



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY, 9 DECEMBER 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.

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 - 10)**

To confirm as a correct record the minutes of the Planning Committee meeting held on 25 November 2020.

5. **Planning Applications Received (Pages 15 - 16)**
- 5.1. **2019/0668/OUT - Pasture Cottage, Main Street, Thorganby (Pages 17 - 36)**
 - 5.2. **2020/0821/FUL - Land Adjacent, Village Hall, Main Street, Church Fenton (Pages 37 - 62)**
 - 5.3. **2020/1168/FUL - Land Adjacent Village Hall, Main Street, Church Fenton (Pages 63 - 88)**

Janet Waggott

Janet Waggott, Chief Executive

<p>Dates of next meeting (2.00pm) Wednesday, 23 December 2020</p>
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Enquiries relating to this agenda, please contact Victoria Foreman on 01757 292046 or 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

Agenda Item 4



Minutes

Planning Committee

Venue: Microsoft Teams - Remote
Date: Wednesday, 25 November 2020
Time: 2.00 pm

Present remotely via Teams: Councillor J Cattanach in the Chair

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

Officers Present remotely via Teams: Martin Grainger – Head of Planning, Ruth Hardingham – Planning Development Manager, Glenn Sharpe – Solicitor, Gareth Stent – Principal Planning Officer, Mandy Cooper – Principal Planning Officer, Gary Bell – Principal Planning Officer, Victoria Foreman – Democratic Services Officer

46 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Steve Shaw-Wright. Councillor S Duckett was in attendance as a substitute for Councillor Shaw-Wright.

47 DISCLOSURES OF INTEREST

Councillors J Cattanach, J Mackman, M Topping, D Mackay, R Packham, S Duckett, I Chilvers and P Welch declared a non-pecuniary interest in agenda item 5.1 – Highfield Nursing Home, Scarthingwell Park, Barkston Ash, Tadcaster as they had received additional representations in relation to this application.

Councillor K Ellis declared a personal interest in agenda item 5.4 – Old Forge Cottage, main Street, Church Fenton as the application was for his own residence; as a result, Councillor Ellis confirmed that he would leave the meeting during consideration thereof.

48 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

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

49 MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 11 November 2020.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 11 November 2020 for signing by the Chairman.

50 PLANNING APPLICATIONS RECEIVED

The Planning Committee considered the following planning applications:

50.1 2020/0294/FULM - HIGHFIELD NURSING HOME, SCARTHINGWELL PARK, BARKSTON ASH, TADCASTER

Application: 2020/0294/FULM

Location: Highfield Nursing Home, Scarthingwell Park, Barkston Ash, Tadcaster

Proposal: Proposed demolition of existing two storey care home (Class C2), and erection of replacement two storey care home (Class C2) comprising 70 single en-suite bedrooms together with associated car parking, (50 spaces), access arrangements and landscaping

The Principal Planning Officer presented the application which had been brought before Planning Committee as it constituted inappropriate development in the Green Belt, but it was considered that there were Very Special Circumstances which justified approval of the proposal. In addition, more than 10 letters of objection from local residents had been received in response to the proposal.

The Committee noted that the application was for the proposed demolition of existing two storey care home (Class C2), and erection of replacement two storey care home (Class C2) comprising 70 single en-suite bedrooms together with associated car parking, (50 spaces), access arrangements and landscaping.

The Solicitor announced that there was an Officer Update Note that should have been circulated to the Committee, which had now been published on the Council's website and shared with Members. Officers displayed the Update Note on screen for the Committee to read, and the Principal Planning Officer took the Committee through it for the current item to ensure they understood the content. The Update Note set out details of an updated Table 36 (Older Persons' Dwelling Requirements 2014 to 2037) and explanation, amended

Conditions 6, 19 and 20, and gave details of an additional condition 24 relating to electric vehicle charging points.

The Committee discussed the application and asked questions relating to the Tree Preservation Order on the site, the tree survey and the subsequent classification of said trees, and discussed the various directions of vehicular access and approach to the site, including which was most appropriate for the demolition and construction traffic. Members noted that the nearby church was in use and was well preserved.

Mr Joel Turner from Barchester Healthcare Ltd., applicant, was invited remotely into the meeting and spoke in favour of the application.

Mr James Key, objector, was invited remotely into the meeting and spoke against the application.

Members debated the application and agreed that whilst it could be considered inappropriate development in the Green Belt, the very special circumstances outweighed any potential harm. The Officer's report was extensive and detailed and set out a clear case for the scheme's approval. The Committee asked if a one way traffic system could be implemented to manage the traffic that would be accessing and leaving the site during demolition and construction, but Officers explained that the conditions set out in the report had been recommended by the Highways Officer at North Yorkshire County Council and as such, it was not advisable to deviate from these, i.e. there could be significant implications for the Tree Preservation Order if vehicles were able to access the site from the south.

Members agreed that there were sufficient conditions in the Officer's report to control access, and that the accommodation for older people that was to be provided by the new nursing home was much needed.

It was therefore proposed and seconded that the Committee were MINDED TO APPROVE; a vote was taken on the proposal and was carried.

RESOLVED:

The Committee were MINDED TO APPROVE subject to:

- a) the expiry of the press notice**

advertising the proposal as a departure from the Development Plan and subject to no further representations being received which raise new issues;

- b) referral of the application to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2009 with the Planning Committee's resolution to support it; and
- c) that in the event that the application was not called in by the Secretary of State, authority be delegated to the Planning Development Manager to approve the application subject to the imposition of the schedule of conditions as set out at paragraph 7 of the report and the amended and additional conditions in the Officer Update Note. The delegation would include the alteration, addition or removal of conditions from that schedule if amendment were necessary as a result of continuing negotiations and advice, and provided such condition(s) met the six tests for the imposition of conditions and satisfactorily reflected the wishes of the Planning Development Manager; and
- d) that in the event that the application was called in for the Secretary of State's own determination, a further report would come to the Planning Committee.

50.2 2020/0343/FUL - LAND ADJACENT TO PARK FARM, MAIN STREET, SKIPWITH

Councillor M Topping left the meeting at this point.

Application: 2020/0343/FUL

Location: Land Adjacent to Park Farm, Main Street, Skipwith

Proposal: Proposed erection of detached dwelling and garage on land adjacent to Park Farm

The Principal Planning Officer presented the application which had been brought before Planning Committee as the proposal was contrary to the requirements of the Development Plan. However, Officers considered there were material considerations which would support the recommendation for approval.

The Committee noted that the application was for the proposed erection of detached dwelling and garage on land adjacent to Park Farm.

The Committee discussed the application and asked for confirmation that the site was outside development limits and in the open countryside; Officers confirmed that it was. Officers also verified that an additional application had been submitted to the Planning Department in relation to the adjacent Park Farm site (approved under planning ref: 2018/0051/FULM) for some amendments to the plans; a decision for this subsequent application was currently pending.

Some Members felt that the application should not be approved as it was inappropriate development outside of statutory development limits in a secondary village, on land designated as open countryside and as such it contravened and undermined policies SP2, SP4 and SP10 of the Core Strategy. Material planning considerations did not outweigh policy considerations, back land development outside development limits in the open countryside was not supported by any exceptional circumstances and therefore there were none to justify approval of the scheme. There would also be detrimental impacts to the amenity of the neighbouring property (No.4 Blue Bell Farm Court) due to an inadequate separation distance, leading to issues of overlooking, overshadowing and oppressive outlook, which could not be rectified by condition. Lastly, the Council already had a five-year housing land supply and as such, policies such as prevention of development in the open countryside should not be contravened for applications such as the one under consideration.

Other Members of the Committee did not agree with the reasons for refusal. They felt that the even though site was outside of the development limits, Members should examine each application in the context of the current situation, which was a plot of land that was surrounded by development on three sides. There would therefore be no benefit to retaining the site in its current state.

It was proposed and seconded that the application be REFUSED, for the reasons set out above. A vote was taken on the proposal and was lost.

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

RESOLVED:

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

50.3 2020/0344/FUL - LAND ADJACENT A19, STATION ROAD, RICCALL

Councillor M Topping re-joined the meeting at this point.

Application: 2020/0344/FUL

Location: Land Adjacent A19, Station Road, Riccall

Proposal: Proposed new dwelling on land adjacent

The Principal Planning Officer presented the application which had been brought before Planning Committee as more than 10 letters of support had been received and Officers would be otherwise making the decision to refuse the application contrary to this support.

The Committee noted that the application was for a proposed new dwelling on land adjacent.

An Officer Update Note had been circulated to the Committee which set out details of a revised highway response following the submission of amended plans showing a partial parking space; North Yorkshire County Council as the Highways Authority had withdrawn its objection to the scheme. The partial parking space was satisfactory and in line with North Yorkshire County Council parking standards, which were one space per one-bed dwelling. This negated reason for refusal No. 3, which was recommended for withdrawal.

The Committee discussed the application and asked questions about construction materials, the street view, designation and surrounding two-storey properties and the parking space detailed in the plans.

Members debated the proposed scheme, with some of

the Committee of the opinion that the application was for a unique and contemporary development that could work well in the surrounding streetscape. However, other Members felt that it was not keeping with the local area.

It was proposed and seconded that the application be APPROVED; a vote was taken on the proposal and lost.

It was proposed and seconded that the application be REFUSED for the reasons set out in the report. A vote was taken on the proposal and was carried.

RESOLVED:

To REFUSE the application for the following reasons:

- 1. The proposed development fails to preserve and enhance the character of the local area on account of its contrived nature, design and scale. The dwelling relates poorly to that of the surrounding built form and will appear isolated and over dominate the open and green character of Station Road. The proposal is therefore contrary to Policy ENV1 (1) and (4), of the Selby District Local Plan, Policy SP 4 c) and d) and SP19 of Core Strategy and Section 12 of the NPPF.**
- 2. The proposal by virtue of its scale and positioning will be oppressive and dominate the outlook from the rear elevations and gardens of No.5-7 Mount Park. This will cause a reduction in the quality of the living conditions of these residents. Likewise, due to the restricted nature of the site, restricted outlook and lack of amenity space, the development will lead to a substandard living environment for its future occupiers. The proposal is therefore considered to be contrary to policy ENV 1 (1) of the Selby District Local Plan, SP19 of Core Strategy and Section 12 of the NPPF.**

The Chair informed Members that they would soon need to vote to continue the meeting; it was subsequently proposed and seconded that the meeting should continue when the three-hour limit was reached. A vote was taken on the proposal and was carried.

RESOLVED:

That the meeting continue when the three hour limit was reached.

Councillor K Ellis left the meeting at this point as he had declared a personal interest in the next application.

50.4 2020/1139/S73 - OLD FORGE COTTAGE, MAIN STREET, CHURCH FENTON

Application: 2020/1139/S73

Location: Old Forge Cottage, Main Street, Church Fenton

Proposal: Section 73 application to vary condition 02 (plans) of approval 2018/0391/HPA Proposed erection of a double garage granted on 07.06.2018

The Principal Planning Officer presented the application which had been brought before Planning Committee as the application had been made by a District Councillor.

The Committee noted it was a Section 73 application to vary condition 02 (plans) of approval 2018/0391/HPA Proposed erection of a double garage granted on 7 June 2018.

An Officer Update Note had been circulated to the Committee which confirmed that no objections had been received from North Yorkshire County Council Highways.

It was proposed and seconded that the Committee were MINDED TO GRANT the application, subject to expiry of the publicity period and the conditions set out in the report. A vote was taken on the proposal and was carried.

RESOLVED:

- i. **The Committee were MINDED TO GRANT the application following the expiry of the publicity period which would end on 27 November 2020 and subject to no new issues being raised.**

- ii. **To delegate authority to the Planning Development Manager to approve the application subject to the conditions set out at paragraph 7 of the report.**

50.5 2020/0612/FUL - LAND ADJACENT TO NO 3, CHAPEL COURT, CAMBLESFORTH

Councillor K Ellis re-joined the meeting at this point.

Application: 2020/0612/FUL

Location: Land Adjacent to No.3, Chapel Court, Camblesforth

Proposal: Erection of detached dwelling and garage

The Principal Planning Officer presented the application which had been brought before Planning Committee as the proposal was contrary to the requirements of the Development Plan. However, Officers considered there were material considerations which would support the recommendation for approval.

The Committee noted it was an application for the erection of a detached dwelling and garage.

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 5.05 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
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. 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 or Democratic Services on 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

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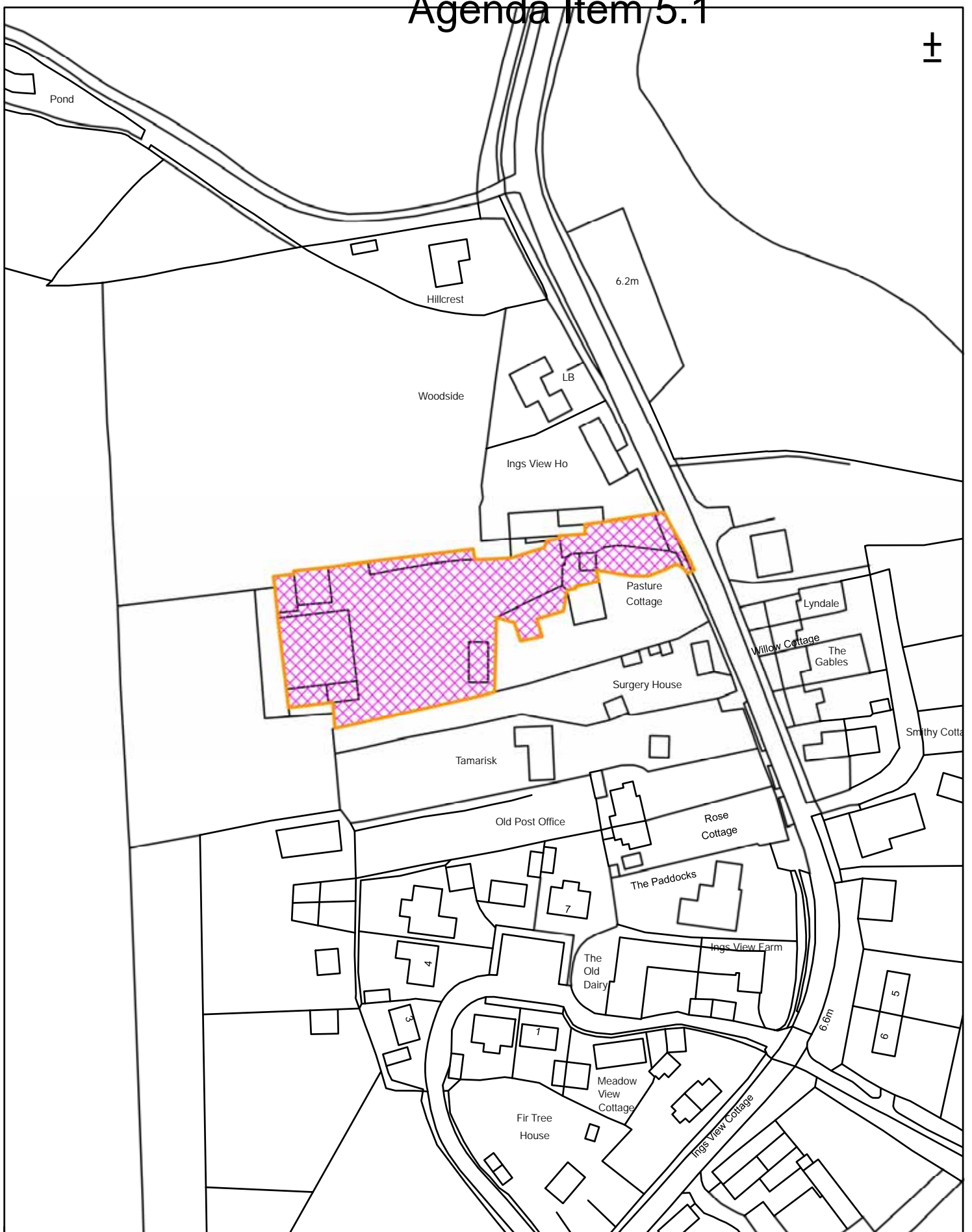
Agenda Item 5

Items for Planning Committee

9 December 2020

Item No.	Ref	Site Address	Description	Officer	Pages
5.1	2019/0668/OUT -	Pasture Cottage, Main Street, Thorganby	Outline application for a residential development and demolition of steel portal framed former haulage workshop building to include access (all other matters reserved)	CHFA	17 - 36
5.2	2020/0821/FUL	Land Adjacent Village Hall Main Street Church Fenton	Outline application for a residential development and demolition of steel portal framed former haulage workshop building to include access (all other matters reserved)	FIEL	37 - 62
5.3	2020/1168/FUL	Land Adjacent Village Hall Main Street Church Fenton	Construction of new access off Main Street, Church Fenton to serve outline planning permission under application reference 2015/0615/OUT, Main Street, Church Fenton, Tadcaster, North Yorkshire, LS24 9RF	FIEL	63 - 88

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APPLICATION SITE

Pasture Cottage, Main Street, Thorganby
2019/0668/OUT

1:1,250



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**AMENDED
DRAWING**



1. Figured dimensions to be taken in preference to scaled dimensions
2. All dimensions are to be checked on site by the main contractor and any discrepancies found are to be reported to Sangwin Architects Ltd
3. This drawing is the copyright of Sangwin Architects Ltd
4. Contact details:

email
info@sangwinarchitects.co.uk
 office
01482 887729
 mobile
07903 304955
 address
**20 Flemingate, Beverley,
 East Yorkshire, HU17 0NR.**

Schedule of House Types

House Type A	1325 sq.ft	4bed	2 no.
House Type B	1225 sq.ft	4bed	2 no.
House Type C	1000 sq.ft	3bed	1 no.
		total	5 no.

