



Meeting: **PLANNING COMMITTEE**  
Date: **WEDNESDAY, 11 NOVEMBER 2020**  
Time: **2.00 PM**  
Venue: **MICROSOFT TEAMS - REMOTE**  
[\(Click here\)](#)  
To: **Councillors J Cattanach (Chair), J Mackman (Vice-Chair),  
M Topping, K Ellis, I Chilvers, R Packham, P Welch,  
D Mackay and S Shaw-Wright**

## 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. Chair's Address to the Planning Committee**
- 4. Minutes (Pages 1 - 8)**

To confirm as a correct record the minutes of the Planning Committee meeting held on 28 October 2020.

5. **Planning Applications Received (Pages 13 - 14)**
- 5.1. **2019/0639/COU - Holmewood, York Road, North Duffield, Selby (Pages 15 - 28)**
  - 5.2. **2019/0945/FUL - Grove Farm, Sweeming Lane, Little Fenton, Leeds (Pages 29 - 52)**
  - 5.3. **2019/1216/COU - Land Off Westfield Lane, Thorganby (Pages 53 - 76)**
  - 5.4. **2020/0773/FUL - 15 Cochrane Street, Selby (Pages 77 - 92)**
  - 5.5. **2020/0549/S73 - Fields Garden Centre, Tadcaster Road, Sherburn In Elmet, Leeds (Pages 93 - 110)**

*Janet Waggott*

**Janet Waggott, Chief Executive**

<b>Dates of next meeting (2.00pm)</b> Wednesday, 25 November 2020
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Enquiries relating to this agenda, please contact Victoria Foreman on 01757 292046 or [vforeman@selby.gov.uk](mailto:vforeman@selby.gov.uk).

### **Live Streaming**

This meeting will be streamed live online. To watch the meeting when it takes place, [click here](#).

### **Recording at Council Meetings**

Selby District Council advocates openness and transparency as part of its democratic process. 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)

# Agenda Item 4



## Minutes

### Planning Committee

Venue: Microsoft Teams - Remote  
Date: Wednesday, 28 October 2020  
Time: 2.00 pm

Present remotely via Teams: Councillor J Cattanach in the Chair

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

Officers Present remotely via Teams: Martin Grainger – Head of Planning, Ruth Hardingham – Planning Development Manager, Glenn Sharpe – Solicitor, Gareth Stent – Principal Planning Officer, Jenny Tyreman – Senior Planning Officer, Rebecca Leggott – Senior Planning Officer, Victoria Foreman – Democratic Services Officer

#### **36 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor M Topping. Councillor T Grogan was in attendance as a substitute for Councillor Topping.

#### **37 DISCLOSURES OF INTEREST**

Councillors J Cattanach, J Mackman, K Ellis, R Packham and S Shaw-Wright declared a non-pecuniary interest in agenda item 5.3 – 2020/0828/S73 – Quarry Drop, Westfield Lane, South Milford, Leeds as they had received a number of additional representations in relation to the application.

Councillor T Grogan declared a non-pecuniary interest in agenda item 5.3 – 2020/0828/S73 – Quarry Drop, Westfield Lane, South Milford, Leeds as he too had received additional representations in relation to the application, including a phone call with the applicant's wife and with neighbours objecting to the scheme. He also declared that he was the Ward Member for South Milford and a member of South Milford Parish Council. He confirmed that when the Parish Council had discussed the application, he had taken no part in the debate, and had come to the meeting of the Planning Committee with an open mind and with no predetermination in relation to the scheme.

### 38 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Committee noted that an Officer Update Note had been circulated and that the order of business on the agenda had been amended by the Chair so that agenda item 5.4 -2017/0872/FUL – Land at Wharfe Bank, Tadcaster would be considered first.

Members also noted that details of any further representations received on the applications would be given by the Officers in their presentations.

Lastly, the Chair announced that public speaking had been reintroduced at Planning Committee and that this was the second meeting at which it would take place remotely.

### 39 MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 7 October 2020.

#### **RESOLVED:**

**To approve the minutes of the Planning Committee meeting held on 7 October 2020 for signing by the Chairman, subject to the following amendments:**

- a) minute item 35.1 – that the resolution be amended to read as follows:

#### **RESOLVED:**

***Minded to GRANT the application subject to the conditions set out at paragraph 7 of the report and the Officer Update Note, and to the agreement of access arrangements to Little Black Dog Brewery.***

- b) minute item 32 – that the disclosure of interest for Councillors J Cattanach, J Mackman and I Chilvers be amended to read as follows:

***Councillors J Cattanach, J Mackman and I Chilvers declared a personal interest in agenda item 5.2 – Model Farm, Broad Lane, Cawood as they were all members of the Selby Area Internal Drainage Board and as such would leave the meeting and not take any part in the debate for this item.***

### 40 PLANNING APPLICATIONS RECEIVED

The Planning Committee considered the following planning applications:

**40.1 2017/0872/FUL - LAND AT WHARFE BANK, TADCASTER**

*Councillors P Welch and D Mackay joined the meeting at this point.*

**Application:** 2017/0872/FUL

**Location:** Land at Wharfedale Bank, Tadcaster

**Proposal:** Proposed installation of a recreational raised seating area over the existing temporary bridge foundation to be retained

The Planning Development Manager introduced the application for the proposed installation of a recreational raised seating area over the existing temporary bridge foundation to be retained.

The Committee noted that a request that the item be deferred had been received from the applicant due to the report's recommendation that permission be refused. Members were asked to decide if they wished to agree deferral of the application to a later meeting.

It was proposed and seconded that consideration of the application be deferred; a vote was taken on the proposal and was carried.

**RESOLVED:**

**To DEFER consideration of the application to a later meeting.**

**40.2 2018/1214/HPA - WATERSIDE PARK, OAKWOOD PARK, MARKET WEIGHTON ROAD, NORTH DUFFIELD**

**Application:** 2018/1214/HPA

**Location:** Waterside Park, Oakwood Park, Market Weighton Road, North Duffield

**Proposal:** Application for the erection of a detached games room, detached garage and extension to an integral "granny flat" annexe (Retrospective)

The Principal Planning Officer presented the application which had been brought before Planning Committee as it had been requested by former Councillor J Deans in 2018, who considered Members should wish to consider whether the application was a gross overdevelopment of the site, contrary to the Development Plan, constituted inappropriate development outside of the development limits and had a detrimental impact on the openness of the countryside.

The Committee noted that the application was for a retrospective erection of a detached games room, detached garage and extension to an integral "granny flat" annexe.

*Councillor I Chilvers joined the meeting at this point, but as part of the presentation had been missed by him, he could not take part in the debate or decision on the item.*

An Officer Update Note had been circulated to the Committee which set out corrections to the history section of the report, and an amendment to paragraph 5.29 of the report regarding the impact of the games room on the amenities of neighbouring residential properties.

Jennifer Hubbard, agent, was invited remotely into the meeting and spoke in support of the application.

The Committee discussed the application and agreed that the scheme should be granted.

It was proposed and seconded that the application be granted subject to conditions; a vote was taken on the proposal and was carried.

**RESOLVED:**

**To GRANT the application subject to the conditions set out at paragraph 7 of the report.**

**40.3 2019/1216/COU - LAND OFF WESTFIELD LANE, THORGANBY, YORK**

**Application:** 2019/1216/COU

**Location:** Land Off Westfield Lane, Thorganby, York

**Proposal:** Change of use of land to form a 12-pitch touring caravan site including the siting of shower and toilet facilities, new internal access track and associated works

The Senior Planning Officer presented the application which had been brought before Planning Committee as directed by the Head of Planning, due to the sensitive consideration of the level of objection.

The Committee noted that the application was for the change of use of land to form a 12-pitch touring caravan site including the siting of shower and toilet facilities, new internal access track and associated works.

*Councillor K Ellis left the meeting at this point but returned shortly.*

An Officer Update Note had been circulated to the Committee which set out an amendment to Condition 10 and details of additional information provided by the applicant which included reviews for the existing campsite. The additional information was not considered by Officers to alter the assessment made.

The Senior Planning Officer informed Members that Thorganby Parish Council had been in contact to raise a concern that they had not been notified that the application was to be considered at the meeting of the Planning Committee on 28 October 2020, and that had they been, they would have registered to speak.

The Chair asked for clarification from the Solicitor who stated that, as far as Officers were aware, there had been no fault in the notification processes, but that it was for Members to decide whether the application should continue to be considered, or deferred. The Committee also noted that there was a responsibility of the Council to the applicant to process the application in a timely manner.

Members discussed the matter and agreed that the application should be deferred until a later date to ensure that all contributors had been notified. It was proposed and seconded that the application be deferred for consideration at a later meeting; a vote was taken on the proposal and was carried.

**RESOLVED:**

**To DEFER the application for consideration at a later meeting.**

**40.4 2020/0828/S73 - QUARRY DROP, WESTFIELD LANE, SOUTH MILFORD, LEEDS**

**Application:** 2020/0828/S73

**Location:** Quarry Drop, Westfield Lane, South Milford, Leeds

**Proposal:** Section 73 application to vary condition 04 (approved plans) of planning permission 2010/0507/FUL for construction of a five-bedroom, three storey detached house

The Senior Planning Officer presented the application

which had been brought before Planning Committee following consideration at the meeting on 23 September 2020, where Members had resolved to defer the application in order for Officers to gather further visual information.

The Committee noted that the application was a Section 73 application to vary condition 04 (approved plans) of planning permission 2010/0507/FUL for construction of a five-bedroom, three storey detached house.

An Officer Update Note had been circulated to the Committee which set out several points, including the details of five additional letters of representation that had been received. The additional representations had been fully considered by Officers but did not alter the Officer recommendation set out in the agenda, for the reasons set out in the report. Since the Officer's report had been written, the applicant had submitted a 'Statement to Planning Committee', which had been circulated to Members and raised several matters. The objector registered to speak at the meeting had circulated his narrative to the Members ahead of the meeting as it included a number of photographs which could not be shown at the meeting. Lastly, the Committee noted that in relation to paragraph 5.33 of the report there was an update regarding boundary treatments.

Members asked a number of questions of the Officer about the application regarding whether it was a minor material amendment, the classification as a Section 73 application, origins of the letters of objection and support, non-compliance, enforcement action, ridge height and separation distance and the potential effect on the residential amenity of neighbouring properties.

Mr Steve Barker, objector, was invited remotely into the meeting and spoke against the application.

The Committee discussed the application and offered differing opinions as to what decision should be taken. Some Members felt that the application should be refused, whilst others were of the opinion that, despite the several applications, appeals and issues that there had been on the site, the Committee needed to be mindful of the certificate of lawful development that gave permission for the building of a three storey, five bedroom house. Officers believed the amendments to the design of the dwelling under the current application would have an acceptable effect on the residential

amenity of neighbouring properties.

It was proposed and seconded that the recommendation in the report be amended to refuse permission for the application, due to the creation of the raised amenity area, extending the height of the house by 12.5ft, which would have a significant adverse impact on the character and appearance of the area and the residential amenity of neighbouring properties in terms of height and scale. A vote was taken on the proposal and was lost.

It was proposed and seconded that the application be granted, subject to the conditions set out in the report; a vote was taken on the proposal and was carried.

**RESOLVED:**

**To GRANT the application subject to the conditions set out at paragraph 7 of the report.**

The meeting closed at 3.41 pm.

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## 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. The Chairman may amend the order of business to take applications with people registered to speak, first, so that they are not waiting. If the order of business is going to be amended, the Chairman will announce this at the beginning of the meeting.
2. There is usually an officer update note which updates the Committee on any developments relating to an application on the agenda between the publication of the agenda and the committee meeting. Copies of this update will be 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 next part is the remote public speaking process at the committee. The following may address the committee for **not more than 5 minutes each, remotely**:
  - (a) The objector
  - (b) A representative of the relevant parish council
  - (c) A ward member
  - (d) The applicant, agent or their representative.

**NOTE:** Persons wishing to speak remotely on an application to be considered by the Planning Committee should have registered to speak with Democratic Service (contact details below) **by no later than 3pm on the Monday before the Committee meeting (this will be amended to the Tuesday if the deadline falls on a bank holiday). They must also submit a copy of what they will be saying by the same deadline.** This is so that if there are technical issues and speakers can't access the meeting, their representation can be read out on their behalf (for the allotted five minutes).

6. Persons wishing to speak will be able to access the meeting by joining the link to the Microsoft Teams meeting which will be supplied to them by Democratic Services. They will be admitted to a lobby where they will wait until they are

brought into the actual meeting when it is time to speak. Whilst waiting they can continue to watch the live stream of the meeting as it takes place via YouTube.

7. Once they have been admitted to the meeting, they will be given the five minutes in which to make their representations, timed by Democratic Services. Once they have spoken, they will be asked to leave the meeting/will be removed from the meeting. The opportunity to speak is not an opportunity to take part in the debate of the committee.
8. If there are technical issues and speakers are unable to access the meeting, their representation will be read out on their behalf for the allotted five minutes.
9. Each speaker should restrict their comments to the relevant planning aspects of the proposal and should avoid repeating what has already been stated in the report. The meeting is not a hearing where all participants present evidence to be examined by other participants.
10. The members of the committee will then debate the application, consider the recommendations and then make a decision on the application.
11. 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.
12. 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.
13. This is a council committee meeting which is viewable online as a remote meeting to the public.
14. 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)
15. The arrangements at the meeting may be varied at the discretion of the Chairman.
16. Written representations on planning applications can also 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.
17. 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.

18. 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>

19. 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?CommitteeId=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.

20. 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.

21. These procedures are being regularly reviewed as we start to operate in this way.

**Contact:** Democratic Services

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

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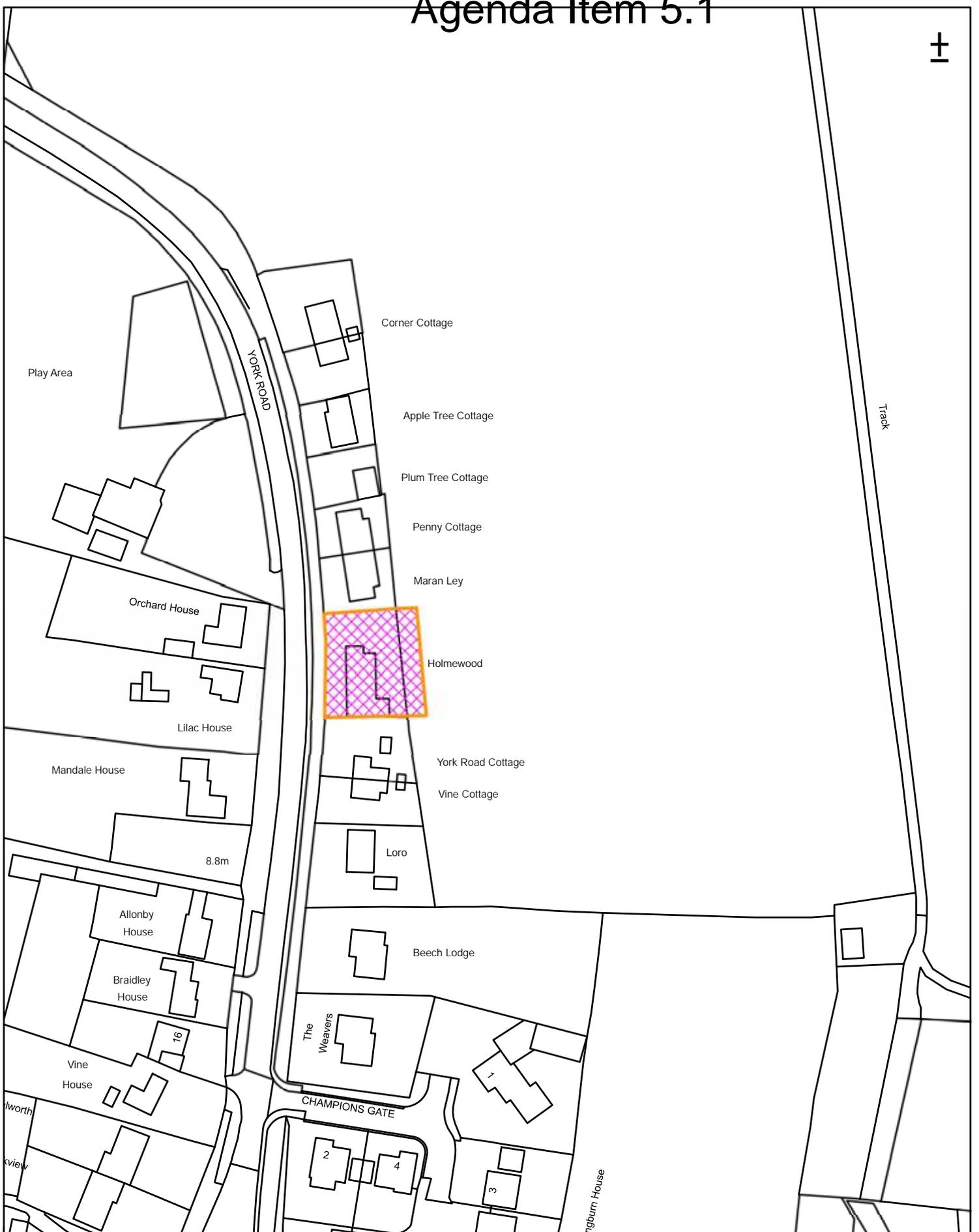
# Agenda Item 5

## Items for Planning Committee

11 November 2020

Item No.	Ref	Site Address	Description	Officer	Pages
5.1	2019/0639/COU	Holmewood, York Road, North Duffield, Selby	Retrospective change of use of land from agricultural to garden for land adjoining the rear	IRSI	15-28
5.2	2019/0945/FUL	Grove Farm, Sweeming Lane, Little Fenton, Leeds	Proposed conversion of single storey barn/stable block to use as a single storey dwelling	CHFA	29-52
5.3	2019/1216/COU	Land Off Westfield Lane, Thorganby	Change of use of land to form a 12-pitch touring caravan site including the siting of shower and toilet facilities, new internal access track and associated works	RELE	53-76
5.4	2020/0773/FUL	15 Cochrane Street, Selby	Change of use of a C3 dwelling house to a mixed use for a Class C3 dwelling house and Class E(f) childminding business	RELE	77-92
5.5	2020/0549/S73	Fields Garden Centre, Tadcaster Road, Sherburn In Elmet, Leeds	Section 73 application to vary condition 02 (opening hours) of approval 2019/0663/FUL Conversion of former glass house including recladding to provide extension to tea room extending covers to 66 in total, retention of terrace and its use as outdoor seating area/plant sales area, extension to existing car park to provide overflow and formation of children's play area granted on 16 April 2020	GAST	93-110

