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Meeting: **PLANNING COMMITTEE**

Date: WEDNESDAY, 27 JANUARY 2021

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 - 14)

To confirm as a correct record the minutes of the Planning Committee meetings held on 9 and 23 December 2020.

Planning Committee Wednesday, 27 January 2021

- 5. Planning Applications Received (Pages 19 20)
 - 5.1. 2019/0759/FUL Land Adjacent A163, Market Weighton Road, North Duffield (Pages 21 52)
 - 5.2. 2019/1008/COU The Barn, 70 Sherburn Street, Cawood (Pages 53 66)
 - 5.3. 2020/0768/FUL: Land to Rear Of 5-13, Stutton Road, Tadcaster (Pages 67 86)

Sanet Waggott

Janet Waggott, Chief Executive

Dates of next meeting (2.00pm)
Wednesday, 10 February 2021

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, 9 December 2020

Time: 2.00 pm

Present remotely via

Teams:

Councillor J Cattanach in the Chair

Councillors J Mackman (Vice-Chair), I Chilvers,

R Packham, P Welch, D Mackay, R Musgrave, T Grogan

and S Shaw-Wright

Officers Present

Martin Grainger - Head of Planning, Ruth Hardingham -Planning Development Manager, Glenn Sharpe – Solicitor, remotely via Teams:

Fiona Ellwood- Principal Planning Officer, Chris Fairchild – Senior Planning Officer and Victoria Foreman – Democratic

Services Officer

51 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors K Ellis and M Topping. Councillor R Musgrave was in attendance as a substitute for Councillor Ellis, and Councillor T Grogan as a substitute for Councillor Topping.

52 **DISCLOSURES OF INTEREST**

All Councillors declared a non-pecuniary interest in agenda items 5.2 and 5.3 - 2020/0821/FUL and 2020/1168/FUL - Land Adjacent Village Hall, Main Street, Church Fenton as they had received additional representations in relation to this application.

Councillor R Musgrave also declared an additional non-pecuniary interest in agenda items 5.2 and 5.3 - 2020/0821/FUL and 2020/1168/FUL - Land Adjacent Village Hall, Main Street, Church Fenton as he had been at the meeting of Church Fenton Parish Council when the applications were discussed in his capacity as Ward Councillor. However, Councillor Musgrave confirmed that he had come to the meeting of the Planning Committee with an open mind in relation to the two Church Fenton applications.

53 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chair announced that an Officer Update Note had been circulated to the Committee and could be viewed alongside the agenda on the Council's website.

The Chair also informed Members that any late representations on the applications would be summarised by the Officer in their presentation.

54 MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 25 November 2020.

The minutes were agreed by the Committee, subject to an amendment to include Councillor S Duckett in the list of those Members that were present at the meeting.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 25 November 2020 for signing by the Chairman, subject to the inclusion of Councillor S Duckett in the list of those Members present.

55 PLANNING APPLICATIONS RECEIVED

The Planning Committee considered the following planning applications:

55.1 2019/0668/OUT - PASTURE COTTAGE, MAIN STREET, THORGANBY

Application: 2019/0668/OUT

Location: Pasture Cottage, Main Street, Thorganby **Proposal:** Outline application for a residential development and demolition of steel portal framed former haulage workshop building to include access (all other matters reserved)

The Senior Planning Officer presented the application which had been brought before Planning Committee as there had 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.

The Committee noted that the application was an outline application for a residential development and demolition of steel portal framed former haulage workshop building to include access (all other matters reserved).

The Officer Update Note set out details of a revised reason for refusal, which required further wording to ensure it was accurate and comprehensive.

The Committee asked questions in relation to the development limits of the site, previous development on it, its location and the NPPF's guidance on previously developed land.

Stephen Fell, Parish Council representative from Thorganby Parish Council, was invited remotely into the meeting and spoke in support of the application.

Gemma Owston, agent, was invited remotely into the meeting and spoke in support of the application.

Members debated the application and the material considerations that could lead to granting permission for the brownfield site.

Some Members made the point that the site already included a large workshop and as such the proposed residential scheme on the site would not have a significant impact on the village community. The removal of the haulage business could benefit the local area, and the proposed residential development could be more in keeping with the character of the village, and an improvement on lawful use in terms of amenity. Some Committee Members felt that a condition limiting the number of dwellings on the site to five should be applied if permission was granted; Thorganby was a secondary village that could sustain some level of development as long as it was appropriate in scale and design.

Other Members did not agree that the Committee should go against the Officer's recommendation to refuse and that a decision should be take on the scheme that was in accordance with the development plan. There were no material considerations that justified approval, and as such, the Council's current development plan should be adhered to. If approved, the dwellings would be in the open countryside and outside development limits, with concerns also having been raised by the Council's Conservation Officer and Landscape Architect.

It was proposed and seconded that the application be REFUSED; a vote was taken on the proposal and was LOST. It was subsequently proposed and seconded that the application be APPROVED; a vote was taken on the proposal and CARRIED.

Members suggested that it be delegated to the Head of Planning, in consultation with the Chair and Vice Chair of the Committee, to draft and determine appropriate conditions for the scheme.

RESOLVED:

That the application be APPROVED and that drafting and determination and of the conditions be delegated to the Head of Planning, in consultation with the Chair and Vice-Chair of the Committee.

55.2 2020/0821/FUL - LAND ADJACENT, VILLAGE HALL, MAIN STREET, CHURCH FENTON

Application: 2020/0821/FUL

Location: Land Adjacent, Village Hall, Main Street,

Church Fenton

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

The Principal Planning Officer presented the application which had been brought before Planning Committee as the development would function to serve a reserved matters scheme (2017/0736/REMM) for residential relating outline development to under permission reference 2015/0615/OUT. The reserved matters had been refused by the Planning Committee on 4 March 2020 and was now the subject of a planning appeal. An appeal had also been lodged against nondetermination of the access application and the two appeals had been linked for concurrent determination by the Planning Inspectorate via a Public Inquiry.

The Committee acknowledged that the application was not presented for determination by Members but was to seek their views on what recommendation they would be minded to give. This would then form the basis for the Council's appeal case on this application.

Members noted that the application was for the construction of new access off Main Street, Church

Fenton to serve outline planning permission under application reference 2015/0615/OUT, Main Street, Church Fenton.

The Officer Update Note set out details of some minor errors and corrections in the report, an additional construction management condition, further comments received since publication of the report and an amendment to the recommendation regarding erection of site notices.

The Committee asked questions relating to ownership, public right of way and boundaries of the site, assessments of traffic flow, speed and safety through the village, road width and access to the site, and the effect of the upcoming Planning Inspectorate's decision on the appealed application on the applications that were being considered by the Committee at the meeting.

Officers confirmed that the application before Members was for a minded to decision; it could not be determined as an appeal had been lodged.

Sarah Chester, objector, was invited remotely into the meeting and spoke against the application.

Georgina Ashton, representative of Church Fenton Parish Council, was invited remotely into the meeting and spoke against the application.

Steve Wilkinson, agent, was invited remotely into the meeting and spoke in favour of the application.

Members debated the application and agreed that it was unusual for two identical applications to be listed for consideration on the same agenda. Several Committee Members expressed serious concerns about the scheme due to road safety and access issues and felt that the assessment of the scheme by Highways was incorrect.

As such, Members agreed that the application should be refused on a highways safety basis, and due to the potential detrimental effects of the scheme on the character and amenity of the village if approved.

It was proposed and seconded that the Members were MINDED TO REFUSE the application; a vote was taken on the proposal and was carried.

RESOLVED:

The Committee were MINDED TO REFUSE APPROVE the application due to serious concerns regarding highway safety and detrimental effect of the scheme on the character and amenity of the village.

55.3 2020/1168/FUL - LAND ADJACENT VILLAGE HALL, MAIN STREET, CHURCH FENTON

Application: 2020/1168/FUL

Location: Land Adjacent, Village Hall, Main Street,

Church Fenton

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

The Principal Planning Officer presented the application which had been brought before 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 had been refused by the Planning Committee on 4 March 2020 and was now the subject of a planning appeal. An appeal had also been lodged against non-determination of an identical application under reference 2020/0821/FUL, and the two appeals had been linked for concurrent determination by the Planning Inspectorate via a Public Inquiry. This preceded this item on the agenda sought Members' views on how they would be minded to determine it. This application was for determination by Members today.

The Committee noted that the application was for the construction of new access off Main Street, Church Fenton to serve outline planning permission under application reference 2015/0615/OUT, Main Street, Church Fenton.

The Officer Update Note set out details of some minor errors and corrections in the report, an additional construction management condition, further comments received since publication of the report and an amendment to the recommendation regarding erection of site notices.

There were no questions for the Officer from the

Committee.

Sarah Chester, objector, was invited remotely into the meeting and spoke against the application.

Georgina Ashton, representative of Church Fenton Parish Council, was invited remotely into the meeting and spoke against the application.

Members debated the application and agreed that it should be refused, but that the resolution should be amended to reflect the fact that the application would need to come back to the Committee following posting and subsequent expiry of the site notice.

It was therefore proposed and seconded that the application be REFUSED; a vote was taken on the proposal and was carried.

RESOLVED:

- i) That the application be REFUSED due to serious concerns regarding highway safety and detrimental effect of the scheme on the character and amenity of the village.
- ii) That the application be brought back to the Committee at a later date for the agreement of the reasons for refusal as prepared by Officers following the posting and subsequent expiry of the site notice.

The meeting closed at 4.20 pm.





Minutes

Planning Committee

Venue: Microsoft Teams - Remote

Date: Wednesday, 23 December 2020

Time: 2.00 pm

Present remotely via

Teams:

Councillor J Cattanach in the Chair

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

P Welch

Officers Present remotely via Teams:

Martin Grainger (Head of Planning), Glenn Sharpe (Solicitor), Ruth Hardingham (Planning Development Manager), Irma Sinkeviciene (Planning Officer), Jac

Manager), Irma Sinkeviciene (Planning Officer), Jac Cruickshank (Planning Officer) and Palbinder Mann

(Democratic Services Manager)

56 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor M Topping. Councillor R Musgrave was in attendance at the meeting as a substitute for Councillor Topping.

57 DISCLOSURES OF INTEREST

Councillor Musgrave declared a personal interest in agenda item 4.1 2019/1232/FUL – Catterton Barn, Moor Lane, Catterton as he knew the applicant however stated that this would not impact this decision making and he would be keeping an open mind on the application.

Councillor Musgrave declared a personal interest in agenda item 4.2 2020/0449/HPA – 2 The Glade, Escrick, York as he had attended the Parish Council meeting where the application had been discussed however stated that he would be keeping an open mind on the application.

58 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chair announced that an Officer Update Note had been circulated and could be viewed alongside the agenda on the Council's website.

Lastly, the Committee noted that agenda items 4.3 and 4.4. – 2020/0821/FUL

and 2020/1168/FUL – Land Adjacent Village Hall, Main Street, Church Fenton had been withdrawn by the applicant and as such would not be considered at the meeting.

59 PLANNING APPLICATIONS RECEIVED

The Planning Committee considered the following planning applications:

59.1 2019/1232/FUL - CATTERTON BARN, MOOR LANE, CATTERTON

Application: 2019/1232/FUL

Location: Catterton Barn, Moor Lane, Catterton

Proposal: Proposed partial rebuild and change of use of agricultural barn to residential use (C3) to provide holiday

accommodation

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

The Committee noted that the application was for the proposed partial rebuild and change of use of agricultural barn to residential use (C3) to provide holiday accommodation.

The Committee asked questions in relation to the type of development such as whether it constituted tourist accommodation or a housing development. In discussion the type of development, the Committee queried which policies should be applied to the application.

Rob Crolla, agent, was invited remotely into the meeting and spoke in support of the application.

Members debated the application in full and noted that an identical application had been rejected in 2017 and had also been rejected by the Planning Inspector at appeal. Some Members felt that this application was contrary to polices in the Local Plan and the National Planning Policy Framework (NPPF) and as such there were no material planning considerations that would make them go against the officer recommendation.

Other Members were of the opinion that the application could be acceptable in principle if classed as tourist accommodation and could be controlled with conditions. It was proposed and seconded that the application be REFUSED; a vote was taken on the proposal and was CARRIED.

Due to arriving late into the meeting, Councillor Shaw-Wright did not take part in the discussion or vote on this application.

RESOLVED:

That the application be REFUSED for the reasons set out below:

- i) The proposed development represents the erection of an isolated new dwelling for holiday occupation which would outside the development limits on land in the open countryside. The development would not constitute any of the types of development acceptable in principle in the countryside defined within Policy SP2 of the Core Strategy, nor would it improve or contribute to local rural economy or enhance the vitality of a rural settlement. It would therefore fail to comply with the aims of Policies SP1, SP2 and SP13 of the Core Strategy and with Policy RT11 of the Selby District Local Plan and with the NPPF.
- ii) Although it is considered that the development is acceptable with respect to design and proposed boundary treatments, the scheme still introduces a new dwelling into the countryside which results in a harmful urbanising impact on the character and appearance of the area. This conflicts with the aims of Policies SP13D, SP18 and SP19 of the Core Strategy, with Policy ENV1 and RT11of the Local Plan and with the NPPF.

59.2 2020/0449/HPA - 2 THE GLADE, ESCRICK, YORK

Application: 2020/0449/HPA

Location: 2 The Glade, Escrick, York

Proposal: Conversion of dormer bungalow to include single and two storey front and rear extensions and front dormer roof extensions complete with internal alterations

to create additional living accommodation

The Planning Officer presented the application which had been brought before Planning Committee as the application had been called in by the local Ward Member.

The Committee noted that the application was the conversion of a dormer bungalow to include single and two storey front and rear extensions and front dormer roof extensions complete with internal alterations to create additional living accommodation.

The Officer Update Note outlined the following points:

- Clarified the description of the proposal.
- That an additional letter of representation had been received however raised no objections to the application.
- Clarified errors that were contained under section five in the report.

The Committee asked questions in relation to the scale of the extension and how that impacted and compared to neighbouring properties. Additionally, Members queried the impact of losing a bungalow in the area.

Amy Morgan, representing objectors, was invited remotely into the meeting and spoke against the application.

Lilian Coulson, representing Escrick Parish Council, was invited remotely into the meeting and spoke against the application.

Louise Adkins, applicant, was invited remotely into the meeting and spoke in support of the application.

Members debated the application in full and felt that the application would impact the neighbouring properties and was out of character for the street it was located. Concern was raised at the design of the application, the

impact of removing a bungalow in the area and that due to the size and scale, it constituted overdevelopment. As such it was felt that the application was contrary to policies SP8 and SP19 of the Local Plan and ENV1 of the Local Plan.

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

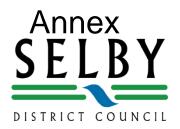
RESOLVED:

To REFUSE the application for the following reasons:

The application constitutes overdevelopment for the area due to its size and scale and therefore fails to comply with policy SP19 of the Core Strategy and ENV1 of the Local Plan. The application is also contrary to policy SP8 of the Core Strategy which relates to housing mix as the application proposes the change from a bungalow to a large house.

The meeting closed at 3.30 pm.





