



Meeting: **PLANNING COMMITTEE**  
Date: **WEDNESDAY, 10 FEBRUARY 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](http://www.selby.gov.uk).

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

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

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

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

- 3. Chair's Address to the Planning Committee**
- 4. Planning Applications Received (Pages 5 - 6)**
  - 4.1. 2019/0668/OUT - Pasture Cottage, Main Street, Thorganby (Pages 7 - 34)**
  - 4.2. 2020/0137/FUL - Land Adjacent to 2 Prospect Villas, Barlow Common Road, Barlow (Pages 35 - 50)**

- 4.3. 2020/0445/FUL - Comus Inn, Selby Road, Camblesforth (Pages 51 - 68)
- 4.4. 2020/1161/COU - Manor Farm, Hirst Road, Chapel Haddlesey (Pages 69 - 86)

*Janet Waggott*

**Janet Waggott, Chief Executive**

<p><b>Date of next meeting (2.00pm)</b> Wednesday, 10 March 2021</p>
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Enquiries relating to this agenda, please contact Victoria Foreman on 01757 292046 or [vforeman@selby.gov.uk](mailto:vforeman@selby.gov.uk).

### **Live Streaming**

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

### **Recording at Council Meetings**

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

## Planning Committee – Remote Meetings

### Guidance on the conduct of business for planning applications and other planning proposals

1. The reports are taken in the order of business on the agenda, unless varied by the Chairman. The Chairman may amend the order of business to take applications with people registered to speak, first, so that they are not waiting. If the order of business is going to be amended, the Chairman will announce this at the beginning of the meeting.
2. There is usually an officer update note which updates the Committee on any developments relating to an application on the agenda between the publication of the agenda and the committee meeting. Copies of this update will be published on the Council's website alongside the agenda.
3. You can contact the Planning Committee members directly. All contact details of the committee members are available on the relevant pages of the Council's website:

<https://democracy.selby.gov.uk/mgCommitteeMailingList.aspx?ID=135>

4. Each application will begin with the respective Planning Officer presenting the report including details about the location of the application, outlining the officer recommendations, giving an update on any additional representations that have been received and answering any queries raised by members of the committee on the content of the report.
5. The next part is the remote public speaking process at the committee. The following may address the committee for **not more than 5 minutes each, remotely**:
  - (a) The objector
  - (b) A representative of the relevant parish council
  - (c) A ward member
  - (d) The applicant, agent or their representative.

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

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

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

7. Once they have been admitted to the meeting, they will be given the five minutes in which to make their representations, timed by Democratic Services. Once they have spoken, they will be asked to leave the meeting/will be removed from the meeting. The opportunity to speak is not an opportunity to take part in the debate of the committee.
8. If there are technical issues and speakers are unable to access the meeting, their representation will be read out on their behalf for the allotted five minutes.
9. Each speaker should restrict their comments to the relevant planning aspects of the proposal and should avoid repeating what has already been stated in the report. The meeting is not a hearing where all participants present evidence to be examined by other participants.
10. The members of the committee will then debate the application, consider the recommendations and then make a decision on the application.
11. The role of members of the planning committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons in accordance with the statutory planning framework and the Council's planning code of conduct.
12. For the committee to make a decision, the members of the committee must propose and second a proposal (e.g. approve, refuse etc.) with valid planning reasons and this will then be voted upon by the Committee. Sometimes the Committee may vote on two proposals if they have both been proposed and seconded (e.g. one to approve and one to refuse). The Chairman will ensure voting takes place on one proposal at a time.
13. This is a council committee meeting which is viewable online as a remote meeting to the public.
14. Selby District Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform Democratic Services of their intentions prior to the meeting on [democraticservices@selby.gov.uk](mailto:democraticservices@selby.gov.uk)
15. The arrangements at the meeting may be varied at the discretion of the Chairman.
16. Written representations on planning applications can also be made in advance of the meeting and submitted to [planningcomments@selby.gov.uk](mailto:planningcomments@selby.gov.uk). All such representations will be made available for public inspection on the Council's Planning Public Access System and/or be reported in summary to the Planning Committee prior to a decision being made.
17. The Remote Meetings Regulations provide flexibility in light of the Covid-19 pandemic, and allow meetings to be moved, called or cancelled without

further notice. For this reason, the public are encouraged to check the Council's website in case changes have had to be made at short notice. If in doubt, please contact either the Planning Department on [planningcomments@selby.gov.uk](mailto:planningcomments@selby.gov.uk) or Democratic Services on [democraticservices@selby.gov.uk](mailto:democraticservices@selby.gov.uk) for clarification.

18. A provisional Calendar of Meetings is operating, with Planning Committees usually sitting on a Wednesday every 4 weeks. However, this may change depending upon the volume of business as we emerge from lockdown. Please check the meetings calendar using this link for the most up to date meeting details:

<https://democracy.selby.gov.uk/mgCalendarMonthView.aspx?GL=1&bcr=1>

19. To view the meeting online, find the relevant meeting from the list of forthcoming Remote Planning Committee meetings. The list of forthcoming meetings is here:

<https://democracy.selby.gov.uk/ieListMeetings.aspx?CommitteeId=135>

Find the meeting date you want and click on it. This will take you to the specific meeting page. Under the section on the page called 'Media' is the link to view the online meeting – click on this link.

20. Please note that the Meetings are streamed live to meet with the legal requirement to be "public" but are not being recorded as a matter of course for future viewing. In the event a meeting is being recorded the Chair will inform viewers.

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

**Contact:** Democratic Services

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

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# Agenda Item 4

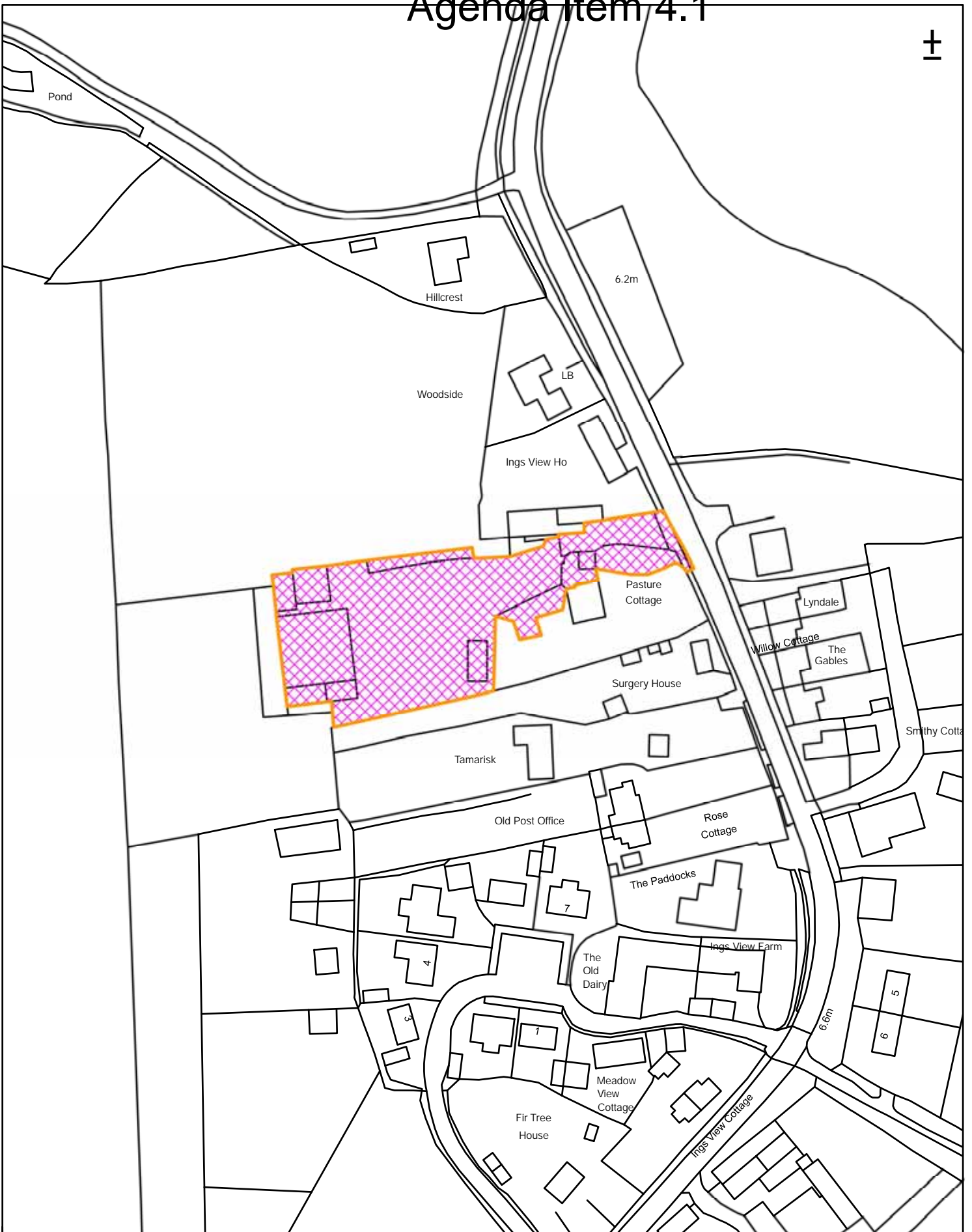
## Items for Planning Committee

10 February 2021

Item No.	Ref	Site Address	Description	Officer	Pages
4.1	2019/0668/OUT	Pasture Cottage, Main Street, Thorganby	Outline application for a residential development and demolition of steel portal framed former haulage workshop building to include access (all other matters reserved)	CHFA	7 - 34
4.2	2020/0137/FUL	Land Adjacent to 2 Prospect Villas, Barlow Common Road, Barlow	Proposed erection of a storage building on land adjacent	IRSI	35 - 50
4.3	2020/0445/FUL	Comus Inn, Selby Road, Camblesforth	Conversion of existing conservatory into dining area relocation of kitchens to new rear extension and new dining / function room to the rear, link attached through walkway	CHFA	51 - 68
4.4	2020/1161/COU	Manor Farm, Hirst Road, Chapel Haddlesey	Change of use of land for a non-domestic shepherd's hut for use as a holiday let, together with a 1600mm wood fire hot tub	CHFA	69 - 86