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## APPLICATION SITE

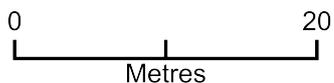
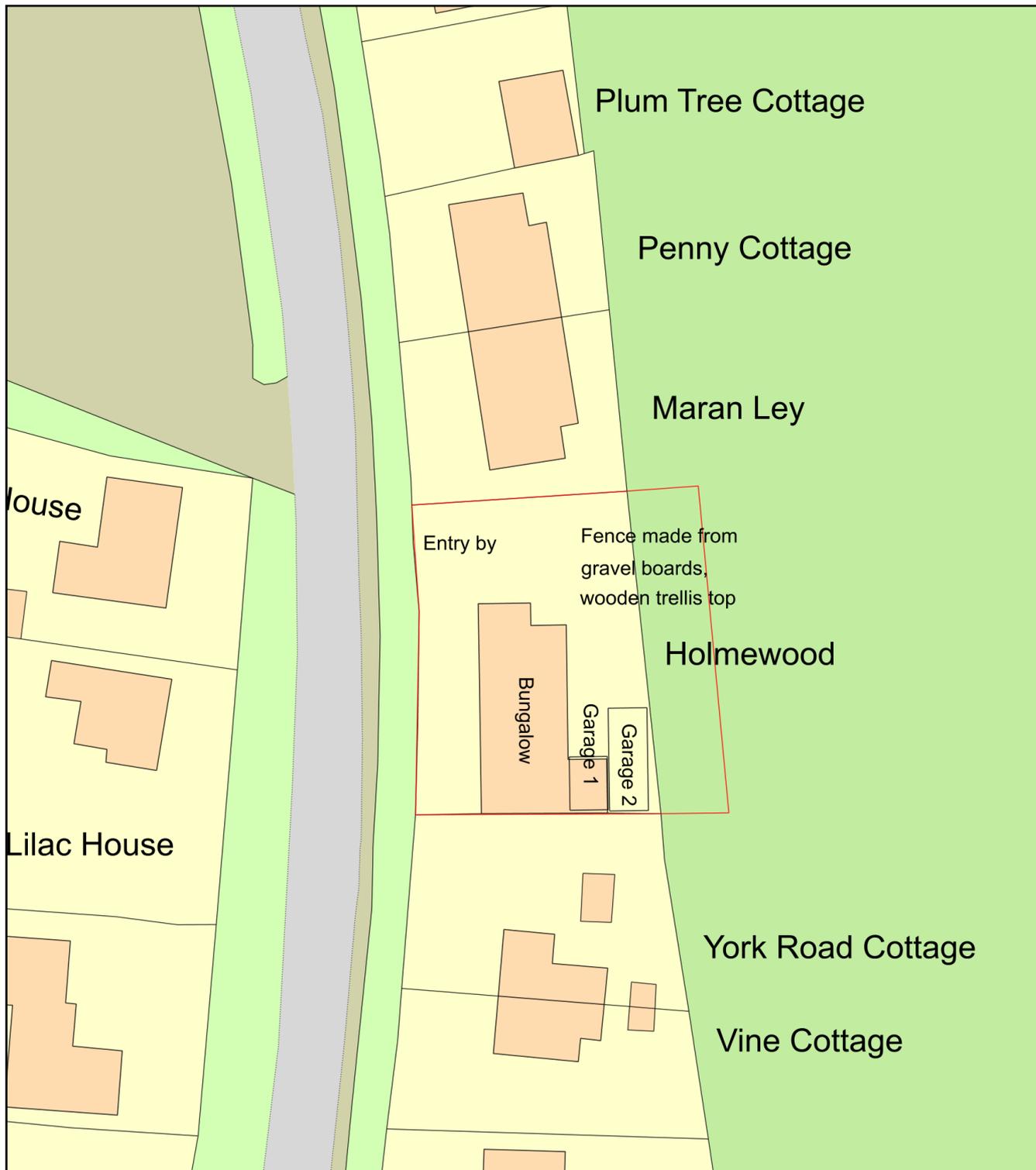
Holmewood, York Road, North Duffield  
2019/0639/COU

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# Holmewood - Site Layout Plan - 2019/0639/COU (Agricultural to garden)



Plan Produced for: Andrew Ward  
Date Produced: 26 Jun 2019  
Plan Number/Project ID: TQRQM19177170458907  
Scale: 1:500 @ A4

LAY02

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**Report Reference Number:** 2019/0639/COU

**To:** Planning Committee  
**Date:** 11 November 2020  
**Author:** Irma Sinkeviciene (Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0639/COU	PARISH:	North Duffield Parish Council
APPLICANT:	Mr Andrew Ward	VALID DATE: EXPIRY DATE:	27th June 2019 22nd August 2019
PROPOSAL:	Retrospective change of use of land from agricultural to garden for land adjoining the rear		
LOCATION:	Holmewood York Road North Duffield Selby North Yorkshire YO8 5RU		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee as 14 letters of representation have been received which raise material planning considerations and Officers would otherwise determine the application contrary to these representations.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site is located within the northern part of North Duffield village. The application site includes the existing bungalow with its existing curtilage and a parcel of land along the eastern boundary which is subject to this application. There is agricultural land to the north, east and south of the parcel of land in question, and the host property with its curtilage to the west of it.

- 1.2 It is noted that there are no detailed plans provided to show the proposed boundary treatments and given that the development already occurred without planning permission, the boundary treatments as proposed have therefore been identified by the Case Officer during site visit as retrospectively erected composite panels with concrete posts and base along north, east and south of the land in question, with arched timber trellis on top of composite panels along eastern boundary which has an overall height of approximately 1.8 metres. The application has therefore been assessed on this basis.
- 1.3 The Case Officer noted from a site visit that a summer house is being erected within the parcel of land which is subject to this application. However, this feature does not form part of this application.
- 1.4 It should be noted that an alternative solution attempted to be negotiated with the applicants, however they did not wish to amend the scheme and as such, the application is determined on the basis of the information as originally submitted.

### **The Proposal**

- 1.5 The application is for a change of use of a parcel of agricultural land adjacent to the east boundary of the curtilage of this dwelling to use as a private garden area.

### **Relevant Planning History**

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

- 1.6 Application Number CO/1982/01859 for the proposed extension to existing bungalow at Holmewood Bungalow, York Road, North Duffield was approved in May 1982.
- 1.7 Application Number CO/1993/0271 for the demolition of existing outbuildings and erection of side extension to bungalow with double and single garage to the rear of Holmewood, York Road, North Duffield was approved in May 1993.
- 1.8 Application Number: CO/2002/0540 for the proposed erection of a block of two stables and a store to the rear of Holmewood, York Road, North Duffield was refused in July 2002.
- 1.9 Application Number CO/2002/1251 for the proposed erection of stables and haystore at Holmewood, York Road, North Duffield was approved in February 2003.
- 1.10 Application Number 2019/1272/COU for the change of use of agricultural land to garden land to rear of Appletree Cottage, 2 York Road and Corner Cottage (part retrospective) was refused on 2 April 2020.
- 1.11 Application Number 2019/1038/COU - Retrospective change of use of agricultural land to garden land adjoining the rear at Plum Tree Cottage, York Road, North Duffield is pending consideration.
- 1.12 Application Number 2015/1025/OUT - Outline planning application for up to 65 dwellings and a new community football pitch with parking, a changing room/clubhouse to include access (all other matters reserved) on land off York Road was refused in November 2015.

1.13 Application Number 2016/0644/OUT - Outline planning application for up to 57 dwellings and a new community football pitch with parking, a changing room/clubhouse to include access (all other matters reserved) at land off York Road was refused in March 2017 due to the following reasons:

01. The site lies outside the established development limits of North Duffield and due to its excessive size and position would not represent a natural rounding off or provide a new defensible boundaries. It would expand the settlement outwards, increasing the depth of built form at the edge of the village creating an additional large block of development encroaching into the rural open countryside location at the northern end of the village. It would create a harsh urban edge abutting the existing field track when viewed from the east due to the solid amount of housing and the lack of landscaping. Furthermore, it would leave an area of undeveloped land between the northern edge of the development and the proposed football pitch which would be subject to future pressure for infill development. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village contrary to the aims of Policies SP1, SP18 and SP19 of the SDCSLP, ENV 1 of the SDLP and with the NPPF.

02. The proposal due to the scale, at approximately 57 dwellings, is not considered to be appropriate to the size and role of North Duffield, a settlement, which is designated a service Village in the Core Strategy. There are already extant approvals on smaller sites for a total of 59 dwellings and capacity for significant growth already therefore exists in the village. Continued expansion of North Duffield would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. Therefore, the proposal would conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth. The proposal therefore is contrary to Policies ENV1 of the SDLP and Policies SP1, SP2, SP4, SP18 and SP19 of the SDCSLP and the NPPF.

The application was subsequently refused at appeal on 26 February 2018 and Inspector assessed the impact on character and appearance of the area amongst other things as follows:

*36. However, the proposal would create a protrusion of built development beyond the defined development limits of the village and into the open countryside. The current rural appearance of the site would be lost with resultant urbanisation of this part of the rural landscape.*

*37. In views from York Road the proposal would appear as a substantial and prominent spur of development that would extend beyond the present, clearly delineated settlement pattern of the village and which would erode the open character of this part of the landscape and the access to views beyond. The appearance and rural character of the area in both views from the road and the wider countryside would be unacceptably changed and a more suburban character would prevail.*

*38. Overall, I consider that the proposed development would fail to conserve the open rural character of the landscape and would cause significant harm to the character and appearance of the surrounding area. As such, the proposed development would be contrary to Policies SP1, SP18 and SP19 of the Core Strategy and Saved Policy ENV1 of the Local Plan. These policies, amongst other things, seek to ensure that new*

*development does not compromise local distinctiveness, character or form and that a good quality of development is achieved that does not have an adverse effect on the character of an area. Furthermore, the proposals would also be contrary to one of the core principles of the Framework, as set out in paragraph 17, in terms of the protection of the intrinsic character and beauty of the countryside.*

## **2. CONSULTATION AND PUBLICITY**

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

- 2.1 **Parish Council** - Made comments in support of the Planning Application.
- 2.2 **Neighbour Summary** - All immediate neighbours were informed by letter and a site notice was posted on 9 July 2019. 14 letters of support have been received as a result of this advertisement.

## **3 SITE CONSTRAINTS**

### **Constraints**

- 3.1 The site is located partly within and partly outside the defined development limits of North Duffield. The dwelling with its curtilage is located within the development limits and the parcel of land which is subject to this application is located outside the defined development and is therefore defined as open countryside. The site does not contain any protected trees and there are no statutory or local landscape designations.

## **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  
SP15 - Sustainable Development and Climate Change  
SP19 - Design Quality

### **Selby District Local Plan**

- 4.7 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development  
H15 - Extensions to Curtilages in the Countryside

## **5 APPRAISAL**

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

- 1) The Principle of the Development
- 2) Design and Impact on the Character and Appearance of the Open Countryside
- 3) Impact on Residential Amenity

### **The Principle of the Development**

- 5.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework", to secure development that improves the economic, social and environmental conditions in the area, and sets out how this will be undertaken. The proposed development, due to the nature, scale, design and location, it is not considered that the development would improve the economic, social and environmental conditions in this area.
- 5.3 Core Strategy Local Plan Policy SP2(c) states that "Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the reuse of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other

special circumstances." The change of use of agricultural land to garden land doesn't fall within these exceptions.

- 5.4 Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate meet 8 criteria set out within the policy. Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. Having had regard to the nature and scale of the proposal, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria of SP15 (B) of the Core Strategy. Therefore, having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.
- 5.4 The application is seeking consent for the retrospective change of use of land from agricultural to residential garden area, which lies to the rear of the existing dwelling, namely Holmewood, York Road, North Duffield. In the light of the above policy context, the proposals to develop this land do not fall within any of the exception to and are therefore contrary to Policy SP2A(c) of the Core Strategy. The proposal should therefore be refused unless material circumstances exist that would indicate otherwise. One such material consideration is the National Planning Policy Framework and the Policies of the Selby District Plan.
- 5.5 Selby Local Plan Policy H15 allows garden extensions subject to criteria which are considered in the next section of this report. Although Selby District Local Plan precedes the NPPF, it should be afforded substantial weight as it is consistent with the NPPF, particularly paragraphs 127 & 170.

### **Design and Impact on the Character and Appearance of the Open Countryside**

- 5.5 The property is a detached bungalow in a row of residential properties to the east of York Road in North Duffield. The property is set within the Development Limits of North Duffield as defined by the Selby District Council Local Plan however the agricultural land, which is subject to this planning application, is outside the Development Limits and is therefore within the open countryside. Boundary treatments consist of those as described in the introduction section. The development is therefore subject to Policies H15 and ENV1 of the Selby District Local Plan and Policy SP19 of the Core Strategy.
- 5.6 Policy SP19 requires that "Proposals for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside. Both residential and non-residential development should meet the following key requirements:
- a) Make the best, most efficient use of land without compromising local distinctiveness, character and form;
  - b) Positively contribute to an area's identity and heritage in terms of scale, density and layout.
- 5.7 Selby District Local Plan Policy ENV1 (1) requires development to take account of the effect upon the character of the area, with ENV1 (4) requiring the standard of

layout, design and materials to respect the site and its surroundings. Local Plan Policy ENV1 is broadly consistent with the aims of the NPPF and should therefore be given significant weight.

- 5.8 Policy H15 of the Selby District Local Plan specifies that proposals to extend the curtilage of properties outside defined Development Limits will only be permitted if there is no significant adverse effect on the character and appearance of the surrounding countryside, and the proposed means of enclosure would be appropriate to the adjoining countryside.
- 5.9 In summary, all letters of support express that the development would not cause harm to the open countryside of the character and appearance of the village, and that it would provide privacy and safety to the applicants.
- 5.10 It is noted that a number of other dwellings have also extended curtilage without planning permission. One of them, namely 2019/1272/COU was a collective application related to three properties which was refused. Another application for a garden extension within the locality is currently considered under application reference 2019/1038/COU. However, in determining this application, no favourable weight should be attributed to the fact that these other unauthorised developments have occurred. Moreover, this application must also be assessed as if it had not occurred already.
- 5.11 There is a clear delineated settlement boundary to this part of North Duffield. The existing rear garden boundaries of properties on York Road form a consistent clearly defined straight boundary edge between the built development at the northern edge of the village and large open field and wider open countryside to the east running. The development limits for the village follow this defined boundary line with existing gardens being within the development limits and extended curtilages being outside development limits.
- 5.12 The opportunity has been given for the applicants to amend the boundary details. Officers have tried to negotiate a more sympathetic approach to this edge of settlement location. Post and rail fencing with indigenous mixed field hedgerow planting would be more appropriate and form a softer edge to this prominent edge of settlement position. However, the applicants wish to retain the existing fencing).
- 5.13 The development which has already occurred significantly alters the clearly delineated north eastern boundary to the settlement and results in a small but visually harmful urban spur projecting into the wider open field adversely altering its rural character. The boundary fencing of concrete base, concrete posts, slatted boarding and trellis is urban in character and an obtrusive and alien design inappropriate for this edge of settlement rural location. Furthermore, the enclosure of part of the open countryside by urban style fencing doesn't respect the intrinsic character and quality of the countryside. The development therefore is considered to have a suburbanising effect on the natural landscape and would unacceptably alter the character and appearance of the open countryside and it therefore conflicts with the aims of Policy H15.
- 5.14 Having regard to the above, it is considered that the proposals are of an appropriate design and given their size and siting would not have a significant impact on the character and appearance of the area. The proposals are therefore in compliance with policy and SP19 of the Core Strategy and Policies ENV1 and H15 of the Selby District Local Plan and the advice contained within the NPPF.

## **Impact on Residential Amenity**

- 5.15 Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1 (1) of the Selby District Local Plan. Significant weight should be attached to this Policy as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved.
- 5.16 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 5.17 Comments in support of this proposal made by the public are noted. As such and given the nature of the proposal to extend residential curtilage of Holmewood, North Duffield, and the boundary treatments, it is considered that the proposal would not have any significant adverse impact on the amenities of the occupiers of any neighbouring residential properties. The amenities of the adjacent residents would therefore be preserved in accordance with Policy ENV1 (1) of the Selby District Local Plan.

## **6 CONCLUSION**

- 6.1 The application seeks planning permission for the change of use of land from agricultural to garden for land adjoining the rear with associated works.
- 6.2 The development, which has already occurred, due to the nature, scale, design and location and boundary treatment, is not considered to improve the economic, social and environmental conditions in this area and the change of use of agricultural land to garden land doesn't fall within the exceptions to the forms of development allowed in the open countryside set out in Policy SP2 of the Core Strategy. As such, the proposal is contrary to Policies SP1 and SP2 of the Core Strategy and the NPPF.
- 6.3 The development due to the projection in to the rural field bounded by visually prominent bright urban style boundary fencing significantly alters the clearly delineated north eastern boundary to the settlement and results in a visually harmful urban spur projecting into the wider open field adversely altering its open rural character and the character and setting of this part of the edge of the village. The boundary treatments as currently installed are urban in character and are of a harsh obtrusive design which is considered inappropriate for this edge of settlement and rural location. The development therefore is considered to have a suburbanising effect on the natural landscape and would unacceptably alter the character and appearance of the open countryside and the setting of the village it therefore conflicts with the aims of Policy H15 of the Selby District Local Plan, Policies SP1, SP2 and SP19 of the Core Strategy and with the NPPF.

## **7 RECOMMENDATION**

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

- 7.1 The development, which has already occurred, due to the nature, scale, design and location and boundary treatment, is not considered to improve the economic, social and environmental conditions in this area and the change of use of agricultural land to garden land doesn't fall within the exceptions to the forms of development

allowed in the open countryside set out in Policy SP2 of the Core Strategy. As such, the proposal is contrary to Policy SP1 and SP2 of the Core Strategy and the NPPF.

- 7.2 The development due to its position and the boundary fencing significantly alters the clearly delineated north eastern boundary to the settlement and results in a visually harmful urban spur projecting into the wider open field adversely altering its open rural character and the character and setting of this part of the edge of the village. The boundary treatments as currently installed are urban in character and are of a harsh obtrusive design which is considered inappropriate for this edge of settlement and rural location. The development therefore is considered to have a suburbanising effect on the natural landscape and would unacceptably alter the character and appearance of the open countryside and the setting of the village it therefore conflicts with the aims of Policy H15 of the Selby District Local Plan, Policies SP1, SP2 & SP19 of the Core Strategy and with the NPPF.

## **8 Legal Issues**

### **8.1 Planning Acts**

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

### **8.2 Human Rights Act 1998**

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

### **8.3 Equality Act 2010**

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

## **9 Financial Issues**

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

## **10 Background Documents**

Planning Application file reference 2019/0639/COU and associated documents.

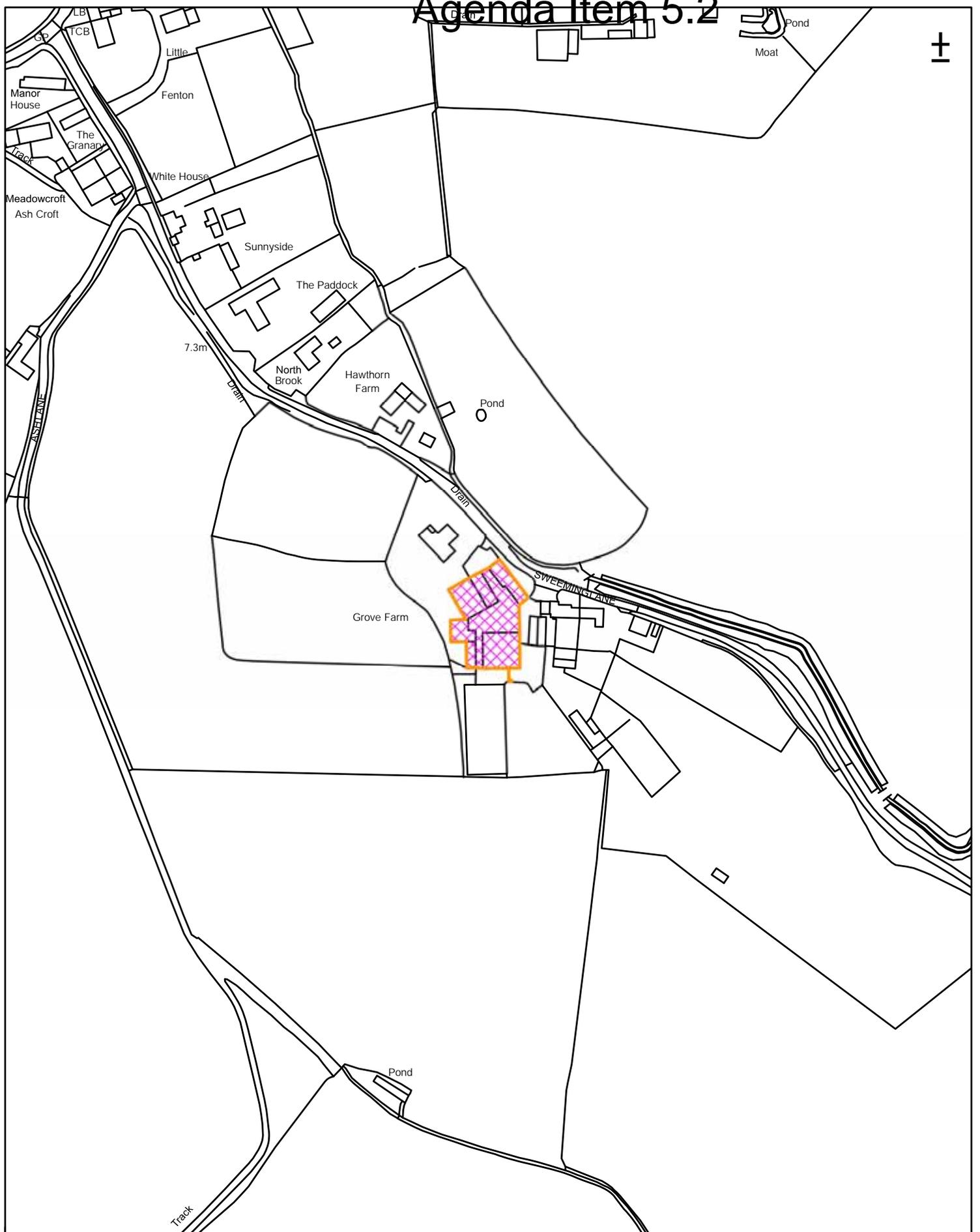
### **Contact Officer:**

Irma Sinkeviciene (Planning Officer)