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

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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: <u>democraticservices@selby.gov.uk</u>



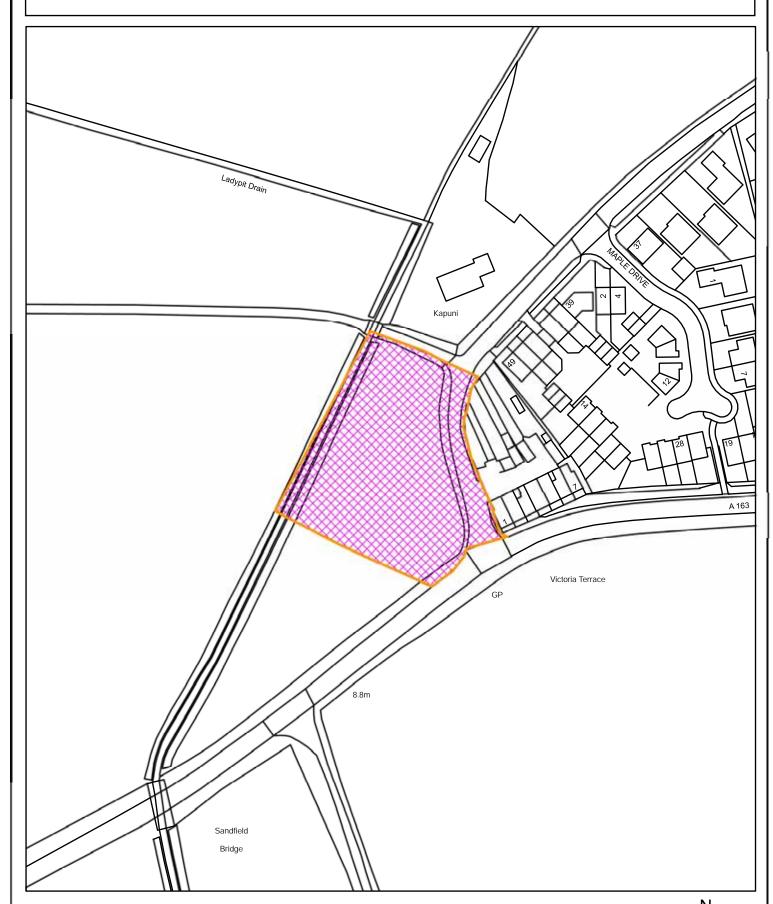
Agenda Item 5 Items for Planning Committee

27 January 2021

Item No.	Ref	Site Address	Description	Officer	Pages
5.1	2019/0759/FUL	Land Adjacent A163, Market Weighton Road, North Duffield	Proposed erection of 5 dwellings and associated infrastructure	MACO	21 - 52
5.2	2019/1008/COU	The Barn, 70 Sherburn Street, Cawood	Change of use of barn to children's day care facility and associated works (retrospective)	RELE	53 - 66
5.3	2020/0768/FUL	Land to Rear of 5- 13 Stutton Road, Tadcaster	Erection of a detached dwelling	IRSI	67 - 86



Land adjacent to A163, Market Weighten Road W, North Duffield 2019/0759/FUL



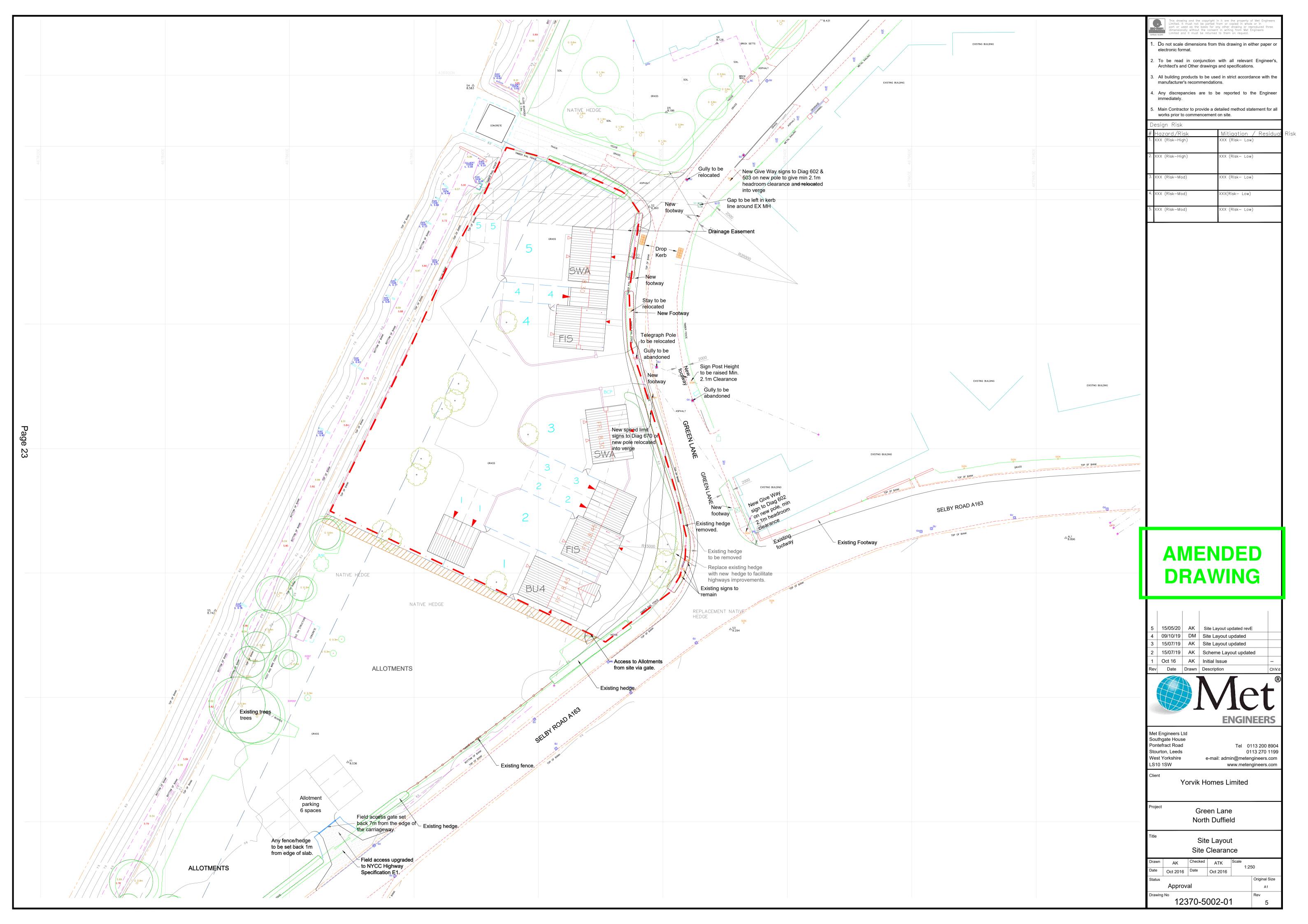
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Report Reference Number: 2019/0759/FUL

To: Planning Committee Date: 27 January 2021

Author: Mandy Cooper (Principal Planning Officer)

Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION 2019/0759/FUL PARISH: North Duffield Parish NUMBER: Council APPLICANT: Yorvik Homes Ltd VALID DATE: 14th August 2019 **EXPIRY DATE:** 9th October 2019 PROPOSAL: Proposed erection of 5 dwellings and associated infrastructure LOCATION: Land Adjacent A163 Market Weighton Road North Duffield Selby North Yorkshire RECOMMENDATION: Minded to APPROVE subject to S106 Agreement Recreational Open Space Contributions

This application has been brought before Planning Committee as the development is a Departure and therefore contrary to the requirements of the Development Plan. Officers consider however, that there are material considerations which would support a recommendation for approval.

1. INTRODUCTION AND BACKGROUND

Site and Context

1.1 The application site is located beyond but adjacent to the Development Limits of North Duffield, extends to approximately 0.69ha and comprises the northern portion of a large triangular shaped paddock. Adjoining the site and forming part of the same paddock to the south west is are allotments (approved under a proved under a retrospective planning application ref: 2017/1061/FUL), albeit they were part of earlier residential consents for the current application site which have lapsed.

- 1.2 Access would be taken directly from Green Lane which joins (the A163) Market Weighton Road to the south east. Existing residential development lies to the north in the form of a large, detached bungalow (Kapuni); to the north east are a group of recently constructed 2.5 storey properties and to the south east are well established properties which face the A163 and to the northwest are open agricultural fields.
- 1.3 The proposal site is flat with hedgerows to the south east and northern boundary and facing the public highway. The boundary to the north west is for the most part lacking any existing screening, and which joins Moses Drain. There are no notable features within the extent of the application site.
- 1.5 To the north west boundary of the site, is the Moses Dyke which is maintained by the Internal Drainage Board (IDB) beyond which is open agricultural land.
- 1.6 The site is located predominantly within Flood Zone 1, however a section to the north west falls within Flood Zones 2 and 3. The layout approved at the outline consent proposed all development within Flood Zone 1 and this application follows the same principle in this regard.

Background

- 1.7 An outline planning permission was granted on the application site (reference 2015/0519/OUT) for a residential development of 6 no. semi-detached units (with access and layout for approval and appearance/landscaping and scale reserved) for residential development, recreational open space and highway improvements The landscaping, appearance, and scale was reserved for subsequent approval under a reserved matters application granted (under reference 2016/1265/REM).
- 1.8 The submitted DAS advises that since the granting of this permission further market assessments have resulted in re-consideration of the previously approved scheme, where it is considered that an alternative house type mix and design would be more appropriate to provide a greater variety which has led to the submission of this application.

The Proposal

1.9. This application seeks planning permission for five detached dwellings comprising one 2 bedroom bungalow; in addition to four no. 3 bedroom, two storey properties.

Relevant Planning History

- 1.10 The following historical applications are considered to be relevant to the determination of this application.
 - 2015/0519/OUT, Alt Ref: 8/13/267A/PA: Outline application (with access and layout for approval and appearance/landscaping and scale reserved) for residential development (6 units), recreational open space and highway improvements: Green Lane, North Duffield Decision: Approved 08.10.2015
 - 2016/1265/REM Reserved matters application (landscaping, appearance and scale) for residential development (6 units), recreational open space and highway improvements on land to the west of Decision: Approved 21.12.2016

 2017/1061/FUL - Retrospective application for the creation of a new vehicular access and change of use of land to a car park and construction of parking bays

Decision: Approved: 03.01.2018

2. CONSULTATION AND PUBLICITY

2.1 **Environment Agency – (Initial response (25.09.2019) –** All residential development is located in flood zone 1. No objections subject to a condition (as specified) ensuring that there is no raising of floor levels included.

Environment Agency (Final response 11.12.2019) - Having reviewed the new information submitted with the application there are no further comments. The advice in response dated 25 September 2019 still applies.

- 2.2 **Environmental Health** Further to consultation dated 21st January 2020 concerning the above proposals, have considered the information provided by the applicant and would make the following comments. The applicant has submitted an Addendum Noise Report, dated 5th July 2019 which considers noise impacts from road traffic on the A163. The report concludes that in order to secure good standards of amenity in terms of mitigating noise impacts an acoustic fence to the garden of plot 1 and alternative ventilation solutions to plots 1, 2 and 3 are required. In view of the above, recommend that the mitigation measures specified in the report are incorporated in to the development by way of condition.
- 2.3 **SuDS** -. The LLFA is only a statutory consultee on major application, defined for residential development as 10 dwellings or more. It would appear that the IDB have mandated a 1l/s runoff rate from the site, for which a connection will require the consent of the IDB. The LLFA have no further comments to make.
- 2.4 The Ouse & Derwent Internal Drainage Board Initial & second responses Following on from first response on 5 September 2019. The Board notes that this is an application for the proposed erection of 5 dwellings and associated infrastructure. This will enlarge the impermeable area on site and has the potential to increase the rate of surface water run-off from the site if this is not effectively constrained.

The Ouse & Derwent Internal Drainage Board (Final response) – As set out previously the application sits within the Board's district and the Board has assets adjacent to the site in the form of Moses Drain, which can be subject to high flows during storm events. Reference to use of a hydrobrake with a discharge rate of 1 litres per second within the site and the use of a perforated filtration pipe to the watercourse. The Board would not usually agree a higher discharge rate than that proposed by the greenfield run off rates but given the specific circumstances, the Board will accept a discharge rate of 1 litres per second on this occasion. Agreed on the basis that the Board can inspect the installation periodically to ensure that the discharge rate above remains.

Conclusion - Accordingly, the Board recommends that any approval granted to the proposed development should include conditions requiring drainage works to be agreed (and a number of informatives to be included).

2.5 **NYCC Highways - Initial Response (21.08.2019) -** This application reduces the development to 5 dwellings and changes some of the previously agreed highway

aspects. Notable changes in regards to this scheme are the S278 works that alters the alignment of the proposed footway and removing some of the previously agreed footway works on the adjacent highway on Green Lane.

- Alignment of proposed footway is acceptable, but the Highway Authority would not be able to adopt the section from the gable end of plot 3 up to the allotments. The reason being that NYCC do not take on green spaces anymore. The footway will either need to remain private for this section along with the vegetation or realigned and altered as previously agreed in the earlier applications.
- The Section 278 plan shows that a footway on the adjacent side to the site is to be incorporated within the development. This was agreed through the previous applications. However the Design and Access statement and a number of the plans submitted show this element removed. In order to connect the site to the village the footway adjacent is necessary. The applicant needs to reinstate this on all plans submitted for consideration.
- The tactile paving shown on the S278 drawing is not to NYCC's specification, this should be amended to have a minimum of 3 rows.
- Applicant needs to add a key to the S278 to make it easier to read.
- There would appear to be a lack of vehicle on-site turning provided. Turning areas should be provided or swept paths showing that vehicles can turn on site.
- On site turning should be provided where dwellings are more than 45 metres from a public highway. Whilst the majority of houses are within this distance, plot 5 is just over this limit.
- Construction details for the access need adding onto the Construction Details drawing.
- Proposed construction depths of the West Channel Tie in Details need confirming as not to NYCC's specification but in order to determine whether they are acceptable or not NYCC need to understand the reasoning behind them.

NYCC Highways – Final Response (29.06.2020) - The applicant has confirmed that the site will remain private and there are a number of alterations to make to the existing highway. There has been ongoing liaison with the agent to gain a design which is acceptable to the Highway Authority. The applicant will need to enter into a section 278 agreement with the Highway Authority to carry out the necessary highway works. Conditions are required in respect of construction of access prior to development; crossing of the highway verge and/or footway; Delivery of off-site highway Works; Provision of Approved Access, Turning and Parking Areas at Green Lane; Construction Phase Management Plan- Small sites and Garage conversion to habitable rooms requiring planning permission.

2.6 Yorkshire Water Services - If planning permission is to be granted, conditions should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure through the use of separate systems for foul and surface water and means of surface water. The developer should also note that the site drainage details submitted have not been approved for the purposes of adoption or diversion.

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

2.8 County Ecologist – First Response

- Assume that potential impacts on nearby internationally-designated sites (Skipwith Common SAC and the Lower Derwent Valley SAC/SPA/Ramsar site) were considered at this stage.
- Unlikely that the proposed development would impact on these protected sites: Skipwith Common is, at its nearest point, over 1 km distant with Moses Drain, arable farmland and Cornelius Causeway in between.
- Lower Derwent Valley is, at its nearest point, over 1.5 km to the east with the village of North Duffield between.
- Application is accompanied by a lengthy Preliminary Ecological Appraisal but the recommendations concerning ecological mitigation/enhancement are spread across several sections and difficult to distinguish between general advice (e.g. provision of rough grassland for Hedgehogs) and measures which need to be undertaken to ensure compliance with legislation and planning policy.

Recommend that an Ecological Management Plan is produced, to be submitted to the Authority for agreement prior to commencement; thereafter, the development should be undertaken in accordance with the agreed Ecological Management Plan taking into consideration the following points:

- Plan should be clear and concise; it need not be more than a few pages long. It should include clearly marked maps where different actions are required in different places (e.g. in the reptile mitigation Method Statement).
- o It should address the specifics of the development (e.g. timing of removal of the roadside hedge). Statements irrelevant to the application site (e.g. recommendations for nest box densities in woodland in para 8.4.5.6) should be avoided.
- o All actions to be undertaken should have been discussed with and agreed by the applicant prior to submission.
- o There should be a clear separation between actions which need to be taken and more generic recommendations of an advisory nature.
- o Mitigation measures should be proportionate to the risk; given the conclusion that the site is unlikely to support reptiles (para 8.6.3.2), and suggest reptile mitigation Method Statement might be simplified.

County Ecologist – Second Response In relation to the Construction Ecological Management Plan and Ecological Enhancement Plan for this application. The scope of ecological mitigation and enhancements measures is satisfactory and well-explained but request a quick review of the plan content. Previous comments of 19 August 2019, it was advised that there should be a clear separation between actions which need to be taken and more generic recommendations of an advisory nature. This is still unclear in places, which makes it difficult to secure compliance with the document via a planning condition.