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## APPLICATION SITE

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

1:1,250



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**AMENDED  
DRAWING**



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

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

**Schedule of House Types**

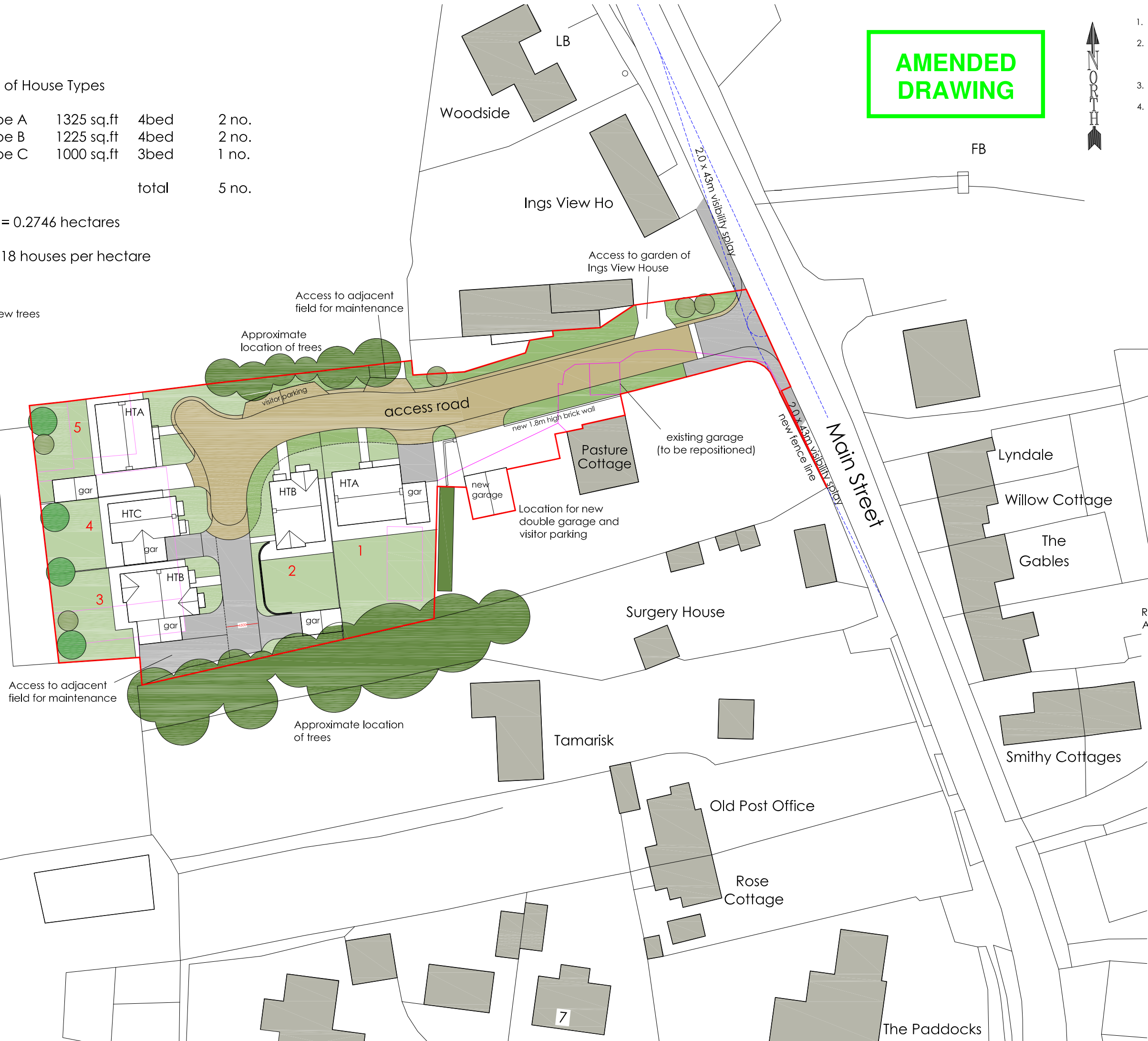
House Type A	1325 sq.ft	4bed	2 no.
House Type B	1225 sq.ft	4bed	2 no.
House Type C	1000 sq.ft	3bed	1 no.
		total	5 no.

Site Area = 0.2746 hectares

Density = 18 houses per hectare



Page 9



Revision A - 29 June 2020 -  
 Access arrangement amended.



Client  
**Owston Associates**

Project Description  
**Main Street  
 Thorganby  
 North Yorkshire**

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

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Report Reference Number 2019/0668/OUT

**To: Planning Committee**  
**Date: 10<sup>th</sup> February 2021**  
**Author: Chris Fairchild**  
**Lead Officer: Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2019/0668/OUT	PARISH:	Thorganby Parish Council
APPLICANT:	Mr & Mrs Knott & Turner	VALID DATE:	3rd July 2019
		EXPIRY DATE:	28th August 2019
PROPOSAL:	Outline application for a residential development and demolition of steel portal framed former haulage workshop building to include access (all other matters reserved)		
LOCATION:	Pasture Cottage Main Street Thorganby York North Yorkshire YO19 6DB		
RECOMMENDATION:	REFUSE		

## 1. Introduction and Background

- 1.1 This application has been brought back before Planning Committee as there has been a material change in circumstances since Members resolved to “GRANT - That the application be approved subject to the drafting and determination of the conditions be delegated to the Head of Planning, in consultation with the Chair and Vice-Chair of the Committee” at Planning Committee 9 December 2020.
- 1.2 New Community Infrastructure Levy (CIL) Regulations came into force on the 1st of September 2019 which removed the S106 pooling restrictions and allow local authorities to use both the Levy and S106 planning obligations to fund the same item of infrastructure, (S106 contributions must still directly relate to the development). In addition, the new Regulations removed the provisions relating to the 123 list and introduced a requirement for all local authorities (not just CIL charging ones) to publish an annual Infrastructure Funding Statement (IFS). The Infrastructure Funding Statement replaces the Regulation 123 list.
- 1.3 On 3rd December at Executive, Members resolved to approve the Draft Infrastructure Funding Statement. This was published on the Council’s website on

31st December 2020 and replaced the existing Regulation 123 list. Therefore, from the 31<sup>st</sup> December 2020 planning applications determined should take into account this position.

1.4 Given the above this application would now be subject to requirements for Recreational Open Space under Policy RT2 of the Local Plan. Policy RT2 of the Local Plan stipulates that for dwellings of more than 4 and including 10 dwellings a commuted payment should be secured for new or upgraded facilities within the locality. This would be secured by way of a legal agreement. However, Officers consider given the overlap of the resolution that Members made to grant permission the application on 9<sup>th</sup> December and adoption of the IFS on 31<sup>st</sup> December, it is appropriate in this instance to determine the application subject to the resolution as agreed on 9<sup>th</sup> December.

1.3 A copy of the officer report presented to Planning Committee on 9<sup>th</sup> December 2020 is attached in Appendix 1.

**2.0 Recommendation:**

i. It is recommended that this planning application is Granted subject to conditions detailed below:

01. Applications for the approval of the reserved matters referred to in Condition 02 herein shall be made within a period of three years from the grant of this outline permission and the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason:

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

02. Approval of the details of the (a) appearance, (b) landscaping, (c) layout, and (d) scale (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason:

This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority, and as required by Section 92 of the Town and Country Planning Act 1990.

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

- Ref. 3129/06 Site Location Plan
- Ref. 3375/P1/02/01 Rev.B Visibility Splays Amendments at Existing Access

Reason:

For the avoidance of doubt.

04. No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority in consultation with the Highway Authority before the first dwelling of the development is occupied.