[lsinkeviciene@selby.gov.uk](mailto:lsinkeviciene@selby.gov.uk)

**Appendices:** None

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## APPLICATION SITE

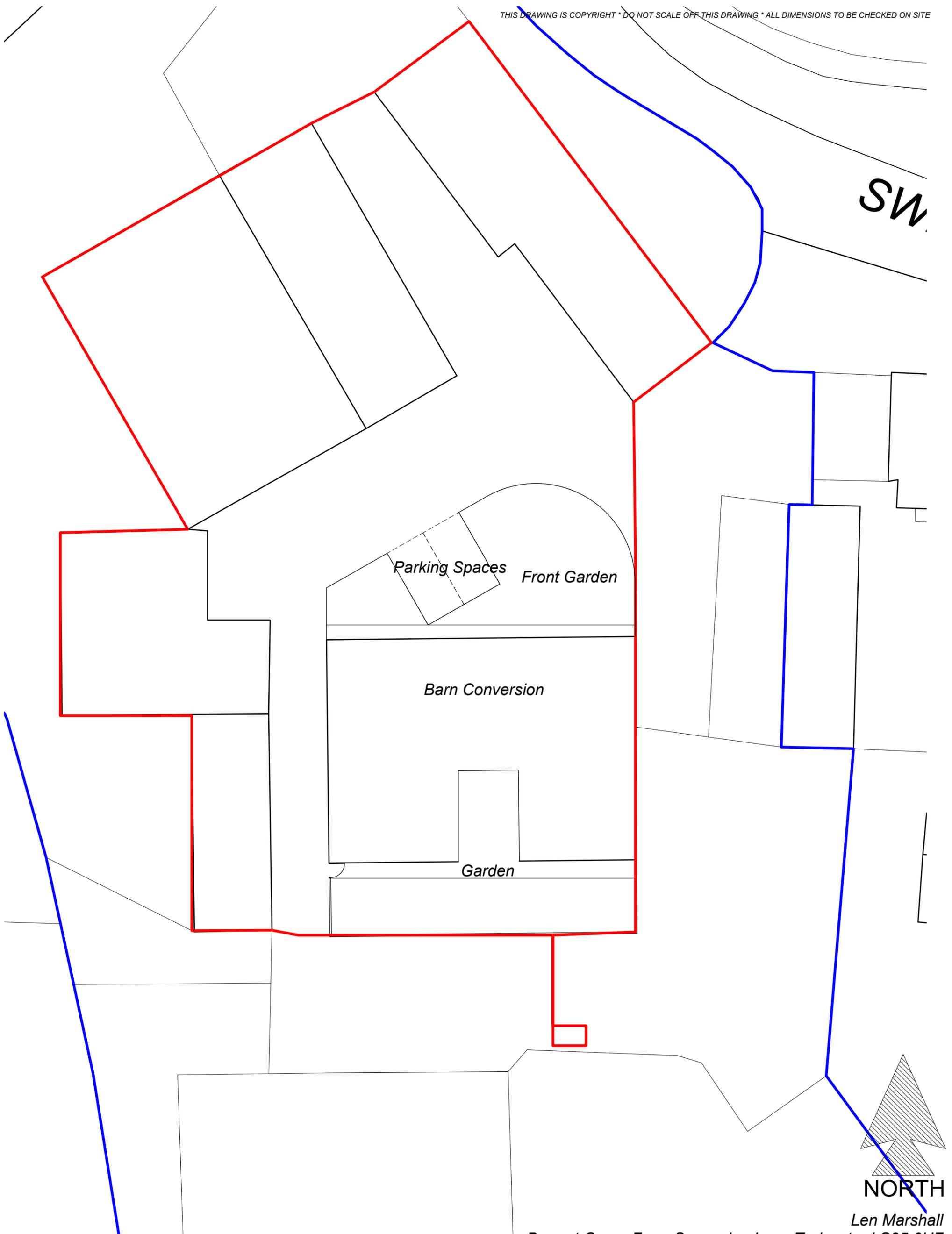
Grove Farm, Sweeming Lane, Little Fenton  
2019/0945/FUL

1:2,500



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SW



Parking Spaces

Front Garden

Barn Conversion

Garden

NORTH

Len Marshall

Barn at Grove Farm Sweeming Lane Tadcaster LS25 6HF

Proposed Block Plan scale 1:200 at A3 10/07/2020 drwg. no. 2821-02-02C

**AMENDED  
DRAWING**

Page 1 *Chris Finn Architect*

BOWLING GREEN HOUSE  
38 RYTHERGATE  
CAWOOD SELBY YO8 3TP  
TEL: 01757 268650

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**Report Reference Number:** 2019/0945/FUL

**To:** Planning Committee  
**Date:** 11 November 2020  
**Author:** Chris Fairchild (Senior Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0945/FUL	PARISH:	Little Fenton Parish Council
APPLICANT:	Mr & Mrs Marshall	VALID DATE: EXPIRY DATE:	30th September 2019 25th November 2019
PROPOSAL:	Proposed conversion of single storey barn/stable block to use as a single storey dwelling		
LOCATION:	Grove Farm Sweeming Lane Little Fenton Leeds North Yorkshire LS25 6HF		
RECOMMENDATION:	APPROVE		

This application has been brought before the 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 that there are material considerations which would justify approval of the application.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application boundary contains a number of buildings currently in use for storage and equestrian purposes following, as the Agents suggest, the use of the farm for agriculture ceasing. The buildings, including that subject of this change of use application, are set around a central area of hardstanding and access to the wider agricultural land to the west and a manege to the south.

- 1.2 To the east of the site are existing residential properties, both of which were approved changes of use from agricultural buildings to dwellings. To the north of the site lies a further residential dwelling with agricultural land beyond Sweeming Lane.

### **The Proposal**

- 1.3 Full planning permission is sought for the proposed conversion of a single storey barn/stable block to use as a single storey dwelling. An area of curtilage and car parking will be located to the immediate north of the dwelling within the current area of hardstanding.

### **Relevant Planning History**

- 1.4 There are no historical applications considered to be relevant to the determination of this application.

## **2. CONSULTATION AND PUBLICITY**

### **National Grid**

- 2.1 National Grid confirmed no objection, however given the close proximity to a High-Pressure Gas Pipeline the Local Planning Authority were advised to liaise with the Health and Safety Executive (HSE) regarding their Land Use Planning methodology and associated Consultation Zones.

### **Health and Safety Executive**

- 2.2 The HSE were consulted via their Planning Advice Web App which concluded "*Advice: Do Not Advise Against*", consequently, the HSE does not advise, on safety grounds, against the granting of planning permission in this case.

### **Environmental Health**

- 2.3 Given the close proximity of the proposed dwelling to the remaining farmstead Environmental Health considered that future occupants will likely experience loss of amenity, notably odour, light and noise emissions. It was therefore recommended that this new dwelling was formally linked in ownership of the dwelling to that of the remaining farmstead to prevent independent ownership in the future. If such a link is not agreeable, then the applicant should provide further detail demonstrating that future occupants will not suffer.

### **Contaminated Land**

- 2.4 The site may be subject to contamination and as such an investigation and risk assessment is required to assess the level of any contamination. This will be secured by condition. Further conditions relating to any remediation and verification (as necessary), as well a condition relating to the reporting of unexpected contamination is also requested.

### **NYCC Ecology**

- 2.5 Ecology initially commented that whilst the construction may preclude the presence of bats, an assessment of bat roost potential by a licensed bat surveyor is required to validate this. Confirmation is required if there is no potential, or if there is greater

potential, an emergence survey during the period May to September should be undertaken.

- 2.6 Following the submission of a bat roost potential assessment survey, Ecology were reconsulted. Ecology noted the surveyor detected evidence of bats in the stable building and as stated in the report, further surveys will be needed during the bat activity period (May to September) to identify the type of roost and species present, so that appropriate mitigation can be considered; the surveys required are described in section 6.7.4 of the bat scoping report.
- 2.7 Additionally, Ecology recommended an Informative drawing the applicant's attention to the advice on timing of demolition work in relation to nesting birds, as set out in the Executive Summary of the bat scoping report.
- 2.8 Following the submission of emergence surveys, Ecology were reconsulted. It was noted that the types of roost are of relatively low conservation significance and their loss can be mitigated and as such would meet the test set out in the Conservation of Habitats & Species Regulations 2017. The mitigation recommended and outlined in sections 7.3 to 7.8 of the bat survey report were considered appropriate albeit subject to any subsequent amendments made in consultation with Natural England. An informative on demolition not commencing until a competent person has first checked that no active nests are present is recommended.

### **Highways**

- 2.9 There are no objections subject to: (1) conditions requiring vehicle access, parking and manoeuvring to be installed prior to use of the dwelling, and (2) restriction on conversion of garages into domestic accommodation.

### **Internal Drainage Board (IDB)**

- 2.10 The IDB set out their guidelines for any increase in surface water discharge occur and request a condition be placed upon any decision if the considerations within their guidelines are triggered.

### **Yorkshire Water**

- 2.11 No response was received following consultation.

### **Bat Group**

- 2.12 No response was received following consultation.

### **Yorkshire Wildlife Trust**

- 2.13 No response was received following consultation.

### **The Environment Agency**

- 2.14 No response was received following consultation.

*[Officer note: The Environment Agency were consulted inadvertently and no response was necessary.]*

## **Parish Council**

- 2.15 No response was received following consultation.

### **Publicity**

- 2.16 The application was publicised via the erection of a site notice and posting of consultation letters to adjoining properties. Following this consultation one letter of representation has been received from a neighbour of an adjacent dwelling. Whilst they support the proposals overall, there is concern that the location of the vehicular parking will impact upon the amount of light entering the property and overall outlook. It is requested the parking/garage arrangement be reconsidered.

## **3. SITE CONSTRAINTS**

### **Constraints**

- 3.1 The site is located in Little Fenton, a village outside of the settlement hierarchy and as such outside of any defined Development Limits and therefore within the open countryside.
- 3.2 There are no environmental designations nor designated heritage assets on or near the site. The site is however noted as a potential source of contamination owing to its agricultural past and is within a HSE Consultation Zone.
- 3.3 The site is entirely within Flood Zone 2.

## **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 National Planning Policy Framework (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 concluded 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 In February 2019 a revised 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 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  
SP9 Affordable Housing  
SP15 Sustainable Development and Climate Change  
SP18 Protecting and Enhancing the Environment  
SP19 Design Quality

### **Selby District Local Plan**

4.7 The relevant Selby District Local Plan Policies are:

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

1. Principle of Development
2. Conservation & Historic Environment
3. Suitability for re-use
4. Extent of Alterations
5. Landscape & Character
6. Environmental Health
7. Access & Highway Safety
8. Residential Amenity
9. Ground Conditions
10. Affordable Housing
11. Impact on Nature Conservation
12. Flood Risk & Drainage

### **Principle of Development**

#### Context

5.2 CS Policy SP1 states that *"when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable*

development contained in the National Planning Policy Framework" and sets out how this will be undertaken. CS Policy SP1 is therefore consistent with national policy set out in the NPPF.

- 5.3 CS Policy SP2 controls the location of future development within the District and directs the majority of new development to existing settlements. CS Policy SP2A(c) relates to the open countryside and limits development to:

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

- 5.4 SDLP Policy H12 controls proposals for the conversion of rural buildings to residential use in the countryside (outside defined Development Limits) and stipulates the criteria in which conversions will be permitted, where relevant – which in this instance is criteria 1 to 7 and these are considered in greater detail below. H12(8) relates to part-residential/part-business and is not applicable.

- 5.5 Criterion (1) of Policy H12 allows proposals for the conversion of rural buildings to residential uses provided:

*“It can be demonstrated that the building, or its location, is unsuited to business use or that there is no demand for buildings for those purposes in the immediate locality”.*

- 5.6 Paragraph 79 of the NPPF sets out the policy for considering homes in the countryside and the circumstances in which this is permissible. Criterion (c) states:

*“the development would re-use redundant or disused buildings and enhance its immediate setting.”*

### Assessment

- 5.7 This proposal would result in the re-use of an existing building in the countryside and would therefore comply with Policy SP2A(c) of the Core Strategy and the NPPF.

- 5.8 However, unlike CS Policy SP2(c) and the NPPF, SDLP Policy H12 allows proposals for the conversion of rural buildings to residential uses provided *“it can be demonstrated that the building, or its location, is unsuited to business use or that there is no demand for buildings for those purposes in the immediate locality”*. The proposal does not meet this criterion and is therefore contrary to the requirements of the development plan in this regard.

- 5.9 However, NPPF Paragraph 79(c) does not require the more onerous tests for commercial or employment uses within converted buildings set out in SDLP H12(1).

- 5.10 Officers consider that the approach set out within SDLP Policy H12 is more onerous than, and conflicts with, NPPF Paragraph 79 and CS Policy SP2 and therefore

limited weight is applied to criterion (1) of SDLP Policy H12. However, it is clear that the conversion of buildings within the countryside (outside settlement limits) is acceptable in principle and therefore the proposal is acceptable.

## **Conservation & Historic Environment**

### Context

- 5.11 There are no statutory listed features of architectural or historical significance on or in proximity to the site.
- 5.12 SDLP Policy H12(2) allows the conversion of rural buildings to residential use in the countryside where:

*“The proposal would provide the best reasonable means of conserving a building of architectural or historic interest and would not damage the fabric and character of the building”*

### Assessment

- 5.13 The building for conversion is not of any particular historic significance or architectural merit. Officers consider that the proposals are acceptable from a conservation and historic perspective and comply with H12(2).

## **Suitability for re-use**

### Context

- 5.14 SDLP Policy H12(3) allows the conversion of rural buildings to residential use in the countryside where:

*“The building is structurally sound and capable of re-use without substantial rebuilding”*

- 5.15 The application is supported by a Structural Condition Report that demonstrates the walls are free from cracking and distortion and that the ground under the foundations is stable. Some localised cracks are present but re-building will not be required.
- 5.16 The roof consists of asbestos cement sheeting and is proposed to be removed and replaced with insulated profiled metal sheeting, allowing the same overall profile to be maintained.
- 5.17 The floor slabs will be removed to allow removal of contaminants. The existing wall foundations will not be undermined by this removal nor the deeper excavation to allow deeper foundations for internal fit out including lining on the inside with an insulated timber frame.
- 5.18 The main modifications to the external structure of the building i.e. the creation of a courtyard and undercover porch will be of no detriment to the overall stability of the structure, neither will be the removal of some of the stable walls.
- 5.19 Doors, windows and roof timbers will be inspected on a case by case basis and replaced accordingly.

### Assessment

- 5.20 Officers consider that the building has been demonstrated to be structurally sound and suitable for re-use. The rebuilding works listed are considered proportionate to converting such a building into residential use and are not therefore considered to be “substantial”. As such, the proposals accord with SDLP Policy H12(3).

### **Extent of Alterations**

#### Context

- 5.21 SDLP Policy H12(4) allows the conversion of rural buildings to residential use in the countryside where:

*“The proposed re-use or adaptation will generally take place within the fabric of the building and not require extensive alteration, rebuilding and/or extension;”*

#### Assessment

- 5.22 The existing building will be “shortened” with a large section of the building to the rear being removed. Whilst this is significant, given it does not increase the building’s footprint officers consider there will be no impacts upon the countryside and is considered acceptable.
- 5.23 The proposed cut-out of the building to create a courtyard is a lesser, yet still considerable alteration, and lesser still the undercover porch to the rear. Officers consider that on-balance these interventions are not extensive.
- 5.24 The replacement of the roof with insulated profiled metal sheeting will result in a change from the flat asbestos sheeting but given the change will follow the same pitch officers consider this change in principle will result in a minimal alteration, albeit details of the specific material to be used is recommended.
- 5.25 The existing blockwork walls are proposed to be rendered. Timber doors in the style of stable doors are proposed and add to the transitional approach from clear agricultural use to a domestic property whilst maintaining a rural character. The newly created rear elevation contains larger windows/bi-fold doors and are of a more domestic appearance, a condition requiring details of windows and doors is recommended.
- 5.26 Overall, subject to the aforementioned condition and on balance, Officers do not consider these changes constitute “extensive” alteration, albeit care to the detailing is required and therefore the proposals are considered to satisfy SDLP Policy H12(4).

### **Landscape & Character**

#### Context

- 5.27 SDLP Policy H12(5) allows the conversion of rural buildings to residential use in the countryside where:

*“The conversion of the building and ancillary works, such as the creation of a residential curtilage and the provision of satisfactory access and parking arrangements, would not have a significant adverse effect on the character or appearance of the area or the surrounding countryside”*

- 5.28 CS Policy SP18 seeks to safeguard and, where possible, enhance the historic and natural environment. CS Policy SP19 expects development to achieve high quality design and have regard to the local character, identity and context of its surroundings including the open countryside.
- 5.29 Selby District Local Plan ENV1 requires (1) the effect of the character of an area, and; (4) the standard of layout, design and materials in relation to the site and its surroundings and associated landscaping to be taken into account.

#### Assessment

- 5.30 The overall proposal will result in a building that will be clearly interpreted as a residential dwelling, however, care has been taken to ensure the overall form of the building maintains references to its agricultural origins and respects the character and appearance of the area or the surrounding countryside. Attention will need to be paid to the detailing of the building, including doors and windows to ensure this character is maintained.
- 5.31 A discreet area of residential curtilage is proposed to the front and rear of the property. Given the scale of the curtilage and its proximity to other neighbouring dwellings' curtilage it is not considered that the proposals will have a significant adverse effect on the character or appearance of the area or the surrounding countryside.
- 5.32 As such, the proposals are considered to comply with CS Policy SP18 & SP19 and SDLP Policy ENV1 & H12.

#### **Environmental Health**

##### Context

- 5.33 SDLP Policy H12(6) allows the conversion of rural buildings to residential use in the countryside where:

*“The building is not in close proximity to intensive livestock units or industrial uses which would be likely to result in a poor level of amenity for occupiers of the dwelling”*

##### Assessment

- 5.34 The Environmental Health consultation response raises concern regarding the relationship between the proposed dwelling and the remaining farmstead, specifically loss of amenity, notably due to odour, light, and noise emissions. Environmental Health recommended that unless the new dwelling could be formally linked in ownership to that of the remaining farmstead to prevent independent ownership in the future then further details of mitigation to address the concerns would be required.

- 5.35 In response, the Applicants have amended the redline to include all the remaining outbuildings and suggested the following approach:

*“The use of land falling within the area edged red on the attached plan reference..... shall only be used for purposes ancillary to the enjoyment of the dwelling house hereby approved and for no other purpose”*

- 5.36 Officers consider that such a condition would ensure that the amenity of future residents is not impacted and, subject to the inclusion of finalised condition wording (see the recommendations section of this report) the proposals would satisfy SDLP Policy H12(6).

## **Access & Highway Safety**

### Context

- 5.37 SDLP Policy H12(7) allows the conversion of rural buildings to residential use in the countryside where:

*“The proposal would not create conditions prejudicial to highway safety...”*

- 5.38 SDLP Policy T1 stipulates development will only be permitted where existing roads have adequate capacity and can safely serve the development, unless appropriate off-site highway improvements are undertaken by the developer.

- 5.39 SDLP Policy T2 only allows for a new access or the intensification of the use of an existing access will be permitted provided where (1) there would be no detriment to highway safety; and 2) the access can be created in a location and to a standard acceptable to the highway authority.