County Ecologist – Final Response – The revised Construction Ecological Management Plan and Ecological Enhancement Management Plan for this application. Can confirm that the suggested revisions have been incorporated into

the document, and recommend that adherence to these plans is secured by condition.

2.9 Yorkshire Wildlife Trust - Initial response - Reiterate Ecology comments that a Construction Ecological Management Plan is approved by the Council prior to commencement of works on site. This should include precautionary working methods for species such as great crested newts, reptiles, water voles and nesting birds. Would also like confirmation of the mitigation measures proposed within the report, including installation of bat and bird boxes, sensitive lighting schemes and detail on how the proposal will achieve a net gain in biodiversity as required under NPPF.

Yorkshire Wildlife Trust – Final Response - Note the submission of the updated CEMP and that comments from NYCC Ecology confirm they are now satisfied with the content following amendments relating to previous consultation. No further comment to add on this occasion.

- 2.10 Public Rights of Way Officer No response received.
- 2.11 **HER Officer Initial response** A Written Scheme of Investigation and archaeological mitigation recording should be undertaken in response to the ground disturbing works associated with this development proposal. This should comprise an archaeological strip, map and record to be undertaken in advance of development, including site preparation works, topsoil stripping, excavations for new foundations and new drainage or services, to be followed by appropriate analyses, reporting and archive preparation. This is in order to ensure that a detailed record is made of any deposits/remains that will be disturbed.
 - **HER Officer Final response -** A Written Scheme for Archaeological Investigation has been submitted. The pre-commencement part of the required condition can be deleted and replaced with a shorter condition as set out.
- 2.12 **Landscape Consultant -** No Landscape objection to the above application. Recommend that the following is conditioned: soft landscape scheme is implemented in the first available planting season following occupation; and that all planting is replaced if found defective within the first 3 years.
- 2.13 Waste & Recycling Officer Initial Response Noted that a bin presentation point has been identified at the entrance to the development. These are only usually required where access to a development is to remain in private ownership and not when access roads are intended to be adopted by the Highway Authority. Where access roads are adopted W&R would usually provide a kerbside collection from the individual properties. Confirmation required as to whether the access is intended to be private or public.
 - **Waste & Recycling Officer Final Response -** The bin presentation point will need to be large enough to accommodate up to 2 bins per property (10 bins in total) on any one collection day. The position of the bin presentation point is acceptable.
- 2.14 North Duffiled Parish Council Object to this application. The Parish Council supported the original outline plans on the basis that it included much needed affordable housing. This application has not included any affordable homes. Councillors also object on grounds of access/traffic and layout/density as the

- entrance is on a bend in a dangerous place and the larger housing is an over development of the site.
- 2.15 Contaminated Land Consultant The site is currently considered low risk with regards to the proposed residential and allotment end use. The conceptual site model did not identify any significant potential contaminant linkages therefore no further investigation or remediation is necessary. Public Protection has no objections or further comments to make regards this scheme.

PUBLICITY

- 2.17 The proposal was advertised as a Departure by way of a site and press notice, in addition to direct neighbour notification. Four letters of objection have been received from local residents raising the following points:
 - Disappointed that proposal is for five detached properties rather than six semi-detached houses to provide much needed affordable homes as part of a larger site (which I supported)
 - Young families unable to afford these properties and a need in the village for less expensive housing – developer should consider needs of the village
 - Detached properties do not meet needs of the community
 - Site would be dangerous as on a large bend

3 SITE CONSTRAINTS

Constraints

3.1 The site is located outside the defined development limits of North Duffield, is not allocated in the Local Plan and so is therefore defined as open countryside. Development within the village to the north and north east of the site is predominantly residential in nature. The western boundary of the application site is marked by Moses Dyke with agricultural land beyond. The site does not contain any protected trees and there are no statutory or local landscape designations. There is no Conservation Area designation or local listed buildings that are affected. The site is situated within Flood Zone 1, with a narrow strip close to the west boundary located in Flood Zones 2 and 3.

4 POLICY CONSIDERATIONS

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

- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -
 - "213.existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

Selby District Core Strategy Local Plan

- 4.6 The relevant Core Strategy Policies are:
 - SP1 Presumption in Favour of Sustainable Development
 - SP2 Spatial Development Strategy
 - SP5 Scale & Distribution of Housing
 - SP8 Housing Mix
 - SP9 Affordable Housing
 - SP12 Access Services, Community Facilities and Infrastructure
 - SP15 Sustainable Development and Climate Change
 - SP16 Improving Resource Efficiency
 - SP18 Protecting and Enhancing the Environment
 - SP19 Design Quality

Selby District Local Plan

- 4.7 The relevant Selby District Local Plan Policies are:
 - ENV1 Control of Development
 - ENV2 Environmental Pollution and Contaminated Land
 - ENV28 Archaeological Remains
 - T1 Development in Relation to Highway
 - T2 Access to Roads
 - RT1 Recreational Open Space
 - RT2 Open Space Requirements

Additional Documents

- Affordable Housing Supplementary Planning Document (2013)
- Developer Contributions Supplementary Planning Document (2007)

- North Duffield Village Design Statement (Feb 2012)
- National Planning Policy Framework (February 2019)

5 APPRAISAL

- 5.1 The main issues to be taken into account when assessing this application are:
 - i. Principle of Development
 - ii. Design, Layout, Scale & Visual Impact
 - iii. Residential Amenity
 - iv. Flood Risk & Drainage
 - v. Highways, Access & Parking
 - vi. Landscaping
 - vii. Ecology
 - viii. Contamination/Ground Conditions
 - ix. Archaeology
 - x. Affordable Housing
 - xi. Recreational Open Space
 - xii. Other Matters

Taking these in turn,

Principle of Development

- 5.2 On 6th October 2020, the Director of Economic Regeneration & Place formally endorsed an updated five year housing land supply methodology and resultant housing land supply figure of 7.7 year deliverable supply, as set out in the 2020-2025 Five Year Housing Land Supply Statement. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application, a position repeated by numerous appeal Inspectors. The broad implications of a positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date. The NPPFs aim of boosting and maintaining the supply of housing is a material consideration when evaluating planning applications and approval on this site would provide additional dwellings to the housing supply.
- 5.3 Of note is that this site was previously included as part of the 5 year supply under outline permission 2015/0519/OUT for six dwellings, at the time of approval. The agent advises that the application is a key element of the wider "The Paddocks" development and would enable the whole area of The Paddocks to be delivered.
- 5.4 NPPF Paragraph 12 states that the Development Plan is the statutory starting point for decision making, adding that where a planning application conflicts with an up to date Development Plan permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
- 5.5 The previous outline permission (2015/0519/OUT) for 6 dwellings, was granted (08.10.2015) when the Council could not demonstrate a deliverable 5 year supply of housing land. The application was therefore determined without the relevant Local Plan policies being given any weight as they were considered to be out of date. Subsequently, a reserved matters application 2016/1265/REM was approved on 21.12.2016. However the permission expired in December 2018 and so the

- principle of development for this proposal must be considered again but this time with the full range of Local Plan housing land supply policies carrying full weight.
- 5.6 The submitted Planning Statement advises that North Duffield has had new development in recent years and the village would benefit from a small number of appropriately sited additional houses. The viability of the existing services and facilities would be enhanced but it is still necessary to consider whether those other matters of acknowledged importance would weigh in favour of the development or not.
- 5.7 Core Strategy Policies SP2 and SP4 direct new Development to the Market Towns and Designated Service Villages (DSVs) and restrict new Development in the open countryide. Within the Core Strategy North Duffield is classed as a DSV, whereby there is scope for some additional residential development and small scale employment provision, in order to support its rural sustainability.
- 5.8 Policy SP2A(a) of the Core Strategy states that "The majority of new development will be directed to the towns and more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints". The same policy adds: that "Designated Service Villages have some scope for additional residential and small-scale employment growth to support rural sustainability" and that "Proposals for development on non-allocated sites must meet the requirements of Policy SP4."
- 5.9 Core Strategy Policy SP4(a) states that "in order to ensure that development on non-allocated sites contributes to sustainable development and the continued evolution of viable communities, the following types of residential development will be acceptable in principle within Development Limits".
- 5.10 In Selby, Sherburn In Elmet, Tadcaster and Designated Service Villages "Conversions, replacement dwellings, redevelopment of previously developed land, and appropriate scale development on greenfield land (including garden land and conversion/redevelopment of farmsteads)."
- 5.11 Core Strategy Policy SP5 designates levels of growth within settlements based on their infrastructure capacity and sustainability. The policy sets a minimum target up to 2027 of 2000 dwellings for DSVs which the most recent monitoring indicates, has been exceeded by completions and permissions in these settlements as a whole.
- 5.12 Planning Policy have advised that the Council put forward various growth options for DSVs as part of the development of PLAN Selby in 2014 and 2015 and at that time the research indicated minimum growth options of between 11-36 dwellings for North Duffield. To date North Duffield has had 19 (gross) dwellings built in the settlement since the start of the Plan Period (17 net) in April 2011 and has extant approvals for 53 dwellings (51 net), giving a gross total of 72 dwellings. (68 net). On the basis of the above figures Planning Policy advise that the proposal is contrary to Core Strategy Policy SP2A c). This is at the upper end of what the DSV growth options study assessed as being a sustainable amount of growth over the plan period and the proposed development would increase the number of dwellings beyond this.

- 5.13 Taking into account the range of growth options identified for North Duffield, the scale of this individual proposal is considered to be appropriate to the size and role of a Designated Service Village. However the individual scale of the proposal must also be considered in terms of the cumulative impact it would have with the previous levels of growth in the village that have occurred since the start of the plan period. Also, other applications for land to the north east at The Paddocks have been considered and recommended for approval in 2019.
- 5.14 In assessing the impacts of a housing scheme, the effects on the settlements character, infrastructure capacity (including schools, healthcare and transport) and its sustainability must also be considered.
- 5.15 North Duffield has a public house, a village hall, a Methodist Chapel, a general store including Post Office, a primary school and sport and recreation facilities which include playing fields. The village also has a bus service to York and Selby, albeit this offers limited services. Consequently, in terms of access to facilities and a choice of mode of transport, despite the site being located outside the defined development limits of the settlement it can be considered as being in a sustainable location.
- 5.16 When granting the previous approval the Council considered that the development was acceptable in respect of all matters of acknowledged importance and would bring economic, social and environmental benefits to North Duffield. The current conflict with up to date Development Plan policies in respect of the settlement boundary does, however, suggest that planning permission should now be refused. As mentioned above, Section 38(6) of the Planning and Compulsory Purchase Act states that any determination shall be in accordance with the development plan unless material considerations indicate otherwise. The NPPF advises however, that local planning authorities may take decisions that depart from an up-to-date development plan if material considerations in a particular case indicate that the plan should not be followed. The material considerations that weigh in favour of the proposal are considered below.
- 5.17 Paragraph 9 of the NPPF advises that planning policies and decisions should play an active role in guiding development toward sustainable solutions but that local citrcumstances need to be taken into account, in order to reflect the charácter, needs and opportunities of each área. Paragraph 59 seeks to support the Government's objective of significantly boosting the supply of housing by bringing forward a variety of land for development. The NPPF adds (Para. 68) that small and medium sized sites can make an important contribution to meeting the housing requirements of an área and are often built relatively quickly. Therefore, planning permission should not be refused solely on the grounds that the Council has a 5 year housing land supply.
- 5.18 Given the nature and scale of the proposal, it is considered that approving the application would not cause serious harm to the Council's strategy for the provision of housing. The site has been assessed previously as being an appropriate location for housing and included in the Council's supply figure. Other land which was previously linked to this application, to the north east (beyond Kapuni) and outside the defined Development Limits and Moses Drain has also been granted planning permission, under three other separate planning applications.

Design, Layout, Scale & Visual Impact

- 5.19 Core Strategy Policy SP18 seeks to protect (amongst other things) local distinctiveness and Policy SP8 states that proposals should provide an appropriate mix of scale and types of dwellings which reflect the requirements taken from the latest Strategic Housing Market Assessment (SHMA).
- 5.20 A number of those making representations have stressed the need for new housing for young families and the proposal still includes three bedroom properties (albeit detached) as well as two bedroom properties. The proposal has been reduced as per the previous approvals from six dwellings to five and rather than all properties being semi-detached the scheme now proposes five detached dwellings with a mix of a bungalow and two storey properties. In addition, the previous approval was for 3 and 4 bedroomed properties. Reference is also made to the Selby District SHMA within the submitted DAS and advises there is a requirement to créate a wide mix of dwellings as "demand continues to outstrip supply."
- 5.21 Development has already occurred between the defined Development Limits of the village and Moses Drain and, together with the development at The Paddocks, could be considered to represent a more natural and clearly identifiable boundary for expansion of the village to the west.
- 5.22 The submitted DAS refers to the the sites position at the "entrance of the village." and the existing built form within the immediate locality which is characterised by a range of house types, plot sizes and materials. Residential development adjacent to the site to the east on Victoria Terrace comprises two storey, terraced properties. Dwellings on Maple Drive, a modern development, having terraced, two and a half storey dewellings.
- 5.23 The accompanying DAS also refers to the Village Design Statement (VDS) and includes examples (photographs) of other properties within the village The submitted plans show that the proposed houses would be built using similar materials to those found locally and would provide a mix of different house types and thereby providing variety in their appearance. It is not considered that the proposed houses would be prominent in views from any of the approaches to the village and the proposed form and setting would maintain the current visual character and seen within the context of this part of the edge of the village. The approach taken in this application accords with the North Duffield Village Design Statement which aims for "detached houses and brick construction materials". Detailing would include heads and cills in art stone; chimneys, eaves detailing, single bay windows and canopies to all providing visual interest and which are already incorporated on a number of properties within the village.
- 5.24 The proposed layout sees the properties being located to the frontage of the site and facing Green Lane, with outdoor amenity space and parking situated to the rear (north west). The layout accounts for the 9m strip and the portion of the site which is situated within Flood Zones 2 and 3 ensuring that the dwellings remain within Flood Zone 1.
- 5.25 In conclusion, it is considered that the proposal is acceptable with a similar layout pattern to the existing adjacent form of development in terms of the siting of the proposed dwellings. These are set back from the road sufficiently to avoid an enclosed street frontage and the layout plan utilises the constraints of the site to its advantage. Granted, parking is to the rear but this maintains a car free frontage and is considered to be acceptable on this site due to its modest scale. Materials would reflect those used on existing properties and interest is added to the simplified

elevations through the use of additional detailing. However, in order to ensure that the proposed development maintains the same level of character as existing adjacent dwellings, it is proposed to include a condition which would require the face of the windows be set within reveals of at least 50mm. On this basis, the proposal is considered to be acceptable and therefore accords with Core Strategy Policies SP18 and SP8 and the NPPF in this regard.

Residential Amenity

- 5.26 Policy in respect to impacts on neighbour amenity and securing a good standard of residential amenity are provided by Local Plan Policy ENV1 (1) and (4) and Core Strategy Policy SP19. In addition, paragraph 127(f) of the NPPF encourages the creation of places which are safe, inclusive and accessible, promoting well-being 'with a high standard of amenity.'
- 5.27 There are no properties in the immediate vicinity of the site to the north west, west or south and the closest property to the north is the bungalow 'Kapuni' which would be situated more than 30m from the closest of the proposed dwellings. Kapuni is also separated from the site by a farm track and has intermittent planting at a relatively high level to its facing boundary. In addition, a hedgerow is proposed to be retained and supplemented to the north facing boundary of the application site.
- 5.28 To the south east of the site are a row of seven properties (Victoria Terrace) where the frontages face south and toward Market Weighton Road. A large area of hardstanding provides parking and immediately adjoins the rear (north) of these properties, which results in the amenity space being separated from the dwellings. An established hedgerow runs along the full extent of the side and rear boundaries of the gardens connected to No.1 Victoria Terrace and the rear boundaries of the remaining gardens. There would be no direct views of the site from the rear of this property. The side (west) elevation of No. 1 is the closest of these properties and faces the application site but is blank apart from a first floor window which serves a bathroom and given that there is a mínimum distance of 13m between the side elevation Victoria Terrace and the closest property frontage of the proposal, there are no concerns in regards to residential amenity.
- 5.29 Adjoining the rear gardens of Victoria Terrace are a number of relatively new properties which are two and a half storey. The closest being No. 49 Maple Drive. This is located at a distance of approximately 20m from the closest proposed dwelling and is sited in a north west and south east direction. Therefore the distance and position of the existing dwelling, would prevent direct overlooking to or from properties within the proposal site. Given the position of the site it is considered that permitted development rights should be removed which would require a planning application for any extensions, and additional proposed means of enclosure being gates and walls. This would ensure an element of control would be retained by the authority in regards to maintaining the levels of residential amenity and the general character of the area.