Reason:

In accordance with Selby District Local Plan Policy T1 and T2 and to ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.

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

Reason:

In accordance with Selby District Local Plan Policy T1 and T2 and in the interests of highway safety.

06. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:
- a. The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number A1.
  - b. Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
  - c. Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.

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

Reason:

In accordance with Selby District Local Plan Policy T1 and T2 and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

07. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 43 metres measured to the northern

centre line and 43 metres to the vehicle track of the southern splay of the major road Main Street from a point measured 2 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with Selby District Local Plan Policy T1 and T2 and in the interests of road safety.

08. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority :
- a. tactile paving
  - b. vehicular, cycle, and pedestrian accesses
  - c. vehicular and cycle parking
  - d. vehicular turning arrangements
  - e. manoeuvring arrangements

Reason:

In accordance with Selby District Local Plan Policy T1 and T2 and to ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.

09. No part of the development shall be brought into use until the approved vehicle access, approved under condition number 2 are available for use. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with Selby District Local Plan Policy T1 and T2 and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

10. No part of the development shall be brought into use until the parking, manoeuvring and turning areas to be approved under any future reserved matters consent are available for use. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with Selby District Local Plan Policy T1 and T2 and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

11. There shall be no HCVs brought onto the site until a survey recording the condition of the existing highway has been carried out in a manner approved in writing by the Local Planning Authority in consultation with the Highway Authority.



Reason:

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

12. There shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:
- a. on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway
  - b. on-site materials storage area capable of accommodating all materials required for the operation of the site.

The approved areas shall be kept available for their intended use at all times that construction works are in operation.

Reason:

In accordance with Selby District Local Plan Policy T1 and T2 and to provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.

13. Prior to the occupation of any dwelling, a scheme to mitigate the adverse effects of the development upon surrounding designated environmental sites consisting of at least one of the following mitigation measures shall be submitted to and agreed in writing by the Local Planning Authority:
- 1) Improvement of facilities at Thorganby recreational grounds;
  - 2) Information to residents in the village regarding the importance of the nearby designated sites taking the form of:
    - a) A staffed information event(s) or stall(s) to raise awareness;
    - b) A high quality leaflet to be delivered in the village and surrounding area.

The scheme shall include: i) the details of the proposed mitigation; ii) the timescales for the proposed mitigation's implementation, and; iii) the method of implementing the mitigation including legal agreement as necessary.

The mitigation shall thereafter be implemented in accordance with the approved details.

Reason:

To ensure appropriate mitigation is in place to avoid an adverse effect on the integrity of Lower Derwent Valley Special Area of Conservation (SAC), Special Protection Area and River Derwent SAC, and damage or destruction of the interest features for which Derwent Ings & River Derwent Site of Special Scientific Interest.

14. A scheme to ensure a net gain in biodiversity shall be submitted to the Local Planning Authority prior to the occupation of any dwelling. The subsequently approved scheme shall be implemented prior to the occupation of any dwelling and retained thereafter.

Reason:

In the interests of biodiversity and to satisfy CS Policy SP15.

15. Priority will be given to the disposal of foul water drainage via a mains sewer. If a mains sewer connection is not possible, foul water shall be treated via a package works or septic tank subject to tertiary treatment of effluent designed to remove phosphate including (for example) reed bed systems, phosphate removal units or a dry soakaway.

The details of foul water drainage shall be submitted to the Local Planning Authority prior to the commencement of development, completed prior to the occupation of any dwelling and retained thereafter.

Reason:

In the interest of public health and maintaining the public water supply and sewerage and the integrity of surrounding designated environmental sites.

16. No construction works in the relevant area(s) of the site shall commence until measures to protect the public water supply and sewerage infrastructure that is laid within /adjacent to the site boundary have been implemented in full accordance with details that have been submitted to and approved by the Local Planning Authority . The details shall include but not be exclusive to the means of ensuring that access to the pipes for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times.

Reason:

In the interest of public health and maintaining the public water supply and sewerage

17. Prior to the commencement of development, the suitability of soakaways, as a means of disposing of surface water should be ascertained in accordance with BRE Digest 365 to the satisfaction of the Local Planning Authority.

If the suitability of soakaways is proven, a scheme for the provision of surface water drainage works, shall be submitted to the Local Planning Authority for written approval. Any such Scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use. The following criteria should be considered:

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

- The suitability of soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 or other approved methodology.

If the suitability is not proven or the location is considered to be detrimental, amended proposals showing how the site is to be drained must be submitted for approval by the Local Planning Authority and thereafter the approved scheme implemented prior to occupation of the development hereby approved.

Reason:

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

18. Prior to commencement of development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing by the Local Planning Authority. The report of the findings must include:
- a. a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
  - b. an assessment of the potential risk to:
    - human health,
    - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
    - adjoining land,
    - groundwaters and surface waters,
    - ecological systems,
    - archaeological sites and ancient monuments;
  - c. an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's Model Procedures for The Management of Land Contamination, CLR 11'.

Reason:

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

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

Reason:

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

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

Reason:

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

21. In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:

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

22. No built development is to be constructed within a Flood Zone other than Flood Zone 1 unless a Site Specific Flood Risk Assessment is first submitted and demonstrates to the Local Planning Authority's satisfaction that the site is acceptable from a flood risk perspective. Any measures contained within the Site Specific Flood Risk Assessment necessary to make built development acceptable from a flood risk perspective shall be installed prior to the occupation of the dwellings and retained thereafter.

Reason:

To ensure the site is suitable from a flood risk perspective.

23. The development hereby approved shall be restricted to a maximum of 9 dwellings.

Reason:

To ensure provision of affordable housing in accordance with Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) and the NPPF.

## INFORMATIVES

01. The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.
02. You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in this condition.
03. The proposals shall cater for all types of vehicles that will use the site. The parking standards are set out in the North Yorkshire County Council publication 'Transport Issues and Development – A Guide' available at [www.northyorks.gov.uk](http://www.northyorks.gov.uk)
04. Under the Board's Byelaws the written consent of the Board is required prior to any discharge into any watercourse within the Board's District.

### **Background Documents**

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

**Contact Officer: Chris Fairchild, Senior Planning Officer**

**Appendices: Report to Planning Committee 9<sup>th</sup> February 2020.**

## **Appendix 1**

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

### **1 INTRODUCTION AND BACKGROUND**

#### **Site and Context**

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

#### **The Proposal**

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

#### **Relevant Planning History**

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

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

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

### **2 CONSULTATION AND PUBLICITY**

#### **Planning Policy**

- 2.1 The Council currently have a five year housing land supply. Secondary villages have already met their net residential dwelling target set out in the Core Strategy. Being outside development limits, the proposal is contrary to development plan

policy (Core Strategy Policy SP2A(c)). Consideration of whether the settlement boundary as defined remains relevant is required.

2.2 Following reconsultation no further comments were received.

### **North Yorkshire County Council Archaeology**

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

2.4 Following reconsultation no further comments were received.

### **Ouse & Derwent Internal Drainage Board (IDB)**

2.5 In general, where possible, the risk of flooding should be reduced and as far as practicable, surface water arising from a developed site should be managed in a sustainable manner.

2.6 The IDB recommend conditions relating to details of drainage works to be agreed taking account of greenfield and brownfield run-off rate, storage for flood events, and an allowance for climate change. The IDB also seek an informative to be included that highlights the need for written consent of the Board is required prior to any discharge into any watercourse within the Board's District.

2.7 Following reconsultation no further comments were received.

### **Natural England**

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

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

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

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

### **Landscape Architect**

- 2.12 The site is visible from a Public Right of Way and is within a part of the village having a rural setting as well as part-inclusion within the Conservation Area. Further information is required to demonstrate that the proposals will protect and enhance local character and setting and that landscape and visual effects are within acceptable limits, including: landscape strategy, tree survey, and clarification of land ownership outside the redline boundary.
- 2.13 Following reconsultation, the Landscape Architect noted that their previous comments still stand and have not been addressed.

### **Environmental Health**

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

### **Local Highway Authority**

- 2.16 In accordance with the Manual for Streets, a visibility splay of 2.4m by 43m is required. This is achievable but only utilising third party land and a legal agreement will be necessary to secure this.
- 2.17 Comments are made regarding the indicative layout and the need at reserved matter stage for: altered turning areas; increased parking provision; boundary treatment; and road adoption. A series of conditions were recommended.
- 2.18 An informative is also sought advising separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out.
- 2.19 In November 2019, following reconsultation, the Local Highway Authority made no further comments, repeating their previous comments..
- 2.20 Following the submission of revised highway information demonstrating that the visibility splays have been taken into the application site no objections were raised to the proposed development. The Local Highway Authority repeated the need for parking and turning to be addressed at any reserved matters application. Conditions are recommended requiring:
1. Construction of roads and footways prior to occupation of dwellings;
  2. Measures required to prevent surface water from non-highway areas;
  3. Private Access/Verge Crossings: Construction Requirements;
  4. Closing of existing access prior to occupation of dwellings;
  5. Provision of vehicular visibility splays;
  6. Provision of pedestrian visibility splay;
  7. Details of access, turning and parking;
  8. Provision of approved access, turning, and parking areas;
  9. Removal of permitted development rights for conversion of garage to habitable dwelling;
  10. Highway condition survey; and
  11. Construction method statement.