- 5.40 Paragraph 109 of the NPPF states that planning applications should only be refused where there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

### Assessment

- 5.41 The proposals have been considered by the Local Highway Authority who have found the proposals acceptable in principle although clarification that on-site parking was provided was sought: the applicants have subsequently provided plans demonstrating sufficient vehicle turning is available on-site. Therefore, officers consider the proposals will not have a detrimental impact upon highway safety and the proposals comply with SDLP Policy T1, T2 & H12.

## **Residential Amenity**

### Context

- 5.42 SDLP Policy H12(7) allows the conversion of rural buildings to residential use in the countryside where:

*“The proposal would not create conditions... which would have a significant adverse effect on local amenity...”*

- 5.43 SDLP Policy ENV1 provides eight broad aspirations that are taken into account when achieving “good quality development”. ENV1(1) requires “the effect upon the character of the area or the amenity of adjoining occupiers” to be taken into consideration.

#### Assessment

- 5.44 The proposal will introduce car parking c.10m from the western elevation of the dwelling to the east which contains windows to a habitable room. Concerns have been raised that this parking will reduce light to the habitable room and result in an unattractive outlook.
- 5.45 At such a separation, officers do not consider that there will be a material detrimental impact upon light entering the neighbouring dwelling and any impact would not be permanent given the nature of vehicles. The attractiveness of an outlook is not a material consideration in planning, however, it should be noted that the fallback is a live farmyard whereby the operation, in terms of scale, intensity, activity, would lead to a much greater impact than this discreet residential use. The proposals are not therefore considered to impact upon any existing residents’ amenity.
- 5.46 The proposals include sufficient windows to allow a reasonable standard of daylight and sunlight into the dwelling. Rooms are well proportioned, and the living space is commensurate with the scale of the dwelling. The proposed private amenity space, whilst minimal, is considered acceptable in this location where access to the open countryside is achievable.
- 5.47 It is considered that the proposals do not result in a significant adverse impact upon the amenity of existing residents and future residents.

### **Ground Conditions**

#### Context

- 5.48 SDLP Policy ENV2A states development that would be affected by unacceptable levels of noise, nuisance, contamination or other environmental pollution will be refused unless satisfactorily remediated or prevented. CS Policy SP19(k) seeks to prevent development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water, light or noise pollution or land instability.
- 5.49 NPPF Paragraph 178 requires planning decisions to ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination, be remediated (where appropriate) to an appropriate standard, and be subject to site investigation undertaken by competent persons.

#### Assessment

- 5.50 The proposal is noted as a potential source of contamination owing to its historic use as a farm. The Contaminated Land Officer has considered the screening assessment form but owing to the former use and potential to expose residents to ground contamination it is considered prudent to undertake a ground survey. Officers agree that it is necessary such a survey is undertaken prior to the commencement of development.

- 5.51 The site is in proximity to National Grid infrastructure. National Grid have no objection to the proposals subject to consultation with the HSE. The HSE concluded a “*Do Not Advise Against*” i.e. no objection to the proposal.
- 5.52 Subject to the inclusion of these recommendations development of the site is appropriate in relation to ground conditions and complies with CS Policy SP19, SDLP Policy ENV2 and NPPF Paragraph 178.

## **Affordable Housing**

### Context

- 5.53 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) sets out the affordable housing policy context for the District. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District.
- 5.54 However, the NPPF is a material consideration in planning decisions (as set out in paragraph 2 of the NPPF) and states at paragraph 63:

*“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount”.*

- 5.55 For housing, ‘major development’ is defined within the NPPF Glossary as being development of 10 or more homes, or where the site has an area of 0.5 hectares or more.

### Assessment

- 5.56 The application proposes the creation of one dwelling on a site which has an area of less than 0.5 hectares, and as such the proposal is not considered to be major development. Having had regard to Policy SP9 of the Core Strategy and material considerations including the Affordable Housing SPD and the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

## **Impact on Nature Conservation**

### Context

- 5.57 Relevant policies in respect of nature conservation and protected species include CS Policy SP18 of the Core Strategy. CS Policy SP18 seeks to safeguard and, where possible, enhancing the natural environment. This is achieved through effective stewardship by (inter-alia) safeguarding protected sites from inappropriate development, and, ensuring development seeks to produce a net gain in biodiversity.
- 5.58 NPPF Paragraph 170(d) seeks for planning decisions to contribute to and enhance the natural environment by minimising impacts and providing net gains for biodiversity.

## Assessment

- 5.59 Following submission of additional information, the County Ecologist considers the proposals are acceptable. Officers agree that there are no concerns from a nature conservation perspective subject to securing and implementing mitigation measures that resultant from the Natural England licensing programme. Subject to this licence, the proposals are acceptable and comply with CS Policy SP18 and NPPF Paragraph 170(d).

## **Flood Risk & Drainage**

### Context

- 5.60 The site sits entirely within Flood Zone 2.
- 5.61 CS Policy SP15A(d) seeks to ensure that development in areas of flood risk is avoided wherever possible through the application of the sequential test and exception test (if necessary). This policy is in line with NPPF Paragraph 155 which seeks to direct development away from areas at highest risk.
- 5.62 SDC's Flood Risk Sequential Test Developer Guidance Note (October 2019) is also a material consideration. The Guidance Note accords with Paragraph 164 and footnote 51 of the NPPF which clarifies that minor development is exempt from requiring a sequential and exception test.

### Assessment

- 5.63 The proposal constitutes a change of use application and as such a sequential test (and exception test) is not required.
- 5.64 A residential dwelling constitutes a "more vulnerable development" and within Flood Zone 2 the Environment Agency's standing advice should be followed: this requires a Flood Risk Assessment (FRA) to be submitted and reviewed in accordance with this advice. In the first instance, a "more vulnerable development" within Flood Zone 2 is considered "*appropriate*" in respect of flood risk vulnerability.
- 5.65 An FRA has been submitted with the application. The FRA considers a reduction in impermeable surface will result in a reduction of surface water run-off, which as per the indicative drainage plan drains into existing surface water drains that discharge into watercourses. Whilst Officers agree that a reduction in the permeable surface will result in a reduction in run-off, it is also considered prudent to ensure this run-off rate is minimised and accounts for climate change. As such details of drainage will be secured by condition.
- 5.66 Finished floor levels are proposed to be 300mm above the existing floor level. Standing advice requires ground floor levels to be whichever is higher of 300 mm above the general ground level of the site, or 600mm above the estimated river or sea flood level. Disappointingly, the estimated flood levels have not been clarified (nor a record of any historical flood events provided), however in accordance with standing advice, where floor levels are lower than the estimated flood level for the site extra flood resistance and resilience measures can be incorporated to overcome this. Officers recognise that there may be limited scope to extend floor

levels any higher without compromising head height within the parameters of the existing building.

- 5.67 The submitted FRA demonstrates that some flood resistance and resilience measures have been considered. Officers consider that, on balance, the floor levels being set at 300mm above ground level is acceptable subject to the provision of full details of flood resilience measures, as well as subscription to the Government's flood alert system and the creation of an evacuation plan that the proposals are acceptable from a flood risk perspective.
- 5.68 The applicants have submitted an indicative drainage plan that demonstrates existing surface water drains, that discharge into a watercourse, will be utilised for surface water. A sewage package treatment plant will be located 10m from existing building and also discharge into this existing drain. Whilst soakaways are the preferred method for surface water drainage, given surface water drainage is already present officers consider this indicative approach is acceptable, however, given the introduction of foul drainage it is considered prudent to ensure run-off rates are limited.

## **6. CONCLUSION**

- 6.1 Planning permission is sought for the conversion of an existing building within the open countryside to residential use.
- 6.2 The application is considered to be acceptable in principle and represents appropriate development in the countryside in accordance with Policies SP1 and SP2 of the Core Strategy and national policy including paragraph 79 of the NPPF. Policy H12 (1) of the Selby District Local Plan is given limited weight as the approaches taken by Policy SP2A(c) and Paragraph 79 of the NPPF are significantly different to that taken in Policy H12 as they do not require the more onerous tests set out in H12 (1).
- 6.3 A buildings survey has been submitted that demonstrates, the building is capable of being converted without substantial rebuilding work. As such, subject to the wider development management considerations of SDLP Policy H12, the principle is considered acceptable.
- 6.4 Officers have considered the proposals against all material considerations that arise from the development, including the relevant criteria of SDLP Policy H12. This report demonstrates that the proposals overcome each of these issues including by way of conditions where appropriate.

## **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 plans, drawings and documents listed below:

- Location Plan ref. 2821-01-03C
- Proposed Block Plan ref. 2821-02-02B
- Proposed Indicative Drainage Plan ref. 2821-02-03B
- Proposed Plans and Elevations ref. 2821-02-01B

REASON:

For the avoidance of doubt.

03. Notwithstanding the indicative flood resilience measures contained within the notes on the approved plans, details of flood resilience measures shall be submitted for approval by the Local Planning Authority and thereafter the approved scheme implemented prior to occupation of the development hereby approved.

REASON:

To reduce the risk and impact of flooding to the proposed development and future occupants.

04. The applicant or future occupier of the dwelling shall register with the Government's flood information service prior to occupation of the dwelling.

REASON:

To reduce the risk and impact of flooding to the proposed development and future occupants.

05. Prior to the occupation of the development the finished floor levels shall be constructed no lower than 300mm above the prevailing ground level. The finished floor levels shall be retained at this height thereafter.

REASON:

To reduce the risk and impact of flooding to the proposed development and future occupants.

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

REASON:

In the interest of satisfactory and sustainable drainage.

07. Prior to the occupation of development, a scheme for the provision of surface water drainage works, including any treated foul water discharge, shall be submitted to the Local Planning Authority for written approval. 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:

- Any proposal to discharge surface water to a watercourse from the redevelopment of a brownfield site should first establish the extent of any existing discharge to that watercourse.
- Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140lit/sec/ha or the established rate whichever is the lesser for the connected impermeable area).
- Discharge from “greenfield sites” taken as 1.4 lit/sec/ha (1:1yr storm).
- Storage volume should accommodate a 1:30 yr. event with no surface flooding and no overland discharge off the site in a 1:100yr event.
- A 30% allowance for climate change should be included in all calculations.
- A range of durations should be used to establish the worst-case scenario.
- The suitability of soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 or other approved methodology.

REASON:

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

08. Any works associated with development that will disturb, modify or result in permanent loss of bat roost/s will require a Natural England EPS development licence. The licence will be obtained from Natural England, and any subsequent mitigation measures be implemented, before any of the following associated works commence:

- Bat exclusion
- Roof stripping and subsequent re-roofing
- Erection of scaffolding
- Pointing of brickwork
- New windows and doors
- Internal renovations

REASON:

In order to protect and enhance biodiversity.

09. The use of land falling within the area edged red on the approved Location Plan ref. 2821-01-03C shall only be used for purposes ancillary to the enjoyment of the dwelling house hereby approved and for no other purpose.

REASON:

In the interests of the amenities of the future occupiers of the dwelling hereby approved.

10. Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report

of the findings must be produced. The written report is subject to the approval in writing by the Local Planning Authority. The report of the findings must include:

- a. a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- b. an assessment of the potential risk to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- c. an appraisal of remedial options, and proposal of the preferred option(s).

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

**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 risk to workers, neighbours and other offsite receptors.

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

**REASON:**

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

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

**REASON:**

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

13. In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing by 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 risk from land contamination to the future uses of the land and neighbouring land are minimised, together with those two 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 offside receptors.

14. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under Condition 2:
  - a. have been constructed in accordance with drawing ref. 2821-02-02B

Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

REASON:

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

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

REASON:

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

16. Notwithstanding any details shown on the approved plans and forms, no development above finished floor level shall take place until details of the materials to be used in the construction of the external surfaces of the development including walls, roofs, windows, and doors have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details thereafter.

REASON:

In order to ensure that the character and appearance of the surrounding area is protected.

## INFORMATIVES

01. The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.

02. All nesting birds are protected under the Wildlife & Countryside Act 1981. Prior to any demolition work, a competent person should first check that no active nests are present. Any which are found must be left undisturbed until young have fledged.

## 8. Legal Issues

### Planning Acts

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

### Human Rights Act 1998

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

### Equality Act 2010

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

## 9. Financial Issues

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

## 10. Background Documents

Planning Application file reference 2019/0945/FUL and associated documents.

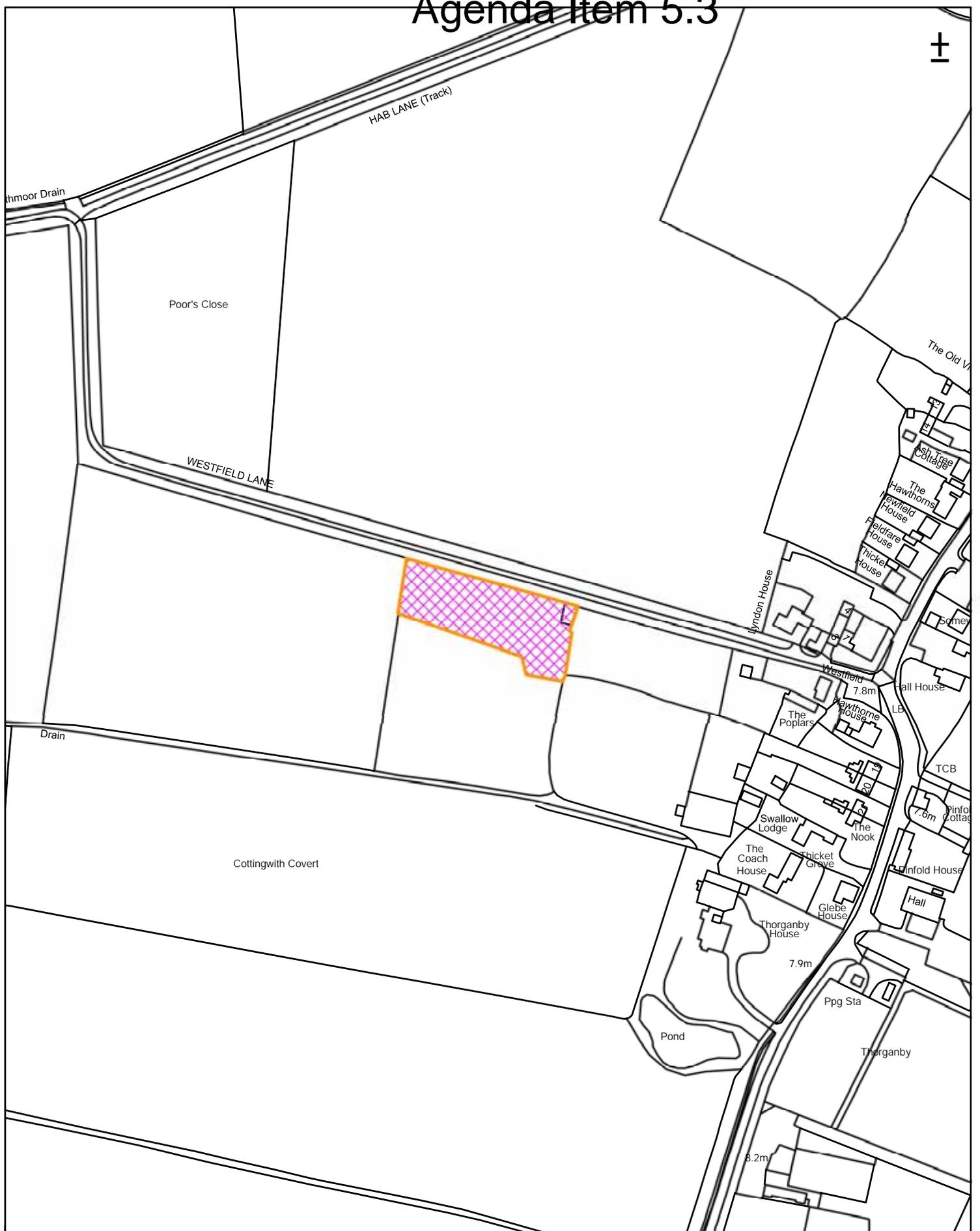
### Contact Officer:

Chris Fairchild (Senior Planning Officer)

[cfairchild@selby.gov.uk](mailto:cfairchild@selby.gov.uk)

**Appendices:** None

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## APPLICATION SITE

Land off Westfield Lane, Thorganby  
2019/1216/COU

1:2,500



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**Report Reference Number:** 2019/1216/COU

**To:** Planning Committee  
**Date:** 11 November 2020  
**Author:** Rebecca Leggott (Senior Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/1216/COU	PARISH:	Thorganby Parish Council
APPLICANT:	Ms Hardcastle	VALID DATE: EXPIRY DATE:	29th April 2020 24th June 2020
PROPOSAL:	Change of use of land to form a 12-pitch touring caravan site including the siting of shower and toilet facilities, new internal access track and associated works		
LOCATION:	Land Off Westfield Lane Thorganby York		
RECOMMENDATION:	GRANT		

This application was brought before Planning Committee on the 28 October when members resolved to defer the application to allow Thorganby Parish Council the opportunity to speak. It should be noted that this application was originally brought before Planning Committee as directed by the Head of Planning due to the sensitive consideration of the level of objection.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

1.1 The application site is located to the west and just beyond the defined development limits of Thorganby, which is a secondary village as identified within the Core Strategy.

1.2 Thorganby is a historic village, which dates back to the medieval period. The village has strong links to agriculture and still maintains its relationship with the surrounding farmland.

- 1.3 The application site is within proximity to the Thorganby Conservation Area, which is approximately 75 meters to the east of the application site. Furthermore, the site is located within Flood Zone 1, with a low probability of flooding.
- 1.4 The application site is a grassed field and currently being used for 5 caravans under a 12-month license. A small toilet shower facility is placed on the land in association with this use. The site is accessed from the narrow single carriageway Westfield Lane, with open fields to the north, south, west and the village to the east.

### **The Proposal**

- 1.5 Proposals are for the change of use of land to allow an extension to an existing touring caravan site, together with 12 all-weather caravan pitches, replacement shower and toilet facilities, new internal access track and associated works.
- 1.6 It is noted that the proposals would create an additional 7 pitches, on top of the existing 5 currently existing on site under the permitted 12-month license.

### **Relevant Planning History**

- 1.7 There are no historical applications which are relevant to the determination of this application.

## **2. CONSULTATION AND PUBLICITY**

2.1. **Yorkshire Water** – No response received.

2.2. **NYCC Highways** – NYCC have raised no objections to the proposed development subject to the following conditions: (1) New and altered Private Access or Verge Crossing at Westfield Lane, Thorganby (2) Visibility Splays at Westfield Lane, (3) Delivery of off-site highway Works and (4) Provision of Approved Access, Turning and Parking Areas. The aforementioned conditions would address any concerns over the proposal which will see it double in size. Westfield Lane is a single carriageway road approximately 3.17 metres in width. This is not of sufficient dimensions to allow for simultaneous passage of 2 cars let alone 2 cars pulling caravans. Further to this, an informative has been advised relating to a separate license required for works in the highway.

On the 13<sup>th</sup> August 2020 amended comments were received from NYCC Highways, following a request to investigate the issue of passing places. The applicant has been in discussion with the Highways Officer and have met on site and it was determined that there is insufficient land to accommodate a passing place. However, during the site meeting it was felt that the widening of the access and the setting back of the gates, would allow a car and caravan to pull off the highway or wait in the access before proceeding along Westfield Lane should another vehicle be travelling in the opposite direction. The applicant advised that all caravans have to vacate their pitches in the morning and those arriving cannot have access to the site until the afternoon. Therefore, helping prevent simultaneous passage of caravans.

Therefore, NYCC Highways have recommended that only the following conditions be attached should permission be granted: (1) New and altered Private Access or Verge Crossing at Westfield Lane, Thorganby (2) Visibility Splays at Westfield Lane, (3) Provision of Approved Access, Turning and Parking Areas.

2.3. **Environmental Health** – The Environmental Health Officer has raised no objections to the proposed development. However, has advised that the site will require a license under the Caravan Sites and Control of Development Act 1960.