Site Area = 0.2746 hectares

Density = 18 houses per hectare



Revision A - 29 June 2020 -
 Access arrangement amended.



Client
Owston Associates

Project Description
**Main Street
 Thorganby
 North Yorkshire**

Drawing Title	Site Plan
Date	first drawn 2 March 2019
Scale	1:500@A3
Job Number	3129/09a

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Report Reference Number: 2019/0668/OUT

To: Planning Committee
Date: 9 December 2020
Author: Chris Fairchild, Senior Planning Officer
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:		PARISH:	Thorganby Parish Council
APPLICANT:	Mr & Mrs Knott & Turner	VALID DATE: EXPIRY DATE:	3rd July 2019 28th August 2019
PROPOSAL:	Outline application for a residential development and demolition of steel portal framed former haulage workshop building to include access (all other matters reserved)		
LOCATION:	Pasture Cottage Main Street Thorganby York North Yorkshire YO19 6DB		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee as there have been more than 10 letters of representation received in support of the application contrary to officers' opinion where they would otherwise have refused the application under delegated powers due to conflict with the development plan.

1 INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site currently consists of a former storage and distribution business including a large yard area consisting of hardstanding with associated storage buildings on the periphery. The site is accessed via a private drive off Main Street shared with Pasture Cottage – a residential dwelling to the east of the site.

The Proposal

- 1.2 Outline planning permission, with all matters reserved except for access, is sought for the demolition of all existing building and redevelopment of the site for residential purposes. The application was originally submitted with access and layout to be considered, however during determination layout has been reserved and the plans showing a layout of 5 no. detached dwellings should be treated as indicative only.
- 1.3 Access remains a detailed matters consideration and the proposal includes amendments to the site's access road, site access off the highway and parking arrangements/curtilage of Pasture Cottage.

Relevant Planning History

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

Ref: CO/1986/0280
Description: Erection of a building for use as a transport garage at,
Address: Pasture Cottage, Main Street, Thorganby,
Decision: Approved 02 July 1986

- 1.5 There are no planning conditions or other controls that prejudice the application.

2 CONSULTATION AND PUBLICITY

Planning Policy

- 2.1 The Council currently have a five year housing land supply. Secondary villages have already met their net residential dwelling target set out in the Core Strategy. Being outside development limits, the proposal is contrary to development plan policy (Core Strategy Policy SP2A(c)). Consideration of whether the settlement boundary as defined remains relevant is required.
- 2.2 Following reconsultation no further comments were received.

North Yorkshire County Council Archaeology

- 2.3 Following consultation, there were no objections from this consultee.
- 2.4 Following reconsultation no further comments were received.

Ouse & Derwent Internal Drainage Board (IDB)

- 2.5 In general, where possible, the risk of flooding should be reduced and as far as practicable, surface water arising from a developed site should be managed in a sustainable manner.
- 2.6 The IDB recommend conditions relating to details of drainage works to be agreed taking account of greenfield and brownfield run-off rate, storage for flood events, and an allowance for climate change. The IDB also seek an informative to be included that highlights the need for written consent of the Board is required prior to any discharge into any watercourse within the Board's District.

2.7 Following reconsultation no further comments were received.

Natural England

2.8 Within the initial consultation, Natural England noted details of foul sewage treatment have not been provided. This has the potential for significant effects on River Derwent Site of Special Scientific Interest and Special Area of Conservation, and a Habitats Regulations Assessment is required to be undertaken. However, if foul water is to be discharged to a main sewer, it would be possible to rule out any likely significant effects.

2.9 Following reconsultation, Natural England repeated their request for details of how foul sewage will be disposed of.

2.10 Following the submission of a Shadow Habitat Regulation Assessment, Natural England were satisfied that subject to all mitigation measures being appropriately secured within a pre-commencement condition that the identified adverse effects arising from foul sewage that could potentially occur as a result of the proposal could be mitigated. However, further information was requested to determine impacts on designated sites arising from urban edge effects and recreational disturbance.

2.11 A revised Shadow Habitat Regulation Assessment was submitted taking account of the additional information required and recommending an information pack be included within the deeds. Natural England were reconsulted and, whilst they did not agree with the proposed mitigations within the Shadow Habitat Regulation Assessment, having recommended their own proposed mitigation measures they advised "*no objection - subject to appropriate mitigation being secured*",

Landscape Architect

2.12 The site is visible from a Public Right of Way and is within a part of the village having a rural setting as well as part-inclusion within the Conservation Area. Further information is required to demonstrate that the proposals will protect and enhance local character and setting and that landscape and visual effects are within acceptable limits, including: landscape strategy, tree survey, and clarification of land ownership outside the redline boundary.

2.13 Following reconsultation, the Landscape Architect noted that their previous comments still stand and have not been addressed.

Environmental Health

2.14 Following consultation, there were no objections from this consultee.

2.15 Following reconsultation no further comments were received.

Local Highway Authority

2.16 In accordance with the Manual for Streets, a visibility splay of 2.4m by 43m is required. This is achievable but only utilising third party land and a legal agreement will be necessary to secure this.

- 2.17 Comments are made regarding the indicative layout and the need at reserved matter stage for: altered turning areas; increased parking provision; boundary treatment; and road adoption. A series of conditions were recommended.
- 2.18 An informative is also sought advising separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out.
- 2.19 In November 2019, following reconsultation, the Local Highway Authority made no further comments, repeating their previous comments..
- 2.20 Following the submission of revised highway information demonstrating that the visibility splays have been taken into the application site no objections were raised to the proposed development. The Local Highway Authority repeated the need for parking and turning to be addressed at any reserved matters application. Conditions are recommended requiring:
1. Construction of roads and footways prior to occupation of dwellings;
 2. Measures required to prevent surface water from non-highway areas;
 3. Private Access/Verge Crossings: Construction Requirements;
 4. Closing of existing access prior to occupation of dwellings;
 5. Provision of vehicular visibility splays;
 6. Provision of pedestrian visibility splay;
 7. Details of access, turning and parking;
 8. Provision of approved access, turning, and parking areas;
 9. Removal of permitted development rights for conversion of garage to habitable dwelling;
 10. Highway condition survey; and
 11. Construction method statement.

Yorkshire Water

- 2.21 Yorkshire Water requested conditions requiring: (1) measures to protect the public water supply and sewerage infrastructure, and; (2) No piped discharge of surface water from the application site until works to provide a satisfactory outfall, other than the existing local public sewerage shall take place. Yorkshire Water also requires that existing water infrastructure within the site must be protected during construction.
- 2.22 Following reconsultation no further comments were received.

Conservation Officer

- 2.23 Whilst only the access road is sited within the Conservation Area, the development area for the dwellings is within the setting of the conservation area. The site is visible from the Church of St. Helen, a Grade I Listed Building and within the setting of nearby non-designated heritage assets.
- 2.24 The indicative development of the site will generate infill which is harmful to the character of the settlement. It is recommended that any redevelopment of the site be reduced so that this harm is avoided.
- 2.25 Careful design of any buildings will be necessary. Proposals should seek to avoid standard dwelling types and instead seek to achieve buildings that allow for an

appreciation of the grain – for example, a new dwelling to read as ancillary outbuildings to Pasture Cottage (this in terms of position, scale and massing). Contemporary design that is locally distinctive could be helpful in this respect.

- 2.26 Scale will be an important consideration for any new building/s to the rear of Pasture Cottage and the former chapel because of both their modest scale and also that of the other traditional buildings in the vicinity. Space should be given about these building to avoid overbearing development. It is noted that the retention of large frontage garden to Pasture Cottage is beneficial in conserving its setting.
- 2.27 The development of Ings View Farm, to the south, should not be taken as precedent for similar development elsewhere in the Conservation Area / village as it is backland development that is contrary to the linear grain of the settlement (and harmful to the setting of the former farmstead).
- 2.28 An outline application is not satisfactory for proposed development affecting a conservation area because the full design (and therefore impact) of the scheme cannot be assessed.
- 2.29 Following reconsultation, the Conservation Officer noted that their previous comments still stand and have not been addressed.

Publicity

- 2.30 The application was advertised via site notice, neighbour letters and via a Press notice. Following this, 17 written representations have been received, of which 16 are in support and 1 is neutral. No objections have been made.
- 2.31 The following points have been raised in support of the proposal:
- The demolition of the storage buildings and replacement with dwellings will improve the character of the village and Conservation Area.
 - The village wish to see reduced HGV traffic.
 - Reuse of previously developed land is suitable for development and is preferable to development in open countryside/greenfield.
 - The use of the site for haulage is unneighbourly and incongruous with the peaceful nature of the village.
 - Provision of additional housing will support the vitality and viability of existing services and possibly entice new services into the village.
 - Supply of housing in Thorganby outstrips demand and more housing is required.
 - The linear character of the Conservation Area has already been diminished by recent development.

- 2.32 The following points have been raised by those with a neutral stance on the proposal:
- Boundary treatments will need to be provided to maintain amenity for adjoining residents

3 SITE CONSTRAINTS

- 3.1 The site can be considered in two broad parts. The haulage yard of the site (c. 75%) is located outside the development limits of Thorganby – a Secondary Village as

defined within the Core Strategy. The other c.25% of the site relates to the access road.

- 3.2 The access road portion of the site lies within the Thorganby Conservation Area, whilst the haulage yard part of the site immediately abuts the Conservation Area to the north and south. There are no statutory listed buildings on or in proximity to the site but the site is visible from the Grade I Listed Church of St. Helen.
- 3.3 Over 125m west of the site lies a large area protected for its environmental quality. This includes: both the Derwent Ings and River Derwent Sites of Special Scientific Interest (SSSIs); the Lower Derwent Valley Special Area of Conservation (SAC); the Lower Derwent Valley Ramsar Site; the Lower Derwent Valley Special protection Area (SPA), and; the Lower Derwent Valley National Nature Reserve.
- 3.4 An insignificantly small area of the site falls with Flood Zone 2, limited to a strip alongside the north of the access road.
- 3.5 The haulage yard portion of the site is noted as an area of potential contamination.

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 (CS) (adopted 22nd October 2013) and those policies in the Selby District Local Plan (SDLP) (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 In February 2019, the NPPF replaced the previous July 2018 version. 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:

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

Selby District Core Strategy Local Plan (CS)

4.6 The relevant CS Policies are:

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

Selby District Local Plan (SDLP)

4.7 The relevant SDLP Policies are:

- T1 Development in Relation to the Highway network
- T2 Access to Roads
- ENV1 Control of Development
- ENV2 Environmental Pollution and Contaminated Land
- ENV25 Control of Development in Conservation Areas

5 APPRAISAL

5.1 The key issues relevant to the assessment of this application are considered to be:

1. Principle of Development
2. Access
3. Conservation & Historic Environment
4. Landscape
5. Impact on Nature Conservation
6. Residential Amenity
7. Ground Conditions
8. Flood Risk
9. Affordable Housing

Principle of Development

Context

5.2 The site sits partly within the development boundaries, albeit this is limited to the area shown indicatively as an access road. However, the majority of the site: the only realistic location for the siting of houses within the limits of the red line plan, is outside the settlement boundaries and is therefore within the open countryside. In this circumstance the principle of residential development will be assessed on the basis the site is outside of settlement boundaries.

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

5.4 CS Policy SP2 is the key policy controlling the location of future development within the District and directs the majority of new development to existing settlements. CS Policy SP2A(c) is the relevant section for development in the open countryside and limits development to the replacement or extension of existing buildings as well as new buildings which contribute to the local economy, enhance or maintain the vitality of rural communities, meet rural affordable housing need, or other special circumstances.

5.5 The supporting text for CS Policy SP2, Paragraph 4.31, clarifies that:

"The Council will resist new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside; or where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or the exceptional quality or innovative nature of the design of the dwelling (tested against the NPPF paragraph 55 and other future local policy or design code)."

Assessment

5.6 CS Policy SP2 makes no allowance for reuse of previously developed land and the proposal is not replacing or reusing the existing buildings. Whilst additional residents may contribute to improving the local economy and utilise existing services, it is considered the scale of development that may be acceptable at the site would not provide a material impact on either the local economy, or enhancement or maintenance of the vitality of rural communities. The erection of housing outside the settlement boundaries in this instance is not in accordance with the forms of development listed in CS Policy SP2.

5.7 As confirmed within recent appeals, CS Policy SP2 is considered to be in accordance with the NPPF. The Council can demonstrate a five year housing land supply and therefore, in accordance with Paragraph 11 and Footnote 7 of the NPPF, the development plan policies relating to housing are considered to be up-to-date.

5.8 Given the up-to-date position, the tilted balance within Paragraph 11d is not triggered, and, as per Paragraph 12 of the NPPF, proposals that conflict with an up-to-date plan should not usually be granted, although Councils may depart from up-to-date plans if material considerations indicate this is the case.

5.9 The provision of a limited number of dwellings (indicatively 5 no.) in this location is considered to generate minimal social, economic, and environmental benefits. Therefore, there are no material considerations in this particular case that indicate the development plan should not be followed. Accordingly, in accordance with Paragraphs 11 and 12 of the NPPF and CS Policy SP2 the principle of development is unacceptable.

Access

Context

5.10 Access is the only detailed matter being considered as part of this outline application.

- 5.11 The proposal utilises the access/egress from Main Street albeit a slight relocation southwards to achieve a visibility splay of 2.4m by 43m as opposed to the current 2.4m by 23.3m. In order to achieve this, the Pasture Cottage boundary hedge needs to be removed / realigned, and land at Surgery House needs to remain unobstructed as it is currently.
- 5.12 The existing access route into the site is utilised to reach the site for the residential dwellings to the rear, but in order to achieve this the demolition of Pasture Cottage's garage is required along with changes to the curtilage of that property.
- 5.13 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.
- 5.14 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.

Assessment

- 5.15 The Local Highway Authority outline a number of concerns with the indicative scheme in so far as: achieving appropriate manoeuvrability, parking provision, emergency service access, and boundary treatments. However, these matters are liable to change should any subsequent reserved matters, such as layout, be considered. The applicants should note that the indicative scheme is unlikely to be suitable for the reasons highlighted by Highways Officers.
- 5.16 The Local Highway Authority had no concern with the visibility splay as proposed subject to a legal agreement with owners of third party land to ensure that the visibility splay can be maintained at all times. In response, the applicants incorporated sufficient additional land within the red line of the application that ensures the access can be secured via planning conditions.
- 5.17 Following this revision, the Local Highway Authority confirmed that the access is acceptable and recommended planning conditions. Officers consider that the proposals are acceptable from an access perspective and meet the requirements of SDLP policies T1 and T2.

Conservation & Historic Environment

Context

- 5.18 The site sits partly within the Thorganby Conservation Area, however the majority of the site is outside but immediately adjoining the boundary of the Conservation Area. Consideration will need to be given both to the Conservation Area itself *and* its setting. The site is visible from the Church of St. Helen, a Grade I Listed Building and within the setting of nearby non-designated heritage assets.
- 5.19 Relevant development plan policy includes: CS Policy SP18, CS Policy SP19(b), SDLP Policy ENV1(5), and SDLP Policy ENV25. These policies require conservation of historic assets which contribute most to the District's character, and ensure development contributes positively to an area's identity and heritage in terms of scale,

density and layout. Development within Conservation Areas should preserve or enhance the character or appearance of the conservation area.

- 5.20 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act') imposes a statutory duty upon decision makers to pay special regard to the desirability of preserving listed buildings and their setting, or any features of special architectural or historic interest that they possess. Section 72 of the Act also imposes a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
- 5.21 Paragraph 193 of the NPPF requires great weight be given to the asset's conservation. The more important the asset, the greater the weight should be. Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification (Paragraph 194). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal (Paragraph 196). Paragraph 197 of the NPPF requires the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application.

Assessment

- 5.22 The Conservation Officer's consultation response highlights a number of concerns with the indicative proposals including layout, scale, design. Fundamentally, the Conservation Officer is not satisfied that an outline application is an appropriate for considering development affecting a Conservation Area because the full impact, and any subsequent harm, cannot be assessed.
- 5.23 This outline application is submitted on the basis that all matters other than access have been considered. Given matters of scale, appearance, layout and landscaping are all reserved, officers consider that it may be possible to achieve *some* form of residential development on the site whilst avoiding/minimising any subsequent harm to the prevailing historic environment. A detailed assessment would be undertaken should any future reserved matters application be submitted.

