of the NPPF.

### **Land Contamination**

- 5.32. 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.
- 5.33. The application is supported by a Phase 1 contaminated land assessment. The contaminated land consultant has been consulted and has raised no objections subject to a standard condition relating to unexpected contamination.
- 5.34. 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, Policy SP19 of the Core Strategy and paragraphs 118, 170, 178 and 179 of 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. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District. The Policy notes that the target contribution will be equivalent to the provision of up to 10% affordable units. The calculation of the extent of this contribution is set out within the Affordable Housing Supplementary Planning Document which was adopted on 25 February 2014.
- 5.37. However, in the context of the West Berkshire decision it is considered that there is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. It is therefore considered that having had regard to Policy SP9

and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

## **6. CONCLUSION**

- 6.1. This type of conversion of an existing rural building to residential is acceptable in principle in the NPPF and the overall spatial strategy. Though it is noted that the proposal would conflict with criteria 1 of Policy H12 of the Core Strategy, it is considered that the NPPF is a material consideration and in line with Paragraph 79 of the NPPF the further reuse of the building would be sustainable. Furthermore, the Framework is more up to date and more flexible since it does not include criteria requiring the building to be 'unsuited to business use'.
- 6.2. The works are appropriate to this rural building in terms of openings. In view of the size of the site, the extent of new residential curtilage would be acceptable. Thus, subject to the recommended conditions set out below, this application complies with the up to date Framework guidance and with, principally SDLP Policy H12 and compliance with the conditions would create a scheme in compliance with the development plan.

## **7. RECOMMENDATION**

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

- 1938 D 20 001 – Location Plan
- 1938 D 20 002 – Existing Ground Floor Plans
- 1938 D 20 003 – Proposed Ground Floor Plans
- 1938 D 20 016 – Existing Site Plan
- 1938 D 20 017 – Proposed Site Plan
  
- 1938 D 20 011 – Drainage Layout

Reason:

For the avoidance of doubt.

03. The materials to be used in the development hereby approved shall be:

- Roof - Sandtoft Olympus Double Pantile Clay Roof Tile – Flanders
- Walls – reclaimed brick from the existing building

Only the approved materials shall be used.

Reason:

For the avoidance of doubt.

04. 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.

05. Prior to the first occupation of the dwelling hereby approved a detailed scheme for the provision of surface water should be submitted to and approved by the Local Planning Authority.

Any such scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

Reason:

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

06. The access to the site at Lodge Farm, Wistow Lordship, Wistow shall be constructed within 6 month of the granting of planning permission and shall be set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements:

The crossing of the highway verge and/or footway must be constructed in accordance with the approved details and/or Standard Detail number E2 and the following requirements.

- a) Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
- 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.
- c) Measures to enable vehicles to enter and leave the site in a forward gear.

All works must accord with the approved details.

Reason:

In order to ensure highway safety and the convenience of all highway users having had regard to Policy ENV1 of the Selby District Local Plan.

07. The access, parking, manoeuvring and turning areas for all users at Lodge Farm Lordship, Wistow shall be constructed in accordance with plan reference, 1938 D 20 017. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In order to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development having had regard to Policy ENV1 of the Selby District Local Plan.

08. 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.

## **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**

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

## **10. Background Documents**

10.1. Planning Application file reference 2020/0242/FUL and associated documents.

**Contact Officer:** Rebecca Leggott (Senior Planning Officer)  
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**Appendices:** Appendix 1 – Site Images, 2020/0475/FUL

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**Appendix 1 - Site Images, 2020/0475/FUL**

APPLICATION NUMBER:	2020/0475/FUL	PARISH:	Wistow Parish Council
APPLICANT:	Mr Lee Hirst	VALID DATE:	15th May 2020
		EXPIRY DATE:	10th July 2020
PROPOSAL:	Conversion of the existing barn into a dwelling house after Class Q permitted approval (retrospective)		
LOCATION:	Lodge Farm Wistow Lordship Wistow Selby North Yorkshire YO8 3RS		
RECOMMENDATION:	APPROVE		



Arial View of the site



View looking south looking towards the site



View of the north and east elevations from the highway



View of the east elevation



View of the south and west elevations



View of the south and west elevation

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# 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.

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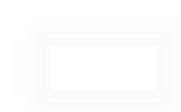


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