2.4. **Parish Council** - Thorganby Parish Council strongly object to the proposed development. The Parish Council have raised concerns for the following:

- The site is located within the open countryside and therefore outside of development limits.
- The site is located within very close proximity to the boundary of the Thorganby Conservation Area. Which is a designated heritage asset, and consideration should therefore be given to the provisions of the Assets Conservation, Section 72 (1) Planning (Listed Buildings and Conservation Areas) Act, 1972 (Chapter 9) and paragraph 193 of the National Planning Policy Framework of February 2019. (NPPF)
- There are no public benefits which would arise from the development which would outweigh any harm to the Thorganby Conservation Area.
- There are concerns that as a result of the expenses associated with the works required by the LHA and IDB that the applicant will need to further extend the caravan site to make the proposals viable. Further applications to extend the site would exacerbate the issues raised.
- Increased traffic movements through the village and the use of a single-track road are a cause for concern. The single-track road is not considered suitable for caravans. Further to this, there are a number of highway safety concerns through the use of some of the existing roads such as the junction at Westfield Lane and Main Street being dangerous for slow moving vehicles so close to a blind spot.
- Concerns for noise impacts the increase from 4 to 12 caravans would have.
- The expansion of the existing site would lead to an increase in dog fouling
- Thorganby has very limited local amenities.

2.5. **The Ouse & Derwent Internal Drainage Board** – The IDB have raised no objections subject to a condition requiring drainage works to be agreed and a number of standard informatives relating to, (1) Riparian maintenance responsibility, and (2) Consent discharge.

2.6. **Conservation Officer** – The Conservation Officer initially raised due to insufficient information as there had been no consideration for any of the surrounding heritage assets within proximity of the site. This includes the Thorganby Conservation Area and surrounding Listed Buildings.

The Conservation Officer has raised concerns that the prefabricated shower block should be simplified in design to remove the gable section from the roof and the glazing bars and also raised concerns in terms of the visual impact of up to 12 caravans on site would be viewed in the context with the Conservation Area and surrounding Listed Buildings.

Following the receipt of additional information by way of a Heritage Statement, further comments were provided by the Conservation Officer on the 26<sup>th</sup> August 2020. In summary these states that the additional information does not constitute a 'Heritage Statement' and does not adequately provided an assessment of impact.

However, the Conservation Officer does acknowledge that there appears to be a good degree of screening from the Conservation Area. Though it is still considered that there would be views on the approach to the Conservation Area down Westfield Lane unless hedgerow trees are still present, when in leaf this may partially screen the site.

The comments also states that, it appears that the existing use as a caravan / campsite has limited impact as the field remains as such and the introduction of the vehicles and tents comprise the greatest change (which is temporary). The proposal would formalise the use and introduce permanent features including changes to the access to the site.

The Conservation Officer, concludes that whilst there will likely be a degree of harm to the setting of the Conservation Area from the change of use of the field in the manner proposed, this would be very low level of impact when considering the significance of the Conservation Area as a whole.

**2.7. Landscape Architect** – The Landscape Architect has recommended that the scheme be amended to take into account the following:

- Existing boundary hedgerows and trees; should be protected and retained. These should be accurately located on the plans together with root protection area (to BS5837). Existing and proposed screening hedgerows should be maintained to a minimum target height of 3m, which could be conditioned.
- Proposed new hedgerows; should be located along the site west boundary, to maintain screening of the site. Hedgerows should be 75% Hawthorne + other locally occurring native species. The plan to specify planting species, quantity, size together with notes for maintenance establishment.
- Pitch hardstanding's; set at least 2m away from boundary hedgerows (particularly along Westfield Land) to allow the hedgerow to grow and maintain screening of the site.
- Proposed access; to protect the corner Oak tree root protection area. Plans also to show highway visibility splay requirements. Would recommend permeable stone for drainage and to protect rural setting character.
- Proposed services; drainage outfalls through hedgerow to the ditch minimised to protect existing hedgerow (e.g. drain runs combined on site side). Show electricity supply and other service runs, to protect trees and hedgerow.

**2.8. Neighbour Summary** – All immediate neighbours were informed by letter and a site notice was erected. Resulting in 3 letters of support and 6 letters of objection.

In summary the letters of support state:

- The proposals would support the villages amenities including the public house and the bus service.
- In this current climate extra trade for local businesses is essential as long as no environmental impact.
- This is a small extension of a further 6 caravans to an existing site.
- Since the local pub, The Jefferson Arms reopened the support from people using the existing caravan site has been phenomenal. On average amounting to at least 30% of the weekend trade.

- The caravans are not considered to contribute to speeding vehicles through the village
- No noise issues experienced from the caravan site.

In summary the letters of objection raise concerns for the following:

#### Highways

- Highway safety and the junction at Westfield Lane and Main Street.
- Increased traffic along Westfield Lane will make it more difficult for residents to access their driveways.
- Westfield Lane is not suitable for larger vehicles.
- The use of Westfield Lane would cause issues with cyclists, joggers, horse riders and people who walk their pets along this road.
- Increased pollution.
- The village has no shop meaning campers would need to use their vehicles for come and go more frequently.
- Objections to the suggested highways conditions for putting passing places along Westfield Lane. This is as this would alter the character of the road.
- A runoff area should be provided so that vehicles are not left on Westfield Lane.

#### Conservation

- Noise pollution would disturb the amenity of surrounding wildlife, walkers and residents.
- The development would not be in keeping with the Thorganby Conservation Area. The shower block specifically would be inappropriate in the Conservation Area and would negatively impact on the rural nature of the area.

#### Sewerage system

- It would be inappropriate to connect the site to the existing inadequate sewerage system.

#### Other

- Trespassing on to neighbour's land.
- The access should be moved away from the ancient Oak trees.
- Lack of supervision on site, someone should visit the occupants each night at curfew and enforce the rules.

### **3. SITE CONSTRAINTS**

#### **Constraints**

3.1. The site is located outside development limits within the open countryside.

### **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
- SP13 - Scale and Distribution of Economic Growth
- SP15 - Sustainable Development and Climate Change
- SP18 - Protecting and Enhancing the Environment
- SP19 - Design Quality

### **Selby District Local Plan**

4.7. The relevant Selby District Local Plan Policies are:

- ENV1 - Control of Development
- ENV25 - Development in Conservation Areas
- EMP2 - Location of Economic Development
- RT12 – Touring Caravan and Camping Facilities
- T1 - Development in Relation to the Highway Network

## **5. APPRAISAL**

5.1. The main issues to be considered when assessing this application are:

- The Principle of Development
- Impact on the Surrounding Heritage Assets
- Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage

### **The Principle of the Development**

- 5.2. The proposals are for the change of use of land to form 12 all-weather caravan pitches, the siting of a shower and toilet facility, new internal access track and associated works. The site lies within open countryside and its former use was an agricultural field. However, is currently being used in part, as a caravan site under the Caravan License exemption for 5 touring caravans.
- 5.3. Policy SP1 of the Core Strategy outlines that *"when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework"* and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF.
- 5.4. The application site is located outside any defined development limits and is therefore located within the open countryside.
- 5.5. Policy SP2A (a) of the Core Strategy states, *"The majority of new development will be directed to the towns and more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints"*. Further to this, the Policy SP2A (b) states, development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13.
- 5.6. Policy SP13 of the Core Strategy states that in rural areas, sustainable development which brings about sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported, including (amongst other things) the re-use of existing building and infrastructure and the development of well-designed new buildings, the redevelopment of existing and former employment sites, the diversification of agriculture and other land based rural businesses, rural tourism and leisure development, small scale rural development. In all cases development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.
- 5.7. Policy RT12 states that, proposals for touring caravan and camping facilities will be permitted provided:
- 1) *The proposal would not have a significant adverse effect on the character and open appearance of the countryside, or harm acknowledged nature conservation interests;*

- 2) *Any proposal for development within the locally important landscape areas, as defined on the proposals map, would conserve and enhance the landscape quality of the area in terms of scale, siting, layout, design, materials and landscaping;*
- 3) *The proposal would not be visually intrusive and would be well screened by existing vegetation, or would incorporate a substantial amount of landscaping within and around the site;*
- 4) *The site would have good access to the primary road network;*
- 5) *The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity;*
- 6) *Any new ancillary buildings or structures are essential to providing basic services on the site; and*
- 7) *The number of pitches in anyone would be in proportion to the size of the locally resident population so as not to disrupt community life.*

5.8. The proposal is for the change of use of land to form a 12-pitch touring caravan site. The operational development includes a new internal access track and the siting of a new well- designed pre-fabricated amenity block of an appropriate scale, which would not appear uncommon within the rural landscape. The proposals are considered to contribute towards and improve Thorganby's local economy and will maintain the vitality of rural community though attracting tourism to the village and encouraging use of existing facilities. Therefore, the proposals would be acceptable in principle in terms of Policy SP2A (c). However, proposals that are acceptable in principle are still required to meet the policy tests set out within this policy. This includes whether the proposed development would contribute towards or maintain the vitality of rural communities, in accordance with policy SP13.

5.9. Where the proposed scheme may be acceptable in principle it would be required to meet the policy tests set out in Local Plan Policy RT12 (1), (2), (3), (5), (6) and (7) and all other relevant local and national policy tests.

5.10. The impact on acknowledged interests against the above policy tests is considered in the following parts of the report.

### **Impact on the Surrounding Heritage Assets**

5.11. The application site is within proximity to the Thorganby Conservation Area, being 75m to the east. It is also noted that there are a number of Grade II Listed Buildings within the village of Thorganby. The closest Listed Building being Thorganby House, which would be over 100 meters away.

5.12. When considering proposals which affect Conservation Areas regard should be made to S72 (1) of the Planning (Listed Building and Conservation Area Act) and S66 (1) of the Town and Country Planning Act 1990, which states that with respect to any buildings or other land in a Conservation Area, of any powers, under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

- 5.13. It is noted that Section 66 of the Act states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 5.14. Relevant policies in respect to the impact of development on the Thorganby Conservation Area and the character and form of the area include Policy ENV1 (1), (4) and (5) and ENV25 of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy.
- 5.15. Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF. However, less weight should be given to policy ENV25 as it does not accord with the approach taken within the NPPF in relation to the emphasis on significance and on weighing harm to significance against other considerations, depending on whether there is substantial harm or less than substantial harm.
- 5.16. Relevant policies within the NPPF, which relate to development within a Conservation Area and the significance of the setting of the adjoining listed building, include paragraphs 189, 190, 191, 192 193 and 194.
- 5.17. Comments have been received from the Conservation Officer, who initially objected to the application due to insufficient information being provided. It is noted that concerns have been raised in respect of the changes of materials on site from grass to hardcore, the appearance of the amenity block and also the overall impact of 12 caravans.
- 5.18. Officers have requested additional information from the planning agent. The applicant has subsequently submitted additional information labelled 'Heritage Statement'.
- 5.19. Further comments have been provided from the Conservation Officer, in summary these states that the additional information does not constitute a 'Heritage Statement' and does not adequately provided an assessment of impact. However, the Conservation Officer, concludes that while there will likely be a degree of harm to the setting of the Conservation Area from the change of use of the field in the manner proposed, but that this would be very low level of impact when considering the significance of the conservation area as a whole.
- 5.20. Having carried out a site visit and noted the boundary treatments around the site including hedging and tall trees, it is not considered that the application site would be visible from public vantage points within the Conservation Area. It is however noted that, at present there may be some limited views from the rear gardens of some of the nearby properties within the Conservation Area and minimal views on the approach to the Conservation Area along Westfield Lane. Furthermore, the site is not visible from any of the nearby Listed Buildings. The woodland to the south of the site would block views from the closest Listed Building Thorganby House.
- 5.21. In respect of any impacts on surrounding Listed Buildings, given there would be no views from these buildings to the site. There would be no harm to the Listed Buildings and their settings.

- 5.22. In respect of any impacts on the Thorganby Conservation Area given the limited views of the site. There would be less than substantial harm. Whilst it is noted that the harm is less than substantial this is still harm. At para 196 the NPPF states that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposals.' Therefore, Officers are required to weigh this against the public benefits.
- 5.23. The proposal would provide some public benefits in contributing to local services. This includes the use of the local pub and also local bus services, ensuring the vitality of Thorganby village and its rural economy. This is also as noted within the neighbour support letters submitted. Therefore, Officers consider that the less than substantial harm is outweighed by the public benefits associated with the proposed use.
- 5.24. Therefore, having had regard to Policies ENV1(1), (4) and (5) and ENV25 of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy and the NPPF it is considered that the proposals are acceptable.

### **Impact on the Character and Appearance of the Area**

- 5.25. The application site is located outside the defined development limits of Thorganby, as defined within the Core Strategy. The proposal involves change of use of land to create a 12-pitch touring caravan site together with, new shower and toilet facilities, new internal access track and associated works.
- 5.26. Taking each criterion within Policy RT12 in turn.
- 5.27. Criterion 1 relates to, *whether the proposal would have a significant adverse effect on the character and open appearance of the countryside, or harm acknowledged nature conservation interests.*
- 5.28. The application site is an existing field surrounded by mostly open fields and some residential gardens and dwellings further to the east. To the north of the application site would be the highway, Westfield Lane. To the east of the application site would be an open field outside of the applicant's ownership. To the south of the application site would be a field within the applicant's ownership. To the west of the application site would be an open agricultural field.
- 5.29. The third-party comments received raise concerns over the insufficient boundary treatment. These comments are noted, and it is therefore considered reasonable to secure a detailed scheme of landscaping by way of condition. This is to ensure that there is adequate screening and boundary treatments along the eastern boundary along common boundaries with neighboring properties.
- 5.30. In respect of the touring caravans these would not have a permanent presence on site. Touring caravan sites are generally more actively used in spring and summer months so the site will remain vacant and open for longer periods, particularly the winter months. Furthermore, the caravan pitches are only likely to be occupied when the weather permits, meaning the site will be still relatively open for periods throughout the year specifically the winter months.
- 5.31. In respect of the proposed amenity block on site, consisting of shower and toilet facilities. This would have a permanent on-site presence. The new well-designed pre-fabricated amenity block, would be sited to the south east corner of the site. In

considering the scale, siting, and design of this block. It is considered proportionate to the proposals and would not create any significant adverse impacts on the open countryside.

- 5.32. In respect of the proposed internal access track. This would be of porous materials and is considered to be proportionate and necessary to what is being proposed. The track is not considered to cause any undue harm to the open countryside.
- 5.33. In respect of the cesspit, this would be located underground and would therefore have no impacts on the open countryside.
- 5.34. Overall, the change of use of land for to form a 12-pitch touring caravan site including the siting of shower and toilet facilities, new internal access track and associated works. Would have some impacts on the character and appearance of the open countryside by way of the changes to the application site, the enlarged access to the site and vehicle movements along Westfield Lane. However, from an inspection of the site officers note that the application site is surround by a variety of existing boundary treatments, including fencing, hedges and mature trees. These existing boundary treatments provide screening to the site, particularly when viewed from Westfield Lane. Furthermore, given the density of the hedging and trees it is considered that this would still provide some screening in winter also, this is addressed further against criterion 3.
- 5.35. Given the location of the application site and the existing boundary treatments it is not considered that the proposed caravan site would have a significant adverse effect on the character and open appearance of the countryside.
- 5.36. Criterion 2 relates to, *Whether the proposal is located within a locally important landscape area.*
- 5.37. The application site is not located within a locally important landscape area and therefore criterion 2 is not applicable.
- 5.38. Criterion 3 relates to, *Whether the proposal would not be visually intrusive and would be well screened by existing vegetation, or would incorporate a substantial amount of landscaping within and around the site.*
- 5.39. The application site is currently bound by tall hedging, trees and the highway, Westfield Lane to the north, hedging and residential development to the far east, post and rail fencing and woodland to the far south and a newly planted Hornbeam (*Carpinus betulus*) hedgerow with Dog Rose (*Rosa canina*) to the west as shown on the submitted plans and drawings.
- 5.40. Officers also note that a Tree Protection Order is being considered for one of the Oak trees to the east of the entrance to the site. The tree in question is located on the neighbor's land though this tree would have a root protection zone of approximately 9 meters. Therefore, some of the roots for the tree would be located on the applicant's land.
- 5.41. In considering this comment have been sought from the landscape architect who has advised the following:
- Existing boundary hedgerows and trees accurately plotted and showing as maintained to a minimum target height of 3m.

- Root protection areas to be provided (to BS5837).
- A new hedgerow along the western boundary of the site.
- Specified plant species, quantity, size together with notes for maintenance establishment.
- Pitch hardstanding's set at least 2m away from boundary hedgerows.
- Visibility splay requirements to ensure the protection of the corner oak tree.
- Permeable stone for drainage
- Drainage outfalls through hedgerow to the ditch minimised to protect existing hedgerow. Show electricity supply and other service runs, to protect trees and hedgerow.

5.42. Following discussions with the applicant the proposals have been amended to move the access west and away from the root protection zone of the tree. Therefore, no root protection or further details are required in respect of this specific oak tree. The gap in the hedge created by the existing access will be replanted. Furthermore, the boundary treatments for the site have been accurately plotted on the site layout plan. The amendments to the proposals address all of the points raised by the landscape architect, which includes limiting the hard standing near the hedge adjacent to Westfield Lane.

5.43. In considering seasonal changes, given the density of the hedging along with the likelihood that there will be less activity on site in the winter, it is not considered that seasonal change is of concern.

5.44. Overall, it is considered acceptable to secure the boundary treatments via condition as well as condition the height the hedging along the northern boundary of the site to 3 meters.

5.45. Given all the above, the proposals are not considered to be visually intrusive and are well screened by existing boundary treatments including, fencing, hedges and mature trees. It is also noted that a furthermore detailed scheme of landscaping is to be required and secured by way of condition.

5.46. Criterion 5 and 5 relate to highway matter and are to be addressed within the '*Impacts on Highway Safety*' section of the report.

5.47. Criterion 6 relates to, *whether any new ancillary buildings or structures are essential to providing basic services on the site.*

5.48. The proposed scheme is for the change of use of land and includes the provision of a free-standing amenity block. This includes toilet and washing facilities and is considered reasonably necessary for a functioning caravan site. Furthermore, the new pre-fabricated amenity block is considered to be of a limited size and scale and overall could therefore be considered essential to providing basic services on the site.

5.49. Criterion 7 relates to, *whether the number of pitches would be in proportion to the size of the locally resident population so as not to disrupt community life*

5.50. It is noted that the application site is located outside the defined development limits of Thorganby. However, the site is within close proximity to the village of Thorganby and it is therefore considered reasonable to weigh up the proportion of pitches proposed on site to the population of Thorganby.

5.51. The proposal is for 12 pitches; however it is acknowledged that it realistically 7 additional pitches to the existing 5 that operate under the Caravan License currently. In total the site would have the ability to accommodate 12 groups at once. While Thorganby is a Secondary Village as defined within the Core Strategy, it is considered that the caravan pitches cumulatively would be proportionate to the population of Thorganby.

5.52. Therefore, in considering the above it is considered that the proposal is acceptable and would not have a significant or detrimental impact on the character and appearance of the area. Therefore, having had regard to Policies ENV1(1), (4) and (5) and RT12 of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy and paragraphs 124, 127, 128, 130 and 131 of the NPPF.

### **Impact on Residential Amenity**

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

5.54. Any such leisure use has the potential to cause noise and disturbance through increased comings and goings and from occupants of the leisure site. Occupants of such facilities are more likely to spend time outside enjoying their leisure time and this often brings with it noise and nuisance if not properly controlled by the owner/site license.

5.55. Given this is essentially a rural location with residential development to the far east. It is the most significant material consideration within this application. In this case the site could accommodate a maximum of 12 families at any one time and is therefore regarded as small scale.

5.56. The comments of the occupiers of the surrounding properties and the Thorganby Parish Council in relation to concerns for noise impacts are noted. However, given the existing use of the site for 5 caravans a scheme of this scale is not considered to significantly harm the amenity of neighbouring properties.

5.57. The submitted Design and Access Statement, states that, as the applicants live close by and there is CCTV in place therefore the site is closely managed. The site is also described as an adults only site, so as to ensure limited impacts of noise. The applicants ownership and adults only restriction cannot be controlled by condition, however providing the situation remains this way these measures are therefore considered to reduce any impacts on the amenity of occupiers of any of the residential properties within proximity of the site. Though it is noted that the closest residential dwelling would be approximately 80 meters away.