### **Yorkshire Water**



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

2.22 Following reconsultation no further comments were received.

### **Conservation Officer**

2.23 Whilst only the access road is sited within the Conservation Area, the development area for the dwellings is within the setting of the conservation area. The site is visible from the Church of St. Helen, a Grade I Listed Building and within the setting of nearby non-designated heritage assets.

2.24 The indicative development of the site will generate infill which is harmful to the character of the settlement. It is recommended that any redevelopment of the site be reduced so that this harm is avoided.

2.25 Careful design of any buildings will be necessary. Proposals should seek to avoid standard dwelling types and instead seek to achieve buildings that allow for an appreciation of the grain – for example, a new dwelling to read as ancillary outbuildings to Pasture Cottage (this in terms of position, scale and massing). Contemporary design that is locally distinctive could be helpful in this respect.

2.26 Scale will be an important consideration for any new building/s to the rear of Pasture Cottage and the former chapel because of both their modest scale and also that of the other traditional buildings in the vicinity. Space should be given about these building to avoid overbearing development. It is noted that the retention of large frontage garden to Pasture Cottage is beneficial in conserving its setting.

2.27 The development of Ings View Farm, to the south, should not be taken as precedent for similar development elsewhere in the Conservation Area / village as it is backland development that is contrary to the linear grain of the settlement (and harmful to the setting of the former farmstead).

2.28 An outline application is not satisfactory for proposed development affecting a conservation area because the full design (and therefore impact) of the scheme cannot be assessed.

2.29 Following reconsultation, the Conservation Officer noted that their previous comments still stand and have not been addressed.

### **Publicity**

2.30 The application was advertised via site notice, neighbour letters and via a Press notice. Following this, 17 written representations have been received, of which 16 are in support and 1 is neutral. No objections have been made.

2.31 The following points have been raised in support of the proposal:

- The demolition of the storage buildings and replacement with dwellings will improve the character of the village and Conservation Area.
- The village wish to see reduced HGV traffic.
- Reuse of previously developed land is suitable for development and is preferable to development in open countryside/greenfield.
- The use of the site for haulage is unneighbourly and incongruous with the peaceful nature of the village.
- Provision of additional housing will support the vitality and viability of existing services and possibly entice new services into the village.
- Supply of housing in Thorganby outstrips demand and more housing is required.
- The linear character of the Conservation Area has already been diminished by recent development.

2.32 The following points have been raised by those with a neutral stance on the proposal:

- Boundary treatments will need to be provided to maintain amenity for adjoining residents

### **3 SITE CONSTRAINTS**

- 3.1 The site can be considered in two broad parts. The haulage yard of the site (c. 75%) is located outside the development limits of Thorganby – a Secondary Village as defined within the Core Strategy. The other c.25% of the site relates to the access road.
- 3.2 The access road portion of the site lies within the Thorganby Conservation Area, whilst the haulage yard part of the site immediately abuts the Conservation Area to the north and south. There are no statutory listed buildings on or in proximity to the site but the site is visible from the Grade I Listed Church of St. Helen.
- 3.3 Over 125m west of the site lies a large area protected for its environmental quality. This includes: both the Derwent Ings and River Derwent Sites of Special Scientific Interest (SSSIs); the Lower Derwent Valley Special Area of Conservation (SAC); the Lower Derwent Valley Ramsar Site; the Lower Derwent Valley Special protection Area (SPA), and; the Lower Derwent Valley National Nature Reserve.
- 3.4 An insignificantly small area of the site falls with Flood Zone 2, limited to a strip alongside the north of the access road.
- 3.5 The haulage yard portion of the site is noted as an area of potential contamination.

### **4 POLICY CONSIDERATIONS**

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "*if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise*". This is recognised in paragraph 11 of the National Planning Policy Framework (NPPF), with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.

- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (CS) (adopted 22nd October 2013) and those policies in the Selby District Local Plan (SDLP) (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 In February 2019, the NPPF replaced the previous July 2018 version. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5 Annex 1 of the NPPF outlines the implementation of the Framework:

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

### **Selby District Core Strategy Local Plan (CS)**

- 4.6 The relevant CS Policies are:

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

### **Selby District Local Plan (SDLP)**

- 4.7 The relevant SDLP Policies are:

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

## **5 APPRAISAL**

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

1. Principle of Development
2. Access
3. Conservation & Historic Environment
4. Landscape

5. Impact on Nature Conservation
6. Residential Amenity
7. Ground Conditions
8. Flood Risk
9. Affordable Housing

## **Principle of Development**

### Context

- 5.2 The site sits partly within the development boundaries, albeit this is limited to the area shown indicatively as an access road. However, the majority of the site: the only realistic location for the siting of houses within the limits of the red line plan, is outside the settlement boundaries and is therefore within the open countryside. In this circumstance the principle of residential development will be assessed on the basis the site is outside of settlement boundaries.
- 5.3 CS Policy SP1 outlines that "*when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework*" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.
- 5.4 CS Policy SP2 is the key policy controlling the location of future development within the District and directs the majority of new development to existing settlements. CS Policy SP2A(c) is the relevant section for development in the open countryside and limits development to the replacement or extension of existing buildings as well as new buildings which contribute to the local economy, enhance or maintain the vitality of rural communities, meet rural affordable housing need, or other special circumstances.
- 5.5 The supporting text for CS Policy SP2, Paragraph 4.31, clarifies that:

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

### Assessment

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

- 5.7 As confirmed within recent appeals, CS Policy SP2 is considered to be in accordance with the NPPF. The Council can demonstrate a five year housing land supply and therefore, in accordance with Paragraph 11 and Footnote 7 of the NPPF, the development plan policies relating to housing are considered to be up-to-date.
- 5.8 Given the up-to-date position, the tilted balance within Paragraph 11d is not triggered, and, as per Paragraph 12 of the NPPF, proposals that conflict with an up-to-date plan should not usually be granted, although Councils may depart from up-to-date plans if material considerations indicate this is the case.
- 5.9 The provision of a limited number of dwellings (indicatively 5 no.) in this location is considered to generate minimal social, economic, and environmental benefits. Therefore, there are no material considerations in this particular case that indicate the development plan should not be followed. Accordingly, in accordance with Paragraphs 11 and 12 of the NPPF and CS Policy SP2 the principle of development is unacceptable.

## **Access**

### Context

- 5.10 Access is the only detailed matter being considered as part of this outline application.
- 5.11 The proposal utilises the access/egress from Main Street albeit a slight relocation southwards to achieve a visibility splay of 2.4m by 43m as opposed to the current 2.4m by 23.3m. In order to achieve this, the Pasture Cottage boundary hedge needs to be removed / realigned, and land at Surgery House needs to remain unobstructed as it is currently.
- 5.12 The existing access route into the site is utilised to reach the site for the residential dwellings to the rear, but in order to achieve this the demolition of Pasture Cottage's garage is required along with changes to the curtilage of that property.
- 5.13 SDLP Policy T1 stipulates development will only be permitted where existing roads have adequate capacity and can safely serve the development, unless appropriate off-site highway improvements are undertaken by the developer.
- 5.14 SDLP Policy T2 only allows for a new access or the intensification of the use of an existing access will be permitted provided where (1) there would be no detriment to highway safety; and 2) the access can be created in a location and to a standard acceptable to the highway authority.

### Assessment

- 5.15 The Local Highway Authority outline a number of concerns with the indicative scheme in so far as: achieving appropriate manoeuvrability, parking provision, emergency service access, and boundary treatments. However, these matters are liable to change should any subsequent reserved matters, such as layout, be considered. The applicants should note that the indicative scheme is unlikely to be suitable for the reasons highlighted by Highways Officers.

- 5.16 The Local Highway Authority had no concern with the visibility splay as proposed subject to a legal agreement with owners of third party land to ensure that the visibility splay can be maintained at all times. In response, the applicants incorporated sufficient additional land within the red line of the application that ensures the access can be secured via planning conditions.
- 5.17 Following this revision, the Local Highway Authority confirmed that the access is acceptable and recommended planning conditions. Officers consider that the proposals are acceptable from an access perspective and meet the requirements of SDLP policies T1 and T2.