Landscape

Context

- 5.24 CS Policy SP18 seeks to safeguard and, where possible, enhance the historic and natural environment. SDLP Policy ENV15 gives priority to the conservation and enhancement of the character and quality of the landscape with particular attention to be paid to the design, layout, landscaping of development and the use of materials in order to minimise its impact and to enhance the traditional character of buildings and landscape in the area.
- 5.25 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. CS SP19 goes on to set out key requirements (a to l) that development should meet where relevant, these include: (a) making the best, most efficient use of land without compromising local distinctiveness, character and form, and, (b) positively contributing to an area's identity and heritage in terms of scale, density and layout.

Assessment

- 5.26 The Council's Landscape Architect states that the outline application does not provide satisfactory information to make a detailed consideration of the proposals and whether the landscaping proposed would be acceptable.
- 5.27 Whilst information to make a detailed assessment is currently lacking, given that landscaping is a reserved matter alongside scale, appearance, and layout officers believe that in principle it would be possible to achieve *some* form of residential development on the site whilst achieving a suitably landscaped layout and protecting the character of the wider area. In this instance it is therefore acceptable for a detailed assessment to take place should any future reserved matters application be received.

Impact on Nature Conservation

Context

- 5.28 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.

Assessment

- 5.29 Natural England's initial consultation noted that the application does not provide details of foul sewage disposal and that it is therefore not possible to assess the impact on the protected sites in the vicinity of the site. Notably, Natural England have no environmental concerns beyond drainage.
- 5.30 In response, the Applicants in conjunction with the Council prepared a Shadow Habitat Regulation Assessment which was submitted to Natural England. The appropriate assessment concludes that subject to the proposed measures the proposal will not result in adverse effects on the integrity of any of the identified environmental designations. Natural England were satisfied with this subject to inclusion of all measures within a pre-commencement condition.
- 5.31 Whilst Natural England were satisfied from a drainage perspective they raised additional concerns regarding the impact from this proposal and in-combination arising impacts from: urban edge effects and recreational disturbance, as well as any mitigation to prevent identified impacts. Additionally, Natural England recommended that given the proximity to internationally important environmental designations that the biodiversity enhancements and net gain contained with CS Policy SP18 should be sought.
- 5.32 A revised Shadow Habitat Regulation Assessment was undertaken and Natural England were reconsulted. Upon review, Natural England found that the proposed mitigation with the appropriate assessment was not sufficient: however, Natural England recommended an alternative series of mitigation and concluded that subject to this mitigation the proposals would be acceptable. The applicants have agreed to these proposed mitigations and subject to those being secured via condition or legal

agreement as appropriate, Officers are satisfied the proposals will not have an adverse impact upon any environmental designations.

Residential Amenity

Context

- 5.33 The site is located in a primarily residential area, with domestic dwellings and curtilage adjoining the site boundary to the north-east and south. The proposal will create a new access and curtilage for Pasture Cottage.
- 5.34 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

- 5.35 The proposed use of the site for residential development is appropriate in the residential context of the area and is an improvement on the lawful use of the site for storage and distribution.
- 5.36 Details of the scale, appearance, layout and landscaping of any future development will determine the appropriateness of any future residential development, but given the size of the site, and separation from other dwellings officers consider that an appropriate level of amenity for future residents and existing neighbours is achievable. It should be noted that particular attention would need to be paid to the treatment of Pasture Cottage and the access road.

Ground Conditions

Context

- 5.37 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.

Assessment

- 5.38 The applicants have provided a Phase 1 Geo-Environmental Risk Assessment which concludes there are no matters that preclude redevelopment of the site for residential development subject to the recommendations contained within the report. These recommendations include: (1) intrusive ground investigation; (2) refurbishment and demolition asbestos survey; and (3) all site workers to undertake sufficient risk assessment and utilise appropriate Personal Protection Equipment. Officers consider that subject to inclusion of these recommendations development of the site is appropriate in relation to ground conditions.

Flood Risk

Context

- 5.39 An extremely limited part of the site sits within Flood Zone 2. 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). SDC's Flood Risk Sequential Test Developer Guidance Note (October 2019) is a material consideration when producing or reviewing sequential tests.
- 5.40 The Guidance Note stipulates that where only a small part of the site lies within Flood Zone 2, that area will be used only for soft landscaping/open space, and safe access and egress during flooding can be achieved without having to use an area of flood risk then the Sequential Test will not be required.

Assessment

- 5.41 The area within Flood Zone 2 is limited to a small area of curtilage development to the north of the indicative access road and residents would be able to leave the flood zone safely during a flood event. Whilst an extremely small area of the site falls within FZ2, it is considered in this case that it is reasonable and proportionate not to have required submission of a Flood Risk Assessment. If any consent was to be granted it would be appropriate to attach a planning condition stipulating that no built development is to be constructed in Flood Zone 2 unless a site specific flood risk assessment is submitted.

Affordable Housing

Context

- 5.42 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.
- 5.43 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”.

- 5.44 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

- 5.45 The application relates to a site which has an area of less than 0.5 hectares. Whilst it is unlikely that more than 10 units may come forward at reserved matters stage, this cannot be ruled out. If planning permission were to be granted, Officers would

recommend a condition be placed upon the outline consent limiting the number of dwellings to up to five.

- 5.46 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 at this stage.

6 CONCLUSION

- 6.1 The application is submitted in outline with all matters reserved except access. An indicative scheme has been submitted that demonstrates the erection of 5 dwellings on the site. The access for the site utilises the existing approach but relocates the point of access southwards to allow the requisite visibility splay to be achieved.
- 6.2 The site is located partly within the development limits of Thorganby, albeit the majority of the site lies outside these limits and, crucially, this includes the area for the erection of dwellings. The principle of residential development is therefore based on development outside the settlement limits being within the open countryside.
- 6.3 Development plan policy does not support this type of development within the open countryside and the Council do not consider there to be sufficient material circumstances to warrant a departure from the up-to-date development plan. Consequently, the principle of development is not acceptable and Officers recommend the application be refused on this basis.
- 6.4 Following revisions to the scheme, a sufficient visibility splay has been demonstrated at the site. The Local Highway Authority have no objections to the proposals and officers are satisfied the proposals are acceptable on this basis.
- 6.5 The Council's Conservation Officer and Landscape Architect, have both raised concerns that the indicative scheme is not appropriate in relation to conservation and the historic environment and landscape, respectively. However, Planning Officers consider that each of these matters can be overcome through detailed design within any subsequent reserved matters stage and that it is possible to achieve some form of residential development at the site.
- 6.6 Officers consider that residential development of the site would achieve a suitable level of amenity for future residents and existing neighbours. Subject to the recommendations contained within the Phase 1 Geo-Environmental Risk Assessment there are no concerns from a ground conditions perspective. Following an appropriate assessment, subject to mitigation the proposals will not have an impact upon the internationally important environmental designations in the area.
- 6.7 In conclusion, the application is recommended for refusal on the basis that the principle of development is not acceptable in the open countryside.

7 RECOMMENDATION

- 7.1 This application is recommended to be REFUSED for the following reasons:
1. The proposed development would introduce new residential development outside of a settlement boundary that will not materially contribute towards

and improve the local economy or enhance/ maintain the vitality of rural communities. The application is therefore contrary to Core Strategy Policy SP2.

In accordance with Paragraph 11 and Footnote 7 of the National Planning Policy Framework, the Council's development plan policy is considered up-to-date and the tilted balance is not engaged. There are no material circumstances that indicate planning permission should be approved as a departure from the up-to-date development plan.

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.

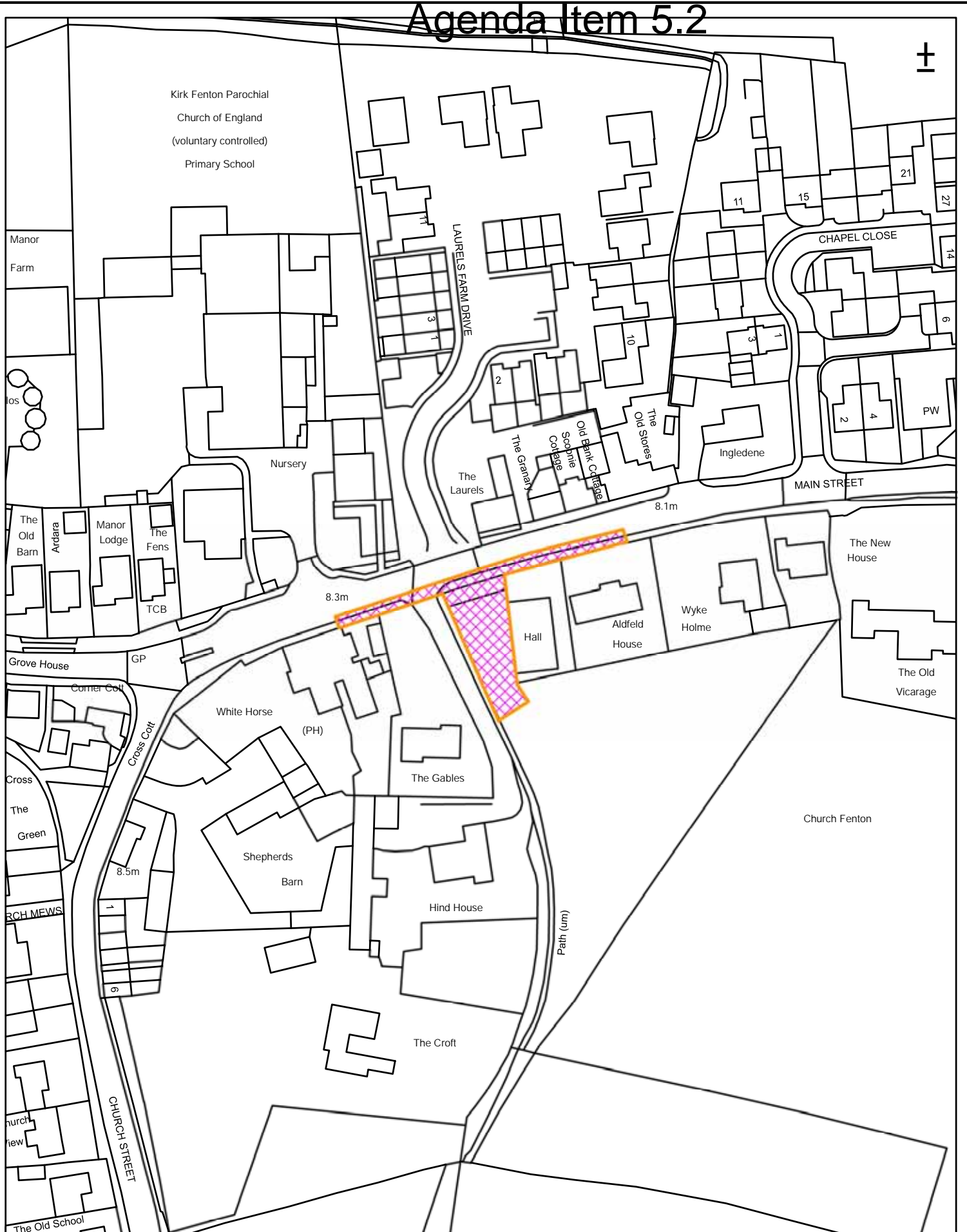
10 Background Documents

10.1 Planning Application file reference 2019/0668/OUT and associated documents.

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

Appendices: None

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APPLICATION SITE

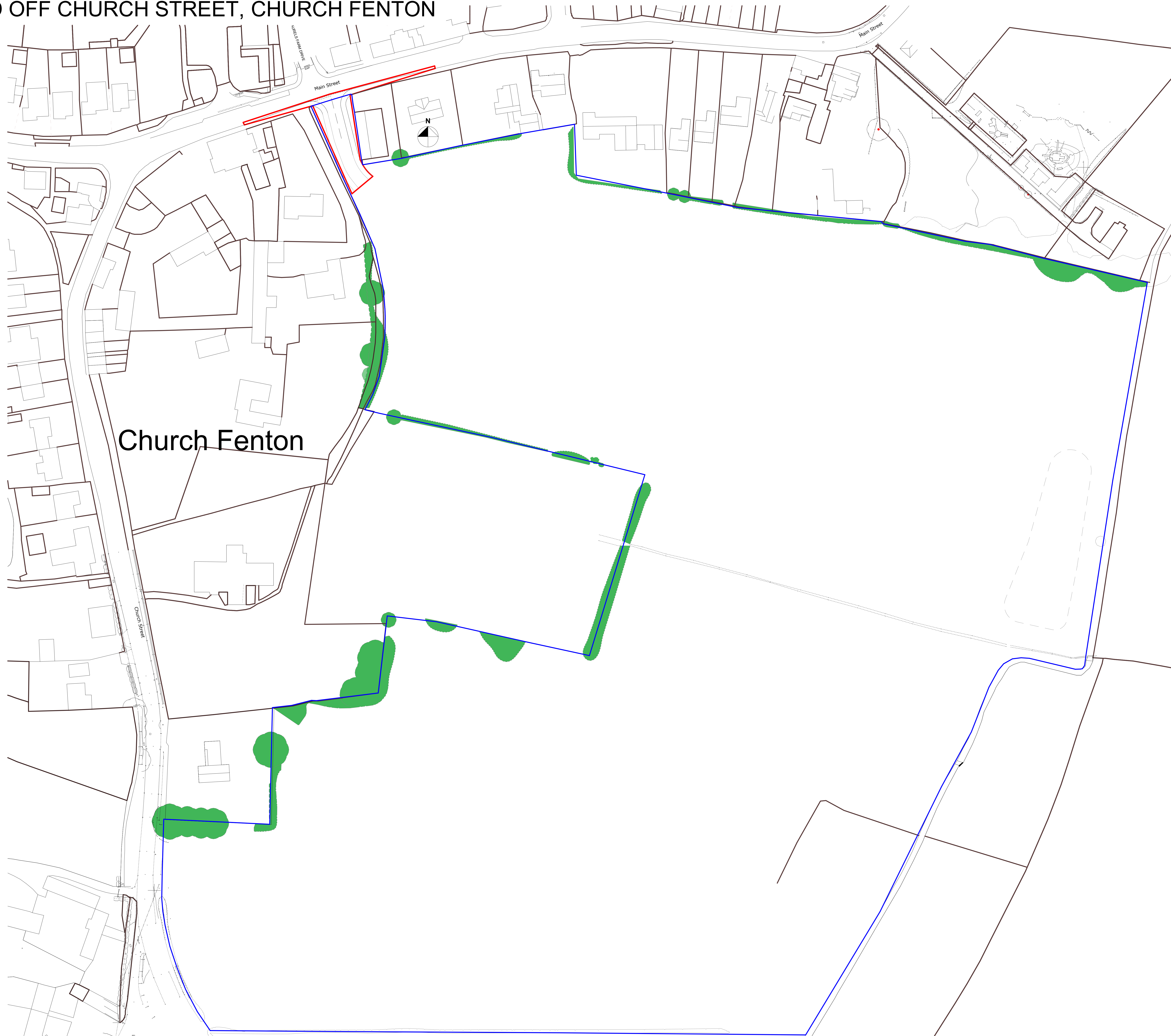
Land adjacent to Village Hall, Main Street, Church Fenton
2020/0821/FUL

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LAND OFF CHURCH STREET, CHURCH FENTON



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Scale : 1/500 @ A0 | Drawn by : SW | Date : 08 July 2020

Project : LAND OFF CHURCH STREET, CHURCH FENTON

Drawing : ALTERNATIVE ROAD ENTRANCE PLANNING LAYOUT

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

Planning Ref : N.A.

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Report Reference Number: 2020/0821/FUL

To: Planning Committee
Date: 9 December 2020
Author: Fiona Ellwood (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0821/FUL	PARISH:	Church Fenton Parish Council
APPLICANT:	Mr & Mrs G Bradley And Mrs B Bradley	VALID DATE: EXPIRY DATE:	10th August 2020 5th October 2020
PROPOSAL:	Construction of new access off Main Street, Church Fenton to serve outline planning permission under application reference 2015/0615/OUT, Main Street, Church Fenton, Tadcaster, North Yorkshire, LS24 9RF		
LOCATION:	Land Adjacent Village Hall Main Street Church Fenton Tadcaster North Yorkshire LS24 9RF		
RECOMMENDATION:	Minded to APPROVE.		

This application has been brought before Planning Committee as the development would function to serve a reserved matters scheme (2017/0736/REMM) for residential development relating to under outline planning permission reference 2015/0615/OUT. The reserved matters was refused by the Planning Committee on 4th March 2020 and is now the subject of a planning appeal.

An appeal has also been lodged against non- determination of this access application and the two appeals have been linked for concurrent determination by the Planning Inspectorate via a Public Inquiry.

This application is not presented for determination by Members but is to seek their views on what recommendation they would be minded to give. This will then form the basis for the Councils appeal case on this application.

A separate re-submitted application for the alternative access is also before Members today for determination.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The red line application site relates to a small strip of land between the village hall and the dwelling known as the Gables on main street.
- 1.2 The reserved matters application red line site relates to a series of agricultural fields south of Main Street and East of Church Street, Church Fenton. The site sweeps round from Church Street around the rear of St Marys Church up to the rear of the parish hall on Main Street and along the rear of the properties along Main Street. The site then follows the dyke south from the Pumping Station and then steps in before sweeping back on Church Street. The fields are laid to crops.
- 1.3 Access was agreed at the outline planning stage and provided for a long sweeping access from Church Street south of St Mary's Church. The proposal is meant to be an alternative access to serve the residential development area as submitted under the reserved matters application.