5.58. Also, from a review of the website the applicants appear to have a number of rules for the site as follows:

- *All prices above are for the 2 registered people, 1 caravan.*
- *The maximum age for a caravan being used as a seasonal pitch is 10 years old.*
- *A maximum of 2 dogs are allowed providing they are well controlled, kept on a lead and any fouling left by them is cleared up immediately.*

- *Day visitors are allowed on request but please consider your neighbouring caravans*
- *No clothes lines are permitted.*
- *There will be a noise policy in place and guests will be asked to keep noise to a minimum between 11pm and 8am.*
- *No commercial vehicles allowed on the park at any time.*
- *Nothing is permitted to be stored underneath the caravan: the area must be kept clear.*
- Gas bottles are not to be left outside your caravan.
- Awnings are allowed without groundsheets.

5.59. The scheme looks to small adult groups and not to cause any unnecessary pollution regarding, noise or environmental impact on the neighbourhood.

5.60. Whilst the above measures cannot be considered as planning conditions, they will ensure the facility is small scale and run in such a way that the amenities of the adjoining neighbours are not affected. The running of the site is also regulated by the need for a site license which the Local Authority control and monitor.

5.61. In respect of overlooking the site would be located some distance away from the surrounding residential properties. Furthermore, it is not considered that the change of use would pose any additional impacts of overlooking to the existing use, in terms of views from the land in question.

5.62. In respect of overshadowing the proposed amenity block would be set some distance away from residential properties. Therefore, there are not considered to be any impacts of over shadowing.

5.63. Further to this, in considering any impacts in terms of noise and impacts on the surrounding neighbouring properties. Environmental Health have been consulted on the application. In summary the Environmental Health Officer has raised no objections to the proposed development.

5.64. Overall given the siting of the proposed scheme, the position of the access and distances from surrounding residential properties, it is considered that the proposal would not result in any adverse effects on the amenities of the occupiers of any neighbouring properties.

5.65. Subject to the aforementioned condition, it is considered that the proposal is acceptable in terms of its impact on residential amenity in accordance with Policies ENV1 (1) and (4) and EMP9 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained with the NPPF.

### **Impact on Highway Safety**

5.66. Relevant policies in respect to highway safety include Policies ENV1, T1 and T2 of the Selby District Local Plan and requirement (c) set out in Policy SP19 of the Core Strategy. These policies should be afforded substantial weight as they are broadly consistent with the aims of the NPPF.

5.67. The proposal would involve the closing of the existing access and the construction of a new access.

- 5.68. NYCC Highways have been consulted on the application. It is noted that NYCC Highways originally requested a condition requiring passing places to be constructed along Westfield Lane. However, following a site meeting with the applicant and NYCC Highways. It was concluded that, such a condition could not be met and would therefore be unreasonable.
- 5.69. NYCC Highways latest comments raise no objections to the proposals subject to the following standard conditions: (1) New and altered Private Access or Verge Crossing at Westfield Lane, Thorganby (2) Visibility Splays at Westfield Lane, (3) Provision of Approved Access, Turning and Parking Areas. The highway improvement details have been detailed on the updated site layout plan and therefore this can be secured by way of condition
- 5.70. From a site visit it is not considered that the proposed development would create conditions which would be of a detriment to highway safety subject to these improvements. It is also noted that the site is currently being used as a caravan site for up to 5 caravans. Officers consider that the site would have a good access to the primary road network and would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity.
- 5.71. Overall, the proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity. Given all of the above the proposals are considered acceptable in respect of highway safety.
- 5.72. Overall, in respect of Policy RT12 of the Selby District Local Plan on balance the proposed development would be comply to criteria (4) and (5) of the policy and would be acceptable in respect of Local Plan Policy SP19 of the Core Strategy and policies contained within the NPPF.

### **Flood Risk and Drainage**

- 5.73. Firstly, in addressing the issues of flood risk, the application site is within Flood Zone 1 and therefore at low risk of flooding. Therefore, despite being a more vulnerable use, no sequential or exceptions test are required.
- 5.74. In terms of drainage, the submitted application form sets out that the foul water will be disposed of via cesspit and surface water will be disposed of via an existing water course.
- 5.75. In respect of surface water discharge, it is noted that the Internal Drainage Board (IDB) have raised no objections to the proposed development. However, the IDB have advised that soakaways should be considered on site rather than directly discharging into existing water courses. Therefore, the IDB have suggested a condition requiring drainage details to be submitted and agreed. Having discussed this condition with the planning agent this condition is agreed. Therefore, it is considered reasonable to secure drainage details by way of condition. Further to this a number of standard informatives have been suggested as follows: (1) consent required from IDB, (2) consent outfall and (3) consent discharge.
- 5.76. In respect of foul water discharge it is proposed to use a cesspit. This would require an Environmental Permit from the Environment Agency, which would need to be obtained beyond the planning process.

- 5.77. It is noted that Yorkshire Water have not provided a response within the statutory consultation period. However, the foul and surface water drainage would not be discharged via any of the Yorkshire Water assets. Therefore, no response is required.
- 5.78. It is noted that, limited information has been provided in terms of the scheme for drainage. However, it is considered that an acceptable scheme of drainage can be achieved. Therefore, notwithstanding the information submitted further information can be requested and subsequent measures secured by way of condition.

## **6. CONCLUSION**

- 6.1. Having had regard to the development plan, all other relevant local and national policy consultation responses and all other material planning considerations, it is considered that the proposed development is acceptable in principle providing a leisure use within the open countryside which would help sustain local village facilities and attract tourism the area. The proposal would not have a detrimental effect on the character and appearance of the area, residential amenity of the occupants of neighbouring properties, highway safety or drainage and flooding. In terms of the adjacent heritage assets the proposal is considered to cause less than substantial harm and this is outweighed by the public benefits associated with the proposed use.
- 6.2. The application is therefore in accordance with Policies, SP1, SP2, SP13, SP18 and SP19 of the Core Strategy and Policies ENV1, ENV 25, RT12 and T1 of the Local Plan.

## **7. RECOMMENDATION**

- 7.1. This application is recommended to be GRANTED subject to the following conditions and reasons:

1. 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.

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

Location Plan – LOC 01

Proposed Site Plan - DN-001 / D

Amenity Block Floor Plan - DN-003

Amenity Block Elevations - DN-004

New Road and Pitch Construction – received 14<sup>th</sup> January 2020

Reason:

For the avoidance of doubt.

3. The development must not be brought into use until the existing access to the site at Westfield Lane, Thorganby has been closed and the new access as shown on plan reference, DN-001 / D has been 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 existing access must be improved by installing 10 metres radius kerbs, to give a minimum carriageway width of 7.3 metres, and that part of the access road extending 13 metres into the site must be constructed in accordance with Standard Detail number A1 or E2 (E2 specification will not require the radius kerbs) and the following requirements.

- a) Any gates or barriers must be erected a minimum distance of 13 metres back from the edge of the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
- b) Measures to enable vehicles to enter and leave the site in a forward gear.
- c) Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.

All works must accord with the approved details.

Reason:

In accordance with policy T1 of the Selby District Local Plan and to ensure appropriate a satisfactory means of access to the site from the public highway in the interests of highway safety.

4. There must be no access or egress by any vehicles between the highway and the application site at Westfield Lane until splays are provided giving clear visibility of 45 metres measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

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

5. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

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

6. No development approved by this permission shall be commenced until the Local Planning Authority has approved a Scheme for the provision of foul and surface water drainage works. The following criteria should be considered:
  - The suitability of soakaways, as a means of surface water disposal, should first be ascertained in accordance with BRE Digest 365 or other approved methodology.

- If soakaways are not feasible, then the IDB may consider a proposal to discharge surface water to a watercourse (directly or indirectly).
- Discharge from “greenfield sites” taken as 1.4 lit/sec/ha (1:1yr storm).
- Storage volume should accommodate a 1:30 yr event with no surface flooding and no overland discharge off the site in a 1:100yr event.
- A 30% allowance for climate change should be included in all calculations.
- A range of durations should be used to establish the worst-case scenario.

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.

7. The development hereby permitted shall be carried out in accordance with landscaping as identified on plan reference, DN-001 / D. The boundary hedges and trees shall be maintained to a minimum height of 3 meters along the north and east boundaries and 2 meters along the west boundary.

All trees, shrubs and bushes should be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses should be made good as and when necessary.

Reason:

In order to ensure that the proposals are in keeping with the character and appearance of the area, to prevent any adverse overlooking of neighbouring properties and to comply with Policy ENV1 of the Selby District Local Plan.

8. Notwithstanding plan reference, DN-001 / D within the first available planting season a hedge of a native species shall be planted in line with the existing hedge row along the northern boundary along location of the existing access to be close to a length of 7 meters and maintained to a height of 3 meters.

All trees, shrubs and bushes should be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses should be made good as and when necessary.

Reason:

In order to ensure that the proposals are in keeping with the character and appearance of the area, to prevent any adverse overlooking of neighbouring properties and to comply with Policy ENV1 of the Selby District Local Plan.

9. The site shall only be occupied by touring caravans, tents or motor homes and the number of pitches on the site at any one time shall not exceed 12.

Reason:

In order to ensure that the scale of the proposed use accords with its location, adjacent to residential properties and to ensure compliance with Policy RT12 of the Selby Local Plan.

10. The site shall be occupied for holiday purposes only and no caravan, tent or motor home, shall be occupied on a permanent basis. Furthermore, a record of bookings shall be retained and made available upon request.

Reason:

This condition is imposed in the interests of restricting the use of the accommodation to a temporary holiday use only. The Council acknowledges that these sites fulfil an important social function by providing holiday accommodation. It also acknowledges that tourism has an important part to play in the economy of the area and that these sites are important in this respect. However, these considerations must be set against policies SP2 of the Core Strategy which seek to restrict residential development in the open countryside.

11. All service points, refuse collection points and the chemical toilet area shall be as those specified on submitted drawing Proposed Site Plan - DN-001 / B and no facilities shall be sited in other areas of the site without the prior written approval of the Local Planning Authority.

Reason:

In order to ensure that the proposals are in keeping with the character and appearance of the area, and to comply with Policy ENV1 of the Selby District Local Plan.

12. The pitches shall be limited to those areas specified on submitted drawing Proposed Site Plan - DN-001 / D and no caravan, tents or motor home shall be sited in other areas of the site.

Reason:

In order to ensure that the scale of the proposed use accords with its location, adjacent to residential properties and to ensure compliance with Policy RT12 of the Selby Local Plan.

13. 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.

## **INFORMATIVE(S):**

### **1. HIGHWAYS:**

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

Notwithstanding any valid planning permission for works to amend the existing highway, there must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and North Yorkshire County Council as the Local Highway Authority. To carry out works within the highway without a formal Agreement in place is an offence.

2. IDB:

Any watercourse adjacent to this development is not maintained by the IDB. The responsibility for the continued maintenance of the watercourse and its banks rests ultimately with the riparian owners.

Under the IDB Byelaws the written consent of the IDB is required prior to any discharge (directly or indirectly) into any watercourse within the IDB'S District.

## 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 2019/1216/COU and associated documents.

### **Contact Officer:**

Rebecca Leggott (Senior Planning Officer)

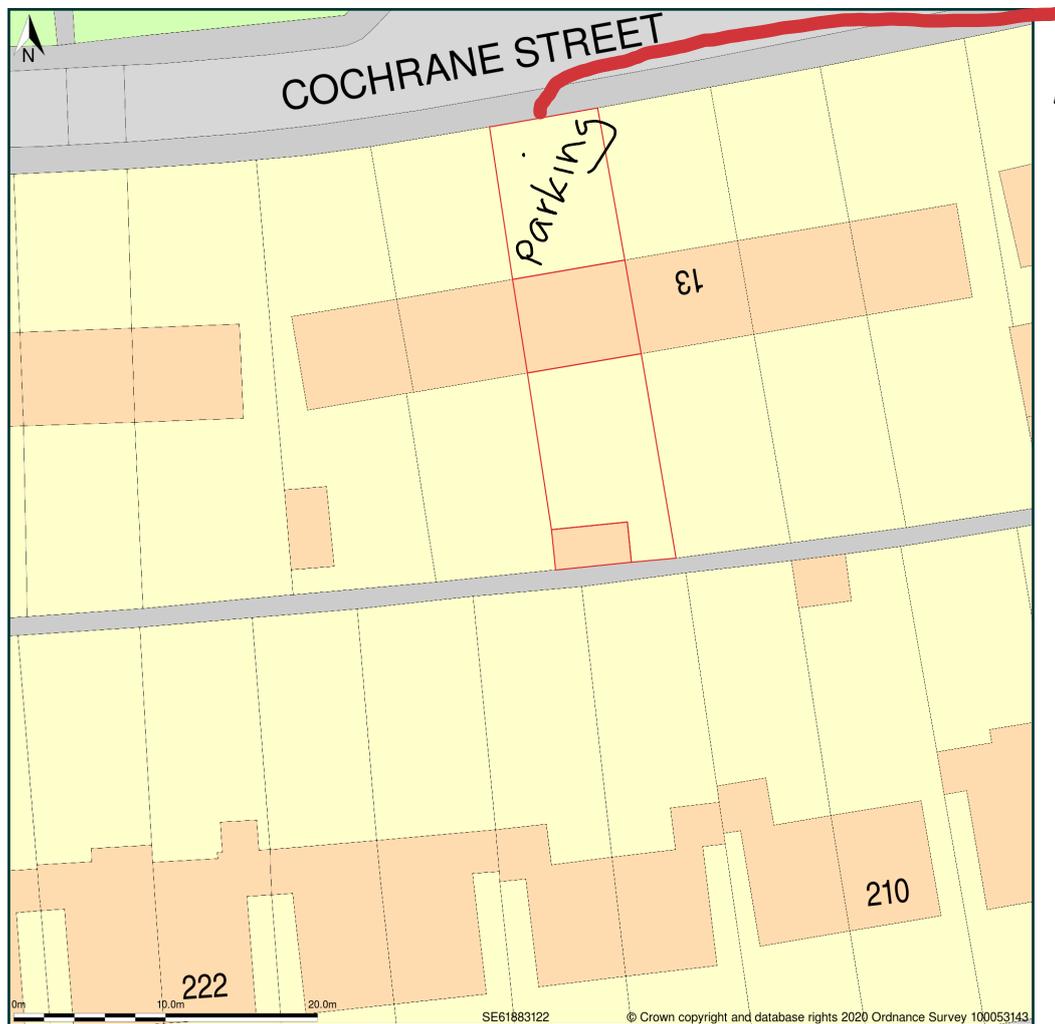
[rleggott@selby.gov.uk](mailto:rleggott@selby.gov.uk)

**Appendices:** None



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15, Cochrane Street, Selby, North Yorkshire, YO8 8DU



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kerb*

Block Plan shows area bounded by: 461855.01, 431192.9 461922.51, 431260.4 (at a scale of 1:500), OSGridRef: SE61883122. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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LAY02

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**Report Reference Number:** 2020/0773/FUL

**To:** Planning Committee  
**Date:** 11 November 2020  
**Author:** Rebecca Leggott (Senior Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0773/FUL	PARISH:	Selby Town Council
APPLICANT:	Miss Rebecca Moore	VALID DATE: EXPIRY DATE:	20th August 2020 15th October 2020
PROPOSAL:	Change of use of a C3 dwelling house to a mixed use for a Class C3 dwelling house and Class E(f) childminding business		
LOCATION:	15 Cochrane Street Selby YO8 8DU		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as Selby District Council are the owners of the residential dwelling.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1. The application site is a residential dwelling, that is within a row of terrace properties within the defined development limits of Selby, which is a Principle Town as identified in the Core Strategy. The application site is located within Flood Zone 1.
- 1.2. The dwelling has its main vehicular access from Cochrane Street and benefits from a rear garden with a large, detached outbuilding. Furthermore, on street parking is available along Cochrane Street.

### The Proposal

- 1.3. The proposal is for the change of use of a dwelling to mixed use for childminding business to operate from the property.

- 1.4. The proposed childminding business currently operates from the dwelling, and normally many small businesses do not require a change of use application to be submitted due to the numbers of children being under 6. Permission in this instance is required as the application plans to exceed this number of children on site. Small businesses like this are prevalent across the UK and provide a much-needed facilities to provide daytime care for local parents in order that they can access work opportunities.
- 1.5. Having discussed the proposals with the applicant, the intention is to gain consent for a maximum of eight children on site and one employee.

### **Relevant Planning History**

- 1.6. There are no historical applications which are considered to be relevant to the determination of this application.

## **2. CONSULTATION AND PUBLICITY**

- 2.1. **Selby Town Council** - Selby Town Council have raised no objections to the proposed development subject to consultation with occupants of neighbouring properties and also Environmental Health Department at the Local District Council.
- 2.2. **NYCC Highways** – NYCC Highways have raised no objections to the proposed development subject to a condition relating to a new and altered Private Access or Verge Crossing.
- 2.3. **Yorkshire Water** – No response recieved.
- 2.4. **Selby Area Internal Drainage Board** - The IDB have raised no objections to the proposed development subject to a number of standard informatives relating to soakaways, mains sewers, discharge into water courses, no obstructions within 7 metres of a water course and works adjacent a main river.
- 2.5. **Environmental Health** – Environmental Health have raised no objections to the proposed development.
- 2.6. **Neighbour Summary-** The application has been advertised by site notice and neighbour notification letter resulting in 3 letters of support being received. In summary the comments support the following:
  - The applicant provides support for the self employed
  - This is for a local service that supports working families
  - Suitable location as there is low traffic volume and noise
  - The applicant offers fantastic care
  - This kind of childminders is needed by many parents
  - No noise issues (comment provided from an address at 214 Abbots Road, Selby)

### 3. SITE CONSTRAINTS

#### Constraints

- 3.1. The application site is located within the defined development limits of Selby, which is a Principle Town as identified in the Core Strategy and is located within Flood Zone 1.

### 4. POLICY CONSIDERATIONS

- 4.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3. On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options has taken 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 -
- 4.6. *"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

- 4.7. The relevant Core Strategy Policies are:
  - SP1 – Presumption in Favour of Sustainable Development
  - SP2 – Spatial Development Strategy
  - SP13 – Scale and Distribution of Economic Growth
  - SP15 – Sustainable Development and Climate Change
  - SP18 – Protecting and Enhancing the Environment

- SP19 – Design Quality

## **Selby District Local Plan**

4.8. The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- EMP2 – Location of Economic Development
- EMP6 – Employment Development within Development Limits and Established Employment Areas
- T1 – Development in Relation to the Highway Network
- CS3 – Children’s Nurseries

## **5. APPRAISAL**

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

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Highway Issues
- Flood Risk, Drainage and Climate Change

### **The Principle of the Development**

- 5.2. The proposal is for the change of use of a dwelling to mixed use for childminding business to operate from the property and the following policies are considered to be relevant.
- 5.3. Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favor of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.
- 5.4. Policy SP13 of the Core Strategy states that in rural areas, sustainable development which brings about sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported, including (amongst other things) the re-use of existing building and infrastructure and the development of well-designed new buildings. In all cases development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.
- 5.5. EMP6 of the Selby Local Plan relates to Employment Development within Development Limits and Established Employment Areas and states that proposals within defined development limits will be permitted for new business development, including the change of use of land or premises subject to the following criteria:

#### **EMP6 (A)**

- 1) *There is no significant adverse effect on existing businesses;*
- 2) *The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity; and*

- 3) *The proposal would achieve a standard of design, materials and landscaping appropriate to the locality and would not have a significant adverse effect on the appearance or character of the surrounding area.*

EMP6 (B)

- 1) *The nature and scale of the proposal is appropriate to the locality;*
- 2) *The proposals would not prejudice the future comprehensive development of land; and*
- 3) *The proposal would not harm acknowledged nature conservation interests or result in the loss of open space of recreation or amenity value or which is intrinsically important to the character of the area.*

5.6. Policy CS3 of the Selby Local Plan states that proposals for the development of or change of use to a children's nursery will be permitted subject to a number of criteria, this includes:

- 1) *The proposal would be situated within the defined development limits or within existing school or college sites;*
- 2) *The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity;*
- 3) *Adequate car parking, and an area for the setting down and collection of pupils off the highway is available, or the proposal is not situated close to a busy road junction or where peak hour loading restrictions are in operation; and*
- 4) *Adequate outdoor space for children's play is provided.*

5.7. The application site is located within the defined development limits of Selby and the proposal is for the change of use of a C3 dwelling house to a mixed use for a Class C3 dwelling house and Class E(f) childminding business.