Noise

5.30 The submitted application includes an Addendum Noise Report which advises that the main source of noise to the site is from the adjacent Market Weighton Road (A163) and that mitigation measures are required to ensure the amenity of future occupants is acceptable.

5.31 The report advises that the mitigation measures required to meet acceptable noise levels would comprise alternative ventilation and glazing solutions to plots 1, 2 and 3; in addition to an acoustic fence to the south side of the rear garden of plot 1. The report adds that plots 4 and 5 would not require any specific mitigation due to te greater separation distance from the A163. In terms of glazing, it is suggested that closed standard double glazed units be utilised with an alternative means of ventilation comprising of passive acoustic core vents in habitable rooms with continuous mechanical extraction in bathrooms and kitchens. This system would achieve background ventilation levels whilst windows may be openable at the occupant's discretion. The Environmental Health Officer (EHO) has reviewed the Addendum Noise Report, and recommendeds that the mitigation measures specified in the report are incorporated in to the development.

Conclusion

5.32 Given the nature of the development and its relationship to neighbouring residential properties, it would not have a significant adverse impact and an acceptable relationship could be achieved between the existing and proposed development. Furthermore, the mitigation measures referred to in the Noise Report and to be incorporated within the development would ensure that future occupants would be protected from noise disturbance from the A163 which can be controlled via condition. On this basis the proposal is considered to accord with Local Plan Policy ENV1 (1) and (4), Core Strategy Policy SP19 and the advice contained within the NPPF.

Flood Risk & Drainage

- 5.33 Core Strategy Policy SP15 require proposals to take account of flood risk, drainage and climate change. Criterion d) of Policy SP15 applies in respect of ensuring development is located which avoids flood risk areas.
- 5.34 The majority of the application site is located in Flood Zone 1 (low probability of flooding), which comprises of land assessed as being low risk and having a less than 1:1000 annual probability of flooding. A section of the land to the north west is situated within Flood Zones 2 and 3 and would comprise a 9m wide strip to provide an easement as required by the IDB with none of the proposed dwellings being situated within this área.
- 5.35 The Internal Drainage Board (IDB) have responded to the proposal and their final comments advise that as the development site is currently grassland, the maximum discharge rate normally accepted is at the "greenfield" rate of 1.4 litres per second per hectare. However, given the scale of the site at 0.69 hectares and using the greenfield run-off rates this would equate to a discharge rate of 0.966 litres per second. In addition, the IDB refers to the use of a hydrobrake with a discharge rate of 1 litres per second within the site and the use of a perforated filtration pipe to the watercourse. The IDB advise they would not normally agree to a higher discharge rate than that proposed by the greenfield run off rates but given the specific circumstances, they would accept the discharge rate proposed on this occasion. This is agreed on the basis that the Board can inspect the installation periodically to ensure that the discharge rate of 1 litres per second remains, which would need to be secured by condition.
- 5.36 The Environment Agency have advised that there are no objections to the proposal subject to there being no raising of the existing land levels of the site.

Foul Drainage

- 5.37 Foul drainage would discharge into the existing mains sewer on Green Lane and Yorkshire Water Services (YWS) have not raised objections but advise conditions be included requiring separate systems for foul and surface water and no piped discharge of surface water until a satisfactory outfall has been provided. In addition they advise that the submitted details have not been approved for the purposes of adoption or diversión. Should the proposal be approved an informative would be included.
- 5.38 On the basis o the above comments, assessment and that the means of both foul and surface water drainage are provided in accordance with the conditions required by the above consultees, it is considered that the development is capable of a satisfactory provision for both foul and surface water and therefore accords with Core Strategy Policy SP15 and the relevant advice within the NPPF.

Highways, Access & Parking

- 5.39 Policy in respect to highway safety and capacity is provided by SDLP Policies ENV1 (2), T1 and T2 and criterion f) of Core Strategy Policy SP15. The aims of these policies accord with paragraph 108 (b) of the NPPF which states that development should ensure that safe and suitable access can be achieved for all users to a site. In addition paragraph 109 which advises that development should only be refused (on highway grounds) where it would result in an unacceptable impact on highway safety.
- 5.40 There have been many minor changes to the technical details of the proposed access throughout the planning process in order to satisfy the Highway Officer's technical requirements. The main access to this site would be a private drive given that the site now proposes only 5 dwellings and would be maintained as such. The site access would be taken from Green Lane in a similar position to that approved under application ref: 2016/1265/REM.
- 5.41 Parking is located to the rear of the site as previously approved. However, the proposed layout introduces private drives to three of the proposed properties. Parking spaces would adjoin the rear gardens to the remaining two plots and is now dispersed more evenly throughout the extent of the site, which is considered to be an improvement on the previous layout where parking was in groups of six and four. The submitted Design and Access Statement (DAS) states that the layout avoids frontage parking and "avoids a car free streetscene," as well as ensuring that surveillance is maintained onto Green Lane from the property frontages. It is also considered in encouraging more sustainable development that a condition be added which would require the provision of electric vehicle charging points, which is referred to in Core Strategy Policy 15.
- 5.42 A footpath would be designed to continue to the boundary of the allotments to the south of the site. This would provide safe pedestrian access to the community facility and would run along the frontage of the plots on Green Lane.
- 5.43 In conclusion and on the basis of the favourable comments from the Highway Officer, being subject to conditions relating to parking, turning, access, verge crossing, off-site highway works and Construction Phase Management Plan, the highway specifics are considered to be acceptable and would therefore accord with

Local Plan Policies T1 and T2; Core Strategy Policy SP15 and the advice within the NPPF.

Landscaping

- 5.44 Core Strategy Policy SP18 requires that high quality and local distinctiveness of the natural environment will be sustained by 'safeguarding, and where possible, enhancing the natural environment, including the landscape character and setting of areas of acknowledged importance.'
- 5.45 The proposal includes removal of the existing hedge to the site frontage in order to extend the grass highway verge which would run across the frontage of plots 1 to 3 at the junction of Market Weighton Road and Green Lane. The hedge would however be reinstated but set back further from the highway in order to allow for better visibility at the junction. A timber fence now separates the proposal site from the adjoining (proposed) allotments and a native hedgerow with trees interspersed would be planted along a large proportion of this boundary, enabling screening from Market Weighton Road. Additional trees would be planted at intervals, with two small groups adjacent to the 9m easement along Moses drain.
- 5.46 Further low-level planting is proposed to the immediate frontage of the dwellings in order to separate the public and private space. The additional landscaping to the front of the site would soften the built form and add quality to the street scene. An 1800mm high screen wall / fencing is utilised where public and private garden space meets in order to provide adequate screening for privacy.
- 5.47 The Landscape Architect has advised there are no objections but requires a condition to ensure that all planting is undertaken in the first available planting season following occupation of the dwellings.
- 5.48 On the basis of the above assessment, the proposal is considered to accord with Core Strategy Policy SP18 and the advice within the NPPF.

Ecology

- 5.49 Protected Species include those protected under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration. Relevant policies in respect of nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 of the Core Strategy which accord with paragraph 170 of the NPPF. Point d) of Paragraph 170 (NPPF) recognises the need for the planning system to contribute to and enhance the natural and local environment by recognising the wider benefits of ecosystems and minimising impacts on and providing net gains in relation to biodiversity.
- 5.50 The site comprises a mix of grassland types with dotted áreas of scrub, trees and a mature hedgerow which is present to the majority of the boundaries. The application site is not a formal or informal designated protected site for nature conservation; known to support or be in close proximity to any site supporting protected species or any other species of conservation interest. Skipwith Common is, at its nearest point, over 1 km from the supplication site, with Moses Drain, arable farmland and Cornelius Causeway in between and the Lower Derwent Valley is, at its nearest point, over 1.5 km to the east with the village of North Duffield between.

- 5.51 The Ecology Officer's (EO) initial response referred to the submitted Preliminary Ecological Appraisal (PEA) advisisng that it was a lengthy document but that specifics between general advice and measures to be undertaken were nuclear, such as mitigation being proprtionate to the risk. On this basis, the EO requested that a Construction Ecological Management Plan (CEMP) and Ecological Enhancement Plan (EEP) be produced to ensure compliance with the relevant legislation. Following some minor changes to the content of the CEMP and EEP and following a further (3rd) consultation, the Ecology Officer advised that the suggested revisions have been incorporated and the scope of ecological mitigation is acceptable but that adherence should be secured by condition.
- 5.52 The Yorkshire Wildlife Trust's final comments concur with the Ecology Officer's response and advise no further comments.
- 5.53 Subject to the inclusion and adherence to the relevant condition, the proposal accords with Policy ENV1(5) (SDLP); Policy SP18 (SDCS) and the advice contained within the NPPF.

Contamination/Ground Conditions

- 5.54 Local Plan Policy ENV2 and criterion k) of Core Strategy Policy SP19 require development which would give rise to or would be affected by unacceptable levels of (amongst other things) contamination or other environmental pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated within new development. Paragraph 178 (a) of the NPPF states that development sites should be suitable for the proposed use taking account of ground conditions and risks arising from unstable land and contamination.
- 5.55 A Phase 1 Preliminary Risk Assessment accompanies the application which advises the survey did not reveal any evidence of made ground or any signs of subsidence or land contamination any significant potential contaminant linkages, so the overall risk is considered to be low.
- 5.56 The Contamination Consultant (CC) has advised that the submitted desk study and site walkover indicate that land contamination is unlikely to be present and that historic maps show that no past industrial activities have been located onsite or within the immediate vicinity. The submitted survey also shows the site to be low risk. The consultant concludes that the site is low risk and that no further investigation is necessary.
- 5.57 In conclusion, there are no concerns with regard to contamination and the development is considered to accord with Local Plan Policy ENV2 and criterion k) of Core Strategy Policy SP19, in addition to the NPPF.

Archaeology

- 5.58 Local Plan Policy ENV27 and Core Strategy Policy SP18 (amongst other things) are concerned with the protection of archaeological remains and that the NPPF (para. 194) affords protection for such remains.
- 5.59 The Principal Archaeologist (PA) initial comments advised that a precommencement condition would be required in respect of the submission of a Written Scheme of observation and recording. The agent has since submitted a

- scheme which has been assessed by the PA whose final comments advise that this is sufficient and that the pre-commencement part of the condition can be deleted and replaced with the shorter condition set out in response dated 08.10.209.
- 5.60 In conclusion and based on the PA's comments, there are no outstanding issues or concerns in respect of archaeological implications (subject to the inclusion of the requisite condition), of the proposal and the proposed development would therefore comply with Local Plan Policy ENV27 and Core Strategy Policy SP18 and the provisions of the NPPF.

Affordable Housing

- 5.61 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.
- Whilst the Policy seeks financial contributions from sites below the threshold of 10 dwellings, the NPPF is a material consideration and states at Paragraph 63 that provision of affordable housing should not be sought for residential developments which are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). In respect of sites where the yield is to be less than 10 units, a financial contribution is identified as being appropriate. Policy SP9 has in this regard been superseded by the Ministerial Statement and national advice. Tariff style charges such as that identified in Policy SP9 can no longer be applied. The LPA has confirmed that this approach will be applied.
- 5.63 The application is in full with a site area of more than 0.5 ha (0.69 ha) and the proposed number of dwellings is below 10 and the site could not reasonably accommodate 10 or more dwellings due to the constraints from Flood Zones 2 and 3 to the north western boundary. Furthermore, the proposal is not considered to be major development as defined in Annex 2 of the NPPF.
- 5.64 It is therefore considered that having had regard to Policy SP9 of the Core Strategy, the Affordable Housing SPD and the advice contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

Recreational Open Space

- 5.65 Local Plan Policy RT2, Core Strategy Policies SP12 and SP19, in addition to the Developer Contributions Supplementary Planning Document relate to the provision of recreational open space. There is a requirement to provide 60sqm per dwelling which, in this case, would equate to 300sqm. The submitted layout plan does not incorporate any on-site recreational open space as part of the development.
- 5.66 The Supplementary Planning Document for Developer Contributions and Policy RT2 states a requirement for schemes of more than 4 dwellings and upto and incuding 10 dwellings would require a commuted sum to provide new or upgrade existing facilities in the locality. Discussion with the Parish Council would be needed to identify which of the two would be of the most benefit to the village. Policy RT2 b) advises that the following options would be available, subject to negotiation and levels of existing provision:

- provide open space within the site;
- provide open space within the locality;
- provide open space elsewhere;
- where it is not practical or not deemed desirable for developers to make provision within the site the district council may accept a financial contribution to enable provision to be made elsewhere.
- 5.67 In this instance a commuted sum would be required and depending upon the requirements of the Parish Council (based on current figures) would comprise of either of the following:
 - Cost per dwelling for upgrading existing open space @ 60 m² = £991
 - Cost per dwelling for provision of new recreation facilities: £991 + £103.80 = £1,095

Payment would be secured through the applicant entering into a Section 106 Agreement which would be required of be in place prior to the issuing of any planning permission.

Waste and Recycling

5.68 For developments of 4 or more dwellings developers must provide waste and recycling provision at their own cost and as such should the application be approved a condition could be imposed to secure a scheme for the provision of waste and recycling equipment. The Waste & Recycling Officer queried whether the drive would be private and advised on this basis that the position of the bin presentation points were acceptable. The waste and recycling contribution would be provided under the Section 106/Unilateral Agreement in accordance with Developer Contributions.

Other Matters

5.69 Local Plan Policy ENV1 and the Developer Contributions Supplementary Planning Document set out the criteria for when contributions towards education and healthcare are required. Given the small scale of the application, it does not trigger any of the contributions listed.

6 CONCLUSION

- 6.1 The proposed scheme is for 5 dwellings and located on land outside the development limits of North Duffield which is a Designated Service Village. The proposal is contrary to Core Strategy Policy SP2A(c) and so is not in accordance with the Development Plan and should be refused unless material considerations indicate otherwise.
- 6.2 One such material consideration is the NPPF which states that proposals for housing should be considered in the context of the presumption in favour of sustainable development and which seeks to boost the supply of housing. In applying the principles of the proposal against the NPPF, the development would bring economic benefits as it would generate employment opportunities in both the construction and other sectors linked to the construction sector. The proposal would also bring additional residents to the area who in turn would contribute to the local economy through supporting existing local businesses and facilities.

- 6.3 The development takes into account environmental issues such as ecology, flooding and impacts on climate change and the benefit of the existing local services within North Duffield and access to public transport, means the need to travel by car can be reduced. The proposals are also considered to be acceptable in respect of the access, layout, impact upon residential amenity, drainage and contamination in accordance with adopted Local Plan policy. It is, therefore, considered that the development would bring significant economic, social and environmental benefits to the village of North Duffield and that there would be no harm to matters of acknowledged importance.
- Whilst recognising the conflict with the adopted and up-to-date settlement boundary, it is not considered that approving the application would cause serious harm to the Council's strategy for the provision of housing. Designated Service Villages such as North Duffield have been identified in the Core Strategy as having some capacity for additional residential development and the application land has been assessed as being an appropriate location for housing and has previously been included in the Council's 5 year housing land supply figure. Other land between the western edge of the defined Development Limits and Moses Drain has also been granted planning permission. It has been suggested that North Duffield has seen a relatively small amount of new development in recent years, particularly when compared to other DSVs, and that the village would benefit from a small number of appropriately sited additional houses such as is now proposed.
- 6.5 In recommending that the Committee approve this application, Members are requested to recognise that the application is not in accordance with the Development Plan but that the nature and extent of the material considerations justify a decision that is contrary to the provisions of the Plan. Therefore, subject to the recommended conditions and the material considerations as set out in this report outweigh the conflict with the Development Plan to the extent that planning permission should be granted.