The Proposal

- 1.5 This is a full planning application for the construction of a new access off Main Street, Church Fenton to serve outline planning permission under application reference 2015/0615/OUT, Main Street, Church Fenton, Tadcaster, North Yorkshire, LS24 9RF. The applicant has indicated they will provide a Unilateral Undertaking not to implement the original access should this access be approved.

Relevant Planning History

- 1.6 The following historical applications are relevant to the determination of this application.
- 1.7 2015/0615/OUT- Permitted 03/12/2015

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

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

- Open Space – Extent/Layout/Delivery/Maintenance and Management

The application was approved at a time when the Council did not have a five-year land supply.

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

1.9 2016/0463/MAN- Permitted 15/04/2016

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

1.20 2017/0736/REMM- Refused 05/03/2020

Reserved matters application relating to appearance, layout and scale for the erection of 50 dwellings of outline approval 2015/0615/OUT for residential development including means of access.

The application was refused by the Planning Committee for the following reasons:

1. The design details of this reserved matters submission would, due to the lack of integration with the quality and characteristics of its surroundings, the use repeated standard house designs at odds with the quality, variation and characteristics of the surrounding development and a layout dictated by roads, parking arrangements and garaging fail to have regard to the local character, identity, the context of the village and the historic surroundings, and would also fail to contribute to enhancing community cohesion through high quality design. The details would therefore conflict with the aims of Policies ENV1 of the Local Plan and with Policy SP19 of the Core Strategy and with the NPPF.

2. The design details of this reserved matters submission would due to the lack of integration with the quality and characteristics of its surroundings, the use of repeated standard house designs at odds with the quality, variation and characteristics of the surrounding development and a layout dictated by roads, parking arrangements and garaging, would be harmful to the setting of the Church of St Mary, other nearby listed buildings and would diminish the established historic links between them. The details submitted would therefore fail to have the “Special regard” required by Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would conflict with the aims of Policies SP18 and SP19 of the CS and with the NPPF.

1.3 2020/1168/FUL- Re-submission of 2020/0821/FUL -This application is also on the agenda today

2. CONSULTATION AND PUBLICITY

2.1 Church Fenton Parish Council: First response

1. The outline permission for the application in question 2015/0615/OUT has expired as 2x Reserved Matters have been applied for and refused within 3 years. (*Officer note- there has only been one reserved matters application*)
2. Highways Dept need to note the proposed road layout reduces to 4.8m wide at the corner of the village hall. This could be a potential pinch point for 2 way traffic into and out of the estate on a blind bend. The Title Deeds of the village hall on that side do follow the line of the wall and then provide around 2m access behind the village hall. The narrowest part of this access road will be where there is a building next to it - this could potentially cause problems.
3. The technical note from Bryan G Hall makes reference to the stagger distances for the junctions and actually references one in Church Fenton (Fieldside Court and Brockley Close - 11.3m). However they do not mention, that within a few meters either side, that they have private accesses from either a dwelling or the village hall, wanting to join the road at more or less the same juncture. Laurel Farm Drive (serving 28 dwellings) is 5.2m away and the recommended distance for a staggered junction is 3 times more. When stood on Main Street looking at these 2 junctures, it does look like this will effectively become a crossroads on an extremely busy stretch of road.
4. The proximity to the Public House, the Community Village Hall, Primary School, Methodist Chapel & Hall and Nursery have not been considered along with an island bollard and at least 10 private access roads within a few meters of a potential new road for 50 properties (at least 100 cars), directly opposite a housing development of 25 homes. All of this is within a 40m stretch of road. Staggered junctions - the recommended distance is 15m - the new access will be 5.3m from Laurel Farm Drive (serving 28 properties) with the new access serving 50 homes, this will be almost 80 properties accessing the local distribution road (Main Street). Notwithstanding and most importantly, the comparative junction referred to in the application does not have the same level of local amenities. Eg Pub, School, Nursery, Community Amenity, 28 homes (Laurel Hall Drive) and 18 homes (Chapel Close) as well as 12 private driveways ALL WITHIN a 40 m stretch of road. Village Hall carpark - as the car park for the village hall is directly in front of the building, this creates a physical barrier in terms of visibility splay when turning right into Main Street.
5. In the application, a Traffic survey had taken place in the school holidays during a govt lockdown. This should be re-done during September when the children are back in school and nursery; also when local gatherings are potentially taking place as venues such as the Village Hall, the Chapel, Jigsaw Nursery, the primary school or the White Horse Public House.
6. On the planning application from they have incorrectly filled in question 22. The site is clearly visible from the public highway.
7. AAH planning consultants advise the Neighbourhood Plan should not be given any weight in consideration; due to how incomplete it is. This is not the case, it was at submission stage in early March and due to Covid19, SDC are not receiving plans at this point.
8. How can the introduction of the road allow the reserved matters to relate better to the character of the area and negate the need for development to wrap round the Grade I- Listed Church. There are still Grade I listed buildings on Main

Street. (officer note- there are Grade II LB's on Main Street but the church is the only Grade I LB in the vicinity)

9. Sink Hole - during works to complete the development on Laurel Farm Drive (opposite the proposed access road), in August 2017; Main Street was closed for a number of weeks due to a sink hole that was created with the highway works to create a new access road for the new development. This demonstrates that the area is predisposed to sinking sand and sink holes which will clearly inhibit the costs and progression of any roadworks in this area.
10. The RM application was refused because the design was not suitable due to the standardised design of the homes and no individuality, which does not fit within the village, particularly in that area. Also if the road does not pass the Church; a development of this size would still affect the nearby listed buildings particularly the Old Vicarage which would clearly back onto this; assuming that the loss of the public footpath from the Church to the Old Vicarage has been dealt with previously. CFPC suggest that the following material considerations are affected: - Overbearing nature of the proposal - Design and appearance - Layout and density of buildings - Effect on listed buildings - Access or highways safety - Flood risk

2.2 Church Fenton Parish Council: Second response received

1. The outline PP requires an appropriate highway to an adoptable standard. Therefore, the adoptable standard of a road width of 5.5m is not achievable.
2. Concerned about the structural stability and subsidence regarding any highways work so close to the village hall. Plan suggests it will be <2m from the building.
3. Concerned with proximity of drainage and inspection chamber running along the boundary of the village hall site,(within 1m of the suggested road) and a gas pipe which runs along the external wall of the village hall (about 75cm high). Currently, this creates no problem as it is adjacent to a disused piece of land. However, this could create a potential problem should new works take place within 2m of this gas pipe.
4. This main drain sewer runs across the front of the village hall and diagonally across this proposed access towards Church Street. needs consideration for any potential access to cross the land.
5. The boundary to the west of the village hall is 0.9144m from the hall wall. An inspection chamber and drainage for the toilets and kitchen amenities along the length of the hall wall within this 1yd parameter. This would reduce the potential road access width to 3.8m at the narrowest point (at the back westerly corner of the hall building) and 4.5m back towards the local distribution road (Main Street). With a recommended road width minimum of 5.5m, this would make the new road 1.7m below the recommended.
6. The Parish Council have on file a copy of a ST1 (Statement of Truth for Adverse Possessory Title) dated 4/7/12 and signed by the planning applicant (G Bradley). The PC are aware that land ownership is not required for a planning application. However, the PC have historical title deeds dating to 1922 which indicate the applicants will not achieve Absolute Title on this piece of land where the proposed access road will run. Impact on Planning app: the applicants will

potentially not achieve absolute title to this land prior to the deadline of July 2024 and therefore the rightful owners may not give consent to the proposed access road.

7. Request Highways Case Officer visit at a time where this section of Main Street is busiest eg 8.50am on a Monday or Friday morning now school is back in. Allowing the Highways Officer to see the parking at school and nursery drop-off and pick up times would clearly demonstrate how busy this stretch of road is.
8. Public Rights of Way - Footpath no4 runs alongside the proposed access and has a separate title deed that the planning applicants do not own. This will be drastically reduce the proposed width available for an access road.
9. The 2017 REM application which has been refused has a site plan which delineates an emergency access road of 3.2m width. The applicants are now suggesting that this can be converted to the only double width road access to the proposed new development of 5.5m road width and 2x footpaths of 2m width each. This width can only be achieved by using Parish Council land and footpath land (neither of which are owned by the planning applicants).

2.3 NYCC Highways

The applicant provided a highway note to address issues associated around the proposed access and its location. A speed survey was carried out on the 15 July 2020 which recorded speeds of 30 mph to the right and 26 mph to the left. Given the current restrictions in place on the UK NYCC would normally want to have seen speeds surveys carried out when all children had returned to school. However it is noted that the speeds recorded to the right do comply with the 30mph speed limit, and whilst the speeds to the left were recorded as slightly lower, which could be accurate given the mini roundabouts location to the site. NYCC would not require another speed survey being undertaken given that Manual for Streets would allow for the visibility splay to the left to be measured to the centre line, given the proximity of the proposed access to the mini roundabout and the zigzag markings adjacent. Therefore, achieving the 43 metres required for a 30mph speed limit if measured to the centre line.

No alternative emergency access is acceptable since the development is not to exceed 50 dwellings. If more dwellings are proposed at a later date then an emergency access would have to be provided.

The staggered junction distance is below the 15metres required for a Major Access Road but has advised the access road to the site is in fact a Minor Access Road. Whilst this is not disputed, the road in question (Main Street) is in fact a Local Distributor Road and as such the stagger distances do need to be taken into consideration. The applicant has however provided 2 case studies for similar situations, one in Church Fenton, both of which have not resulted in accidents associated with the stagger lengths. Therefore, whilst this situation is not ideal, it is acknowledged that a recommendation of refusal based around the stagger length is unlikely to be substantiated at an appeal. Therefore, no Local Highway Authority objections are raised to the proposed access subject to recommended conditions relating to:

- New and altered private access or verge crossing requirements

- New and altered private access or verge crossing requirements (licence requirements for works in the public highway)
- Visibility splays

2.4 **Yorkshire Water Services Ltd.**

Comments made and conditions recommended:

- 1) On the Statutory Sewer Map, there is a 225 mm diameter public surface water sewer recorded to cross the site. It is essential that the presence of this infrastructure is taken into account in the design of the scheme.
 - i) It may not be acceptable to raise or lower ground levels over the sewer and we will not accept any inspection chambers on the sewer to be built over.
 - ii) In this instance, Yorkshire Water would look for this matter to be controlled (by Requirement H4 of the Building Regulations 2000).
 - iii) A proposal by the developer to alter/divert a public sewer will be subject to Yorkshire Water's requirements and formal procedure in accordance with Section 185 Water Industry Act 1991.

- 2) The developer is proposing to discharge surface water to SUDS however, sustainable development requires appropriate surface water disposal. Yorkshire Water promote the surface water disposal hierarchy and the developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer. The developer and LPA are strongly advised to seek comments on surface water disposal from other drainage bodies as further restrictions may be imposed.

- 3) As the proposal site is currently undeveloped, no positive surface water is known to have previously discharged to the public sewer network. Surface water discharge to the existing public sewer network must only be as a last resort and the developer is required to eliminate other means of surface water disposal.

2.5 **Selby Area Internal Drainage Board**

Makes comments/recommendations:

If Surface water via a soakaway system- advise that the ground may not be suitable and percolation tests are essential.

If surface water via mains -no objection, providing that the Water Authority are satisfied that the existing system will accept this additional flow.

If the surface water is to be discharged to any ordinary watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission, and would be restricted to 1.4 litres per second per hectare or greenfield runoff.

No obstructions within 7 metres of the edge of an ordinary watercourse are permitted without Consent from the IDB.

2.6 **Environmental Health**

No objections.

2.7 **The Environment Agency**

No comments received.

2.8 **Village Hall Committee**

No comments received.

2.9 **Conservation Officer**

The original access was an unusually long, sweeping road leading from Church Street that was considered to be harmful to the setting of the grade I listed church and the Grade II Croft and Vicarage to its north. The principle of securing an alternative access to the possible housing development would be highly beneficial in terms of the impact on the heritage assets (and to the scheme generally). The new access, off Main Street, is a gap site between the village hall and the frontage to the adjoining property. This was previously proposed as the location of a pedestrian access. It comprises part field and part PROW. The location of the access here essentially contains it within the development and so there is a better relationship. There doesn't seem to be any direct impact on designated heritage assets, over and above the impact of the development generally (though there are NDHA's located on the street nearby).

Concerned that the space for the access appears incredibly tight and whether a good quality access into the site could be achieved. It would be tight up against the village hall and would highly change the character of the PROW (and harm what would have been a pleasant pedestrian route into the development).

Conclude, if it were possible to create a well-designed and safe access here, even if slightly comprised, there would still be the significant benefit of having been able to omit the previous access from Church Street. Consideration of the implications of the alternative access for the layout of the housing development would need to be made (particularly taking into account the southern edge of the site and how it affects the setting of the listed buildings).

2.10 **Urban Designer**

No comments received.

2.11 **Public Rights of Way Officer**

Comments that a PROW is within the application site. If affected permanently a Path order/diversion order is required. If affected temporarily during the works a temporary closure order is needed. Details given of where to apply are given. No objections raised.

2.12 **Contaminated Land Consultant**

No land contamination concerns.

2.24 Neighbour Summary

The application was advertised by site notice and neighbour notification resulting in responses from 42 individuals. Comments are summarised below:

- The application would create an access to a development which the council have refused and it should therefore be refused
- Site visit needed before committee makes a decision
- Stagger distances don't mention the individual accesses either side
- This would make a crossroads with Laurel farm Drive
- Safety issues due to proximity to school and nursery not considered
- Barrier to village hall car park visibility
- Traffic survey was in the summer holidays, when usage of the road was low and not representative and should be when the children are back
- Pedestrian safety reduced
- Noise and nuisance to surrounding properties
- Proximity to bus stop and roundabout
- Visibility will be reduced due to parked cars
- Neighbourhood plan not given sufficient weight
- Construction where there is known running sand and gypsum
- Urbanisation of the historic core of the village
- Advise Conservation Officer and Heritage Consultants are consulted
- Main street is busy, narrow and vehicles exceed the speed limit
- There is already a petition to make the speed limit 20mph
- Planning application made during the month the PC don't meet therefore disadvantaging the residents
- School and nursery were not consulted
- Goes against the principles of promoting children walking to school
- Potentially 100 cars using the new access
- Increased car pollution
- This will also be a works entrance with HGV's making it worse
- Some properties not consulted
- Emergency vehicles/ refuse/large vehicles would potentially have to reverse onto the main road due to the pinch point
- There have been near misses for accidents
- Public footpath not taken into account
- Query whether there is sufficient width
- Not in keeping with the character and style of the village
- Submitting the design of a new access during the appeal process should not be allowed
- A refusal on nearby Hillgarth pointed to the problems with the nature of the road and 3 dwellings on that site were not acceptable
- The land doesn't belong to the applicants
- Development south of Main Street is at odds with the linear nature of the village
- Adverse impact on the church
- Ornamental ponds on the site and associated birds could cause bird strike
- Village infrastructure, sewer, leisure, school can't cope
- Sewage is at a capacity

- Insufficient leisure area
- Loss of the copse over Carr Dyke and hedgerows and loss of associated wildlife
- Loss of PROW
- Gas Pipe and sewer pipe under the access

3 SITE CONSTRAINTS

- 3.1 The majority of the red line of the application site lies within the development limits of Church Fenton which runs tight along the back of the village hall. The southern tip of the red line site is just outside the development limits.
- 3.2 Nearby Listed Buildings include the 'Old Vicarage' to the east of the village hall and 'The Croft' to the south west. St Mary's Church is located south west of this access site and is a Grade I Listed Building.
- 3.3 A Public Right of Way (PROW) runs through the site linking Main Street to the open land to the south. It links in with a Prow leading to the old vicarage and to a Prow running south past the Croft and linking into the Prow leading to the church from the east.
- 3.4 The land is 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 NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

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

Selby District Core Strategy Local Plan

4.6 The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development
SP2 - Spatial Development Strategy
SP4 - Management of Residential Development in Settlements
SP5 - The Scale and Distribution of Housing
SP9 - Affordable Housing
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
ENV3 - Light Pollution
H2 - Location of New Housing Development
T1 - Development in Relation to Highway
T2 - Access to Roads
T8 - Public Rights of Way

Church Fenton Neighbourhood Development Plan

- 4.8 At the time of writing this report the Church Fenton Neighbourhood Plan (NP) has been subject to the pre-submission consultation stage (Regulation 14 of the Neighbourhood Planning (General) Regulations 2012) and in preparation for this the Council has undertaken a screening report to determine whether or not the contents of the draft Church Fenton Neighbourhood Development Plan requires a Strategic Environmental Assessment (SEA) and/or Habitats Regulations Assessment (HRA). In line with the SEA requirements the Council has undertaken a six-week consultation from 20 December 2018 to 31 January 2019 with the relevant consultation bodies (Environment Agency, Historic England and Natural England).
- 4.9 In October 2020 the Parish Council submitted their NP to Selby District Council under Regulation 15. At the time of writing this report the Council await some additional information before proceeding with Regulation 16 Consultation.
- 4.10 Although, the Plan has been subject to pre-submission consultation (Reg 14) and is proceeding to the next stage, it is considered that limited weight can be given to the Neighbourhood Plan at this stage as it is still subject to consultation, examination and referendum and therefore may still be subject to significant change.