## **Conservation & Historic Environment**

### Context

- 5.18 The site sits partly within the Thorganby Conservation Area, however the majority of the site is outside but immediately adjoining the boundary of the Conservation Area. Consideration will need to be given both to the Conservation Area itself *and* its setting. The site is visible from the Church of St. Helen, a Grade I Listed Building and within the setting of nearby non-designated heritage assets.
- 5.19 Relevant development plan policy includes: CS Policy SP18, CS Policy SP19(b), SDLP Policy ENV1(5), and SDLP Policy ENV25. These policies require conservation of historic assets which contribute most to the District's character, and ensure development contributes positively to an area's identity and heritage in terms of scale, density and layout. Development within Conservation Areas should preserve or enhance the character or appearance of the conservation area.
- 5.20 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act') imposes a statutory duty upon decision makers to pay special regard to the desirability of preserving listed buildings and their setting, or any features of special architectural or historic interest that they possess. Section 72 of the Act also imposes a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
- 5.21 Paragraph 193 of the NPPF requires great weight be given to the asset's conservation. The more important the asset, the greater the weight should be. Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification (Paragraph 194). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal (Paragraph 196). Paragraph 197 of the NPPF requires the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application.

### Assessment

- 5.22 The Conservation Officer's consultation response highlights a number of concerns with the indicative proposals including layout, scale, design. Fundamentally, the Conservation Officer is not satisfied that an outline application is an appropriate for considering development affecting a Conservation Area because the full impact, and any subsequent harm, cannot be assessed.

- 5.23 This outline application is submitted on the basis that all matters other than access have been considered. Given matters of scale, appearance, layout and landscaping are all reserved, officers consider that it may be possible to achieve *some* form of residential development on the site whilst avoiding/minimising any subsequent harm to the prevailing historic environment. A detailed assessment would be undertaken should any future reserved matters application be submitted.

## **Landscape**

### Context

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

### Assessment

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

## **Impact on Nature Conservation**

### Context

- 5.28 Relevant policies in respect of nature conservation and protected species include CS Policy SP18 of the Core Strategy. CS Policy SP18 seeks to safeguard and, where possible, enhancing the natural environment. This is achieved through effective stewardship by (inter-alia) safeguarding protected sites from inappropriate development, and, ensuring development seeks to produce a net gain in biodiversity.

### Assessment

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

## **Residential Amenity**

### Context

- 5.33 The site is located in a primarily residential area, with domestic dwellings and curtilage adjoining the site boundary to the north-east and south. The proposal will create a new access and curtilage for Pasture Cottage.
- 5.34 SDLP Policy ENV1 provides eight broad aspirations that are taken into account when achieving "good quality development". ENV1(1) requires "*the effect upon the character of the area or the amenity of adjoining occupiers*" to be taken into consideration.

### Assessment

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



## **Ground Conditions**

### Context

- 5.37 SDLP Policy ENV2A states development that would be affected by unacceptable levels of noise, nuisance, contamination or other environmental pollution will be refused unless satisfactorily remediated or prevented. CS Policy SP19(k) seeks to prevent development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water, light or noise pollution or land instability.

### Assessment

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

## **Flood Risk**

### Context

- 5.39 An extremely limited part of the site sits within Flood Zone 2. CS Policy SP15A(d) seeks to ensure that development in areas of flood risk is avoided wherever possible through the application of the sequential test and exception test (if necessary). SDC's Flood Risk Sequential Test Developer Guidance Note (October 2019) is a material consideration when producing or reviewing sequential tests.
- 5.40 The Guidance Note stipulates that where only a small part of the site lies within Flood Zone 2, that area will be used only for soft landscaping/open space, and safe access and egress during flooding can be achieved without having to use an area of flood risk then the Sequential Test will not be required.

### Assessment

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

## **Affordable Housing**

### Context

5.42 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) sets out the affordable housing policy context for the District. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District.

5.43 However, the NPPF is a material consideration in planning decisions (as set out in paragraph 2 of the NPPF) and states at paragraph 63:

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

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

#### Assessment

5.45 The application relates to a site which has an area of less than 0.5 hectares. Whilst it is unlikely that more than 10 units may come forward at reserved matters stage, this cannot be ruled out. If planning permission were to be granted, Officers would recommend a condition be placed upon the outline consent limiting the number of dwellings to up to five.

5.46 Having had regard to Policy SP9 of the Core Strategy and material considerations including the Affordable Housing SPD and the NPPF, on balance, the application is acceptable without a contribution for affordable housing at this stage.

## **6 CONCLUSION**

6.1 The application is submitted in outline with all matters reserved except access. An indicative scheme has been submitted that demonstrates the erection of 5 dwellings on the site. The access for the site utilises the existing approach but relocates the point of access southwards to allow the requisite visibility splay to be achieved.

6.2 The site is located partly within the development limits of Thorganby, albeit the majority of the site lies outside these limits and, crucially, this includes the area for the erection of dwellings. The principle of residential development is therefore based on development outside the settlement limits being within the open countryside.

6.3 Development plan policy does not support this type of development within the open countryside and the Council do not consider there to be sufficient material circumstances to warrant a departure from the up-to-date development plan. Consequently, the principle of development is not acceptable and Officers recommend the application be refused on this basis.

6.4 Following revisions to the scheme, a sufficient visibility splay has been demonstrated at the site. The Local Highway Authority have no objections to the proposals and officers are satisfied the proposals are acceptable on this basis.

- 6.5 The Council's Conservation Officer and Landscape Architect, have both raised concerns that the indicative scheme is not appropriate in relation to conservation and the historic environment and landscape, respectively. However, Planning Officers consider that each of these matters can be overcome through detailed design within any subsequent reserved matters stage and that it is possible to achieve some form of residential development at the site.
- 6.6 Officers consider that residential development of the site would achieve a suitable level of amenity for future residents and existing neighbours. Subject to the recommendations contained within the Phase 1 Geo-Environmental Risk Assessment there are no concerns from a ground conditions perspective. Following an appropriate assessment, subject to mitigation the proposals will not have an impact upon the internationally important environmental designations in the area.
- 6.7 In conclusion, the application is recommended for refusal on the basis that the principle of development is not acceptable in the open countryside.

## **7 RECOMMENDATION**

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

1. The proposed development would introduce new residential development outside of a settlement boundary that will not materially contribute towards and improve the local economy or enhance/ maintain the vitality of rural communities. The application is therefore contrary to Core Strategy Policy SP2.

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

## **8 LEGAL ISSUES**

### **Planning Acts**

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

### **Human Rights Act 1998**

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

### **Equality Act 2010**

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

## **9 FINANCIAL ISSUES**

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

## **10 Background Documents**

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

**Contact Officer: Chris Fairchild**

**Appendices: None**

# Agenda Item 4.2

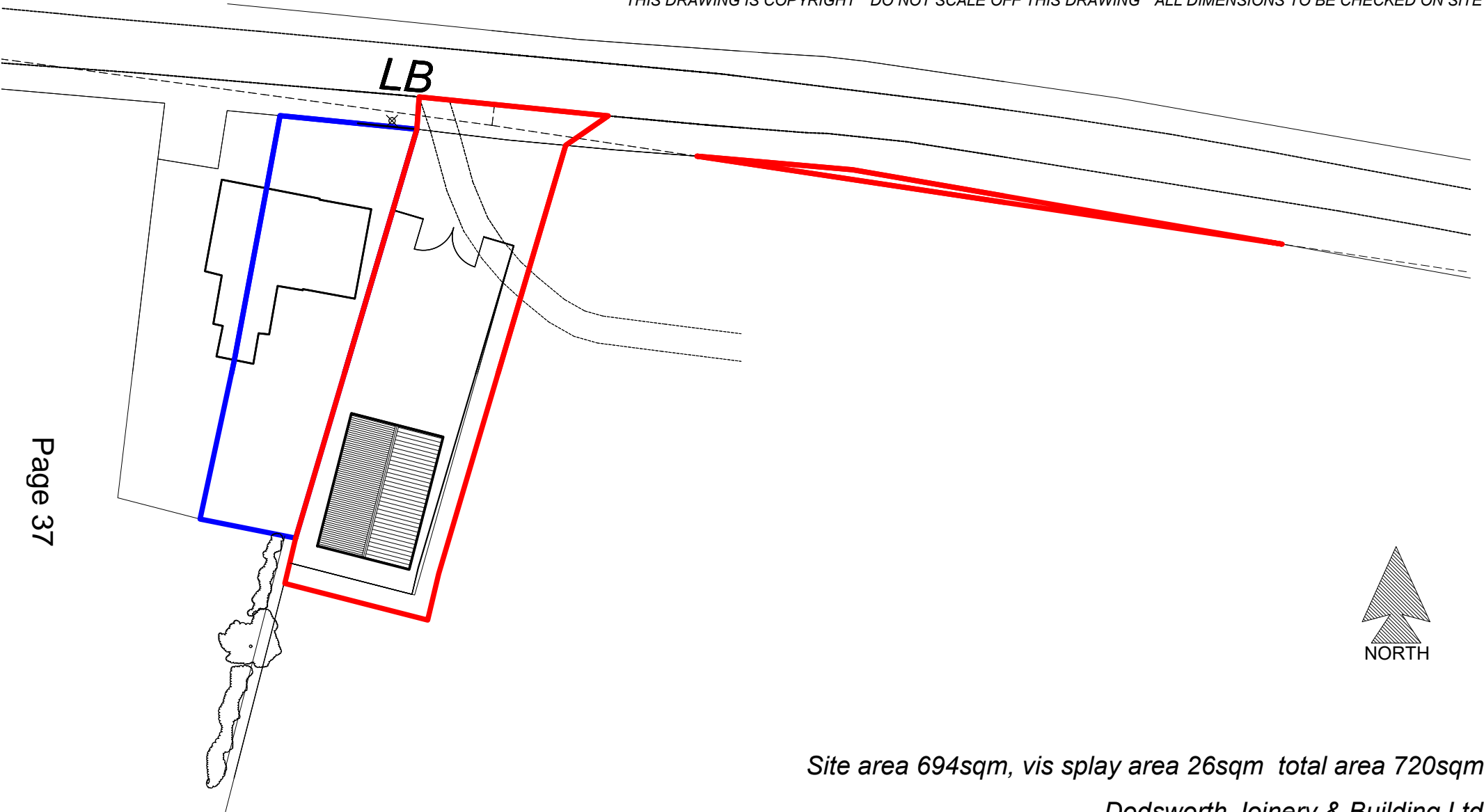
Land adjacent to 2 Prospect Villas, Barlow Common Road, Barlow  
2020/0137/FUL