7 RECOMMENDATION

This application is recommended to be GRANTED subject to A S106/Unilateral AGREEMENT and the following conditions:

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

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

- 02. The development hereby permitted shall be carried out in accordance with the plans, drawings and documents listed below:
 - P16 5022 11- Proposed Floor Plans & Elevations 3 bed Fishergate
 - P16 5022 12 Proposed Floor Plans & Elevations 3 bed Fishergate
 - P16 5022 13 Proposed Floor Plans & Elevations 3 bed Swale (AS)
 - P16 5022 14 Proposed Floor Plans & Elevations 2 bed bungalow BU4 (AS)
 - P16 5022-120 Rev D Site Layout showing Landscape Proposals
 - P16 5022-111 Rev E Site Layout
 - P16 5022- 112 Garage Details

- P16 5022-113 Boundary Treatments
- P16 5022–114 Location Plan
- 12370-5002-01 Rev 5 Site Layout
- 12370-5002-02 Rev 6 Kerbing Plan
- 12370-5002-03 Rev 6 Section 278
- 12370-5002-04 5 Typical Highway Construction Details (Sheet 1)
- 12370-5002-C-05 Rev 7 Drainage Layout Plan
- 12370-5002-C-09 Rev 1- Site Layout Tracking
- 12370-5002-06 7 Surfacing Plan
- 12370-5002-07 Porous Paving Detail
- 12370-5002- 08 Rev 2 Private Drive Construction Details & Storm Cell Details
- Sewer Site Plan received on 31.03.2020
- 12370-5002-11 Vehicle Swept Path

Reason: For the avoidance of doubt

- 03. A) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation for an Archaeological Strip, Map and Record prepared by MAP Archaeological Practice (Ref: Vers. A031019).B).
 - B) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Sub Section (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure compliance with Policy ENV28 of the Selby District Local Plan and Section 12 of the NPPF as the site is of archaeological interest.

04. No part of the development shall be brought into use until the access to the site at Green Lane, North Duffield has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works" published by the Local Highway Authority and the following requirements:

The crossing of the highway verge and/or footway must be constructed in accordance with the approved details and/or Standard Detail number A1 and the following requirements.-

- Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway
- b. Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority
- c. The final surfacing of any private access within 6 metres of the public highway must not contain any loose material that is capable of being drawn on to the existing or proposed public highway
- d. 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.

- 05. Prior to first occupation of the development hereby approved, the following schemes of off-site highway mitigation measures must be completed as indicated below:
 - a) Provision of a 2 metre wide footway on both sides of Green Lane prior to first occupation of dwellings
 - b) Increased width of carriageway, including new carriageway, tie in and resurfacing of existing carriageway at Green Lane, North Duffield prior to commencement on site;
 - c) Provision of tactile crossing point prior to first occupation.

For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority

An independent Stage 2 Road Safety Audit carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site.

A programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site.

Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

Reason: To ensure that the design is appropriate in the interests of the safety and convenience of highway users.

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

Reason: To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

07. No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved

details. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

- 1. Wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
- 2. The parking of contractors' site operatives and visitor's vehicles;
- 3. Areas for storage of plant and materials used in constructing the development clear of the highway;
- 4. Details of site working hours to include delivery, loading and unloading of goods and vehicle movements;
- 5. Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: In the interest of public safety and amenity.

08. The site shall be developed with separate systems of drainage for foul and surface water on and off site. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority. Works shall be carried out in accordance with the approved details and prior to occupation of the site.

Reason: In the interest of satisfactory and sustainable drainage.

09. No development approved by this permission shall be commenced until the Local Planning Authority, in consultation with Ouse & Derwent Internal Drainage Board, has approved a Scheme for the provision of surface water drainage works. Any such Scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

The following criteria should be considered:

- Discharge from "greenfield sites" taken as 1.4 lit/sec/ha (1:1yr storm). The total discharge from the new development site shall therefore not exceed 1 litres per second.
- Storage volume should accommodate a 1:30 year event with no surface flooding and no overland discharge off the site in a 1:100 year event. A 30% allowance for climate change should be included in all calculations. A range of durations should be used to establish the worst-case scenario.

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

10. The development hereby approved shall not be brought into use until the noise mitigation measures within the submitted Addendum Noise Report (dated 5th July 2019) prepared by Environmental Studies - Leeds City Council have been provided on site.

Reason: In accordance with Core Strategy Policy SP19 and in order to ensure that the amenities of the occupants of the dwellings hereby approved are not adversely affected by noise from vehicle movements on Market Weighton Road (A163).

11. No new buildings, structures, walls, fences, trees or other planting or obstruction shall be erected or placed within 9 metres of the bank top of Moses Drain.

Reason: To maintain access to the watercourse for maintenance or improvements.

12. There must be no raising of ground levels in Flood Zone 3 (as per the flood map for planning on the Environment Agency website), and all spoil / arisings are to be removed from the floodplain.

Reason: To ensure that there is no loss of flood storage, and that flood flows are not displaced onto others.

- 13. The development hereby permitted shall be carried out in accordance with the mitigation measures set out in the following documents:
 - Revised Construction Ecological Management Plan (CIEM) & Ecological Enhancement Management Plan (EEMP) prepared by Wold Ecology Ltd and received on the 22.04.2020

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 and in accordance with the requirements of the National Planning Policy Framework (NPPF).

14. The external face of the frames of all windows and doors shall be set in reveals of at least 50mm from the front face of the brickwork.

Reason: In the interests of the character and appearance of the area.

15. All soft landscaping comprised in the approved plans shall be carried out in the first planting and seeding season following the first occupation of the dwellings or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of **five** years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development.

Reason: In accordance with Local Plan Policy ENV1 and because a well-designed landscaping scheme can enhance the living environment of future residents, reduce the impact of the development on the amenities of existing residents and help to integrate the development into the surrounding area.

16. Prior to occupation by the first residents of the dwellings hereby approved, details of electric vehicle recharge points for electric vehicles shall be submitted to and approved in writing by the Local Planning Authority, and thereafter shall be provided in accordance with the approved details and subsequently retained for that purpose.

Reason: To promote and incentivise the use of low emission vehicles on site; to reduce the overall emission impact of development related traffic and in accordance with policy SP15 B. f) of the Core Strategy.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted

Development) (England) Order 2015 (as amended) or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

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

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A or B and Part 2 of Class A including the erection of buildings or structures, the construction of gates, walls, fences or other means of enclosure, other than those shown on the approved plans shall take place to any elevation of the dwelling houses hereby permitted without the grant of a separate planning permission from the Local Planning Authority.

Reason: in accordance with Local Plan Policy ENV1 and as the Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties and detriment to the character of the area and for this reason would wish to control any future development.

INFORMATIVES

Highway Works

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

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 web site:

https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%2C%20highways%20and%20pavements/Specification_for_housing_ind_est_roads_street_works_2nd_edi.pdf

Yorkshire Water Services

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

and construction guide for developers' 6th Edition, as supplemented by Yorkshire Water's requirements.

Board's Consent

Under the Land Drainage Act 1991 and the Boards' byelaws, the Board's **prior written** consent (outside of the planning process) is needed for:

- a. Any connection into a Board maintained watercourse, or any ordinary watercourse in the Board's district.
- b. Any discharge, or change in the rate of discharge, into a Board maintained watercourse, or any ordinary watercourse in the Board's district. *This applies whether the discharge enters the watercourse either directly or indirectly.*
- c. Works including the creation of an outfall structure (including those associated with land drainage), bridges, culverting etc. into a Board maintained watercourse, or any ordinary watercourse in the Board's district.
- d. Any construction, fencing or planting within 9 metres of a Board maintained watercourse (as shown

The Board does not, generally, own any watercourses and the requirement for you to obtain the Board's consent is in addition to you obtaining consent from any land owner or other authority to carry out the relevant works.

Full details of the Consent process can be found on our website:http://www.yorkconsort.gov.uk

Erections within 9 metres of the Watercourse

The Board's consent is required for any construction, fencing or planting with 9 metres of the top of the embankment of a Board maintained watercourse.

The Board notes that the applicant proposes to erect a fence and wall within 9 metres of the watercourse, as well as a parking area for plot 5.

Consent for this has not been obtained and will need to be discussed, and agreed, with the Board prior to the erection of the same.

The Board can agree, in principle, for the fence, wall and parking area to be erected within the 9 metre easement area but the exact location will need to be agreed with the Board and subject to certain conditions.

Maintenance Responsibility - General

The proposed development is within the Board's area and is adjacent to Moses Drain, which at this location, is maintained by the Board under permissive powers within the Land Drainage Act. 1991. However, the responsibility for maintenance of the watercourse and its banks rests ultimately with the riparian owner.

8. Legal Issues

8.1 Planning Acts

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

8.2 <u>Human Rights Act 1998</u>

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

8.3 Equality Act 2010

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

9 Financial Issues

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

10 Background Documents

Planning Application file reference 2019/0759/FUL and associated documents.

Contact Officer:

Mandy Cooper (Principal Planning Officer) mcooper@selby.gov.uk

Appendices:

None.



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Report Reference Number: 2019/1008/COU

To: Planning Committee Date: 27 January 2020

Author: Rebecca Leggott (Senior Planning Officer)

Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/1008/COU	PARISH:	Cawood Parish Council
APPLICANT:	Mr Richard Mawson	VALID DATE: EXPIRY DATE:	22nd June 2020 17th August 2020
PROPOSAL:	Change of use of barn to children's day care facility and associated works (retrospective)		
LOCATION:	The Barn 70 Sherburn Street Cawood Selby North Yorkshire YO8 3SS		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee as directed by the Head of Planning due to the sensitive consideration of the level of objection.

1. INTRODUCTION AND BACKGROUND

Site and Context

1.1 The application site is located within the defined development limits of Cawood, which is a Designated Service Village as identified within the Core Strategy. The outbuilding in question lies to the north west and within the rear garden of No.70 Sherburn Street. The area is essentially residential in character, with the rear garden of No.68 to the north and the dwelling known as West Gates and Wolsey House to the south. The barn is part 1.5 and part single storey and positioned in the north western corner of the site with its gable fronting the highway, Chestnut Road. Chestnut Road provides the rear access to garages of the dwellings that front Sherburn Street and is relatively narrow.

- 1.2 Cawood is a historic village situated on the west bank of the River Ouse and is one of the oldest settlements within the Selby District.
- 1.3 The application site is also located within the Cawood Conservation Area and within Flood Zone 3.

The Proposal

- 1.4 The proposals whilst described as a 'barn' is more a former domestic outbuilding that is seeking permission to change its use to a children's day care facility. The proposal also includes the blocking up of the window on the western elevation.
- 1.5 It is noted that the outbuilding in question was previously used ancillary to the main house. However, the application form indicates the use as a day care facility first occurred in 2013 and as such the application is retrospective. It is however unclear if this was to the same intensity as the use proposed.
- 1.6A Planning Statement has been submitted with the application, which includes some of the following details:
 - Work hours 07.00 until 18.00 Monday to Friday and closed on Saturdays, Sundays and Bank Holidays.
 - It is noted that the applicant has not stipulated the exact number of children being cared for on site. However, the Ofsted regulations referenced in the supporting statement provided stipulate that the building could accommodate a maximum of 21 children.
 - The nursery employs a maximum of 7 part time staff.
 - No on-site parking available but some offsite parking is available.
- 1.7 Whilst the red line application site includes the whole land owned by the applicant, the actual day care facility is only concentrated in the lower/end part of the garden. This is defined by a fence and a change in surface i.e. artificial grass.

Relevant Planning History

- 1.8 The following historical application is considered to be relevant to the determination of this application.
 - CO/1985/0683, Proposed conversion of outhouse into double garage, Decision: PER, Decision Date: 13-JUN-85

2. CONSULTATION AND PUBLICITY

2.1. Parish Council – Cawood Parish Council have raised no objections to the retrospective proposals in principle. However, have commented that there are issues which should be addressed. Most notably, concerns relating to access and parking. Cawood Parish Council understand the actual nursery is not 70 Sherburn Street, but the barn at the end of the garden. This is primarily accessed along the Back Lane which is narrow and congested. Furthermore, Cawood Parish Council note that, given the nature of a nursery, young children enjoy integrated play which gives them free flow indoors and out, so would hope any issues with noise would be addressed in relation to neighbours' amenity.

2.2. NYCC Highways – NYCC Highways have objected to the proposed development due to the absence of adequate on-site parking spaces. This would be likely to result in vehicles being parked outside the site on the County Highway to the detriment of the free flow of traffic and road safety.

It is noted that discussions took place with the applicant in respect of the objection to allow the applicant the opportunity to address the concerns raised. The applicant subsequently submitted plans showing additional parking on private land outside the application site. However, the additional parking shown is not within the control of the applicant and thus did not overcome the initial concerns.

- 2.3. **Yorkshire Water –** No response received.
- 2.4. **Selby Area Internal Drainage Board -** The IDB have raised no objections subject to a number of standard informatives.
- 2.5. Environmental Health Environmental Health have raised concerns regarding the nature or the proposals being a nursery, which typically gives rise to noise from road traffic and children playing. Road traffic noise is for the most part limited to drop off and pick-up times in the morning and early afternoon these periods are relatively short-lived and typically do not take place at the weekend. With regards to children playing, it is not clear on the plans where the play area is sited.

Therefore, the Environmental Health Officer has recommended that detail is sought given the residential receptors at either side. It would be recommended that the perimeter of the play area is treated with acoustic screening to reduce the noise so far as is reasonably practicable for a nursery, which would be 1.5m in height, can be of wooden fence or brick wall construction, should be of close boarded construction, be free from holes, sealed at the base and have a minimum mass of 10kg/m2.

- 2.6. **Historic England** Historic England have advised that they have no comments to make on this application.
- 2.7. Public Rights of Way Officer No response received.
- 2.8. Contaminated Land Consultant No response received.
- 2.9. The Environment Agency (Liaison Officer) The Environment Agency have raised no objections to the proposals subject to the applicant agreeing a suitable warning and evacuation plan with the LPA's Emergency Planning Team.
- 2.10. **Neighbour Summary –** All immediate neighbours were informed by letter and a site notice was erected. Resulting in 3 letters of support and 6 letters of objection. In summary the letters of support state:
 - The nursery supports the Cawood community through caring for children and involving them in various projects.
 - The staff are very professional, competent and help neighbours buy taking parcels.
 - Parking issues are minor and can be solved.
 - The nursery has become part of the local scene.
 - The nursery provides training and employment for local young people.

- Parking issues have been overcome following neighbours making their surplus parking available to the applicants.
- Increased traffic is little to do with the nursery who have excellent communication in regard to access and parking.
- The barn and outside area is very well maintained with minimal disturbance to the area.
- No noise issues, only ever happy play of a normal level for a small group of children.
- Letters also state, "Please give Ellytotts and the parents of the children who
 have entrusted her with their care and who would find her irreplaceable an
 opportunity to work together to come up with alternative methods to drop off
 and pick up."
- 2.11 It is noted that a number of the letters of support are not from immediate neighbours but from members of the public who use the nursery and are located across the village of Cawood and further afield such as Bubwith, which is located outside of the Selby district. In summary the letters of objection raise concerns for:
 - Impacts on the Conservation Area.
 - Retrospective application and works.
 - Traffic and highway safety.
 - Impacts on residential amenity including noise.
 - Neighbouring residents' driveways are blocked daily due to parking issues with the nursey.
 - Concerns that the plans submitted are incorrect and that the hours of opening applied for contradict the opening hours as shown on the nursery's website.
 - Lack of engagement from the applicant with neighbours.
 - The property is an eye saw resulting in the devaluation of surrounding properties.
 - Concerns that the access to the nursery is also unsafe for children accessing the property as the gates open straight on to the road.