5 APPRAISAL

- 5.1 The main issues when assessing this application are:

- The Principle of the Amended Access
- Impact on Highway Safety and PROW's
- Impact on the Character and Appearance of the Area and on Heritage Assets
- Impact on Residential Amenity
- Flood Risk
- Affordable Housing
- Other matters raised

The Principle of the Amended Access

- 5.2 Policy SP1 of the Core Strategy sets out the presumption in favour of sustainable development. Applications which accord with the development plan should be approved unless material considerations indicated otherwise. Policy SP2 sets out the spatial development strategy for the district. Under SP2 Church Fenton is a Designated Service Village which has some scope for additional residential and small-scale employment growth to support rural sustainability. Policy SP4 allows, within development limits, conversions, replacement dwellings, redevelopment of previously developed land and appropriate scale development on greenfield land (including garden land and conversions/redevelopment of farmsteads).
- 5.3 The site is an undeveloped greenfield strip of land mostly within the development limits. As such there is nothing within the development plan which would identify this type of development as being unsustainable or preclude in principle development of this type in this location
- 5.4 The current planning history position is also a material consideration.
- 5.5 This application seeks full permission for an alternative means of access to replace the long access south of the Church approved under 2015/0615/OUT. A full application was necessary since the time for submitting a revised reserved matters layout has expired.
- 5.6 The principle of development and the means of access were established under the outline planning permission (reference 2015/0615/OUT). Reserved Matters were submitted within the required timescale but were refused by this Council on 5th March 2020. An appeal has been lodged and therefore a final decision on the reserved matters has yet to be made and due to this the planning permission for the site is in effect still 'live'.
- 5.7 This application gives the opportunity for an alternative means of access to the long access from the south which wraps around the east side of properties and the Church of St Marys on Church Street. As such it is necessary to make a comparison between the approved access and the access now proposed and to determine whether there would be less or more material harm to acknowledged interests if this application were supported.
- 5.8 The impacts of the proposal are considered in the following sections of this report based on a comparison with the approved access.
- 5.9 The applicant has indicated they will provide a Unilateral Undertaking not to implement the original access should this access be approved.

Impact on Highway Safety and PROW's

- 5.10 The proposed access occupies the position of the emergency access which was to be provided on the reserved matters submission. This would have been necessary in addition to the main access from Church Street when more than 50 dwellings were proposed. As the scheme progressed and was amended it was reduced to only 50 dwellings. In these circumstances, the emergency access would not be necessary and could have been removed. The indicative layout on the outline scheme showed it only as a pedestrian access.
- 5.11 The Applicants have submitted a technical note which sets out this access would be in the form of a priority T-junction from main Street into the site. The junction would be approximately 75 meters to the east of the existing Main Street/Station Road/Church Street mini-roundabout junction. The proposed access will have an initial carriageway width of 5.5 metres and will also include 2.0-metre-wide footways formed on both sides of the access road. Due to site constraints, the carriageway will then be reduced in width after 20 metres from the junction with Main Street to a minimum width of 4.8 metres, after which the width of the access increases again to 5.5 metres. The two footways either side of the carriageway will be maintained at 2.0 metres. The Parish Council (PC) consider this could be a potential pinch point for 2-way traffic into and out of the estate on a blind bend. However, this would meet the requirements of the NYCC Residential design Guide which does allow a reduction in width provided the first 20metres width is maintained. The Highway Authority raise no concerns in this respect.
- 5.12 In terms of visibility a speed survey was undertaken in July 2020 to determine the prevailing speeds of vehicles along Main Street in the vicinity of the proposed site access. The results showed vehicle speeds of westbound 30mph and eastbound 26mph. In accordance with the Manual for Streets (MfS) guidance, visibility splays at the proposed access with Main Street should be 2.4 metres x 43.0 metres to the right for an 85th percentile wet weather speed of 30 mph, and 2.4 metres x 35.4 metres to the left for an 85th percentile speed of 26 mph.
- 5.13 The PC raise concerns that the traffic survey took place in the school holidays during a govt lockdown and should be re-done during September when the children are back in school and nursery; also when local gatherings are potentially taking place as venues such as the Village Hall, the Chapel, Jigsaw Nursery, the primary school or the White Horse Public House.
- 5.14 The Applicants point out that, there is guidance by Highways England relating to measuring vehicle speeds, in the Design Manual for Roads and Bridges document "CA185 – Vehicle Speed Measurement". Whilst this document is relating to the requirement for measurement of vehicle speeds on trunk roads and therefore have some points that would not be applicable in this situation, it is a useful document to follow. Fundamentally, the speed measurements should be taken of vehicles in free flow conditions. These being conditions where a driver can actually drive at a speed of their own choice and is not impeded by the proximity of other vehicles in front or obstructions in the road layout. It goes on to state at paragraph 2.8.2 that "Speed measurements should be undertaken outside of peak traffic flow periods" and these are defined as "Non-peak periods are typically between 10am and noon and 2pm and 4pm. In some cases, these times need to be varied to take account of site specific circumstance e.g. if a school is nearby that closes at 3pm". The rationale behind this is to avoid conditions that could impact upon the free flow of vehicles along the road, i.e. slow them down, such as vehicles reducing their speeds in busy

conditions, or vehicle slowing down to look for a parking space near a school etc. As a result it is considered that carrying out the speed surveys, outside of the peak hours, and not within school drop off or pick up times provides a robust picture of the speeds and if these were to be repeated at these times it is likely that they would be lower.

- 5.15 The Highway Authority are satisfied with the visibility and do not require another speed survey. In terms of visibility the proposed access is therefore considered acceptable.
- 5.16 The PC raise concerns regarding the proximity to other accesses and mention many examples. Moreover, the comparative junction referred to in the application does not have the same level of local amenities within a short stretch of road. In addition, they point out that the village hall car park creates a physical barrier in terms of visibility splay when turning right into Main Street.
- 5.17 The Applicant acknowledged that the stagger distance is less than the stagger for a major access road configuration, both the side roads are minor access roads, and given the relatively few dwellings served by Laurels Farm Drive, 25 units, and the proposed access, 50 units, it is considered that this reduced stagger distance is satisfactory as the 15 metre stagger distance suggested by NYCC is for potentially much larger developments in the order of 400 dwellings on each of the side roads. Reference is made to the proposal not being untypical in village settings and examples of others such Fieldside Court and Brockley Close in Church Fenton as well as others in other villages.
- 5.18 Highways do not dispute the Applicants report but point out that Main Street is a local Distributor Road and as such the stagger distances do need to be taken into consideration. They acknowledge the situation is not ideal but consider that a recommendation for refusal based around the stagger length would be unlikely to be substantiated at an Appeal. The Highway Authority therefore support the proposed access subject to conditions.
- 5.19 The PC raise concerns that the public footpath running alongside the proposed access has a separate title deed that the planning Applicants do not own. This they say would drastically reduce the proposed width available for an access road. They also suggest the Applicants do not fully own the access land.
- 5.20 The Agent confirms that the applicant has absolute title over the land with the boundary being the western wall face of the village hall. A copy of the land registry was provided and a letter from the Applicant's solicitor, confirming they have absolute title over the land. The red line of the application site does not incorporate any additional land over and above what was included at the outline and reserved matter stages. Even if land ownership was not proven, it is not necessary to own the land to apply for permission.
- 5.21 Comments received from the PROW Officer give the procedure for a Path diversion order which would be required. If affected temporarily during the construction works a temporary closure order is needed. Details given of where to apply are given. No objections raised. Given that the emergency access in this position on the previous layout plan incorporated the PROW along the line of the footpath and raised no objections from the PROW Officer, it is considered that this access would not alter that position. The footpath route is maintained but along the footpaths to the side of

the access road and would link into the existing footpaths leading on towards the church and to the old vicarage.

- 5.22 The previously approved access onto Church Lane would also have been a safe access. Both are acceptable from a Highway Viewpoint.
- 5.23 Overall the proposed access is of a satisfactory standard subject to conditions and would not lead to a reduction in road safety requirements. Given the above it is considered that the proposed development of 50 residential dwellings can be satisfactorily accessed via a newly constructed priority T-junction from Main Street in place of the consented access. In this respect the development would comply with Policy ENV1, T1 and T2 of the Local Plan and with the NPPF

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

- 5.24 Relevant policies within the NPPF which relate to development affecting the setting of heritage assets include paragraphs 189 to 198.
- 5.25 Paragraph 196 of the NPPF should be read in conjunction with paragraph 193 of the NPPF which states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”*. This wording reflects the statutory duties in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990.
- 5.26 Whilst considering proposals for development which affects a Listed Building or its setting, the statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'.
- 5.27 The site is located adjacent to a Grade I Listed Building (St Mary’s Church). In addition, there are Grade II Listed Buildings adjoining the site, the Croft to the west and the Vicarage to the north. The application site forms part of the setting of the listed buildings and contributes to their significance. The impact of the proposal on the setting of the Listed Buildings is therefore a fundamental issue and is intrinsically linked to the impact on the character and form of the surrounding area.
- 5.29 In terms of the impact on the setting of the Grade 1 Listed Church of St Mary’s, the revised access would be an improvement. The original approved access swept around the church through open fields to the south and would intrinsically change the quiet rural open character with the provision of an urban access road of some considerable length. This proposal would enable the areas to the west and south of the church to remain undeveloped and little changed. The refused scheme contained an emergency access road in the position of this proposal. Although wider than the emergency road, visually there would not be a significant difference with a hard-surfaced estate character road in this position.
- 5.30 In terms of the impacts on the Heritage Assets, the Conservation Officer considered the original access to be harmful to the setting of the grade I listed church and the Grade II Croft and Vicarage to its north. The Conservation Officer considers the principle of securing an alternative access to the possible housing development

would be highly beneficial in terms of the impact on the heritage assets (and to the scheme generally).

- 5.31 The location of the access in this position essentially contains the development within the northern part of the outline application site. Officers concur with the Conservation Officer that if it were possible to create a satisfactorily-designed and safe access here, even if slightly comprised, there would still be the significant benefit of having been able to omit the previous access from Church Street and the impact on the Heritage Assets, particularly to the Grade I Church overall would be reduced.
- 5.32 There would be some increased harm to the character of the street scene as the green space between the village hall would be lost and replaced with an urban estate road. It would be tight up against the village hall and would change the character of the green and pleasant pedestrian route into the development. However, when weighed against the harm from the previous access to the character of the area and the rural setting of the village there would again be considerable benefit.
- 5.33 The access will result in some minor changes to the housing layout and the applicant's agent has submitted these to the Inspector for consideration. The details of these are not a matter for consideration here moreover, it is not known at this stage whether the Inspector will accept these as part of the appeal process.
- 5.34 When weighed against the public benefits of the reduced harm to the substantially larger open setting around the Grade I church, any minor disbenefits to the character of the street scene are justified. Other than this there would be no additional harm to the setting of the Listed Buildings beyond that which would be associated with the outline application and which was assessed on the reserved matters application. Overall, it is considered that the access would have significantly less harmful impacts on the Heritage Asset and on the character and appearance of the areas than the approved access.
- 5.35 In this respect the development would comply with Policy ENV1 of the Local Plan, SP18 & SP19 of the Core Strategy and with the NPPF

Impact on Residential Amenity

- 5.36 The access road has the potential to have the greatest impact on any dwellings flanking its route due to increased noise and disturbance associated with the comings and goings of vehicles movements associated with 50 dwellings. The east side is flanked by the village hall beyond which other houses front the main street. These include Aldfeld House and Wyke Holme whose gardens back on to the outline application site. These don't directly flank the access and their gardens back onto the intended open space area. Given the position and distance and current ambient noise levels from traffic on main street, which is nearer their boundaries, it is not considered the vehicle movements would give rise to undue levels of noise and disturbance.
- 5.37 On the west side of the proposed new access two properties flank the site. These include The Gables and Hind House. These are set well back from the main road where the noise of vehicles stopping and manoeuvring in and out of the junction would be the greatest. Moreover, between the access site and the dwellings and their gardens there is the buffer of their long driveway which runs in parallel serving

Hind House. The gardens to both dwellings have well established trees and hedges to the east boundaries. Given the position and distance, boundary treatments. It is not considered the vehicle movements would give rise to undue levels of noise and disturbance.

- 5.38 In addition to the above considerations, the reserved matters layout for the development would already result in a degree of vehicle movements around these dwellings. However, the proposed access would provide a point of concentration for vehicles moving in and out of the new development in a different position to the previously approved access. In terms of residential amenity, the main vehicle movements would be drawn away from the existing residential development surrounding the outline permission site towards the southern access. In this respect, the proposed access would generally increase the noise and disturbance associated with the development by concentrating vehicular movements in and out of the site nearer to existing dwellings.
- 5.39 Overall the proposed access would not improve the residential amenity for the occupants of nearby dwellings when compared with the previously approved access position. However, given the juxtaposition of the nearest dwellings as described above and the fact that Main Street is already a busy road with other similar junctions leading from it, the degree of additional noise and disturbance from the use of this access is not considered to result in sufficient harm to substantiate a refusal.

Flood Risk and drainage

- 5.40 Since the approval of outline consent when the site was in Flood Zone 1, remodelling of the floodplain has been conducted on behalf of the Environment Agency. The modelling exercise increases the extent of Flood Zone 2, this now encompasses the entire outline application site including this current planning application site. Flood Zone 2 has an Annual Exceedance Probability (AEP) of flooding between 1.0% and 0.1% and denotes an undefended floodplain.
- 5.41 The proposed access is located within Flood Zone 2 which means that the proposed access is at a medium risk of flooding. Core Strategy Policy SP15, 'Sustainable Development and Climate Change' commits Selby District Council to:
- Ensure that development in areas of flood risk is avoided wherever possible through the application of the sequential test and exception test; and ensure that where development must be located within areas of flood risk that it can be made safe without increasing flood risk elsewhere
 - Support sustainable flood management measures such as water storage areas and schemes promoted through local surface water management plans to provide protection from flooding, and biodiversity and amenity improvements.
- 5.42 Table 2 of the National Planning Policy Framework (NPPF) Flood Risk and Coastal Change Matrix outlines the flood risk vulnerability classification of land. The proposed access classification is 'Essential infrastructure' defined as 'Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk'. The access would serve the wider 'More vulnerable' consented residential development which would be occupied by residential dwellings (Classified within Table 2 as; Buildings used for dwelling houses). Development of

both Essential Infrastructure and More Vulnerable uses within Flood Zone 2 is an acceptable principle in accordance with the NPPF and demonstrable by the existing outline consent.

- 5.43 The proposed development site and its surroundings are all located within Flood Zone 2, and there are no other possible locations for the access which are situated outside of the flood zone. In addition, it will tie into existing ground levels and therefore will not impact flood plain storage or lead to an increase in flood risk elsewhere.
- 5.44 There is no sequential benefit to the position of the approved or proposed highway access points on to Church Street and Main Street respectively. Both access locations are within Flood Zone 2 and have a low ground level in the order of 7.8m AOD as denoted by the site topographic survey attached to this TN in Appendix B. Therefore, in Flood Risk terms there is no benefit or disbenefit from the revised access position.
- 5.45 Therefore, it is considered that the proposed access is in accordance with Policy SP15 of Selby District Core Strategy.

Affordable Housing

- 5.46 The outline scheme and associated Section 106 agreement secured 40% on site provision of affordable housing, with a tenure split of 30-50% Intermediate and 50-70% Rented. Clauses within the S106 also require confirmation of the phasing plan for delivery and set the parameters for the allocation of units to occupiers.
- 5.47 On the reserved matters application the quantity of Affordable Housing provision was a matter for negotiation and the Council sought the advice of the District Valuer (DV). Due to several reasons, there were abnormal building costs on this site including the substantial length of access road relative the number of houses provided. The DV advised that the development could support the provision of only 5 units which amounted to 10% provision.
- 5.48 If the appeal is allowed based on this revised access, it is likely that its cost would be significantly less than the cost of the lengthy access running through open fields from Church Street. Whatever its potential cost, a fresh viability assessment would be needed to determine the level of affordable housing provision. If more affordable housing could be provided due to lower costs, then there would be greater public benefits associated with this revised access position.
- 5.49 This scheme for a revised access clearly has implications for the level of provision but are not a matter to resolve through this application. The affordable housing requirements are a requirement of the Section 106 Agreement on the outline permission and the amount of provision has yet to be agreed and will depend on what layout is approved.

Other matters raised

- 5.50 Objectors refer to the land not being within the Applicants ownership. The Applicants say that it is entirely within their ownership as such the correct notices have been served. As such the question of ownership is a civil matter outside the scope of this application.