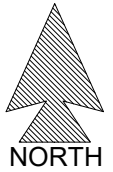
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Site area 694sqm, vis splay area 26sqm total area 720sqm

Dodsworth Joinery & Building Ltd  
Proposed Storage Building at 2 Prospect Villas Barlow Common Road YO8 8JF  
Block Plan scale 1:500 11-02-2020 drwg. no. 2637-01-01C

*Chris Finn Architect*

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Report Reference Number 2020/0137/FUL

**To:** Planning Committee  
**Date:** 10<sup>th</sup> February 2021  
**Author:** Irma Sinkeviciene (Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0137/FUL	PARISH:	Barlow Parish Council
APPLICANT:	Dodsworth Joinery & Building Ltd	VALID DATE:	11th February 2020
		EXPIRY DATE:	7th April 2020
PROPOSAL:	Proposed erection of a storage building on land adjacent		
LOCATION:	Land Adjacent To 2 Prospect Villas Barlow Common Road Barlow Selby North Yorkshire		
RECOMMENDATION:	REFUSE		

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

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site, which is broadly rectangular in shape and amounts to 764 square metres of unused paddock land, is located outside the defined development limits of Barlow. It is located immediately to the east of a pair of semi-detached properties, namely Prospect Villas, and falls within the ownership of No 2 Prospect Villas which is adjacent to the site. The site is separated from No 1 Prospect Villas by approximately 9 metres, and over 60 metres from Barlow Lodge to the north west and cottages to the east. Access is shown as utilising and widening of the existing field access track.
- 1.2 The land is generally flat, and the eastern and southern boundaries are marked by a low post and rail timber fence whilst the western boundary is marked by a hedge and other vegetation. The northern boundary is where the access to the site is

located from Barlow Common Road and consists of a combination of row of vegetation, a low post and rail timber fence and a timber gate.

### **The Proposal**

- 1.3 The application seeks full planning permission for a storage building which would be associated with Dodsworth Joinery and Building Ltd (suppliers and fitters of joinery products) whose office is registered at the dwelling located at No 2 Prospect Villas which is adjacent to the site on the west and a Lawful Development Certificate was granted for existing use of premises as a mixed use under planning application 2020/0824/CPE. The Design and Access Statement accompanying the application describes the proposal as consolidation of the business at this one site for improvement of both security and operational efficiency.
- 1.4 The proposal is for the erection of a steel framed storage building. The building would be 13 metres in depth and 9 metres in width. It would have roller shutter doors to the front elevation. To the ridge of its pitched roof it would measure approximately 5.15 metres. The building would have concrete block panels to the elevations with green profiled steel sheet cladding to the upper portion of the elevations and the roof. The building would sit to the rear of a compound measuring approximately 35 metres by 12 metres and bound by 2 metre high green thermoplastic coated galvanised steel weld-mesh fencing panels with steel posts at 1.8 metres. There would be 2m high steel gates with similar to welded mesh fence design. The front boundary of the compound would line up with the front elevation of 2, Prospect Villas. A hawthorn hedge would be planted in a 2m buffer zone along southern and most of eastern boundaries of a compound to provide some screening which would be set back from the front boundary of the site by approximately 5 metres and would be distanced from the highway by approximately 18 metres.
- 1.5 The objective of the proposal is stated to be the operational efficiency and security of the Dodsworth Joinery and Building Company Ltd. Presently, whilst this business is registered at 2, Prospect Villas much of its equipment is stored off site at rented accommodation. It is the applicant's intention to make the building and compound secure and to install CCTV. The building would be used to store business tools, plant, trailers, and business materials along with the applicant's motor home. All the machinery would be portable with none fixed to the floor. It is stated there would thus be no use of the machinery within the building. Mr Dodsworth would expect to use the building personally for his business, loading and unloading materials according to the specific job he was involved with at the time.

### **Relevant Planning History**

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

- 1.6 Application (reference CO/2002/0113) for the erection of a two-storey extension to form garage with bedroom over on the side elevation of 2 Prospect Villas, Barlow Common Road, Barlow was approved in July 2002
- 1.7 Application (reference 2018/0772/FUL) for the proposed erection of a storage building/workshop in association with joinery business at land adjacent to 2 Prospect Villas, Barlow Common Road, Barlow was withdrawn in September 2019

- 1.8 Application (reference 2019/0539/FUL) for the proposed erection of building to be used for storage/workshop facility on land adjacent to 2 Prospect Villas, Barlow Common Road, Barlow was refused in October 2019 due to the following reasons:
1. The application site is located outside development limits and is therefore within the open countryside. The proposal would not constitute any of the types of development acceptable in principle in the countryside nor would it improve or contribute to the local rural economy, it would therefore fail to comply with the aims of Policies SP1, SP2 and SP13 of the Core Strategy and with Policy EMP2 of the Selby District Local Plan and with the NPPF. The proposal is therefore contrary to the above policies and hence the overall Spatial Development Strategy for the District.
  2. The proposal would introduce an intrusive prominent development of an industrial character uncharacteristic and harmful to the open rural character of this part of the countryside due to its size, scale, siting, boundary treatment and use of an open industrial compound contrary to the aims of Policy ENV1 (1) and (4) of the Selby District Local Plan, Policies SP13, SP18 and SP19 of Core Strategy and the NPPF.
  3. The proposal is likely to generate unacceptable levels of noise and disturbance to the residents of the neighbouring properties due to the proposed use of the site and the building for the purposes of storage and workshop for the joinery and building business together with the comings and goings of vehicles associated with the use. Given the nature and scale of the proposal combined with the likely low existing background sound levels in this rural area, it is considered that the proposal would adversely affect the amenities of the neighbouring properties and as such would be contrary to Policy ENV1 of the Selby District Local Plan.
  4. The application site is located within Flood Zone 2 and the NPPF states that all proposals located in Flood Zone 2 and 3a require a Sequential Test to determine whether there are any reasonably available sites at less risk of flooding that could accommodate the development. For development located within the open countryside, the Sequential Test should be undertaken at a District wide level. The applicant has failed to submit information to demonstrate that the Sequential test can be met. The proposed development is therefore considered to be unacceptable in terms of flood risk and contrary to the NPPF.
  5. The application site is located within Flood Zone 2 and the NPPF states that all proposals located in Flood Zone 2 and 3a require a Site Specific Flood Risk Assessment. The submitted Flood Risk Assessment does not comply with the requirements set out in national policy and guidance and therefore the submitted Flood Risk Assessment does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. The proposed development is therefore considered to be unacceptable in terms of flood risk and contrary to the NPPF.
- 1.9 Application (reference 2020/0824/CPE) for a lawful development certificate for existing use of premises as a mixed use; part C3 residential; part B1 business use at 2 Prospect Villas, Barlow Common Road, Barlow was granted on 23 November 2020

## **2. CONSULTATION AND PUBLICITY**

- 2.1 **NYCC Highways** - There are no local Highway Authority objections to the proposed development subject to conditions relating to construction requirements of private access/verge crossings, visibility splays, provision of approved access, turning and parking areas, and subject to informatives related to the above.
- 2.2 **Yorkshire Water Services** – No response received.
- 2.3 **Selby Area Internal Drainage Board** – No objection and recommends condition in relation to surface water drainage together with details of various consents required of the Board.
- 2.4 **Environmental Health** - Noted that the proposed building is to be used purely for storage and that it is linked to the current occupation of the adjoining residential property. Under these circumstances and with a restriction on the hours of use to prevent access and egress during the night-time period, did not object to this application and recommended that the above three issues are conditioned.
- 2.5 **Parish Council** – No response received.
- 2.5 **Neighbour Summary** – All immediate neighbours were informed by neighbour notification letter, a site notice was erected and an advert place in the local press.

17 supporting comments have been received from members of the public as follows:

- 5 were submitted online stating that they support the application without any comments and
- 12 stated that “this proposal will encourage employment within the area and proposes an appropriate building which will fit in visually and look no different than farm buildings in the area”.