3. SITE CONSTRAINTS

Constraints

3.1 The application site is located within the defined development limits of Cawood, which is a Designated Service Village as identified in the Core Strategy and is located within Flood Zone 3.

4. POLICY CONSIDERATIONS

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

District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -
- 4.6 "213.existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

Selby District Core Strategy Local Plan

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

Selby District Local Plan

- 4.8 The relevant Selby District Local Plan Policies are:
 - ENV1 Control of Development
 - ENV25 Control of Development in Conservation Areas
 - EMP2 Location of Economic Development
 - EMP6 Employment Development within Development Limits and Established Employment Areas
 - T1 Development in Relation to the Highway Network
 - CS3 Children's Nurseries

5 APPRAISAL

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

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

The Principle of the Development

- 5.2 The proposal is for the change of use of a barn to children's day care facility and associated works. The following policies are considered to be relevant.
- 5.3 Policy SP1 of the Core Strategy outlines that "when considering development proposals, the Council will take a positive approach that reflects the presumption in 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 Policy SP13 of the Core Strategy states that in rural areas, sustainable development which brings about sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported, including (amongst other things) the re-use of existing building and infrastructure and the development of well-designed new buildings. In all cases development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.
- 5.5 EMP6 of the Selby Local Plan relates to Employment Development within Development Limits and Established Employment Areas and states that proposals within defined development limits will be permitted for new business development, including the change of use of land or premises subject to the following criteria:

EMP6 (A)

- 1) There is no significant adverse effect on existing businesses;
- 2) The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity; and
- 3) The proposal would achieve a standard of design, materials and landscaping appropriate to the locality and would not have a significant adverse effect on the appearance or character of the surrounding area.

EMP6 (B)

- 1) The nature and scale of the proposal is appropriate to the locality;
- 2) The proposals would not prejudice the future comprehensive development of land; and
- 3) The proposal would not harm acknowledged nature conservation interests or result in the loss of open space of recreation or amenity value or which is intrinsically important to the character of the area.
- 5.6 Policy CS3 of the Selby Local Plan states that proposals for the development of or change of use to a children's nursery will be permitted subject to a number of criteria, this includes:

- 1) The proposal would be situated within the defined development limits or within existing school or college sites;
- 2) The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity;
- 3) Adequate car parking, and an area for the setting down and collection of pupils off the highway is available, or the proposal is not situated close to a busy road junction or where peak hour loading restrictions are in operation; and
- 4) Adequate outdoor space for children's play is provided.
- 5.7 The application site is located within the defined development limits of Cawood. There is nothing within the NPPF to identify this type of development as being unsustainable or preclude in principle development of this type in this location.
- 5.8 The proposals are considered acceptable in principle and in respect of Local Plan Policy EMP6 (1), (2) and CS3. Where the proposed scheme may be acceptable in principle it would be required to meet the policy, tests set out in in Local Plan Policy EMP6 and CS3.
- 5.9 The impact on acknowledged interests against the above policy tests is considered in the following parts of the report, including the issue of scale.

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

- 5.10 The application site is located within the Cawood Conservation Area. Planning (Listed Building and Conservation Areas) Act 1990, Section 72 (1) states that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area.
- 5.11 Relevant policies within the NPPF, which relate to development within a Conservation Area include paragraphs 189, 190, 191,192 193 and 194. Relevant policies within the NPPF, which relate to general design principles, include paragraphs 53, 124, 127, 128, 130 and 131.
- 5.12 The application site is located within a residential area and the barn is located to the rear of the host property 70 Sherburn Street and is adjacent the highway to the rear Chestnut Road. Therefore, the proposed use has the potential to impact on the character of the area through increased activity on site, generated by vehicle movements and noise from children inside and outside of the property.
- 5.13 The Supporting Statement details that some refurbishment works took place in 2012. This includes the installation of a staircase, installations of two toilets, connection to the mains sewers, and replacement of the floor. Officers also note from a review of the site history and a site visit that a number of openings have also been replaced. However, given the nature of the works being repairs and renewals this would not have required planning permission and therefore does not form part of this assessment.

- 5.14 Comments have been sought from the Conservation Officer who has raised concerns regarding the replacement openings and facia boards. However, following further discussions and clarification, the Conservation Officer noted that these changes did not require planning permission and therefore raises no objections to the proposed development.
- 5.15 There have been limited external changes to the building to facilitate the use, with the exception of the creation of the outdoor play area, which from a site visit includes a variety paraphernalia associated with day car use and artificial grass surfacing. This is partially visible from Chestnut Road, due to the open nature of the timber field gate access and low wall that encloses the property. The vivid colours of the artificial grass and play equipment also draws attention to the use, which differs somewhat from the residential uses and character that surrounds it.
- 5.16 Officers note that, no onsite parking can be provided resulting in on street parking by parents dropping off and collecting their children. Having carried out a site visit it is evident that Chestnut Road which is used to access the nursery, is narrow with several vehicles often parked along the highway. This parking of vehicles associated with the use, is considered to have some negative impacts on the character and appearance of the area. However, it would be for the Local Highway Authority to determine the details of this, which is highlighted in the 'Impacts on Highway Safety' section of the report.
- 5.17 Overall, Officers consider that as a result of the type and intensity of the use, this would cause some limit harm to the Cawood Conservation Area. However, this harm would be outweighed by the public benefits associated with the proposed development including but not limited to the creation of 7 part time jobs and the overall contribution to the rural economy.
- 5.18 Having considered the scheme as a whole, the use and associated works, on balance would be acceptable to its surroundings and would not have a detrimental impact on the character and appearance of the area. The proposal therefore complies with Policy ENV1, ENV25, EMP6 A(3), B(1) and (3) of the Selby District Local Plan, Policies SP13 (D), SP18 and SP19 of the Core Strategy and the NPPF.

Impact on Residential Amenity

- 5.19 Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1 (1) of the Selby District Local Plan. Significant weight should be attached to this Policy as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved.
- 5.20 The site is surrounded on all sides by existing residential development. Therefore, the key consideration in respect of residential amenity is the potential of the proposal to create noise and disturbance to neighbouring dwellings through early morning and late evening drop off and picks, children playing outside and any overlooking that might occur.
- 5.21 The existing building located to the rear of 70 Sherburn Street located within a residential area. The day care facility is accessed via Chestnut Road and benefits from a small outdoor area to the south, which has been separated from the rear garden of the host property, 70 Sherburn Street.

- 5.22 Given the limited external changes to the building it is not considered that the proposals would have any additional adverse impacts in respect of overlooking or overshadowing on the occupants of the neighboring properties.
- 5.23 In considering any impacts in respect of noise, it is noted that the applicant has advised that working hours for the childminders business are 07.00 18.00 Monday to Friday and not at all on Saturdays, Sundays or Bank Holidays. It is also noted that the planning statement details that the number of children on site is regulated by Ofsted and calculated via the available floor space of the dwelling and number of employees.
- 5.24 In summary, childminders may care for a maximum of 21 young children and the application form advises that there are a maximum of 7 part time employees. It is noted that the drop offs, and collections associated with a maximum of 28 people each morning and evening is considered to cause some nuisance. Whilst the building is well away from the dwellings on Sherburn Street, the proposals have the potential to disrupt residents at 7a, and in the evening particularly those immediately adjacent and those along Chestnut Road.
- 5.25 The Environmental Health Officer has raised concerns that, the information submitted is not clear on the plans where the play area is sited and would recommend that further details is sought given the residential receptors either side. The EHO has also advised that the perimeter of the play area should be treated with acoustic screening to reduce noise.
- 5.26 From a review of all relevant information, it is considered that there is adequate open space for the children to play outdoors and is regulated separately by Ofsted.
- 5.27 Overall, there are fundamental concerns relating to the intensity of the use and cumulative impact of the drop off and collections, number of children and employees, outdoor activities and lack of acoustic fencing. Therefore, the proposals on a whole are considered to have significant adverse impacts on the residential amenity of the occupiers of neighboring properties.
- 5.28 Therefore, it is considered that the proposals would have significant adverse effect upon adjoining residents in contrary with Policy ENV1, ENV2, EMP6 B(1) and CS3 (4) of the Selby District Local Plan.

Impact on Highway Safety

- 5.29 Relevant policies in respect to highway safety include Policies ENV1, T1 and T2 of the Selby District Local Plan and requirement (c) set out in Policy SP19 of the Core Strategy. These policies should be afforded substantial weight as they are broadly consistent with the aims of the NPPF.
- 5.30 The proposals are for the retrospective change of use of barn to children's day care facility and associated works. The site consists of a building and play area with no onsite parking. Access for pick up and drop offs, is from Chestnut Road.
- 5.31 Officers also note that a number of the objections received relate to highway safety issues and parking along Chestnut Road. This includes people parking across residents' driveways.

- 5.32 NYCC Highways commented on the proposed development and have raised objections to the proposed development, due to the absence of adequate on-site parking spaces. The proposed development would be likely to result in vehicles being parked outside the site on the highway to the detriment of the free flow of traffic and road safety. The numbers of children and staff levels also compound this problem.
- 5.33 The Highway Officer also makes reference to undertaking a site visit and notes struggling to find somewhere to park along Chestnut Road without blocking another resident's access or compromising. It was only possible for the officer to park once a parent had dropped off their child and the officer could then move into this location. The officer witnessed the refuse vehicle trying to navigate the parked cars. The Highways Officer's observations corroborates concerns raised in the neighbour objection letters received relating to highway safety concerns.
- 5.34 In the interests of trying to find a workable solution, Officers have discussed the highway objection with the applicant, who subsequently provided a plans showing parking spaces provided within other neighbouring properties along Chestnut Road, specifically, 42 Chestnut Road and 58 Sherburn Street. Furthermore, NYCC's parking standards require 1 car parking space/2 staff and 1 space/6 children should be made available, therefore the proposals are deficient by approx. 6-7 spaces for a business of this size.
- 5.35 Having reconsulted the Highway Authority with the suggestion of revised off-site parking, this is not considered to be an acceptable solution, as these spaces are not within the control of the applicant, not within the red line application site and cannot be suitably controlled or retained for the lifetime of this permission. The parking cannot be relied upon therefore, the Local Highway Authority maintain their original objection, which cannot be resolved or mitigated.
- 5.36 Overall, the proposals are considered to be unacceptable in terms of highway safety and therefore does not comply with Policy EMP6 A(2) and CS3 (2) and (3) of the Selby District Local Plan and would be unacceptable in respect of Local Plan Policy SP19 of the Core Strategy and policies contained within the NPPF.

Flood Risk and Drainage

- 5.37 Relevant policies in respect to flood risk include Policies SP15, SP19 of the Core Strategy, and paragraphs 149,150,155,156, 157, 158, 163 of the NPPF.
- 5.38 Firstly, addressing the issues of flood risk, the application site is within Flood Zone 3, which has a high probability of flooding. The application involves a 'change of use' of a residential outbuilding to a nusery, both of which are 'more vulnerable' uses within Table 2 of the NPPG flooding guidance. Therefore, no sequential test or exceptions test would not be required.
- 5.39 Having consulted the Environment Agency, the EA have raised no objections to the proposals subject to the applicant agreeing a suitable warning and evacuation plan with the LPA's Emergency Planning Team. In considering the EA's comments no warning and evacuation plan has been provided, however this could have been supplied or dealt with by condition, should support be offered to the scheme.
- 5.40 In terms of drainage, the surface water from the existing building is already suitably drained and this permission does not increase this run off, thus does not need further control. Yorkshire Water and the IDB have been consulted on the proposals and

raised no objections. Likewise, the building is already connected to the mains sewer for foul water.

5.41 On the basis of the above the proposals are considered to be acceptable in terms of flood risk and therefore accord with Policies SP15, SP16, SP19 of the Core Strategy, and paragraph 163 of the NPPF.

5. CONCLUSION

- 6.1 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposed development would not have a detrimental effect on the character and appearance of the area, or the Cawood Conservation Area. The proposal is also acceptable in respect of flood risk and drainage.
- 6.2 However, the proposals would have a detrimental effect on, the residential amenity of the occupants of neighbouring properties and highway safety.
- 6.3 The application is therefore considered to be in contrary to Policies ENV1, ENV2 T1, EMP6 A(2) and B(1) and CS3 (2) and (3)of the Selby District Local Plan, Policies SP1, SP2, SP15 and SP19 of the Core Strategy and the advice contained within the NPPF.

7. RECOMMENDATION

- 7.1 This application is recommended to be REFUSED for the following reasons:
 - 1. The combined impact of noise, general disturbance and traffic generation from the nursery results in an unacceptable form of development, which creates significant harm to the living conditions of neighbouring occupiers. This cumulative harm is given significant weight and would outweigh any benefits of the proposed development. This development is therefore contrary to Policies, ENV1(1) and ENV2(A) of Selby District Local Plan, Policies SP13(D), SP19(K), the PPG for Noise, the Noise policy statement for England and paragraphs, 170(e), 180(a) the NPPF.
 - 2. The proposed development is unacceptable in terms of highway safety due to the absence of adequate on-site parking spaces. The proposed development would be likely to result in vehicles being parked outside the site on the County Highway to the detriment of the free flow of traffic and road safety. The proposed scheme therefore fails to accord with Policies ENV1, T1, T2, EMP6 A(2) and CS3 (2) and (3) of the Selby District Local Plan and would be unacceptable in respect of Local Plan Policy SP19 of the Core Strategy and the advice contained within Paragraphs 108 and 109 of the NPPF.

8. Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9. Financial Issues

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

10. Background Documents

Planning Application file reference 2019/1008/COU and associated documents.

Contact Officer:

Rebecca Leggott (Senior Planning Officer) rleggott@selby.gov.uk

Appendices:

None.