5.51 Objectors request that a committee site visit is made. This is a matter for the Planning Committee to decide.

6 CONCLUSION

6.1 The Council has refused the reserved matters application for the reasons given in the planning history section of this report. These relate to the quality and design of the scheme and this position is not changed by an opinion on this application.

6.2 This proposed revised access if approved subject to a UU would reduce the harm to the setting of the Listed Buildings from the removal of the long access road which would sweep around the church, carve up agricultural fields and urbanise the setting of the Church. The creation a well-designed and safe access here, even if slightly comprised in highway safety, would still be the significant benefit of having been able to omit the previous access from Church Street and the harmful impact on the Heritage Assets, particularly to the Grade I Church and on the character and form of the village setting overall would be reduced.

6.3 In terms of residential amenity the proposal would not improve the amenity over and above the previously approved access since there would be more vehicle movements closer to existing dwellings but on balance would not result in sufficient harm to warrant a refusal on the grounds of residential amenity.

6.4 The development is acceptable in terms of flood risk and highway safety.

6.5 In terms of affordable housing, this would need to be re-negotiated and the section 106 still requires up to 40% based on viability.

6.6 Overall it is considered that the benefits in terms of the reduction in harm to Heritage Assets and potentially the provision of additional affordable housing due to removing the southern access and replacement with this northern access justify supporting this scheme.

7 RECOMMENDATION

That members be **minded** to **APPROVE** the application subject to receiving a satisfactory Unilateral Undertaking to secure the original access not being implemented and subject to the following conditions;

01-Time period to follow the outline permission 2015/0615/OUT and reserved matters

Reason

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

To be inserted

Reason

For the avoidance of doubt.

03- The development must not be brought into use until the access to the site at Land Adjacent the Village Hall, Main Street, Church Fenton 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 access must be formed with 6 metres radius kerbs, to give a minimum carriageway width of 5.5 metres, and that part of the access road extending 20 metres into the site must be constructed in accordance with Standard Detail number A1 and the following requirements;
 - i) Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
 - ii) 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.
 - iii) Measures to enable vehicles to enter and leave the site in a forward gear.

All works must accord with the approved details.

Reason

To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users.

04. There must be no access or egress by any vehicles between the highway and the application site at Land Adjacent the Village Hall, Main Street, Church Fenton until splays are provided giving clear visibility of 43 metres measured along the north eastern vehicle track and 43 metres measured along the southwestern centre line 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 and the object height must be 0.6 metres. Once created, these visibility splays must be maintained, clear of any obstruction, and retained for their intended purpose at all times.

Reason

In the interests of highway safety.

- 05 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.

- 06 There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works , details of which will have been submitted to and approved by the Local Planning Authority If discharge to public sewer is proposed , the information shall include , but not be exclusive to:
- i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
 - ii) the means of discharging to the public sewer network at a rate to be agreed by the Local Planning Authority in consultation with the statutory sewerage undertaker.

Reason

(To ensure that no surface water discharges take place until proper provision has been made for its disposal)

INFORMATIVES

Notwithstanding any valid planning permission for works to amend the existing highway, you are advised that a separate licence will be required from North Yorkshire County Council as the Local Highway Authority in order to allow any works in the existing public highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council as the Local Highway Authority, is available to download from the County Council's website;

https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%2C%20highways%20and%20pavements/Specification_for_housing___in_d_est_roads___street_works_2nd_edition.pdf .

The Local Highway Authority will also be pleased to provide the detailed constructional specifications referred to in this condition.

PROW

Applicant should contact the County Councils Countryside Access services at County Hall, Northallerton via CATO@northyorks.gov.uk to obtain up to date information regarding the route of the way and to discuss any proposals for altering the route.

8 Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9 Financial Issues

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

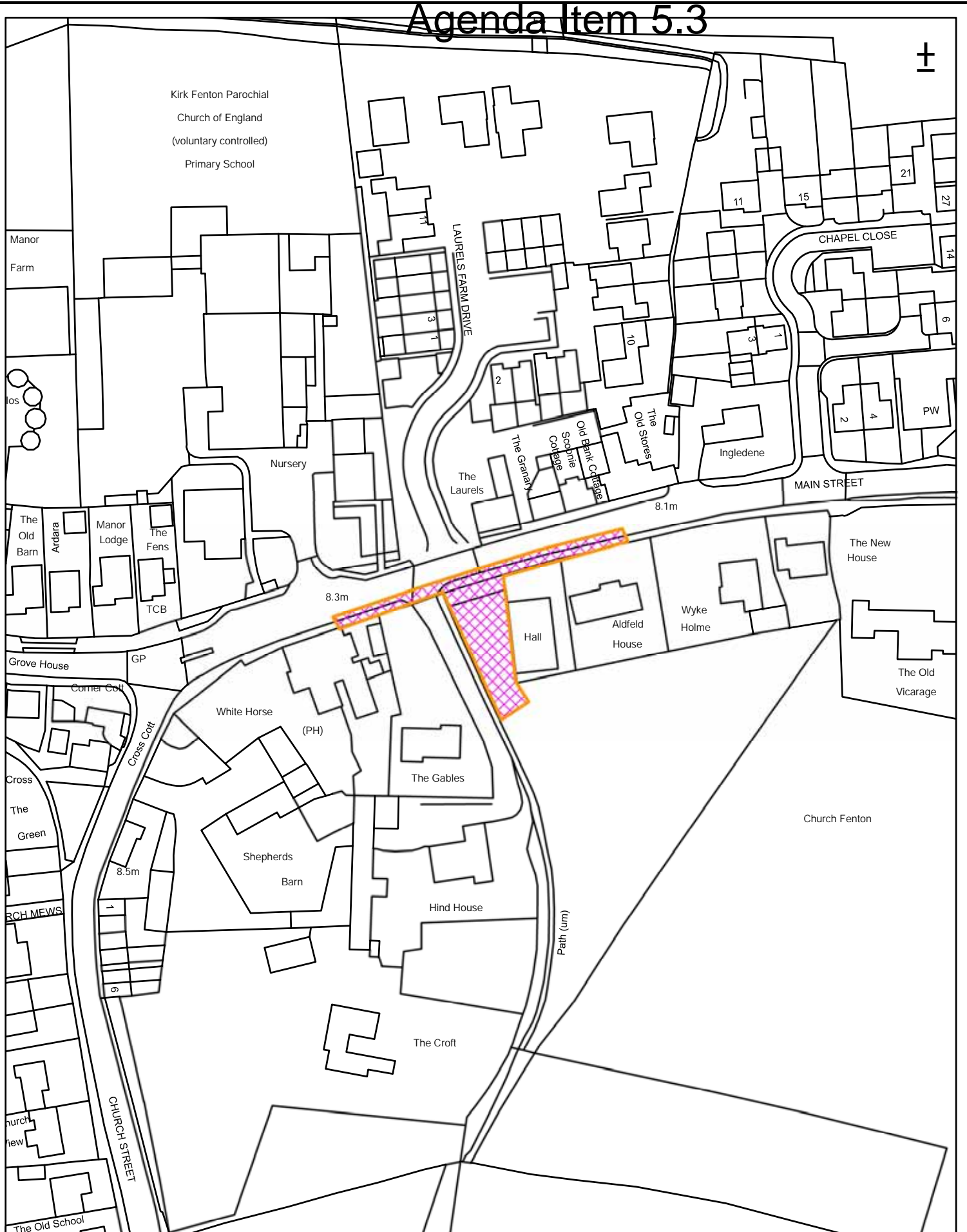
10 Background Documents

Planning Application file reference 2020/0821/FUL and associated documents.

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

Appendices: None

Agenda Item 5.3



APPLICATION SITE

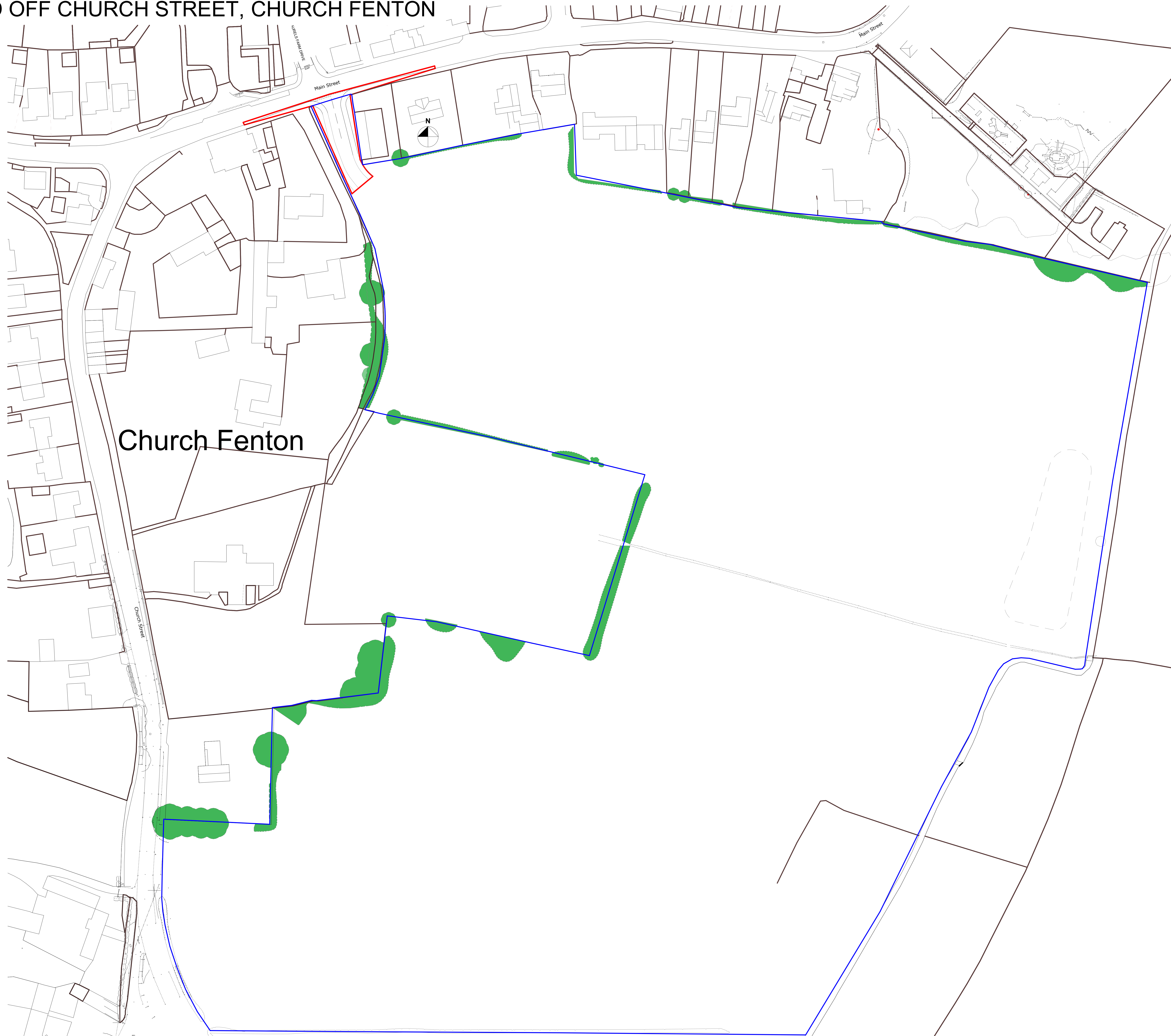
Main Street, Church Fenton
2020/1168/FUL

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LAND OFF CHURCH STREET, CHURCH FENTON



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Church Fenton

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Scale : 1/500 @ A0 | Drawn by : SW | Date : 08 July 2020

Project : LAND OFF CHURCH STREET, CHURCH FENTON

Drawing : ALTERNATIVE ROAD ENTRANCE PLANNING LAYOUT

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

Planning Ref : N.A.

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Report Reference Number: 2020/1168/FUL

To: Planning Committee
Date: 9 December 2020
Author: Fiona Ellwood (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/1168/FUL	PARISH:	Church Fenton Parish Council
APPLICANT:	Mr & Mrs G Bradley And Mrs B Bradley	VALID DATE: EXPIRY DATE:	4 th November 2020 30 December 2020
PROPOSAL:	Construction of new access off Main Street, Church Fenton to serve outline planning permission under application reference 2015/0615/OUT, Main Street, Church Fenton, Tadcaster, North Yorkshire, LS24 9RF		
LOCATION:	Land Adjacent Village Hall Main Street Church Fenton Tadcaster North Yorkshire LS24 9RF		
RECOMMENDATION:	GRANT subject to a UU and Conditions.		

This application has been brought before Planning Committee as the development would function to serve a reserved matters scheme (2017/0736/REMM) for residential development relating to under outline planning permission reference 2015/0615/OUT. The reserved matters was refused by the Planning Committee on 4th March 2020 and is now the subject of a planning appeal.

An Appeal has also been lodged against non-determination of an identical application under reference 2020/0821/FUL and the two appeals have been linked for concurrent determination by the Planning Inspectorate via a Public Inquiry. This precedes this item on

the agenda today and seeks Members views on how they would be minded to determine it.

This application is for determination by Members today.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The red line application site relates to a small strip of land between the village hall and the dwelling known as the Gables on main street.
- 1.2 The reserved matters application red line site relates to a series of agricultural fields south of Main Street and East of Church Street, Church Fenton. The site sweeps round from Church Street around the rear of St Marys Church up to the rear of the parish hall on Main Street and along the rear of the properties along Main Street. The site then follows the dyke south from the Pumping Station and then steps in before sweeping back on Church Street. The fields are laid to crops.
- 1.3 Access was agreed at the outline planning stage and provided for a long sweeping access from Church Street south of St Mary's Church. The proposal is meant to be an alternative access to serve the residential development area as submitted under the reserved matters application.

The Proposal

- 1.5 This is a full planning application for the construction of a new access off Main Street, Church Fenton to serve outline planning permission under application reference 2015/0615/OUT, Main Street, Church Fenton, Tadcaster, North Yorkshire, LS24 9RF. The applicant has indicated they will provide a Unilateral Undertaking not to implement the original access should this access be approved.

Relevant Planning History

- 1.6 The following historical applications are relevant to the determination of this application.
- 1.7 2015/0615/OUT- Permitted 03/12/2015

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

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

The application was approved at a time when the Council did not have a five-year land supply.

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

1.9 2016/0463/MAN- Permitted 15/04/2016

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

1.20 2017/0736/REMM- Refused 05/03/2020

Reserved matters application relating to appearance, layout and scale for the erection of 50 dwellings of outline approval 2015/0615/OUT for residential development including means of access.

The application was refused by the Planning Committee for the following reasons;

1. The design details of this reserved matters submission would, due to the lack of integration with the quality and characteristics of its surroundings, the use repeated standard house designs at odds with the quality, variation and characteristics of the surrounding development and a layout dictated by roads, parking arrangements and garaging fail to have regard to the local character, identity, the context of the village and the historic surroundings, and would also fail to contribute to enhancing community cohesion through high quality design. The details would therefore conflict with the aims of Policies ENV1 of the Local Plan and with Policy SP19 of the Core Strategy and with the NPPF.

2. The design details of this reserved matters submission would due to the lack of integration with the quality and characteristics of its surroundings, the use of repeated standard house designs at odds with the quality, variation and characteristics of the surrounding development and a layout dictated by roads, parking arrangements and garaging, would be harmful to the setting of the Church of St Mary, other nearby listed buildings and would diminish the established historic links between them. The details submitted would therefore fail to have the "Special regard" required by Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would conflict with the aims of Policies SP18 and SP19 of the CS and with the NPPF.

1.3 2020/9821/FUL - This application is also on the agenda today.