5.8. A Planning Statement has been submitted with the application, which includes some of the following details:

- Work hours 07.00 until 18.00 all days of the week.
- Area's primarily to be used for childminding include downstairs facilities and garden area.
- A maximum of 8 children and one member of staff on site at any one time.

5.9. There is nothing within the NPPF to identify this type of development as being unsustainable or preclude in principle development of this type in this location.

5.10. The proposals are considered acceptable in principle and in respect of Local Plan Policy EMP6 (1), (2) and CS3. Where the proposed scheme may be acceptable in principle it would be required to meet the policy, tests set out in in Local Plan Policy EMP6 and CS3.

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

## **Design and Impact on the Character and Appearance of the Area**

- 5.12. Relevant policies in respect to the impact of development on character and appearance of the area are Policy ENV1 of the Selby District Local Plan, Policies SP13 (D), SP18 and SP19 of the Core Strategy and advice contained within the NPPF. Local Plan Policy ENV1 is broadly consistent with the aims of the NPPF and should therefore be given significant weight.
- 5.13. The application site is located within a residential area and the dwelling is a mid-terrace property. The proposed use, therefore, has the potential to impact on the character of the area through increased activity on site generated by vehicle movements and noise from children inside and outside of the property. Having discussed the proposals with the applicant it is considered reasonable to agree a maximum of two employees (1 being the homeowner and applicant) and eight children on site at any one time. This can be secured by way of condition and limits the proposals impact on the residential character of the area.
- 5.14. The proposal also shows that the front garden area is to provide 2 off street parking spaces. Limited information has been submitted in this respect of. It is considered that it would be for the Local Highway Authority to determine the details of this, which is highlighted in the 'Impacts on Highway Safety' section of the report.
- 5.15. Having carried out a site visit it is evident that a number of properties along Cochrane Street have also carried out works form dropped kerbs and parking to the front of their properties, which would constitute permitted development in accordance with Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order as amended.
- 5.16. Overall, it is considered that the works to create a parking area to the front of the property are limited and would have not impacts on the character and appearance of the area.
- 5.17. In considering the above Officers consider it reasonable to secure the use on site to use Class C3 and use Class E(f) only and remove permitted development rights for changes to any other use within Class E. This is to ensure the property is not used for any other use within Class E, which would be inappropriate within this residential setting.
- 5.18. Having considered the scheme as a whole, the size, scale, siting, location and design of the proposed development, would be acceptable to its surroundings and would not have a detrimental impact on the character and appearance of the area. The proposal therefore complies with Policy ENV1, EMP6 A(3), B(1) and (3) of the Selby District Local Plan, Policies SP13 (D), SP18 and SP19 of the Core Strategy and the NPPF.

### **Impact on Residential Amenity**

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

- 5.20. 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 new development.
- 5.21. It is also necessary to consider whether the use will cause harm by virtue of the noise from the children whilst playing outside and any potential issues arising from the mixed use of a dwelling house and childminders.
- 5.22. The existing dwelling is a mid-terrace property that fronts the highway, Cochrane Street and benefits from a garden area to the rear.
- 5.23. Given the existing use of the site as a C3 dwelling house it is not considered that the additional mixed use with a childminders would have any additional adverse impacts in respect of overlooking or overshadowing on the occupants of the neighboring properties.
- 5.24. In considering any impacts in respect of noise, it is noted that the applicant has advised that working hours for the childminders business are 07.00 – 18.00 all days of the week. It is also noted that the planning statement details that the number of children on site is regulated by Ofsted and calculated via the available floor space of the dwelling and number of employees. In summary, childminders may only care for a maximum of six children under the age of eight per employee. Having discussed the proposals with the applicant the intention is to gain consent for a maximum of two employees and eight children on site at any one time.
- 5.25. Having consulted the Environmental Health Team, the Environmental Health Officer has raised no objections to the proposals.
- 5.26. From a review of all relevant information it is considered that there is adequate open space for the children to play outdoors.
- 5.27. Officers consider that it would be reasonable to attach a number of conditions in order to control the intensity of the use and protect the residential amenity of neighbors. These conditions will relate to the following:
- Number of children on site at any one time to be limited to eight.
  - Number of employees on site at any one time to be limited to two.
  - Working hours of the childminders limited to 07.00 – 18.00 Monday to Friday; 08.00 – 13.00 Saturdays and not at all on Sundays, Bank and Public holidays.
  - Outdoor play limited to 09.00 – 18.00 Monday to Friday, 10.00 – 13.00 Saturdays and not at all on Sundays, Bank and Public Holidays.
- 5.28. Subject to aforementioned conditions, it is considered that the proposals would not have significant adverse effect upon adjoining residents in accordance with Policy ENV1, ENV2, EMP6 B(1) and CS3 (4) of the Selby District Local Plan.

### **Impact on Highway Safety**

- 5.29. Relevant policies in respect to highway safety include Policies ENV1, T1 and T2 of the Selby District Local Plan and requirement (c) set out in Policy SP19 of the Core Strategy. These policies should be afforded substantial weight as they are broadly consistent with the aims of the NPPF.

- 5.30. The proposal also includes works to construct a dropped kerb along the north boundary to the site to create an access into the site from the highway, Cochrane Street, to a proposed area of parking at the front of the property to fit two cars. The works to drop the kerb, would not require permission given its not a classified road, however this will increase the off street parking from 1 to 2 spaces.
- 5.31. NYCC Highways commented on the proposed development and have raised no objections subject to a condition relating to Private Access/Verge Crossings: Construction Requirements. The Highways Officer has also advised that an informative be attached stating that, a separate license will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out.
- 5.32. Overall, the proposals are considered to be acceptable in terms of highway safety and therefore comply with Policy EMP6 A(2) and CS3 (2) and (3) of the Selby District Local Plan and would be acceptable in respect of Local Plan Policy SP19 of the Core Strategy and policies contained within the NPPF.

### **Flood Risk and Drainage**

- 5.33. Relevant policies in respect to flood risk include Policies SP15, SP19 of the Core Strategy, and paragraphs 149,150,155,156, 157, 158, 163 of the NPPF.
- 5.34. Firstly, addressing the issues of flood risk, the application site is within Flood Zone 1 which has a low probability of flooding. Given the application site is located within Flood Zone 1 and the proposals are not for a higher vulnerability classification than the existing use the Sequential Test and Exceptions Tests are not required.
- 5.35. In terms of drainage, the surface water from the existing building which the change of use is for does not need further control.
- 5.36. In considering the creation of the new parking area, given this area would front the highway and exceed 5 sq. meters this would be required to meet the following condition in order to be permitted development:
- “...either the hard surface is made of porous materials, or provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.”*
- 5.37. Yorkshire Water and the IDB have been consulted on the proposals and raised no objections.
- 5.38. On the basis of the above 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 paragraph 163 of the NPPF.

## **6. CONCLUSION**

- 6.0 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposed development would not have a detrimental effect on the character and appearance of the area, the residential amenity of the occupants of neighbouring properties, highway safety or flood risk. The application is therefore considered to be in compliance with Policies ENV1 and T1 of the Selby District

Local Plan, Policies SP1, SP2, SP15 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 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.

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

- LOC 01 - Location Plan
- LAY 02 – Planning Layout
- 03 – Existing Ground Floor Plan

Reason:

For the avoidance of doubt.

3. The development must not be brought into use until the access to the site at 15 Cochrane Street, Selby has been 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 E5 and the following requirements.

- Any gates or barriers must not be able to swing over the existing or proposed highway.
- Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.

All works must accord with the approved details.

Reason:

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

4. The working hours in connection with the childminding E(f) use shall be limited to the following hours:

- 07.00 – 18.00 Monday to Friday;
- 08.00 – 13.00 Saturdays; and
- Not at all on Sundays, Bank and Public holidays.

Reason:

To protect the residential amenity of the area.

5. The outdoor activities in connection with the childminding E(f) shall be limited to the following hours:

- 09.00 – 18.00 Monday to Friday;
- 10.00 – 13.00 Saturdays; and
- Not at all on Sundays, Bank and Public Holidays.09.00 and 18.00

No external activities shall take place within the application site outside the specified times.

Reason:

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

6. The number of employees and children on site in connection with the development hereby approved shall be limited as follows:

- Employees: 2
- Children: 8

Reason:

To protect the residential amenity of the area.

7. The premises shall be used only for a mixed use for a Class C3 dwelling house and Class E(f) childminding business and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason:

To protect the residential character of the area and the residential amenity of the area.

## **INFORMATIVES:**

### **01. INFORMATIVE:**

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.

### **02. HIGHWAYS:**

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

pleased to provide the detailed constructional specification referred to in this condition.

## **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.

## **Financial Issues**

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

## **9. Background Documents**

Planning Application file reference 2020/0773/FUL and associated documents.

### **Contact Officer:**

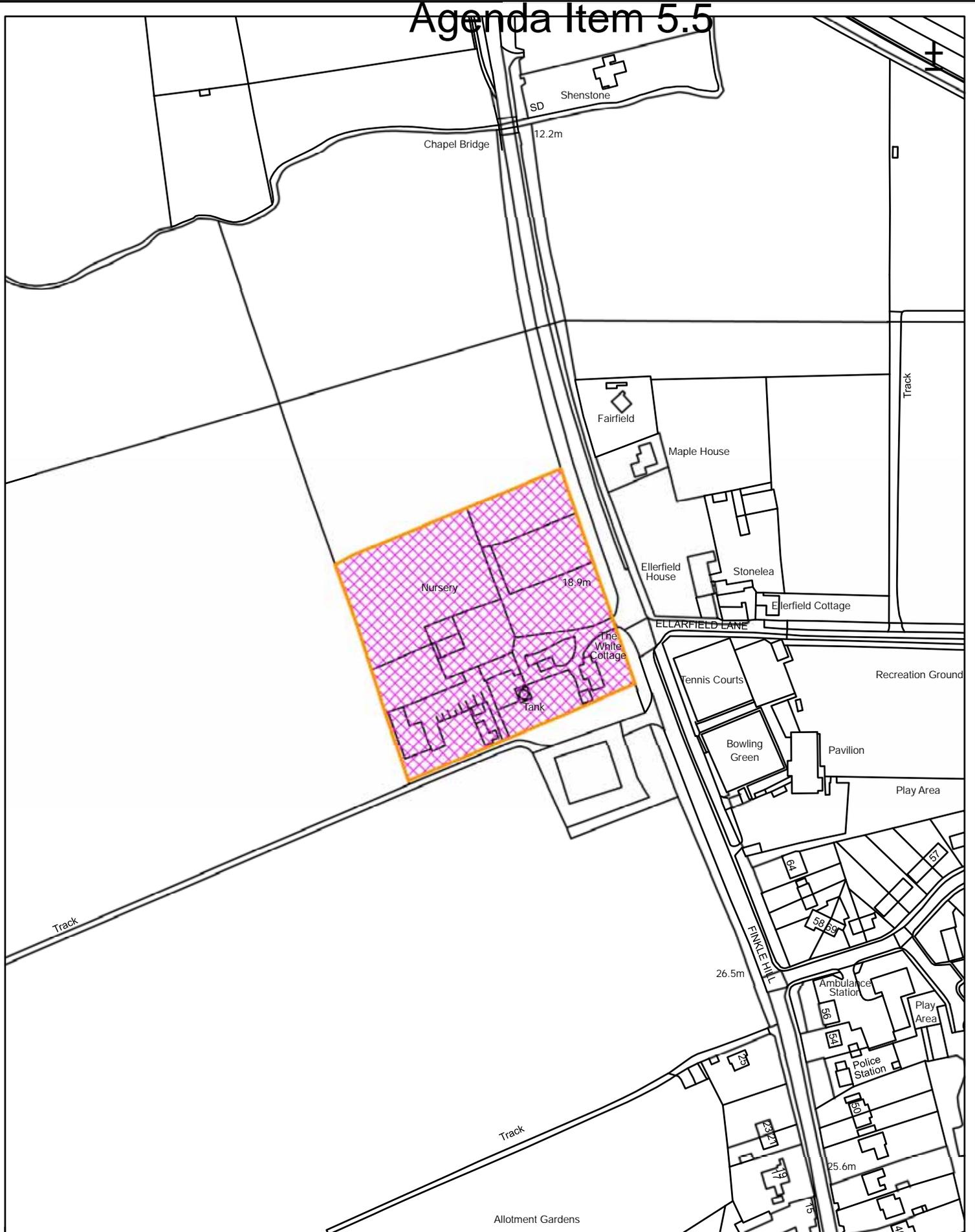
Rebecca Leggott (Senior Planning Officer)

[rleggott@selby.gov.uk](mailto:rleggott@selby.gov.uk)

**Appendices:** None

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# Agenda Item 5.5



## APPLICATION SITE

Fields Garden Centre, Tadcaster Road, Sherburn in Elmet  
2020/0549/S73

1:2,500



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**Report Reference Number: 2020/0549/S73**

**To: Planning Committee**  
**Date: 11 November 2020**  
**Author: Gareth Stent (Principal Planning Officer)**  
**Lead Officer: Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2020/0549/S73	PARISH:	Sherburn In Elmet Parish Council
APPLICANT:	Mr M Bradley	VALID DATE: EXPIRY DATE:	2nd June 2020 28th July 2020
PROPOSAL:	Section 73 application to vary condition 02 (opening hours) of approval 2019/0663/FUL Conversion of former glass house including recladding to provide extension to tea room extending covers to 66 in total, retention of terrace and its use as outdoor seating area/plant sales area, extension to existing car park to provide overflow and formation of children's play area granted on 16 April 2020		
LOCATION:	Fields Garden Centre Tadcaster Road Sherburn In Elmet Leeds North Yorkshire LS25 6EJ		
RECOMMENDATION:	APPROVE		

This application has been brought before Planning Committee due to the significant number of representations both in support and opposition to the application, which raise material planning considerations and that officers would otherwise determine the application contrary to some of these representations.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site lies to the north of the main settlement of Sherburn and to the west of the main Tadcaster Road/Finkle Hill. The site is known as Fields Garden

Centre, which has had some recent investment following a planning permission granted in 2017 and relies on plant sales, gardening related products and the increasingly popular cafe/tearoom known as Fields Kitchen. The tearoom was recently extended into a former glass house via a retrospective permission 2019/0663/FUL, which increased the number of covers from 44 to 66. The proposal to extend the tearoom in question was considered by the CEO at an Urgency Session on the 8th April 2020. The opening hours were originally intended to be varied within that application but were later removed from the proposal and the hours remained restricted to those granted in 2017 under (2017/0506/FUL) i.e. 08:30 to 17:00 Mon-Sat and 09:00 to 17:00 Sundays and Bank Holidays.

- 1.2 To the north are agricultural fields, to the south is a commercial premise (landscape contractor) and opposite the site access are a group of 5 residential dwellings on Ellerfield Lane and a tennis club. Further to the south of the site is the main residential part of the Sherburn settlement.
- 1.3 The application site itself consists of a series of single storey buildings, glass houses, extended 66 cover tea room/café with terrace, outside children's play area, shop, storage buildings, outside storage of plants with car parking to the site frontage. The buildings predominantly sit towards the southern part of the site, with the nursery grounds extending to the north. The entrance to the site is wide and the frontage is landscaped.
- 1.4 A dwelling known as 'The White Cottage' sits on the southern side of the entrance and occupies a roadside position. This dwelling was originally part of the nursery and is still owned by the applicant, however, is now occupied independently following the creation of a new access under application 2018/0146/FUL.
- 1.5 The 2019 application arose as a result of an enforcement enquiry as various works were undertaken to the buildings to create an extension to the tearoom. The tea room was also holding events (small number of weddings and parties in summer/autumn 2019) outside of the 2017 planning permission use restriction (i.e. operating beyond 5pm) and other development occurred including the formation of a terrace, increased parking area and formation of a children's play area. The extended tearoom, parking terrace and play area are all now lawful by virtue of application 2019/0663/FUL being granted. This current application therefore revisits the issue of opening hours, albeit on a reduced basis from the original 2019 submission.

### **The Proposal**

- 1.6 The proposal is a Section 73 application to vary condition 02 (opening hours) of approval 2019/0663/FUL, which approved the conversion of former glass house including recladding to provide an extension to tea room extending covers to 66 in total, retention of terrace and its use as outdoor seating area/plant sales area, extension to existing car park to provide overflow and formation of children's play area granted on 16 April 2020.
- 1.7 The opening hours on the original garden centre were uncontrolled, however in 2017 the tearoom introduced more of a retail and tea room element to the site and the opening hours were restricted to:
  - 08:30 to 17:00 Mon-Sat and 09:00 to 17:00 Sundays and Bank Holidays.

1.8 The 2019 application planned on extending these hours until: Monday to Thursday 0830-2100, Friday and Saturday 08.30 to 23.30 hours and Sunday and Bank holidays from 08.30 to 20.00 hours, however this was later omitted from the proposal.

1.9 This current Section 73 seeks to vary the opening hours to:

#### Proposed Hours

Monday	08:00 – 18:00
Tuesday	08:00 – 18:00
Wednesday	08:00 – 18:00
Thursday	08:00 – 21:00
Friday	08:00 – 21:00
Saturday	08:00 – 21:00
Sunday	09:00 – 17:00

#### **Relevant Planning History**

1.10 The following historical applications are considered to be relevant to the determination of this application. The first list relates to the garden centre and the second bespoke to White Cottage.

#### Garden Centre

- CO/1981/25551- Erection of Implement Store, White Cottage Nurseries, Approved 13-MAY-81.
- 2017/1222/FUL - Proposed widening of part of existing internal access road, Fields Garden Centre- Approved 18-DEC-17.
- 2017/0506/FUL - Erection of extensions to existing glass houses, change of use of one retail building to tearoom ancillary to the garden centre use, formation of a car park and erection of covered plant canopy, Approved: 22-SEP-17. (Delegated).
- 2017/1187/DOC - Discharge of condition 05 (landscaping and planting) of approval 2017/0506/FUL) - Approved 11-DEC-17
- 2019/0663/FUL - Conversion of former glass house including recladding to provide extension to tea room extending covers to 66 in total, retention of terrace and its use as outdoor seating area/plant sales area, extension to existing car park to provide overflow and formation of children's play area. Approved 16.4.2020.
- 2020/0536/FULM - Erection of canopies between the shop and the tea room to form a covered display area; application of cladding to the greenhouse to the south of the shop and change of use of café to that of a mixed use comprising shop and café to allow the use of part of the floor area for retail of goods in a farm shop. Pending consideration.

## 2. CONSULTATION AND PUBLICITY

2.1 NYCC Highways – No objection.

2.2 Yorkshire Water – No response received.

2.3 Selby Area Internal Drainage Board – No response received.

2.4 Environmental Health - The applicant seeks to extend current operating hours incorporating evenings throughout Thursday to Saturday to allow for use by local community groups. In the absence of further detail in this regard, in particular the associated noise sources, I would recommend that noise from fixed plant and amplified music is controlled to the extent that existing residential amenity is protected in accordance with the following conditions:

1. In relation to noise from amplified music, LAeq (EN) shall not exceed LA90 (WEN) by more than 5dB, and the L10 (EN) shall not exceed L90 (WEN) by more than 5dB in any 1/3 octave band between 40 and 160Hz. NB entertainment noise level (EN) and representative background noise level without the entertainment noise (WEN), both representative of 1m from the façade of the noise-sensitive premises.
2. The cumulative level of sound from all plant and equipment associated with the proposed development, when determined externally under free-field conditions, shall not exceed the representative background sound level at nearby sensitive receptors. All noise measurement/predictions and assessments made to determine compliance shall be made in accordance with British Standard 4142: 2014: Methods for rating and assessing industrial and commercial sound, and/or its subsequent amendments.

2.5 Designing Out Crime Officer – No objections but noted the premises have a license to open later than being applied for i.e.

Permitted under Premises Licence Mon to Sun 0900 – 2300.

I would request that the applicant be made aware that in respect of planning, that the earlier closing time applied for in this application, if granted, would need to be adhered to, to prevent a breach of planning permission.