Land to the rear of 5-13 Stutton Road, Gadcaster 15-3 2020/0768/FUL 14.4m Tennis Court Magnet Sports Ground 25 Eagle odge Reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationary Office. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil

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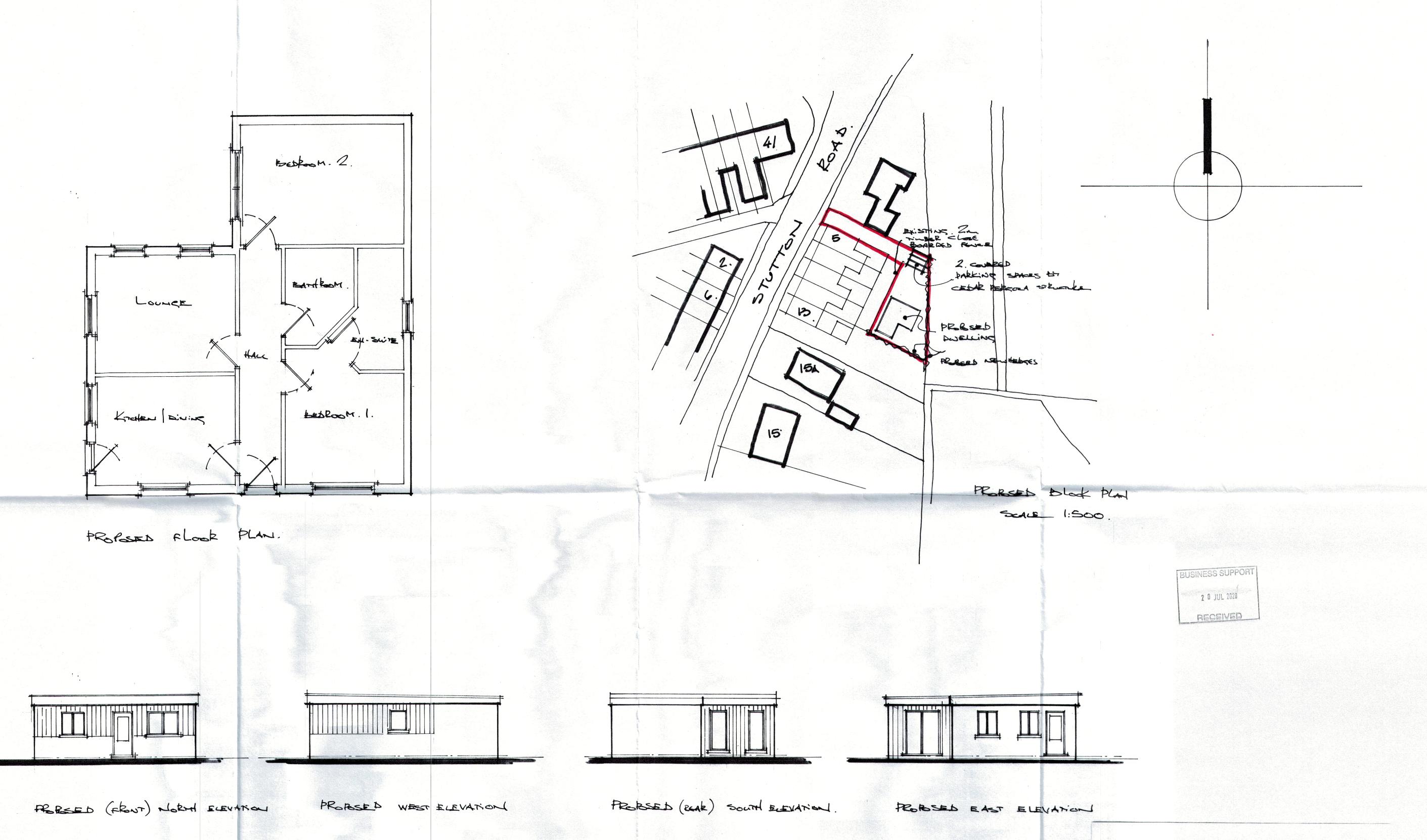
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LOCATION:- Land to the rear of 5-13 Stutton Road, Tadcaster, North Yorkshire, LS24 9HE SCALES: Proposed Floor plans 1:50, elevations 1:100 and layout plan 1:500 DATE: March 2020 DRAWING NO: PB/20/03 rev B

Plan B Planning & Design Consultant
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PROPOSAL: Erection of a detached dwelling

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Report Reference Number: 2020/0768/FUL

To: Planning Committee Date: 27 January 2021

Author: Irma Sinkeviciene (Planning Officer)

Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0768/FUL	PARISH:	Tadcaster Town Council
APPLICANT:	Mr Tom Wilson	VALID DATE: EXPIRY DATE:	4th August 2020 29th September 2020
PROPOSAL:	Erection of a detached dwelling		
LOCATION:	Land to Rear Of 5-13 Stutton Road Tadcaster		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee at a discretion of Head of Planning Service.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The site is located within the defined development limits of Tadcaster which is identified as a Local Service Centre in the Core Strategy. It is located immediately to the rear of terraced residential properties located along the Stutton Road and there are residential garden areas adjacent to the north, south and south west of the site, and allotments with open area beyond them along the eastern boundary of the site.
- 1.2 The application site is of an irregular shape which amounts to approximately 280 square metres of undeveloped land which is generally flat and located on a slightly lower ground level that the row of terraced properties to the west.

- 1.3 The boundaries of the site are marked by the high close boarded timber fence with concrete base and posts along its north western boundary, close boarded timber fence along its boundary on the north east, a combination of close boarded timber fence and post and rail fence along eastern boundary and a vertical open single boarded timber fence along its boundary on the south west.
- 1.4 It is noted from a site visit and Google Earth image search that there is a hardstanding area constructed within the northern part of the site which requires planning permission as there was no evidence to demonstrate that the land is residential curtilage. Prior to the submission of the application, the applicants have sought to argue that the land subject of the application is residential land but this position is not agreed, and the Applicants were advised in both May 2019 and October 2019 of the Council's view and that they would need to demonstrate this via a Certification, but no submissions were made to the Council to seek a Certificate of Lawfulness.

The Proposal

- 1.5 The application seeks full planning permission for the erection of a detached dwelling on the application site.
- 1.6 The proposed dwelling would have a flat roof and would be of an L-shape measuring approximately 10 metres in width and approximately 8.5 metres in depth with a height of approximately 3.35 metres. It is proposed to be constructed of brick, render and cedar boarding for the external walls, fibreglass for the roof and UPVC windows and doors.
- 1.7 The proposed boundary treatments would consist of a 2-metre closed boarded timber fence along north west boundary as existing and a hedgerow along east and south east boundaries.

Relevant Planning History

- 1.8 The following historical application is considered to be relevant to the determination of this application.
 - Application Number CO/1997/0725 (8/73/492/PA) outline application for the erection of a bungalow on 0.03ha of land to the rear of 5,7,9 and 11 Stutton Road, Tadcaster was refused in October 1997
 - Application Number 2006/0757/FUL (8/73/492A/PA) for the erection of a garage on land to the rear of 7 Stutton Road, Tadcaster was refused in August 2006
 - Application Number 2016/0145/FUL for the erection of a detached dwelling on land to the rear of No's 5 - 13 Stutton Road, Stutton Road, Tadcaster was refused in June 2016 for the following reasons:
 - 1. The size and scale of the proposed dwelling would cause an unacceptable impact on the character and form of the locality and would fail to improve the character and quality of the area. therefore, the proposal is contrary to Policy ENV1(4) of the Selby District Local Plan, Policies SP2, SP4 and SP19 of Core Strategy and the NPPF

2. Given the very small scale of 5 - 13, their existing proximity to each other and the limited level of amenity currently afforded by small back yards any reduction to this minimal standard would reduce living conditions unacceptably. The proximity of the building and the bulk, size and position would be oppressive and create a solid wall along the length of the properties where currently they have an open outlook. This would be unacceptably oppressive. The proposed dwelling therefore fails to accord with Policy ENV1(1) of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF."

The application was dismissed on Appeal in May 2017 for the following reasons:

- "[...] the proposal would have a significant detrimental effect on the character and appearance of the locality. As a result, it would be contrary to Policy ENV1 of the Selby Local Plan 2005 (LP), Policies SP2, SP4 and SP19 of the Selby Core Strategy 2013 (CS) and the relevant guidance within the Framework. Amongst other matters, these policies and guidance seek to ensure that development does not significantly harm the character or appearance of its surrounding area."
- "[...] the proposed development would have a detrimental impact on the outlook of neighbouring occupiers, particularly those at Nos 7 and 9 Stutton Road. Therefore, it would not comply with Policy ENV1 of the LP, Policy SP19 of the CS and the Framework. Amongst other matters, these policies and guidance seek to ensure that development has no adverse effect on the living conditions of nearby residents, including outlook."
- Application Number 2018/0056/FUL for the erection of a detached dwelling on Land to Rear Of 5-13 Stutton Road, Tadcaster was refused in March 2018 for the following reasons:
 - 1. The proposed dwelling would reduce the open and spacious aspects of the immediate area due to its size, scale and position and would cause an unacceptably harmful impact on the character and form of the locality and would fail to improve the character and quality of the area. Therefore, the proposal is contrary to Policy ENV1(4), of the Selby District Local Plan, Policies SP2, SP4 and SP19 of Core Strategy and the NPPF.
 - 2. The proposed development is considered to cause a significant detrimental impact on the residential amenities of the neighbouring properties, in particular number 5-13 Stutton Road and would reduce their living conditions unacceptably with regard to outlook and would be contrary to Policy ENV1 of the Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

It was dismissed on appeal in September 2018 for the following reason:

"The proposal would therefore fail to harmonise with its setting, would appear out of context, and would depart radically from the prevailing local character in terms of openness. As a result, it would unacceptably harm the character and appearance of the area.

Accordingly, the proposal would be contrary to Policy ENV1(4) of the Selby District Local Plan 2005 (the LP) and Policies SP4 and SP19 of the Selby District Core Strategy 2013 (the CS). When taken together these policies seek, amongst other

things, to ensure that new development preserves and enhances the character of the local area. In addition, the proposal would also run contrary to the Framework's core planning principle of seeking to secure high quality design."

2. CONSULTATION AND PUBLICITY

2.1 **NYCC Highways** – In the *first response* the Highways Officer noted that the Highway Authority did not object to the previous planning application. However, when assessing this application, the Highways Officer advised that they could not ignore the fact that the plot would appear to have no on-site turning which would result in vehicles having to reverse onto the highway. Given the site's location close to the junction with the A659 this is not an ideal situation and Highways Officer therefore recommended that the applicant provides a plan showing that on-site turning can be achieved and that they await amended documents before making a formal recommendation.

Following submission of additional information the Highways Officer was reconsulted and raised no objections in the <u>second response</u> subject to conditions related to parking and Construction Phase Management Plan for small sites.

- 2.2 **Yorkshire Water Services Ltd** No response received.
- 2.3 **Ainsty (2008) Internal Drainage Board** If Yorkshire Water is content with the proposed arrangement and is satisfied that the asset has the capacity to accommodate the flow, then the Board would have no objection to the new proposed arrangement.
- 2.4 Contaminated Land Consultant The Screening Assessment Form does not identify any significant potential contaminant sources, so no further investigation or remediation work is required. However, it is advised to add a condition related to reporting of unexpected contamination.
- 2.5 Urban Designer Advised that their first impression was that some form of small-scale development might be possible on the proposed site, but this was quickly eroded by developing a better understanding of the area, the context for development, and the various constraints. Concerns raised in regards to access, parking and that the shaded area suggesting ownership on the parking plan does not match the red line boundary provided on the layout plan, space about dwellings, impact on drainage and sewerage infrastructure, biodiversity in addition to the following:

<u>Urban Form</u> - To the east of Stutton Road, primarily linear roadside development characterised by long rear gardens, with lengths determined by the extent and alignment of former railway line and siting of allotments (which used to be more extensive and located on the opposite side of Stutton Road), developed incrementally since the turn of the 19th/20th centuries, but following that same basic template. The proposals represent a departure from the existing strong pattern of development, potentially establishing an unwelcome precedent for future garden infill

<u>Built Form</u> - Although largely built across the span of a hundred years, key ordering principles have remained consistent in the area - the use of robust, easily maintained materials (primarily brick), use of pitched roofs, and a traditional ordering to forms and elevations of top/middle/bottom. Rather than responding to

the character of the area, the proposed development appears to be driven by the constraints of the site.

<u>Amenity</u> - Although the proposals do offer a degree of outdoor space, the main benefit that development might have offered appears ignored or overlooked, in terms of relationship to the allotment gardens - visual links to/from the property would have provided a less insular compound approach, as well as offering natural surveillance to the allotments.

- 2.6 **Neighbour Summary** All immediate neighbours were informed by letter and a site notice was erected on the 7th September 2020. 5 letters of objections have been received as a result of this advertisement with further two letters received following a re-consultation raising the following concerns:
 - 1. Proposal will affect rearward facing view of terraced properties and will further limit the light to some of them thus decreasing their value.
 - 2. The access lane proposed to be utilised by the development has poor drainage and floods after just a moderate rainfall and is also falling into a state of disrepair so extra traffic will cause rapid erosion of the lane. This access road also contains the main access inspection manhole for all the adjacent properties.
 - 3. Additional strain on the sewers, the surface water drain that runs to the council allotments near to the old railway embankment, water and gas supplies. The plans do not seem to have taken land drains into consideration.
 - 4. Impact on highway safety due to close proximity to junction with Leeds Road and due to this part of Stutton Road being a regular bus route with a bus stop by Nos 9-13 Stutton Road. There is absolutely no facility for construction traffic and material storage.
 - 5. The access road is not the width of two vehicles as shown on the plans and manoeuvring in and out of the proposed parking would block the access lane to any other user. The turning radius shown on the submitted drawing is impossible.
 - 6. Erection of a large fence between terraced properties and the site and construction of a concrete base without planning permission.
 - 7. The plans for the house are not in keeping with the terraced houses it overlooks and would spoil the area.
 - 8. Will set precedent for tandem building on Stutton Road where any house with a large back garden will be able to have a small development within their rear garden areas.
 - 9. Once approved, amendments could potentially be applied to increase the size of the development or the building would be extended in the future.
 - 10. Impact on health and wellbeing of the residents due to stress these applications are causing.
 - 11. Restrictive covenant stipulating that there should be no building on part of the development.

3 SITE CONSTRAINTS

Constraints

3.1 The site is located within the defined development limits of Tadcaster which is identified as a Local Service Centre in the Core Strategy. The site does not contain any protected trees and there are no statutory or local landscape designations. Similarly, there is no Conservation Area designation or local listed buildings that are affected. The site is situated within Flood Zone 1.

4 POLICY CONSIDERATIONS

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

4.6 Selby District Core Strategy Local Plan

The relevant Core Strategy Policies are:

• SP1 – Presumption in Favour of Sustainable Development

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

4.7 Selby District Local Plan

The relevant Selby District Local Plan Policies are:

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

5 APPRAISAL

- 5.1 The main issues to be taken into account when assessing this application are:
 - The Principle of the Development
 - Design and Impact on the Character and Appearance of the Area
 - Impact on Residential Amenity
 - Highway Issues
 - Flood Risk, Drainage and Climate Change
 - Nature Conservation
 - Contamination Issues
 - Affordable Housing

The Principle of the Development

- 5.2 Policy SP1 of the Selby District Core Strategy Local Plan (2013) outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the NPPF.
- 5.3 The application site is situated within the Development Limits of Tadcaster which is the Local Service Centre as identified in the Core Strategy. Policy SP2A(a) of the Core Strategy states "Sherburn in Elmet and Tadcaster are designated as Local Service Centres where further housing, employment, retail, commercial and leisure growth will take place appropriate to the size and role of each settlement." and that "Proposals for development on non-allocated sites must meet the requirements of Policy SP4."
- 5.4 Policy SP4(a) states that "in order to ensure that development on non-allocated sites contributes to sustainable development and the continued evolution of viable communities, the following types of residential development will be acceptable in principle within Development Limits in different settlement types" and states that "In Selby, Sherburn In Elmet, Tadcaster and Designated Service Villages conversions, replacement dwellings, redevelopment of previously developed land,

- and appropriate scale development on greenfield land (including garden land and conversion/redevelopment of farmsteads)."
- 5.5 The proposal is considered to fall within one of the types of development identified within SP4(a) of the Core Strategy and is therefore acceptable in principle subject to technical matters and the material considerations.

Design and Impact on the Character and Appearance of the Area

- 5.6 Relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 (1), (4) and Policies SP4 and SP19 of the Core Strategy.
- 5.7 Policy SP4 (c) states that "In all cases proposals will be expected to protect local amenity, to preserve and enhance the character of the local area, and to comply with normal planning considerations, with full regard taken of the principles contained in Design Codes (e.g. Village Design Statements), where available".
- 5.8 Policy SP19 requires that "Proposals for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside. Both residential and non-residential development should meet the following key requirements:
 - A) Make the best, most efficient use of land without compromising local distinctiveness, character and form;
 - B) Positively contribute to an area's identity and heritage in terms of scale, density and layout.
- 5.9 Selby District Local Plan Policy ENV1 (1) requires development to take account of the effect upon the character of the area, with ENV1 (4) requiring the standard of layout, design and materials to respect the site and its surroundings. Local Plan Policy ENV1 is broadly consistent with the aims of the NPPF and should therefore be given significant weight.
- 5.10 Relevant policies within the NPPF, which relate to design include paragraphs 124 to 131
- 5.11 The proposed dwelling would have a flat roof and would be of an L-shape measuring approximately 10 metres in width and approximately 8.5 metres in depth with a height of approximately 3.35 metres. It is proposed to be constructed of brick, render and cedar boarding for the external walls, fibreglass for the roof and UPVC windows and doors. The proposed boundary treatments would consist of a 2 metre closed boarded timber fence along north west boundary as existing and a hedgerow along east and south east boundaries. Although a scheme of landscaping has not been submitted with the proposal, it is considered that a suitable condition could be imposed requiring a scheme of landscaping be submitted prior to commencement of development.
- 5.12 The proposed dwelling would be located within close proximity to north west and south east boundaries and would be distanced from them by approximately 1.3 1.4 metres. The eastern corner of the dwelling would be distanced from the eastern boundary by approximately 2 metres and the dwelling would be distanced from its north east boundary by approximately 13 metres.