2. CONSULTATION AND PUBLICITY

2.1 Church Fenton Parish Council: First response

1. The outline permission for the application in question 2015/0615/OUT has expired as 2x Reserved Matters have been applied for and refused within 3 years. (*officer note- there has only been one reserved matters application*)

2. Highways Dept need to note that the proposed road layout reduces to 4.8m wide at the corner of the village hall. This could be a potential pinch point for 2 way traffic into and out of the estate on a blind bend. The Title Deeds of the village hall on that side do follow the line of the wall and then provide around 2m access behind the village hall. The narrowest part of this access road will be where there is a building next to it - this could potentially cause problems.
3. The technical note from Bryan G Hall makes reference to the stagger distances for the junctions and actually references one in Church Fenton (Fieldside Court and Brockley Close - 11.3m). However, they do not mention, that within a few meters either side, that they have private accesses from either a dwelling or the village hall, wanting to join the road at more or less the same juncture. Laurel Farm Drive (serving 28 dwellings) is 5.2m away and the recommended distance for a staggered junction is 3 times more. When stood on Main Street looking at these 2 junctures, it does look like this will effectively become a crossroads on an extremely busy stretch of road.
4. The proximity to the Public House, the Community Village Hall, Primary School, Methodist Chapel & Hall and Nursery have not been considered along with an island bollard and at least 10 private access roads within a few meters of a potential new road for 50 properties (at least 100 cars), directly opposite a housing development of 25 homes. All of this is within a 40m stretch of road. Staggered junctions - the recommended distance is 15m - the new access will be 5.3m from Laurel Farm Drive (serving 28 properties) with the new access serving 50 homes, this will be almost 80 properties accessing the local distribution road (Main Street). Notwithstanding and most importantly, the comparative junction referred to in the application does not have the same level of local amenities. E.g. Pub, School, Nursery, Community Amenity, 28 homes (Laurel Hall Drive) and 18 homes (Chapel Close) as well as 12 private driveways ALL WITHIN a 40 m stretch of road. Village Hall carpark - as the car park for the village hall is directly in front of the building, this creates a physical barrier in terms of visibility splay when turning right into Main Street.
5. In the application, a Traffic survey had taken place in the school holidays during a govt lockdown. This should be re-done during September when the children are back in school and nursery; also when local gatherings are potentially taking place as venues such as the Village Hall, the Chapel, Jigsaw Nursery, the primary school or the White Horse Public House.
6. On the planning application from they have incorrectly filled in question 22. The site is clearly visible from the public highway.
7. AAH planning consultants advise the Neighbourhood plan should not be given any weight in consideration; due to how incomplete it is. This is not the case, it was at submission stage in early March and due to Covid19, SDC are not receiving plans at this point.
8. How can the introduction of the road allow the reserved matters to relate better to the character of the area and negate the need for development to wrap round the Grade I Listed Church. There are still Grade I listed buildings on Main Street. *(Officer note- there are Grade II LB's on Main Street but the church is the only Grade I LB in the vicinity)*

9. Sink Hole - during works to complete the development on Laurel Farm Drive (opposite the proposed access road), in August 2017; Main Street was closed for a number of weeks due to a sink hole that was created with the highway works to create a new access road for the new development. This demonstrates that the area is predisposed to sinking sand and sink holes which will clearly inhibit the costs and progression of any roadworks in this area.
10. The RM application was refused because the design was not suitable due to the standardised design of the homes and no individuality, which does not fit within the village, particularly in that area. Also if the road does not pass the Church; a development of this size would still affect the nearby listed buildings particularly the Old Vicarage which would clearly back onto this; assuming that the loss of the public footpath from the Church to the Old Vicarage has been dealt with previously. CFPC suggest that the following material considerations are affected: - Overbearing nature of the proposal - Design and appearance - Layout and density of buildings - Effect on listed buildings - Access or highways safety - Flood risk.

2.2 Church Fenton Parish Council: Second response received

1. The outline PP requires an appropriate highway to an adoptable standard. Therefore, the adoptable standard of a road width of 5.5m is not achievable.
2. Concerned about the structural stability and subsidence regarding any highways work so close to the village hall. Plan suggests it will be <2m from the building.
3. Concerned with proximity of drainage and inspection chamber running along the boundary of the village hall site,(within 1m of the suggested road) and a gas pipe which runs along the external wall of the village hall (about 75cm high). Currently, this creates no problem as it is adjacent to a disused piece of land. However, this could create a potential problem should new works take place within 2m of this gas pipe.
4. This main drain sewer runs across the front of the village hall and diagonally across this proposed access towards Church Street. Needs consideration for any potential access to cross the land.
5. The boundary to the west of the village hall is 0.9144m from the hall wall. An inspection chamber and drainage for the toilets and kitchen amenities along the length of the hall wall within this 1yd parameter. This would reduce the potential road access width to 3.8m at the narrowest point (at the back westerly corner of the hall building) and 4.5m back towards the local distribution road (Main Street). With a recommended road width minimum of 5.5m, this would make the new road 1.7m below the recommended.
6. The Parish Council have on file a copy of a ST1 (Statement of Truth for Adverse Possessory Title) dated 4/7/12 and signed by the planning applicant (G Bradley). The PC are aware that land ownership is not required for a planning application. However, the PC have historical title deeds dating to 1922 which indicate the applicants will not achieve Absolute Title on this piece of land where the proposed access road will run. Impact on Planning app: the applicants will potentially not achieve absolute title to this land prior to the deadline of July 2024 and therefore the rightful owners may not give consent to the proposed access road.

7. Request Highways Case Officer visit at a time where this section of Main Street is busiest e.g. 8.50am on a Monday or Friday morning now school is back in. Allowing the Highways Officer to see the parking at school and nursery drop-off and pick up times would clearly demonstrate how busy this stretch of road is.
8. Public Rights of Way - Footpath no4 runs alongside the proposed access and has a separate title deed that the planning applicants do not own. This will be drastically reduce the proposed width available for an access road.
9. The 2017 REM application which has been refused has a site plan which delineates an emergency access road of 3.2m width. The applicants are now suggesting that this can be converted to the only double width road access to the proposed new development of 5.5m road width and 2x footpaths of 2m width each. This width can only be achieved by using Parish Council land and footpath land (neither of which are owned by the planning applicants).

2.3 NYCC Highways

The applicant provided a highway note to address issues associated around the proposed access and its location. A speed survey was carried out on the 15 July 2020 which recorded speeds of 30 mph to the right and 26 mph to the left. Given the current restrictions in place on the UK NYCC would normally want to have seen speeds surveys carried out when all children had returned to school. However it is noted that the speeds recorded to the right do comply with the 30mph speed limit, and whilst the speeds to the left were recorded as slightly lower, which could be accurate given the mini roundabouts location to the site. NYCC would not require another speed survey being undertaken given that Manual for Streets would allow for the visibility splay to the left to be measured to the centre line, given the proximity of the proposed access to the mini roundabout and the zigzag markings adjacent. Therefore, achieving the 43 metres required for a 30mph speed limit if measured to the centre line.

No alternative emergency access is acceptable since the development is not to exceed 50 dwellings. If more dwellings are proposed at a later date then an emergency access will have to be provided.

The staggered junction distance is below the 15metres required for a Major Access Road but has advised the access road to the site is in fact a Minor Access Road. Whilst this is not disputed, the road in question (Main Street) is in fact a Local Distributor Road and as such the stagger distances do need to be taken into consideration. The applicant has however provided 2 case studies for similar situations, one in Church Fenton, both of which have not resulted in accidents associated with the stagger lengths. Therefore, whilst this situation is not ideal, it is acknowledged that a recommendation of refusal based around the stagger length is unlikely to be substantiated at an appeal. Therefore, no Local Highway Authority objections are raised to the proposed access subject to recommended conditions relating to:

- New and altered private access or verge crossing requirements
- New and altered private access or verge crossing requirements (licence requirements for works in the public highway)
- Visibility splays

2.4 Yorkshire Water Services Ltd

Comments made and conditions recommended:

- 1) On the Statutory Sewer Map, there is a 225 mm diameter public surface water sewer recorded to cross the site. It is essential that the presence of this infrastructure is taken into account in the design of the scheme.
 - i) It may not be acceptable to raise or lower ground levels over the sewer and we will not accept any inspection chambers on the sewer to be built over.
 - ii) In this instance, Yorkshire Water would look for this matter to be controlled (by Requirement H4 of the Building Regulations 2000).
 - iii) A proposal by the developer to alter/divert a public sewer will be subject to Yorkshire Water's requirements and formal procedure in accordance with Section 185 Water Industry Act 1991.
- 2) The developer is proposing to discharge surface water to SUDS however, sustainable development requires appropriate surface water disposal. Yorkshire Water promote the surface water disposal hierarchy and the developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer. The developer and LPA are strongly advised to seek comments on surface water disposal from other drainage bodies as further restrictions may be imposed.
- 3) As the proposal site is currently undeveloped, no positive surface water is known to have previously discharged to the public sewer network. Surface water discharge to the existing public sewer network must only be as a last resort and the developer is required to eliminate other means of surface water disposal.

2.5 Selby Area Internal Drainage Board

Makes comments/recommendations:

If Surface water via a soakaway system - advise that the ground may not be suitable and percolation tests are essential.

If surface water via mains - no objection, providing that the Water Authority are satisfied that the existing system will accept this additional flow.

If the surface water is to be discharged to any ordinary watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission, and would be restricted to 1.4 litres per second per hectare or greenfield runoff.

No obstructions within 7 metres of the edge of an ordinary watercourse are permitted without Consent from the IDB.

2.6 Environmental Health

No objections.

2.7 **The Environment Agency**

No comments received.

2.8 **Village Hall Committee**

No comments received.

2.9 **Conservation Officer**

The original access was an unusually long, sweeping road leading from Church Street that was considered to be harmful to the setting of the grade I listed church and the Grade II Croft and Vicarage to its north. The principle of securing an alternative access to the possible housing development would be highly beneficial in terms of the impact on the heritage assets (and to the scheme generally). The new access, off Main Street, is a gap site between the village hall and the frontage to the adjoining property. This was previously proposed as the location of a pedestrian access. It comprises part field and part PROW. The location of the access here essentially contains it within the development and so there is a better relationship. There doesn't seem to be any direct impact on designated heritage assets, over and above the impact of the development generally (though there are NDHA's located on the street nearby).

Concerned that the space for the access appears incredibly tight and whether a good quality access into the site could be achieved. It would be tight up against the village hall and would highly change the character of the PROW (and harm what would have been a pleasant pedestrian route into the development).

Conclude, if it were possible to create a well-designed and safe access here, even if slightly comprised, there would still be the significant benefit of having been able to omit the previous access from Church Street. Consideration of the implications of the alternative access for the layout of the housing development would need to be made (particularly taking into account the southern edge of the site and how it affects the setting of the listed buildings).

2.10 **Urban Designer**

No comments received.

2.11 **Public Rights of Way Officer**

Comments that a PROW is within the application site. If affected permanently a Path order/diversion order is required. If affected temporarily during the works a temporary closure order is needed. Details given of where to apply are given. No objections raised.

2.12 **Contaminated Land Consultant**

No land contamination concerns.

2.24 **Neighbour Summary**

The application was advertised by site notice and neighbour notification resulting in responses from 42 individuals. Comments are summarised below:

- The application would create an access to a development which the council have refused and it should therefore be refused
- Site visit needed before committee makes a decision
- Stagger distances don't mention the individual accesses either side
- This would make a crossroads with Laurel farm Drive
- Safety issues due to proximity to school and nursery not considered
- Barrier to village hall car park visibility
- Traffic survey was in the summer holidays, when usage of the road was low and not representative and should be when the children are back
- Pedestrian safety reduced
- Noise and nuisance to surrounding properties
- Proximity to bus stop and roundabout
- Visibility will be reduced due to parked cars
- Neighbourhood plan not given sufficient weight
- Construction where there is known running sand and gypsum
- Urbanisation of the historic core of the village
- Advise Conservation Officer and Heritage Consultants are consulted
- Main street is busy, narrow and vehicles exceed the speed limit
- There is already a petition to make the speed limit 20mph
- Planning application made during the month the PC don't meet therefore disadvantaging the residents
- School and nursery were not consulted
- Goes against the principles of promoting children walking to school
- Potentially 100 cars using the new access
- Increased car pollution
- This will also be a works entrance with HGV's making it worse
- Some properties not consulted
- Emergency vehicles/ refuse/large vehicles would potentially have to reverse onto the main road due to the pinch point
- There have been near misses for accidents
- Public footpath not taken into account
- Query whether there is sufficient width
- Not in keeping with the character and style of the village
- Submitting the design of a new access during the appeal process should not be allowed
- A refusal on nearby Hillgarth pointed to the problems with the nature of the road and 3 dwellings on that site were not acceptable.
- The land doesn't belong to the applicants
- Development south of Main Street is at odds with the linear nature of the village
- Adverse impact on the church
- Ornamental ponds on the site and associated birds could cause bird strike
- Village infrastructure, sewer, leisure, school can't cope
- Sewage is at a capacity
- Insufficient leisure area
- Loss of the copse over Carr Dyke and hedgerows and loss of associated wildlife
- Loss of PROW

- Gas Pipe and sewer pipe under the access

3 SITE CONSTRAINTS

- 3.1 The majority of the red line of the application site lies within the development limits of Church Fenton which runs tight along the back of the village hall. The southern tip of the red line site is just outside the development limits.
- 3.2 Nearby Listed Buildings include the 'Old Vicarage' to the east of the village hall and 'The Croft' to the south west. St Mary's Church is located south west of this access site and is a Grade I Listed Building.
- 3.3 A Public Right of Way (PROW) runs through the site linking Main Street to the open land to the south. It links in with a Prow leading to the old vicarage and to a Prow running south past the Croft and linking into the Prow leading to the church from the east.
- 3.4 The land is 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 NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

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

closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

Selby District Core Strategy Local Plan

4.6 The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development
SP2 - Spatial Development Strategy
SP4 - Management of Residential Development in Settlements
SP5 - The Scale and Distribution of Housing
SP9 - Affordable Housing
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
ENV3 - Light Pollution
H2 - Location of New Housing Development
T1 - Development in Relation to Highway
T2 - Access to Roads
T8 - Public Rights of Way

Church Fenton Neighbourhood Development Plan

- 4.8 At the time of writing this report the Church Fenton Neighbourhood Plan (NP) has been subject to the pre-submission consultation stage (Regulation 14 of the Neighbourhood Planning (General) Regulations 2012) and in preparation for this the Council has undertaken a screening report to determine whether or not the contents of the draft Church Fenton Neighbourhood Development Plan requires a Strategic Environmental Assessment (SEA) and/or Habitats Regulations Assessment (HRA). In line with the SEA requirements the Council has undertaken a six-week consultation from 20 December 2018 to 31 January 2019 with the relevant consultation bodies (Environment Agency, Historic England and Natural England).
- 4.9 In October 2020 the Parish Council submitted their NP to Selby District Council under Regulation 15. At the time of writing this report the Council await some additional information before proceeding with Regulation 16 Consultation.
- 4.10 Although, the Plan has been subject to pre-submission consultation (Reg 14) and is proceeding to the next stage, it is considered that limited weight can be given to the Neighbourhood Plan at this stage as it is still subject to consultation, examination and referendum and therefore may still be subject to significant change.

5 APPRAISAL

5.1 The main issues when assessing this application are:

- The Principle of the Amended Access
- Impact on Highway Safety and PROW's
- Impact on the Character and Appearance of the Area and on Heritage Assets

- Impact on Residential Amenity
- Flood Risk
- Affordable Housing
- Other matters raised

The Principle of the Amended Access

- 5.2 Policy SP1 of the Core Strategy sets out the presumption in favour of sustainable development. Applications which accord with the development plan should be approved unless material considerations indicated otherwise. Policy SP2 sets out the spatial development strategy for the district. Under SP2 Church Fenton is a Designated Service Village which has some scope for additional residential and small-scale employment growth to support rural sustainability. Policy SP4 allows, within development limits, conversions, replacement dwellings, redevelopment of previously developed land and appropriate scale development on greenfield land (including garden land and conversions/redevelopment of farmsteads).
- 5.3 The site is an undeveloped greenfield strip of land mostly within the development limits. As such there is nothing within the development plan which would identify this type of development as being unsustainable or preclude in principle development of this type in this location
- 5.4 The current planning history position is also a material consideration.
- 5.5 This application seeks full permission for an alternative means of access to replace the long access south of the Church approved under 2015/0615/OUT. A full application was necessary since the time for submitting a revised reserved matters layout has expired.
- 5.6 The principle of development and the means of access were established under the outline planning permission (reference 2015/0615/OUT). Reserved Matters were submitted within the required timescale but were refused by this Council on 5th March 2020. An appeal has been lodged and therefore a final decision on the reserved matters has yet to be made and due to this the planning permission for the site is in effect still 'live'.
- 5.7 This application gives the opportunity for an alternative means of access to the long access from the south which wraps around the east side of properties and the Church of St Marys on Church Street. As such it is necessary to make a comparison between the approved access and the access now proposed and to determine whether there would be less or more material harm to acknowledged interests if this application were supported.
- 5.8 The impacts of the proposal are considered in the following sections of this report based on a comparison with the approved access.
- 5.9 The applicant has indicated they will provide a Unilateral Undertaking not to implement the original access should this access be approved.

Impact on Highway Safety and PROW's

- 5.10 The proposed access occupies the position of the emergency access which was to be provided on the reserved matters submission. This would have been necessary in addition to the main access from Church Street when more than 50 dwellings

were proposed. As the scheme progressed and was amended it was reduced to only 50 dwellings. In these circumstances, the emergency access would not be necessary and could have been removed. The indicative layout on the outline scheme showed it only as a pedestrian access.