In addition to the above, 2 letters were submitted by the next-door neighbour stating that there are no objections but commented that off road hard standing for visiting cars/vans/lorries etc., should be considered when making final plans.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The site is located outside the defined development limits of Barlow and is therefore defined as open countryside. 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 Zones 1 & 2.

### **4 POLICY CONSIDERATIONS**

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.

- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options 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
  - SP13 – Scale and Distribution of Economic Growth
  - SP15 – Sustainable Development and Climate Change
  - SP18 – Protecting and Enhancing the Environment
  - SP19 – Design Quality

### **Selby District Local Plan**

- 4.7 The relevant Selby District Local Plan Policies are:
- ENV1 – Control of Development
  - EMP2 – Location of Economic Development
  - 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

## **The Principle of Development**

5.2 The application site is located outside development limits of Barlow and is therefore in the open countryside. Relevant policies in respect to the principle of development and the presumption in favour of sustainable development includes Policies SP1, SP2 and SP13 of the Core Strategy, Policy EMP2 of the Selby District Local Plan, and the NPPF.

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

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

5.4 Policy SP13 (C) of the Selby District Core Strategy states that in rural areas, sustainable development which brings sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported including for example the re-use of existing buildings and infrastructure and the development of well-designed new buildings.

5.5 Policy EMP2 of the Selby District Local Plan states that new development will be concentrated in and around Eggborough, Selby, Sherburn in Elmet and Tadcaster, and that encouragement will be given to the proposals for small-scale development in villages and rural areas in support of rural economy.

5.6 With Section 6 of the NPPF includes the sub-section ‘*supporting a prosperous rural economy*’. NPPF Paragraph 83(a) states that planning decisions should enable ‘the sustainable growth and expansion of all types of businesses in rural areas, both through conversion of existing buildings and well-designed new buildings’.

5.7 NPPF Paragraph 84 states that planning decisions should recognise:

*‘that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist’.*

- 5.8 It is noted that 12 of 17 letters of support have the same contents stating that they “believe the proposal will encourage employment within the area and proposes an appropriate building which will fit in visually and look no different than farm buildings in the area”. One of the letters has not been signed. 5 of 12 supporting members stated that they support the application but did not provide any comments, and the next-door neighbour sent two letters raising no objections subject to off road hardstanding being provided.
- 5.9 The proposal is for a construction of a new storage building which would be used for a joinery and building business. It is noted that a Certificate of Lawful Development for existing use of dwelling known 2 Prospect Villas as a mixed use; part C3 residential; part B1 business use was granted in November 2020 under planning reference 2020/0824/CPE and the business use at this location is therefore now established.
- 5.10 According to the information submitted, the proposed building would also be used for a storage of the applicants’ motorhome and the proposed building would also partially be used as a large domestic garage sited outside the curtilage of the dwelling which also be contrary to Development Plan policies given its countryside location. However, the use of the proposed building could be controlled via a condition limiting use of the building to business use only.
- 5.11 Although there is no evidence to suggest it would support the rural economy, the proposal is considered as expansion of existing business in the open countryside which is supported by Paragraph 83 of the NPPF and Policy SP2 of the Core Strategy and the proposal is therefore acceptable in principle subject to criteria set out in Policy SP13 (D).

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

- 5.12 Relevant policies in respect to the impact of development on character and appearance of the area are Policy ENV1 of the Selby District Local Plan, Policies SP13 (D), SP18 and SP19 of the Core Strategy and advice contained within the NPPF. Local Plan Policy ENV1 is broadly consistent with the aims of the NPPF and should therefore be given significant weight.
- 5.13 The Design and Access Statement supplied with the application assesses the context of the site, states that setting the building back will result in it only being seen at a distance when viewed from the A1041 to the west and will make building unobtrusive when viewed from Barlow Common Road. It also refers to an Additional Design Statement produced by Chris Finn which concludes that the local character is mixed with a range of industrial sites clearly visible from the site and provides examples of similar types of developments approved within Selby District over recent years. Furthermore, D&A Statement states that although largely in agricultural use, the examples shown are constructed to a similar pattern to the proposal. It also concludes that the impact of the proposed building would be no more or less than the examples shown in the addition Design & Access Statement, that the submitted drawings illustrate proposed improvements to the site’s screening which will help to integrate the use within this rural landscape, that it will not have a significant impact on the character of the local landscape, and that its scale would be appropriate for its location and to neighbouring buildings.
- 5.14 The application site is a parcel of undeveloped land adjacent to the eastern boundary of the residential property located at No 2 Prospect Villas, and the proposal is construction of a new compound on this site and a new storage building

on the southern part of the site with a 2 metre high steel fence and gates close to the north, east and south of it and hawthorn hedge along southern and most of the eastern boundaries.

- 5.15 The immediate area is characterised by a predominantly open landscape with some remote residential properties located close to a highway and partially screened from it by predominantly high hedges, timber fences and some trees. The lower hedge also runs alongside the Barlow Common Road. There are examples of agricultural buildings within the surrounding area, however, those are of a smaller size and scale located to the rear of residential properties and well-screened from public views such the one to the south of Botany Bay Cottages located to the east of the site or are located within the larger group of farm buildings such as a group to the rear of Barlow Lodge. Moreover, the erection of agricultural buildings in the countryside is accepted as being justified on locational grounds. The presence of genuine agricultural buildings in the surrounding countryside does not justify the erection of an industrial building designed to look like an agricultural building. Given this context, the proposed development would stand out as an over-dominant feature in otherwise open area and would therefore not be appropriate for the location and would be intrusive in the landscape.
- 5.16 The proposed building would measure approximately 13 metres in depth, 9 metres in width, and approximately 5.15 metres above ground level to the ridge. The building proposed would be built of concrete block panel and green coloured profiled steel sheet cladding to roof and walls, and same type of cladding for the roof, and would have a green roller shutter door. It is also proposed to add a 2 metre high green steel fence and gates which would surround the compound and to plant a hedge along its southern and most of the eastern boundaries. Due to the design and materials proposed to be used, the building and the fence proposed would further exacerbate the industrial character of the proposed building which is not characteristic to the open countryside.
- 5.17 The site is currently a part of a larger undeveloped open field. The proposal will introduce a new industrial building with an industrial compound within which vehicles or further storage of materials and equipment would occur. The industrial style fencing, the building and the compound will harmfully change the character of this part of the countryside. It has been suggested that the building would be agricultural in appearance and a Local Character Study and Study of Recent Agricultural Buildings in Open Countryside document was submitted showing examples of farm buildings within the surrounding area. Whilst contents of this document are noted and whilst large modern agricultural buildings are not uncommon on farm sites, it is accepted that these require a countryside location and cannot be located elsewhere. Furthermore, agricultural buildings are not normally surrounded by industrial compounds and industrial style fencing. The proposal includes a construction of a compound with a new industrial building of a scale which is not considered acceptable for the surroundings, and erection of the fence which, when considered cumulatively, would introduce industrial type of development to this location which is not comparable with the traditional agricultural buildings elsewhere in the area and would therefore erode the rural character of the area.
- 5.18 Although the proposed building would be significantly set back from a highway and there would be a new hawthorn hedge planted along the south and most of the east boundaries of the site, the building with compound and fencing would be seen within the context of the open fields and a pair of isolated small-scale semi-detached properties and would be highly visible due to their prominent and open



location within the countryside. Moreover, the hedging would take many years to establish during which the building would be prominent and highly visible. It is therefore not considered that the proposed development would be of an appropriate scale to its location.

- 5.19 Taking into consideration all of the above and having considered the size, scale, siting, location and design of the proposed development, the fencing and the compound, it is considered that it would be unacceptable and inappropriate to its surroundings and would have a detrimental impact on the otherwise open countryside. The proposal therefore fails to comply with Policy ENV1 of the Selby District Local Plan, Policies SP13 (D), SP18 and SP19 of the Core Strategy and the NPPF.

### **Impact on Residential Amenity**

- 5.20 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.
- 5.21 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.
- 5.22 Given the separation distance from the nearest residential properties, and due to the size, scale and design of the proposed development, it is not considered that it would result in adverse effects of overlooking, overshadowing or overbearing of neighbouring properties.
- 5.23 The Design and Access Statement supplied with the application states that the workshop use was removed from the proposal and that building would largely be used for storage and that no machinery will be permanently located within the building. However, the proposal is for storage and there is no planning control over the machinery related to this trade they could potentially use there in the case the application is approved.
- 5.24 It is also noted that the applicant requested a condition linking occupancy of the dwelling owned by the applicant, namely No 2, with the use of the proposed development. However, although imposition of such a condition would prevent future loss of amenity to occupants of 2 Prospect Villas from living next to an unrelated business use, it is also noted that there is another residential property within the vicinity of the site, the adjoining semi-detached dwelling namely No 1 Prospect Villas, the amenity of which could potentially be affected by the proposal due to proximity to the site and the scale and nature of the proposal. It is noted that the occupiers of No 1 Prospect Villas did not object to the proposals. However, the lack of objection does not mean the proposed development is considered acceptable by the occupants. Moreover, the planning system exists to protect the living conditions of dwellings for any current or future occupants from the harmful impacts of development.
- 5.25 The Environmental Health Officer (EHO) has been consulted on the scheme and noted that the proposed building is to be used purely for storage (falling within B8 use class) and that it proposed to be linked to the current occupation of the adjoining residential property. Under these circumstances and with a restriction on the hours of

use to prevent access and egress during the night-time period, EHO does not object to this application subject to conditions relating to a) use only be limited to storage and distribution, b) linking occupation to No 2 Prospect Villas, and c) restriction of hours of use. It is also noted that the applicant suggested a condition limiting the use of the proposed building to be used for storage only to prevent its use for industrial purposes which is considered reasonable and appropriate due to its proximity to a residential property which is not associated with the business, namely 1 Prospect Villas.