2.6 Parish Council - No comment.

### **Neighbour and 3rd Party representations**

2.7 The proposal was publicised by a site notice and direct neighbour notification of residents.

2.8 A total of 11 objections were received from residents directly opposite the site and some from residents of Sherburn and outlying villages. Grounds of objection are;

- This is yet a further application to change the hours which was withdrawn from previous submissions. This should be a fresh application not a variation of hours. Residents do not believe these changes to hours to benefit the garden centre but by stealth for private functions. It is also a staged approach to undertake private functions carrying out the owner's original business plan.

- The change in opening hours will detrimentally affect our residential amenity as residents living opposite the site. Our principal living areas are directly opposite the garden centre and consequently would be negatively impacted by extended trading hours. Residents do not wish for disruption from Thursday through the weekends during evenings.
- No other garden centre with tearoom facilities in the area operates outside normal trading hours. The current opening times, which allow for a 59-hour operating week, by any argument is enough hours to be able to serve the horticultural community.
- Clearly tea rooms fulfil a particular purpose and to go beyond normal trading hours suggests that the owner is moving incrementally towards a significant change in the nature of the business.
- The applicant previously showed a total disregard for planning regulations and impact on local residents by moving directly from garden centre to an evening events venue with late finishes, loud music, disco lights and the accompanying noise of car doors and headlights in our windows.
- We have whole heartedly supported the Garden Centre for the last 17 years we have lived here and when Fields first opened appreciated the benefit of the Tea Room for customers. However, the Tea Room - Restaurant has been extended significantly, is now a main focus of the business and has been used as a venue/ evening events which is not appropriate and seriously affects residential amenity.
- Residents have already experienced disruption with late night events through increased traffic, noise, loud music. Serving may stop at 9pm but customers will inevitably leave afterwards. Realistically this would mean disruption to us in front of our home for up to potentially 10pm at night, in fact - once all customers and staff have left from a meal or event. These suggested new opening hours are clearly not for the benefit selling plants.
- The site lies within green belt and is a garden centre with a tearoom. There are plenty of other pubs, restaurants and community centres to service residents of Sherburn during evenings.
- Residents deserve peace and quiet and have to live here and want to enjoy our gardens like all the other residents in peace. Finally, as we are in a rural part of the village, we are only a handful of residents. There will be therefore only a handful of objections - and clearly the Garden Centre can ask every customer to support them, but the number of supporters is simply not the point.
- Music and noise will escalate between different events which will make it difficult to qualify, quantify and enforce with any tangible action. This cannot be left to enforcement officers as this would just result in an ongoing debate monitoring noise levels, whilst the business continues regardless.
- The current hours were imposed to protect the residential amenity of the locality & to comply with SP19 of Selby Core Strategy & Policy ENV2 of the Local Plan.

- The Green Belt status of the car park would also be further encroached as cars would be parked there for longer periods. Whilst the car park extension was permitted, this was on the basis that there was a degree of openness when the property closed, and vehicles not parked there. The car park being used during the proposed time would be of a permanent nature which is contrary to Green Belt Policy.
- The extended hours will cause destruction of the peace of our countryside.
- The most important point to consider is that this is a garden centre with ancillary tearoom and not a property holding functions or events. This issue is one of residential amenity and should not be confused by public support from those who do not live opposite the site.

2.9 A total of 40 letters of support were received from local residents, residents of outlying villages that have used the premises local businesses, Scout leaders, etc. The support is as follows:

- I think it would be amazing for the community to have somewhere like this open for longer hours. There isn't anywhere else around here like this so I think the public would really appreciate it.
- Fields Garden Centre has tried to be involved in the community, it's a great thing for the village, it's unique as there isn't anything like them around here and I fully support them being able to open into the evening so they can keep expanding and keep supporting their staff.
- Opening later in the evenings will benefit the community and give the garden centre more opportunities and be a great place to go in an evening.
- Fields Garden Centre & kitchen is the only family friendly & accessible cafe in Sherburn. Since it opened it has been a great addition to Sherburn and the surrounding area. I frequent Fields on average 3 times a week with different mum groups. It is great that the mums from other towns and villages can drive as there is so much parking, but also that it is walkable from most of the housing estates in Sherburn. We love the staff who are always so friendly & welcoming & always come over for a chat with us.
- During lockdown, my husband & I have bought trees plants from the garden centre and it would be good if we could go after my husband has finished work for the day rather than on a busy weekend day. In my opinion, the extended opening hours would make it much better.
- Fields Garden Centre is very accommodating family run business with friendly staff and high-quality food. The premises are creating economic growth, local jobs.
- The extended opening hours would make it much better for working families to go after work and look around the plants or go to gardening workshops to learn more.
- Fields Café provides us with a meeting place and several groups use it as it is only a short walk or cycle ride from the centre of the village. The café has

access facilities so everyone can use the facilities. There is also a children's play area allowing young mums and families to meet up too.

- wished it would stay open later so we could go for tea. Beneficial for those working long or late shifts.
- The Fields Kitchen is an excellent place for a young family for a meal. There is ample parking in a safe and secure area, with easy access to clean and well sized baby changing facilities. The food is outstanding, and the play area and space they offer for young children, both indoors and outdoors, is a huge advantage.
- The space is vital for the community and is used by local business for meeting spaces, local scout groups: there is nowhere that offers the same good quality food and safe, welcoming space for mothers and babies/small children.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The site lies within the Green Belt and a Locally Important Landscape Area.

### **4 POLICY CONSIDERATIONS**

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

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

### **Selby District Core Strategy Local Plan**

4.6 The relevant Core Strategy Policies are:

- SP1 - Presumption in Favour of Sustainable Development
- SP2 - Spatial Development Strategy
- SP3 - Green Belt
- SP13 - Scale and Distribution of Economic Growth

### **Selby District Local Plan**

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

- ENV1 - Control of Development
- S3 - Local Shops

## **5 APPRAISAL**

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

- The nature of the application i.e. Section 73.
- Impact on the character of the locality and Green Belt
- Impact on Residential Amenity

### Section 73

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

- a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and*
- b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.”*

5.2 Despite concern from local residents over the method of dealing with this matter via a Section 73 as opposed to a full application, Officers consider that the nature of the use remains the same and therefore it is appropriate to deal with via Section 73. The extension of the proposed hours will not result in a material change of use.

- 5.3 As such the only consideration of this application is in relation to the conditions of the approval and the impact the proposed variation would have. Therefore key to the determination of this application is whether a new planning consent for the development, with the proposed variation of Condition 2 (opening hours) of planning permission reference 2019/0663/FUL, would be contrary to the provisions within the development plan or whether there are reasonable grounds for refusal if these conditions were retained in their present form. This means that only the extended opening hours are considered and the implications that arise from these.
- 5.4 As explained in the introduction, the opening hours were originally restricted in the 2017 approval (2017/0506/FUL) that granted a small tearoom that was to be used ancillary to the garden centre. The hours were considered 'normal' trading hours in that they were 8.30am-5pm Monday to Saturday and 9-5pm Sundays. The tearoom would close when the garden centre closed. This ensured the café was not a destination in its own right and remained ancillary to the garden centre. This current proposal does to some degree depart from that, being open for retail into the early evening, and its therefore necessary to assess the implications that arise from this.
- 5.5 The applicants explained in the 2019 application, how the popularity of the café increased and was becoming a valued community asset where local groups took advantage of the relaxed environment. The owner facilitated this increase in business by undertaking an extension into the adjacent greenhouse together with some operational development works to create an extension to the café. The premises operated unlawfully for a short period in which some late-night events were catered for until this ceased as a result of enforcement investigations. These complaints have not reoccurred, and it is believed that the owner is complying with the current 5pm opening times.
- 5.6 Application 2019/0663/FUL as originally submitted was proposed to extend the opening hours until 23:00 for some nights of the week, however this was considered excessive and wasn't supported by the Council's Environmental Health team. Therefore, the opening hours element was withdrawn from that proposal. The 2019/0663/FUL application was approved for the extension to the tearoom (66 covers), car park, terrace and play area and the 2017 opening hours conditions were re-imposed.
- 5.7 It was the applicant's intention to review the opening hours and deal with these separately via this submission. This is commented on being a staged approach within the representations, however this is possible within the planning system. The table below shows the proposed hours, versus the approved hours for comparison purposes.

Proposed Hours v's existing comparison.

Day	Approved	Hrs	Proposed	Hrs	Difference per day hrs
Monday	8.30 – 17:00	8.5	08:00 – 18:00	10	1.5
Tuesday	8.30 – 17:00	8.5	08:00 – 18:00	10	1.5
Wednesday	8.30 – 17:00	8.5	08:00 – 18:00	10	1.5
Thursday	8.30 – 17:00	8.5	08:00 – 21:00	13	4.5
Friday	8.30 – 17:00	8.5	08:00 – 21:00	13	4.5
Saturday	8.30 – 17:00	8.5	08:00 – 21:00	13	4.5
Sunday	9:00 – 17:00	8	09:00 – 17:00	8	0

	Total	59	Total	77	18
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- 5.8 The table above demonstrates that the slightly earlier opening at 8am in a morning represents a 3-hour difference in a morning per week, which will be a marginal increase in the hours. The Sunday hours will remain the same, therefore no new impact. The largest increase in hours is after 5pm towards the latter end of the week i.e. Thursday - Saturday. If approved the premises will be open an additional 15 hours after 5 pm up until 9pm, 3 days per week. It is this element of the proposal where the impact is most relevant to consider.
- 5.9 The tearoom was granted as an ancillary element to the garden centre and its popularity has clearly grown, which was facilitated by the extension into the adjoining greenhouse and increase in covers. It's clear from the representations in support of the scheme that the premises are well used and likely to still function with the mainstay of footfall being horticultural related, however an increasing popularity for visitors which solely use the shop and café as a meeting point and food venue. This means the café has in part become a destination in its own right for some customers. This element of the business will benefit the most from the proposed hours as it will cater for evening dining.
- 5.10 This is not uncommon across the UK where gardens centres have diversified their offer to remain in business. Customers increasingly tend to visit garden centres when they have an interest in gardening or to take advantage of the retail and café culture type services they offer. The success of Fields Garden centre in recent years has been stimulated by the café and retail offer and there is clear support from people who use the facility for it to open longer hours.
- 5.11 Through normal trading hours the café will remain an integral element of the business and the question has been raised over at what point does the café become the predominant use over the garden centre. For every hour that the café is open when a garden centre would ordinarily be closed, this strengthens the view that the café in these periods becomes the dominant use. The additional 30 minutes earlier opening is not considered to impact on this; however, the later evening openings does. The late evening openings is to facilitate local groups and clubs using the premises as a meeting point, and to enable the café to provide food later in the week when people tend to use such facilities more often. The applicant also explained that this is also to cater for specific winter events like craft evenings, where normal working hours may need extending. This is noted; however, events will not be the mainstay of the business and people are unlikely to be shopping for plants in winter months particularly after 5pm. Nevertheless the café will remain open throughout the day and the additional hours in an evening do not dominate the use of the site as a whole, which is still primarily a garden centre with cafe that is open 7 days per week.
- 5.12 Therefore the proposed 9pm closure for 3 nights per week will change the nature of the garden centre within that time period for the 12 hours per week. It is therefore necessary to assess the impact of the proposed 9pm closure.

#### Impact on the character of the locality and Green Belt

- 5.13 The application site is located within the Green Belt as such, national guidance contained within the NPPF paragraphs 143 - 146 and Policies SP2 A (d) and SP3 of the Core Strategy are relevant. It is however important to reiterate that the proposal is not considering a new development, rather the extension to an existing use.

Therefore, the appropriateness in Green Belt considerations remains the same, however the premises will be used more intensively, which can be assessed in terms of the impact on the Green Belt.

- 5.14 Whilst the proposals involve no physical extensions to the premises, the extension of hours will inevitably increase the intensity of the use after 5pm. This means more customers coming and going over an extended period, more cars being parked at the premises for longer periods and the property being illuminated at night in winter months for longer periods. This will result in some impact on the Green Belt particular in terms of openness, in the period between 5pm and 9pm, 3 days a week.
- 5.15 One of the fundamental aims of the Green Belt is to prevent urban sprawl and keeping land permanently open. In terms of the car park, this element is approved and currently in use and therefore whilst cars will be parked on the site for longer, it is unlikely that the car park would be continually full after 5pm – 9pm. The site is set back from the road, has some screening in summer months and in winter months the cars wouldn't be overly visible as they would be parked under the cover of darkness.
- 5.16 In terms of the increase vehicle traffic and associated comings and goings and illumination of the premises, again this is a commercial site within the Green Belt. The opening hours of the wider site is unrestricted and therefore to some degree people could still visit the site after 5pm but not use the café.
- 5.17 Therefore, whilst the extension of the hours does have some impact on openness, it is not to a degree that would warrant a refusal in its own right given its already a commercial use within the Green Belt. Any harm over and above what is already permitted would be limited to a 12-hour period (Thursday-Sat 5pm - 9pm). The extension in the hours is therefore regarded as being compliant with the Section 13 of the NPPF and Policy SP3 of the Core Strategy.

#### Impact on Residential Amenity

- 5.18 One of the Core Principles of the NPPF is to always seek to ensure a good standard of amenity for all existing and future occupants of land and buildings is achieved. Policies ENV1 1) and S3(A) (6) of the Local Plan requires proposals not to have a significant adverse effect on residential amenity.
- 5.19 The issue of residential amenity is perhaps the main issue to assess, as this has generated the most concern within the representations from the residential properties opposite the site. The representations state that the amount of support for the proposal should not be confused by the impact the extension of hours will have on neighbouring dwellings. Officers note this and it was anticipated that support would be forthcoming, as it was in the 2019 submission as lots of people use the facility and wish to see it open for longer periods. It must be noted that the premises will continue to provide for the community and bring about all the benefits listed in the letters of support through daytime trading. The issue is therefore 'will the extended hours cause sufficient harm to warrant refusal of the application' taking into account the hours proposed, distance from residential properties and other factors.
- 5.20 In terms of the distances involved, the actual distance between the buildings and frontages of the residential dwellings is over 100m. This is separated by a busy

main road running out of the settlement. The distance is narrowed to 58m from the front of the car park to the frontages of the dwellings and 30 from the car park to the edge of the curtilage which faces the roadside. The main use, however, will be contained within the building except for perhaps summer evenings where the terrace and children's play area is used. This may cause some disturbance, however the proposed 9pm closure is less imposing and harmful to amenity than the previously applied for 11pm closing, which caused noise and disturbance to adjacent landowners. 9pm closing is a reasonable closing time and will not disturb sleep and is limited to 3 days per week.

- 5.21 The proposed hours will also increase the ability of the premises to hold evening events like craft fairs and host local community groups, however they are less likely to be at the scale and type that previously generated the concerns i.e. weddings and birthday parties late into the evening. It's likely the café will just remain open to members of the public up until 9pm, with the occasional function being held. Maintaining the 5pm closure would ultimately prevent this occurring; however, officers do not feel the impact of the proposed hours would be for the large part noticeable for the majority of evenings.
- 5.22 The environmental health officer raised no objection to the increased hours based on an assessment of the living conditions of neighbouring occupiers. Two conditions were suggested the first relating to the control of amplified music so it doesn't reach a certain decibel i.e. (LA90 (WEN) by more than 5dB, and the L10 (EN) shall not exceed L90 (WEN) by more than 5dB in any 1/3 octave band between 40 and 160Hz). The second relating to the cumulative level of sound from all plant and equipment associated with the proposed development.
- 5.23 Therefore whilst the representations do raise valid concerns, officers do not consider the hours proposed would warrant refusal of the planning application. The proposal would accord with Policies ENV1 and S3A of Selby District Local Plan and Policies SP13 of Selby Core Strategy.

### Conditions

- 5.24 Given that the approval of a Section 73 application forms a new permission, it is necessary to assess the conditions previously imposed on the 2019 consent. Condition 1 concerns the list of approved plans and is reiterated. Condition 2 concerns the new opening hours and will be amended to reflect the matters discussed in this report. It is important to note that the red line was for the whole site and the condition only controlled the tearoom and not the shop or wider premises. Therefore, the condition is amended to control the opening of the entire premises in order that the site is open as a whole and controlled throughout the different uses on the site. Condition 3 restricts the numbers of covers to 66 and is reiterated. Condition 4 requires the erection of a fence to the overflow car park which has now been completed. This is reworded to ensure it is retained for the lifetime of the development. Condition 5 that regulates the areas in which parking can occur is once again reiterated. Finally, the 2 additional conditions requested by the environmental health officer are included as 6 & 7.

## **6 CONCLUSION**

- 6.1 The proposed extension to the opening hours will not involve a material change in the use of the premises and is capable of being determined under Section 73. The extension of hours will cause some limited harm to the character and openness of

the Green Belt, given the use will be prolonged for part of the week into the evening. This will be through cars using the car park, the illumination of the premises at night and more comings and goings to the site. Whilst causing some harm, this is not regarded as having a significant impact on the openness of the Green Belt given it is already a commercial premises and the additional 12 hours in an evening doesn't warrant refusal of the application. The extra 30mins in a morning has no material impact.

- 6.2 The proposal will also cause additional vehicle and customers movements to the site, which have the ability along with the evening use, to cause nuisance to the living conditions of nearby residents. However due to a combination of the distances from neighbouring dwellings, the presence of the main road and the scaled back hours from those previously considered, on balance support is offered to the extension in the operating hours.
- 6.3 The proposal will enhance the range of evening local facilities and will help maintain the viability of the business. The proposal is therefore in accordance with policies SP1, SP2, SP3, SP13, of the Core Strategy and Local Plan Policies ENV 1 and S3.

## **7 RECOMMENDATION**

This application is recommended to be Granted subject to the following conditions.

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

Proposed Floor Plans - D- 201 A  
Proposed Block Plan - D-101 H  
Proposed Elevations - D - 401B  
Elevations swing/playhouse D-402

Reason:  
For the avoidance of doubt.

02. The premises which includes the tea room, shop and plant sales area shall not be open for customers except between the hours of:

Monday, Tuesday Wednesday	08:00 – 18:00
Thursday, Friday, Saturday	08:00 – 21:00
Sunday and Bank and Public Holidays.	09:00 – 17:00

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

03. The tea room hereby permitted shall not operate in excess of 66 covers at any one time.

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

04. The fence erected following the requirement of Condition 4 of 2019/0663/FUL as shown on the approved block plan D-101H, shall be retained for the lifetime of the development.

Reason:

In order to prevent cars from dispersing into the paddock area, which is considered harmful to the openness of the Green Belt and character of the wider area in accordance with Policy ENV1 of Selby District Local Plan and SP 3 of the Core Strategy.

05. No parking of vehicles should occur on the land outside the designated parking area as shown on block plan D-101H.

Reason:

In order to prevent cars from dispersing into the paddock area, which is considered harmful to the openness of the Green Belt and character of the wider area in accordance with Policy ENV1 of Selby District Local Plan and SP 3 of the Core Strategy.

06. In relation to noise from amplified music, LAeq (EN) shall not exceed LA90 (WEN) by more than 5dB, and the L10 (EN) shall not exceed L90 (WEN) by more than 5dB in any 1/3 octave band between 40 and 160Hz. NB entertainment noise level (EN) and representative background noise level without the entertainment noise (WEN), both representative of 1m from the façade of the noise-sensitive premises

Reason:

In the interests of residential amenity in accordance with Policy ENV1 of Selby District Local Plan.

07. The cumulative level of sound from all plant and equipment associated with the proposed development, when determined externally under free-field conditions, shall not exceed the representative background sound level at nearby sensitive receptors. All noise measurement/predictions and assessments made to determine compliance shall be made in accordance with British Standard 4142: 2014: Methods for rating and assessing industrial and commercial sound, and/or its subsequent amendments.

Reason:

In the interests of residential amenity in accordance with Policy ENV1 of Selby District Local Plan.

## **8 Legal Issues**

### **8.1 Planning Acts**

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

### **8.2 Human Rights Act 1998**

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

### **8.3 Equality Act 2010**

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

### **9 Financial Issues**

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

### **10 Background Documents**

**Planning Application file reference 2020/0549/S73 and associated documents.**

**Contact Officer:**

Gareth Stent (Principal Planning Officer)

[gstent@selby.gov.uk](mailto:gstent@selby.gov.uk)

**Appendices:** None

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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.



DISTRICT COUNCIL

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