- 5.11 The Applicants have submitted a technical note which sets out this access would be in the form of a priority T-junction from main Street into the site. The junction would be approximately 75 meters to the east of the existing Main Street/Station Road/Church Street mini-roundabout junction. The proposed access will have an initial carriageway width of 5.5 metres and will also include 2.0 metre wide footways formed on both sides of the access road. Due to site constraints, the carriageway will then be reduced in width after 20 metres from the junction with Main Street to a minimum width of 4.8 metres, after which the width of the access increases again to 5.5 metres. The two footways either side of the carriageway will be maintained at 2.0 metres. The Parish Council (PC) consider that this could be a potential pinch point for 2 way traffic into and out of the estate on a blind bend. However, this would meet the requirements of the NYCC Residential design Guide which does allow a reduction in width provided the first 20metres width is maintained. The Highway Authority raise no concerns in this respect.
- 5.12 In terms of visibility a speed survey was undertaken in July 2020 to determine the prevailing speeds of vehicles along Main Street in the vicinity of the proposed site access. The results showed vehicle speeds of westbound 30mph and eastbound 26mph. In accordance with the Manual for Streets (MfS) guidance, visibility splays at the proposed access with Main Street should be 2.4 metres x 43.0 metres to the right for an 85th percentile wet weather speed of 30 mph, and 2.4 metres x 35.4 metres to the left for an 85th percentile speed of 26 mph.
- 5.13 The PC raise concerns that the traffic survey took place in the school holidays during a govt lockdown and should be re-done during September when the children are back in school and nursery; also when local gatherings are potentially taking place as venues such as the Village Hall, the Chapel, Jigsaw Nursery, the primary school or the White Horse Public House.
- 5.14 The Applicants point out that, there is guidance by Highways England relating to measuring vehicle speeds, in the Design Manual For Roads and Bridges document "CA185 – Vehicle Speed Measurement". Whilst this document is relating to the requirement for measurement of vehicle speeds on trunk roads and therefore have some points that would not be applicable in this situation, it is a useful document to follow. Fundamentally, the speed measurements should be taken of vehicles in free flow conditions. These being conditions where a driver can actually drive at a speed of their own choice and is not impeded by the proximity of other vehicles in front or obstructions in the road layout. It goes on to state at paragraph 2.8.2 that "Speed measurements should be undertaken outside of peak traffic flow periods" and these are defined as "Non-peak periods are typically between 10am and noon and 2pm and 4pm. In some cases these times need to be varied to take account of site specific circumstance e.g. if a school is nearby that closes at 3pm". The rationale behind this is to avoid conditions that could impact upon the free flow of vehicles along the road, i.e. slow them down, such as vehicles reducing their speeds in busy conditions, or vehicle slowing down to look for a parking space near a school etc. As a result it is considered that carrying out the speed surveys, outside of the peak hours, and not within school drop off or pick up times provides a robust picture of the speeds and if these were to be repeated at these times it is likely that they would be lower.

- 5.15 The Highway Authority are satisfied with the visibility and do not require another speed survey. In terms of visibility the proposed access is therefore considered acceptable.
- 5.16 The PC raise concerns regarding the proximity to other accesses and mention many examples. Moreover, the comparative junction referred to in the application does not have the same level of local amenities within a short stretch of road. In addition they point out the village hall car park creates a physical barrier in terms of visibility splay when turning right into Main Street.
- 5.17 The Applicant acknowledged that the stagger distance is less than the stagger for a major access road configuration, both the side roads are minor access roads, and given the relatively few dwellings served by Laurels Farm Drive, 25 units, and the proposed access, 50 units, it is considered that this reduced stagger distance is satisfactory as the 15 metre stagger distance suggested by NYCC is for potentially much larger developments in the order of 400 dwellings on each of the side roads. Reference is made to the proposal not being untypical in village settings and examples of others such Fieldside Court and Brockley Close in Church Fenton as well as others in other villages.
- 5.18 Highways point do not dispute the applicants report but point out that Main Street is a local Distributor Road and as such the stagger distances do need to be taken into consideration. They acknowledge the situation is not ideal but consider that a recommendation for refusal based around the stagger length would be unlikely to be substantiated at an Appeal. The Highway Authority therefore support the proposed access subject to conditions.
- 5.19 The PC raise concerns that the public footpath running alongside the proposed access has a separate title deed that the Applicants do not own. This they say would drastically reduce the proposed width available for an access road. They also suggest the Applicants do not fully own the access land.
- 5.20 The Agent confirms that the applicant has absolute title over the land with the boundary being the western wall face of the village hall. A copy of the land registry was provided and a letter from the Applicant's solicitor, confirming they have absolute title over the land. The red line of the application site does not incorporate any additional land over and above what was included at the outline and reserved matter stages. Even if land ownership was not proven, it is not necessary to own the land to apply for permission.
- 5.21 Comments received from the PROW Officer give the procedure for a Path diversion order which would be required. If affected temporarily during the construction works a temporary closure order is needed. Details given of where to apply are given. No objections raised. Given that the emergency access in this position on the previous layout plan incorporated the PROW along the line of the footpath and raised no objections from the PROW Officer, it is considered that this access would not alter that position. The footpath route is maintained but along the footpaths to the side of the access road and would link into the existing footpaths leading on towards the church and to the old vicarage.
- 5.22 The previously approved access onto Church Lane would also have been a safe access. Both are acceptable from a Highway Viewpoint.

- 5.23 Overall the proposed access is of a satisfactory standard subject to conditions and would not lead to a reduction in road safety requirements. Given the above it is considered that the proposed development of 50 residential dwellings can be satisfactorily accessed via a newly constructed priority T-junction from Main Street in place of the consented access. In this respect the development would comply with Policy ENV1, T1 and T2 of the Local Plan and with the NPPF

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

- 5.24 Relevant policies within the NPPF which relate to development affecting the setting of heritage assets include paragraphs 189 to 198.
- 5.25 Paragraph 196 of the NPPF should be read in conjunction with paragraph 193 of the NPPF which states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”*. This wording reflects the statutory duties in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990.
- 5.26 Whilst considering proposals for development which affects a Listed Building or its setting, the statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'.
- 5.27 The site is located adjacent to a Grade I Listed Building (St Mary’s Church). In addition there are Grade II Listed Buildings adjoining the site, the Croft to the west and the Vicarage to the north. The application site forms part of the setting of the listed buildings and contributes to their significance. The impact of the proposal on the setting of the Listed Buildings is therefore a fundamental issue and is intrinsically linked to the impact on the character and form of the surrounding area.
- 5.29 In terms of the impact on the setting of the Grade 1 Listed Church of St Mary’s, the revised access would be an improvement. The original approved access swept around the church through open fields to the south and would intrinsically change the quiet rural open character with the provision of an urban access road of some considerable length. This proposal would enable the areas to the west and south of the church to remain undeveloped and little changed. The refused scheme contained an emergency access road in the position of this proposal. Although wider than the emergency road, visually there would not be a significant difference with a hard-surfaced estate character road in this position.
- 5.30 In terms of the impacts on the Heritage Assets, the Conservation Officer considered the original access to be harmful to the setting of the grade I listed church and the Grade II Croft and Vicarage to its north. The Conservation Officer considers the principle of securing an alternative access to the possible housing development would be highly beneficial in terms of the impact on the heritage assets (and to the scheme generally).
- 5.31 The location of the access in this position essentially contains the development within the northern part of the outline application site. Officers concur with the Conservation Officer that if it were possible to create a satisfactorily-designed and

safe access here, even if slightly comprised, there would still be the significant benefit of having been able to omit the previous access from Church Street and the impact on the Heritage Assets, particularly to the Grade I Church overall would be reduced.

- 5.32 There would be some increased harm to the character of the street scene as the green space between the village hall would be lost and replaced with an urban estate road. It would be tight up against the village hall and would change the character of the green and pleasant pedestrian route into the development. However, when weighed against the harm from the previous access to the character of the area and the rural setting of the village there would again be considerable benefit.
- 5.33 The access will result in some minor changes to the housing layout and the applicant's agent has submitted these to the Inspector for consideration. The details of these are not a matter for consideration here moreover, it is not known at this stage whether the Inspector will accept these as part of the appeal process.
- 5.34 When weighed against the public benefits of the reduced harm to the substantially larger open setting around the Grade I church, any minor disbenefits to the character of the street scene are justified. Other than this there would be no additional harm to the setting of the Listed Buildings beyond that which would be associated with the outline application and which was assessed on the reserved matters application. Overall, it is considered that the access would have significantly less harmful impacts on the Heritage Asset and on the character and appearance of the areas than the approved access.
- 5.35 In this respect the development would comply with Policy ENV1 of the Local Plan, SP18 & SP19 of the Core Strategy and with the NPPF.

Impact on Residential Amenity

- 5.36 The access road has the potential to have the greatest impact on any dwellings flanking its route due to increased noise and disturbance associated with the comings and goings of vehicles movements associated with 50 dwellings. The east side is flanked by the village hall beyond which other houses front the main street. These include Aldfeld House and Wyke Holme whose gardens back on to the outline application site. These don't directly flank the access and their gardens back onto the intended open space area. Given the position and distance and current ambient noise levels from traffic on main street, which is nearer their boundaries, it is not considered the vehicle movements would give rise to undue levels of noise and disturbance.
- 5.37 On the west side of the proposed new access two properties flank the site. These include The Gables and Hind House. These are set well back from the main road where the noise of vehicles stopping and manoeuvring in and out of the junction would be the greatest. Moreover, between the access site and the dwellings and their gardens there is the buffer of their long driveway which runs in parallel serving Hind House. The gardens to both dwellings have well established trees and hedges to the east boundaries. Given the position and distance, boundary treatments. It is not considered the vehicle movements would give rise to undue levels of noise and disturbance.

- 5.38 In addition to the above considerations, the reserved matters layout for the development would already result in a degree of vehicle movements around these dwellings. However, the proposed access would provide a point of concentration for vehicles moving in and out of the new development in a different position to the previously approved access. In terms of residential amenity, the main vehicle movements would be drawn away from the existing residential development surrounding the outline permission site towards the southern access. In this respect, the proposed access would generally increase the noise and disturbance associated with the development by concentrating vehicular movements in and out of the site nearer to existing dwellings.
- 5.39 Overall the proposed access would not improve the residential amenity for the occupants of nearby dwellings when compared with the previously approved access position. However, given the juxtaposition of the nearest dwellings as described above and the fact that Main Street is already a busy road with other similar junctions leading from it, the degree of additional noise and disturbance from the use of this access is not considered to result in sufficient harm to substantiate a refusal.

Flood Risk and Drainage

- 5.40 Since the approval of outline consent when the site was in Flood Zone 1, remodelling of the floodplain has been conducted on behalf of the Environment Agency. The modelling exercise increases the extent of Flood Zone 2, this now encompasses the entire outline application site including this current planning application site. Flood Zone 2 has an Annual Exceedance Probability (AEP) of flooding between 1.0% and 0.1% and denotes an undefended floodplain.
- 5.41 The proposed access is located within Flood Zone 2 which means that the proposed access is at a medium risk of flooding. Core Strategy Policy SP15, 'Sustainable Development and Climate Change' commits Selby District Council to:
- Ensure that development in areas of flood risk is avoided wherever possible through the application of the sequential test and exception test; and ensure that where development must be located within areas of flood risk that it can be made safe without increasing flood risk elsewhere
 - Support sustainable flood management measures such as water storage areas and schemes promoted through local surface water management plans to provide protection from flooding; and biodiversity and amenity improvements.
- 5.42 Table 2 of the National Planning Policy Framework (NPPF) Flood Risk and Coastal Change Matrix outlines the flood risk vulnerability classification of land. The proposed access classification is 'Essential infrastructure' defined as 'Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk'. The access would serve the wider 'More vulnerable' consented residential development which would be occupied by residential dwellings (Classified within Table 2 as; Buildings used for dwelling houses). Development of both Essential Infrastructure and More Vulnerable uses within Flood Zone 2 is an acceptable principle in accordance with the NPPF and demonstrable by the existing outline consent.

- 5.43 The proposed development site and its surroundings are all located within Flood Zone 2, and there are no other possible locations for the access which are situated outside of the flood zone. In addition, it will tie into existing ground levels and therefore will not impact flood plain storage or lead to an increase in flood risk elsewhere.
- 5.44 There is no sequential benefit to the position of the approved or proposed highway access points on to Church Street and Main Street respectively. Both access locations are within Flood Zone 2 and have a low ground level in the order of 7.8m AOD as denoted by the site topographic survey attached to this TN in Appendix B. Therefore, in Flood Risk terms there is no benefit or disbenefit from the revised access position.
- 5.45 Therefore, it is considered that the proposed access is in accordance with Policy SP15 of Selby District Core Strategy.

Affordable Housing

- 5.46 The outline scheme and associated Section 106 agreement secured 40% on site provision of affordable housing, with a tenure split of 30-50% Intermediate and 50-70% Rented. Clauses within the S106 also require confirmation of the phasing plan for delivery and set the parameters for the allocation of units to occupiers.
- 5.47 On the reserved matters application the quantity of Affordable Housing provision was a matter for negotiation and the Council sought the advice of the District Valuer (DV). Due to several reasons, there were abnormal building costs on this site including the substantial length of access road relative the number of houses provided. The DV advised that the development could support the provision of only 5 units which amounted to 10% provision.
- 5.48 If the appeal is allowed based on this revised access, it is likely that its cost would be significantly less than the cost of the lengthy access running through open fields from Church Street. Whatever its potential cost, a fresh viability assessment would be needed to determine the level of affordable housing provision. If more affordable housing could be provided due to lower costs, then there would be greater public benefits associated with this revised access position.
- 5.49 This scheme for a revised access clearly has implications for the level of provision but are not a matter to resolve through this application. The affordable housing requirements are a requirement of the Section 106 Agreement on the outline permission and the amount of provision has yet to be agreed and will depend on what layout is approved.

Other matters raised

- 5.50 Objectors refer to the land not being within the applicants ownership. The applicants say that it is entirely within their ownership as such the correct notices have been served. As such the question of ownership is a civil matter outside the scope of this application.
- 5.51 Objectors request that a committee site visit is made. This is a matter for the Planning Committee to decide.

6 CONCLUSION

- 6.1 The Council has refused the reserved matters application for the reasons given in the planning history section of this report. These relate to the quality and design of the scheme and this position is not changed by an opinion on this application.
- 6.2 This proposed revised access if approved subject to a UU would reduce the harm to the setting of the Listed Buildings from the removal of the long access road which would sweep around the church, carve up agricultural fields and urbanise the setting of the Church. The creation a well-designed and safe access here, even if slightly comprised in highway safety, would still be the significant benefit of having been able to omit the previous access from Church Street and the harmful impact on the Heritage Assets, particularly to the Grade I Church and on the character and form of the village setting overall would be reduced.
- 6.3 In terms of residential amenity the proposal would not improve the amenity over and above the previously approved access since there would be more vehicle movements closer to existing dwellings but on balance would not result in sufficient harm to warrant a refusal on the grounds of residential amenity.
- 6.4 The development is acceptable in terms of flood risk and highway safety.
- 6.5 In terms of affordable housing, this would need to be re-negotiated and the section 106 still requires up to 40% based on viability.
- 6.6 Overall it is considered that the benefits in terms of the reduction in harm to Heritage Assets and potentially the provision of additional affordable housing due to removing the southern access and replacement with this northern access justify supporting this scheme.

7 RECOMMENDATION

That members **APPROVE** the application subject to receiving a satisfactory Unilateral Undertaking to secure the original access not being implemented and subject to the following conditions;

01-Time period to follow the outline permission 2015/0615/OUT and reserved matters

Reason

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

To be inserted

Reason

For the avoidance of doubt.

03- The development must not be brought into use until the access to the site at Land Adjacent the Village Hall, Main Street, Church Fenton 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 access must be formed with 6 metres radius kerbs, to give a minimum carriageway width of 5.5 metres, and that part of the access road extending 20 metres into the site must be constructed in accordance with Standard Detail number A1 and the following requirements;
 - (i) Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
 - (ii) 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.
 - (iii) Measures to enable vehicles to enter and leave the site in a forward gear.

All works must accord with the approved details.

Reason

To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users.

04. There must be no access or egress by any vehicles between the highway and the application site at Land Adjacent the Village Hall, Main Street, Church Fenton until splays are provided giving clear visibility of 43 metres measured along the north eastern vehicle track and 43 metres measured along the southwestern centre line 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 and the object height must be 0.6 metres. Once created, these visibility splays must be maintained, clear of any obstruction, and retained for their intended purpose at all times.

Reason

In the interests of highway safety.

- 05 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.

- 06 There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works , details of which will have been submitted to and approved by the Local Planning Authority If discharge to public sewer is proposed , the information shall include , but not be exclusive to:
- i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
 - ii) the means of discharging to the public sewer network at a rate to be agreed by the Local Planning Authority in consultation with the statutory sewerage undertaker.

Reason

(o ensure that no surface water discharges take place until proper provision has been made for its disposal

INFORMATIVES

Notwithstanding any valid planning permission for works to amend the existing highway, you are advised that a separate licence will be required from North Yorkshire County Council as the Local Highway Authority in order to allow any works in the existing public highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council as the Local Highway Authority, is available to download from the County Council's website;

https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%2C%20highways%20and%20pavements/Specification_for_housing___in_d_est_roads___street_works_2nd_edition.pdf .

The Local Highway Authority will also be pleased to provide the detailed constructional specifications referred to in this condition.

PROW

Applicant should contact the County Councils Countryside Access services at County Hall, Northallerton via CATO@northyorks.gov.uk to obtain up to date information regarding the route of the way and to discuss any proposals for altering the route.

8 Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9 Financial Issues

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

10 Background Documents

Planning Application file reference 2020/0821/FUL and associated documents.

Contact Officer: Fiona Ellwood, Principal Planning Officer
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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.

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