- 5.13 It should be noted that the applicant was advised that the presence of a dwelling on a plot of limited scale would materially and significantly reduce the existing sense of openness which would be to the detriment of the character of the locality and the applicant provided various sketches of potential alternative schemes and potential changes to the proposal. However, the submitted information did not change the position of the Council and the application is therefore determined on the basis of the information as originally submitted.
- 5.14 The application site is a small plot of land situated to the rear of a small terrace of 2-storey Edwardian dwellings and to the front of open space used for allotments. Access to the appeal site is via a narrow lane, which also provides access to the rear of 5-13 Stutton Road. This application is a resubmission of similar schemes refused in 2016 under planning reference 2016/0145/FUL and 2018 under reference 2018/0056/FUL. The applicant appealed previous decisions and both appeals were dismissed under Appeal References APP/N2739/W/16/3166323 and APP/N2739/W/18/3204952 respectively. The proposal is for a single storey dwelling which is similar in size and scale to the scheme refused in 2018 with some changes to design and appearance, reduction of footprint by approximately 1.9 square metres and reduction in height by approximately 1.15 metres due to change of roof design to flat roof.
- 5.15 The Council's Urban Designer was consulted on the proposal who, in summary, concluded that the proposals represent a departure from the existing strong pattern of development, potentially establishing an unwelcome precedent for future garden infill and that rather than responding to the character of the area, the proposed development appears to be driven by the constraints of the site.
- 5.16 The Planning Inspector considered at the time of the latest appeal that paragraph 127 of the NPPF to be of relevance, which states that development should be sympathetic to local character, including the surrounding built environment and that whilst variety exists in regard to design, the proposed contemporary materials would be in marked contrast to the existing use of more traditional materials. Furthermore, the Planning Inspector considered that given the location of the allotments and open space beyond the appeal site, the immediate locality has a notable sense of openness and that the presence of a dwelling on a plot of limited scale would materially and significantly reduce the existing sense of openness which would be to the detriment of the character of the locality. The Inspector therefore concluded that the proposal would fail to harmonise with its setting, would appear out of context, and would depart radically from the prevailing local character in terms of openness and would therefore unacceptably harm the character and appearance of the area.
- 5.17 Although the scheme was slightly amended from that refused in 2018, it is still considered that the proposal is for a backland development which fails to take into account the local form, setting and context of its surroundings thus failing to improve design and quality of the area and departing radically from the prevailing local character in terms of openness. Furthermore, it is considered that the new proposal has sought to maximise the development potential on the site without taking account of the design, appearance and siting of the adjacent terraced properties and results in a dwelling which occupies a large part of the site with limited space around it. As a result, it is therefore considered that it would unacceptably harm the character and appearance of the area.

5.18 Having had regard to all of the above it is considered that the proposal would cause an unacceptable incoherent cramped overdevelopment of the site and would cause adverse detrimental impacts on the character and appearance of the area and as such would be contrary to Policy ENV 1(1) and (4) of the Local Plan, Policies SP4 and SP19 of the Core Strategy and the NPPF.

Impact on Residential Amenity

- 5.19 Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1 (1) of the Selby District Local Plan and Policy SP4 of the Core Strategy. Significant weight should be attached to Policy ENV1 as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved.
- 5.20 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the sheer size, scale and massing of the development proposed. Similarly, consideration needs to be given to whether existing surrounding residential development would give rise to the potential for overlooking of the proposed dwellings, overshadowing of the proposed dwellings, and whether oppression would occur from the size, scale and massing of existing neighbouring properties. Furthermore, consideration is given to the provision of an appropriate level of good quality external amenity space for future occupiers and suitable boundary treatments between existing and proposed dwellings.
- 5.21 Comments relating to impact on rearward facing view of terraced properties thus decreasing their value are noted. However, both of these issues are not planning matters. Comments related to further limitation of the light to some of the properties are noted and discussed further in this section of the report.
- 5.22 The proposed dwelling would be located on land to the rear of 5 13 Stutton Road which are two storey terraced properties. The boundary treatment between the site and those properties consists of a 2-metre high close boarded timber fence with concrete base and posts.
- 5.23 The proposed dwelling would have one single window in the north west elevation facing neighbouring properties 5-13 Stutton Road, which would serve an en-suite bathroom which can be conditioned to be obscure glazed in order to retain the privacy of the future occupants. It is not considered that any of the other windows of the proposed dwelling would be overlooked nor is it considered that they would cause detrimental overlooking issues to neighbouring properties due to being at the ground floor level and due to the existing and proposed boundary treatments.
- 5.24 The proposed dwelling would be distanced from private amenity space of Nos 7,9, and 11 Stutton Road by approximately 5.3 metres and the separation distance between rear elevations of those neighbouring properties and the north west elevation of the proposed dwelling would be approximately 10 metres. Properties 5 13 Stutton Road have a limited levels of amenity space and light due to their small back yards and plot size and layout. As such the current open outlook to the rear contributes significantly to their living conditions and enjoyment of small private amenity spaces. Although findings of the Planning Inspector in terms of limited impact on outlook are noted, it is considered that introduction of a building at this

- location would create a sense of enclosure and would increase level of overshadowing to limited private amenity spaces of those properties.
- 5.25 It is also considered that detrimental impact of noise and disturbance would be caused to neighbouring properties, particularly those immediately bordering with the site due to vehicle movements associated with the proposed new dwelling.
- 5.26 Furthermore, most of the amenity space of the proposed dwelling would be overlooked by the above-mentioned neighbouring properties and the scheme as proposed has potential to create a sense of overlooking to the future occupiers of the proposed new dwelling.
- 5.27 Having had regard to the above, the proposed development is considered to create a sense of enclosure, to increase level of overshadowing to limited private amenity spaces of neighbouring properties, to have detrimental impact of noise and disturbance and to have a potential to create a sense of overlooking to the future occupiers of the proposed new dwelling. As such it is therefore considered that the proposed development would cause a significant detrimental impact on the residential amenities of the neighbouring properties and would be contrary to Policy ENV1 of the Local Plan, Policies SP4 and SP19 of the Core Strategy and the advice contained within the NPPF.

Highway Issues

- 5.28 Policies ENV1 (2), T1 and T2 of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements. It is considered that these policies of the Selby District Local Plan should be given significant weight as they are broadly in accordance with the emphasis within the NPPF.
- 5.29 The proposed dwelling would be served from an existing shared access road from Stutton Road. Concerns have been raised in regards to access to the site, the width of the access road, the poor quality of the access road, turning radius and highway safety.
- 5.30 The Highways Officer was consulted and advised that on-site turning facility should be provided to ensure the vehicles can leave site in forward gear. The applicant was advised of those comments and following some discussions submitted an amended location plan and parking plan which include part of shared rear access road which is within the ownership of the applicant and is proposed to be used for turning.
- 5.31 The Highways Officer was re-consulted and confirmed that that they have no objection to the proposed scheme subject to conditions related to construction of parking related facilities and submission of a Construction Phase Management Plan for small sites. The recommended conditions are considered reasonable and appropriate given the location of the site.
- 5.32 Having considered all of the above, notwithstanding objections raised and due to the scale of the proposal and location of the site, the development is not considered to cause detrimental harm to highway safety and the proposed scheme is in accordance with policies ENV1(2), T1 and T2 of the Local Plan and the NPPF with respect to the impact on the Highway network subject to conditions.

Flood Risk, Drainage and Climate Change

- 5.33 Relevant policies in respect to drainage, climate change and flood risk include Policy ENV1(3) of the Local Plan and Policies SP15 and SP16 of the Core Strategy and the NPPF. Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 5.34 Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate meet 8 criteria set out within the policy. Having had regard to the nature and scale of the proposal, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria of SP15 (B) of the Core Strategy. Therefore, having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.
- 5.35 The proposed dwelling would be located within Flood Zone 1 which is at a low probability of flooding and as such and given the size of the site and that there was no evidence found that the site is identified as having any issues listed in footnote 50 of the NPPF, a site-specific flood risk assessment is not required in this instance.
- 5.36 The submitted application forms states that foul and surface water would be directed to the mains sewer and objections related to drainage issues are noted.
- 5.37 However, Ainsty Internal Drainage Board was consulted and advised that if Yorkshire Water is content with the proposed arrangement and is satisfied that the asset has the capacity to accommodate the flow, then the Board would have no objection to the new proposed arrangement. Yorkshire Water was consulted but there was no response received. As such and given that drainage arrangements would have to be separately agreed with Yorkshire Water, notwithstanding objection raised, the proposal is considered acceptable in terms of its impact on drainage.
- 5.38 Having considered all of the above, it is therefore considered that the proposal is acceptable in terms of flood risk, drainage and climate change in accordance with Policy ENV1 (3) of the Local Plan, Policies SP15 and SP16 or the Core Strategy and the advice contained within the NPPF.

Nature Conservation

- 5.39 Relevant policies in respect to nature conservation interests include Policy ENV1 (5) of the Selby District Local Plan, and Policy SP18 of the Core Strategy. Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 5.40 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.
- 5.41 Having had regard to the above it is noted that the application site does not contain significant areas of semi-natural habitat and is not subject to any formal or informal nature conservation designation or known to support any species given special protection under legislation. It is therefore considered that the proposal would

accord with Policy ENV1 of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation.

Contamination Issues

- 5.42 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. The Local Plan policy should be afforded significant weight.
- 5.43 The application has been supported by an application form and a contaminated land screening assessment form. The application form sets out that the land is not known to be contaminated and the contamination is not suspected for all or part of the site and that the proposed use would not be particularly vulnerable to the presence of contamination.
- 5.44 The Screening Assessment Form shows that the site has previously been used agricultural land/domestic garden, with no previous development. The Council's Contaminated Land Officer was consulted on the scheme who concluded that the Screening Assessment Form does not identify any significant potential contaminant sources, so no further investigation or remediation work is required and recommended a planning condition related to unexpected contamination. Given that the proposal is for a residential property, it is therefore considered reasonable and necessary to attach a condition suggested by the Contaminated Land Officer.
- 5.45 Subject to the aforementioned condition, it is considered that the proposal would be acceptable in respect of land contamination in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Affordable Housing

5.46 In the context of the West Berkshire decision it is considered that there is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. It is therefore considered that having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

Other Issues

- 5.47 Comments related to erection of a fence without planning permission are noted. However, it is noted that the fence does not exceed 2 metres in height and is not adjacent to a highway used by vehicular traffic and as such, does not require a formal planning permission.
- 5.48 Comments related to existing restrictive covenant on the title are noted. However, this is legal issue rather planning matter.
- 5.49 It is noted that in the submission applicant referred to pre-application advise he received prior to submission of the application. However, planning applications are considered on their individual merits with regard to the provisions of the planning acts, all relevant, national and local policy guidance, letters of representation and any other material planning considerations.

6 CONCLUSION

- 6.1 The proposal is for a backland development which fails to take into account the local form, setting and context of its surroundings thus failing to improve design and quality of the area and departing radically from the prevailing local character in terms of openness. As such, the proposal is considered to cause an unacceptable impact on the character and form of the locality and fails to improve the character and quality of the area and is therefore contrary to Policy ENV1(4), of the Selby District Local Plan, Policies SP4 and SP19 of Core Strategy and the NPPF.
- 6.2 The proposed development is considered to create a sense of enclosure, to increase level of overshadowing to limited private amenity spaces of neighbouring properties, to have detrimental impact of noise and disturbance and to have a potential to create a sense of overlooking to the future occupiers of the proposed new dwelling. As such, it is therefore considered that the proposed development would cause a significant detrimental impact on the residential amenities of the neighbouring properties and on the amenities of future occupier of the proposed new dwelling and would therefore be contrary to Policy ENV1 of the Local Plan, Policies SP4 and SP19 of the Core Strategy and the advice contained within the NPPF.

7 RECOMMENDATION

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

- 01. The proposal fails to take into account the local form, setting and context of its surroundings and is considered to be a cramped overdevelopment of the backland plot thus failing to improve design and quality of the area and departing radically from the prevailing local character in terms of openness. As such, the proposal is considered to cause an unacceptable impact on the character and form of the locality and fails to improve the character and quality of the area and is therefore contrary to Policy ENV1(4), of the Selby District Local Plan, Policies SP4 and SP19 of Core Strategy and the NPPF.
- 02. The proposed development is considered to create a sense of enclosure, to increase level of overshadowing to limited private amenity spaces of neighbouring properties, to cause detrimental impact of noise and disturbance and a potential to create a sense of overlooking to the future occupiers of the proposed new dwelling. As such, it is therefore considered that the proposed development would cause a significant detrimental impact on the residential amenities of the neighbouring properties and on the amenities of future occupier of the proposed new dwelling and would therefore be contrary to Policy ENV1 of the Local Plan, Policies SP4 and SP19 of the Core Strategy and the advice contained within the NPPF.

8 Legal Issues

8.1 Planning Acts

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

8.2 <u>Human Rights Act 1998</u>

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 2020/0768/FUL and associated documents.

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Appendices: None



Annex

Glossary of Planning Terms

Community Infrastructure Levy (CIL):

The Community Infrastructure Levy is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010.

Curtilage:

The curtilage is defined as the area of land attached to a building.

Environmental Impact Assessment (EIA):

Environmental impact assessment is the formal process used to predict the environmental consequences (positive or negative) of a plan, policy, program, or project prior to the decision to move forward with the proposed action. The requirements for, contents of and how a local planning should process an EIA is set out in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

National Planning Policy Framework (NPPF):

The National Planning Policy Framework was published on 27 March 2012 and sets out Government planning policies for England and how these are expected to be applied.

Permitted Development (PD) Rights

Permitted development rights allow householders and a wide range of other parties to improve and extend their homes/ businesses and land without the need to seek a specific planning permission where that would be out of proportion with the impact of works carried out. Many garages, conservatories and extensions to dwellings constitute permitted development. This depends on their size and relationship to the boundaries of the property.

Previously Developed Land (PDL)

Previously developed land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings), and associated fixed surface infrastructure. The definition covers the curtilage of the development. Previously developed land may occur in both built-up and rural settings.

Planning Practice Guidance (PPG)

The Planning Practice Guidance sets out Government planning guidance on a range of topics. It is available on line and is frequently updated.

Recreational Open Space (ROS)

Open space, which includes all open space of public value, can take many forms, from formal sports pitches to open areas within a development, linear corridors and country parks. It can provide health and recreation benefits to people living and working nearby; have an ecological value and contribute to green infrastructure.

Section 106 Agreement

Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as s106 agreements, are a mechanism which make a development proposal acceptable in planning terms, that would not otherwise be acceptable. They can be used to secure on-site and off-site affordable housing provision, recreational open space, health, highway improvements and community facilities.

Site of Importance for Nature Conservation

Site of Nature Conservation Interest (SNCI), Site of Importance for Nature Conservation (SINC) and regionally important geological sites (RIGS) are designations used by local authorities in England for sites of substantive local nature conservation and geological value.

Site of Special Scientific Interest (SSI)

Sites of special scientific interest (SSSIs) are protected by law to conserve their wildlife or geology. Natural England can identify and designate land as an SSSI. They are of national importance.

Scheduled Ancient Monument (SAM):

Ancient monuments are structures of special historic interest or significance, and range from earthworks to ruins to buried remains. Many of them are scheduled as nationally important archaeological sites. Applications for Scheduled Monument Consent (SMC) may be required by the Department for Culture, Media and Sport. It is an offence to damage a scheduled monument.

Supplementary Planning Document (SPD)

Supplementary Planning Documents are non-statutory planning documents prepared by the Council in consultation with the local community, for example the Affordable Housing SPD, Developer Contributions SPD.

Tree Preservation Order (TPO):

A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the cutting down, topping, lopping, uprooting, wilful damage, wilful destruction of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed.

Village Design Statements (VDS)

A VDS is a document that describes the distinctive characteristics of the locality, and provides design guidance to influence future development and improve the physical qualities of the area.



Planning Committee 2020-21

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