- 5.26 Although it is considered that the proposal would increase the type and number of traffic movements within the area which could potentially have a harmful impact on the amenities of neighbouring occupiers, taking into account the location of the site, comments made by the EHO and occupants of the neighbouring property, that the proposed scheme would only be used for storage and distribution, and subject to aforementioned conditions, it is on balance considered that harm caused to the amenities of adjoining occupiers would not be so detrimental as to justify refusal on this basis.
- 5.27 Given all of the above, it is on balance considered that the proposal would not cause significant adverse impact on the residential amenity of the neighbouring properties and as such would not be contrary to Policy ENV1 of the Selby District Local Plan.

### **Highway Issues**

- 5.28 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.
- 5.29 NYCC Highways have been consulted and raised no objections subject to a number of conditions requiring construction of access to the site in accordance with the published Specification of the Highway Authority and additional requirements outlined in the recommended condition, provision of visibility splays and provision of approved access, turning and parking areas. They have also recommended adding informatives relating to a separate licence being required from the Highway Authority and relating to liability for a range of offences under the relevant acts for any activity on the development site that results in the deposit of soil, mud or other debris onto the highway.
- 5.30 Taking into consideration all of the above and the size, scale and nature of the proposed development, the scheme is considered acceptable in terms of its impact on a highway safety and is therefore in accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and requirement (c) set out in Policy SP19 of the Core Strategy, and the NPPF.

### **Flood Risk and Drainage**

- 5.31 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
- 5.32 The application site is part located within Flood Zone 1 which has a low probability of flooding and part located within the Flood Zone 2 which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% -

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

- 5.33 Paragraph 163 of the NPPF states that *“When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that: a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; b) the development is appropriately flood resistant and resilient; c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan”*.
- 5.34 Footnote 50 states *“In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.”*
- 5.35 Although a small part the application site is located within Flood Zone 2, the proposed storage building, compound and access would be located within Flood zone 1 and there is no evidence to suggest that the land subject to this proposal falls into any of the criteria as described in Footnote 50. As such, FRA is not required to be submitted.
- 5.36 In terms of surface and foul water drainage, the application form states that there will be no foul drainage connection as there is no need for it, and that the surface water would be disposed of via the existing water course.
- 5.37 Internal Drainage Board and Yorkshire Water Services have been consulted on this application. Yorkshire Water Services have not commented on this application and it is therefore assumed that they do not object to the proposals on the basis of the information submitted. Internal Drainage Board raised no objections in principle providing that if surface water is to be discharged into any watercourse within the drainage district, consent from the IDB would be required and would be restricted to 1.4 litres per second per hectare on greenfield runoff. As such and given the information relating to drainage provided, the proposal is considered to be appropriate in terms of its impact on drainage.
- 5.38 Having regard to the above, the proposed development is considered to be acceptable in terms of flood risk and in terms of drainage, taking into account national policy contained within the NPPF.

## **6 CONCLUSION**

- 6.1 The application seeks full planning permission for the erection of building to be used for storage facility on land adjacent to 2 Prospect Villas, Barlow Common Road, Barlow to consolidate the business at this site.
- 6.2 Although the proposal would be acceptable in all other respects, it would stand out as an over-dominant feature of an industrial character with the uncharacteristic to

the open countryside boundary treatment and would be inappropriate in scale to its location. As such and due to its size, scale, siting, fencing outside compound and location, it would be prominent within the open countryside and would be intrusive in the landscape. It is therefore considered the proposal would cause harm to the character and appearance of the area and an open countryside and would be contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policies SP13 (D), SP18 and SP19 of Core Strategy and the NPPF.

## **7 RECOMMENDATION**

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

- 7.2 The proposal would stand out as an over-dominant feature of an industrial character in otherwise open area and would be prominent within the open countryside and intrusive in the landscape. It is therefore considered that the proposed development is of inappropriate in scale to its location and that the proposal would cause harm to the character and appearance of the area and an open countryside and would be contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policies SP13 (D), SP18 and SP19 of Core Strategy and 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**

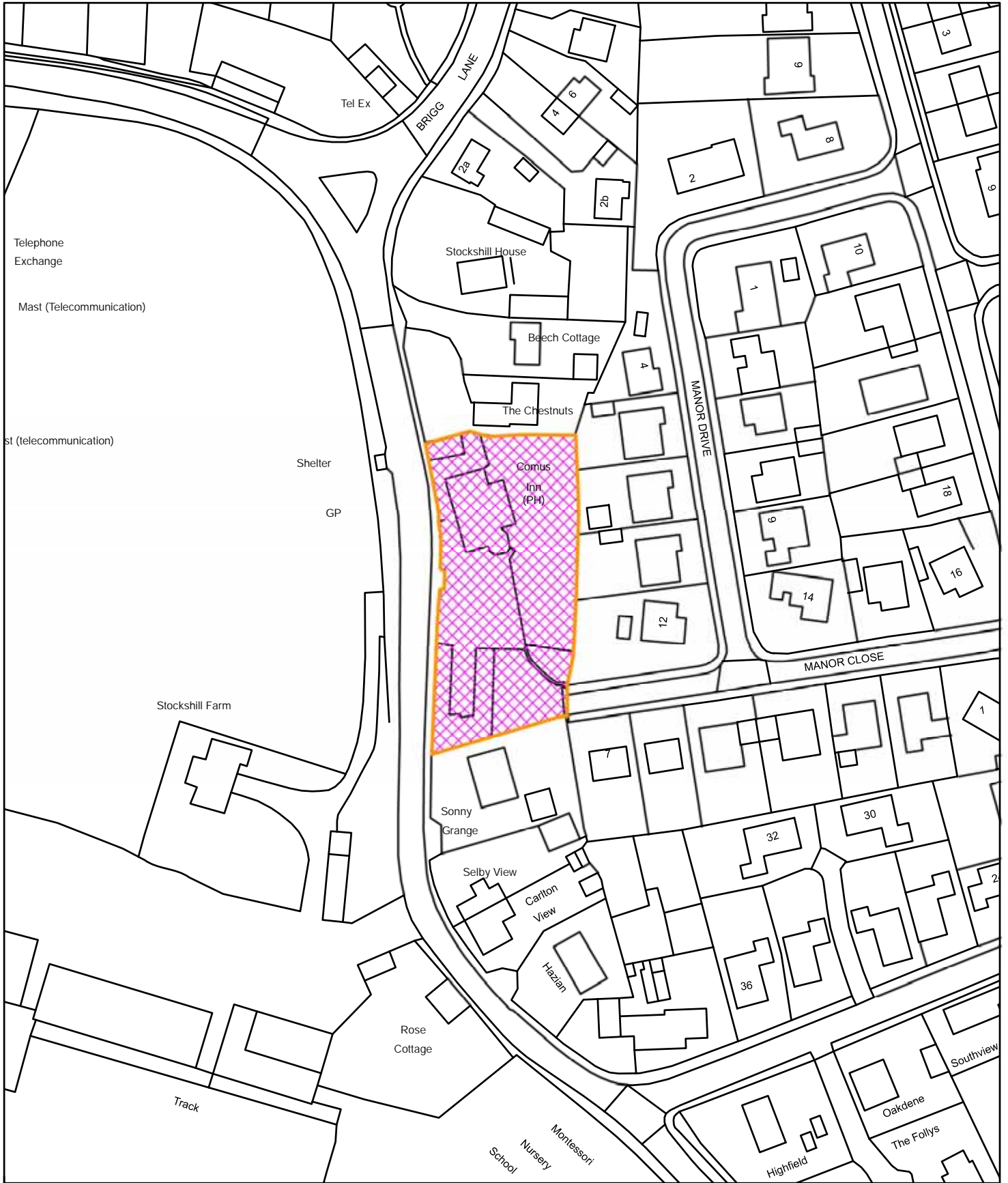
**Planning Application file reference 2020/0137/FUL and associated documents.**

**Contact Officer: Irma Sinkeviciene (Planning Officer)**

**Appendices: None**

# Agenda Item 4.3

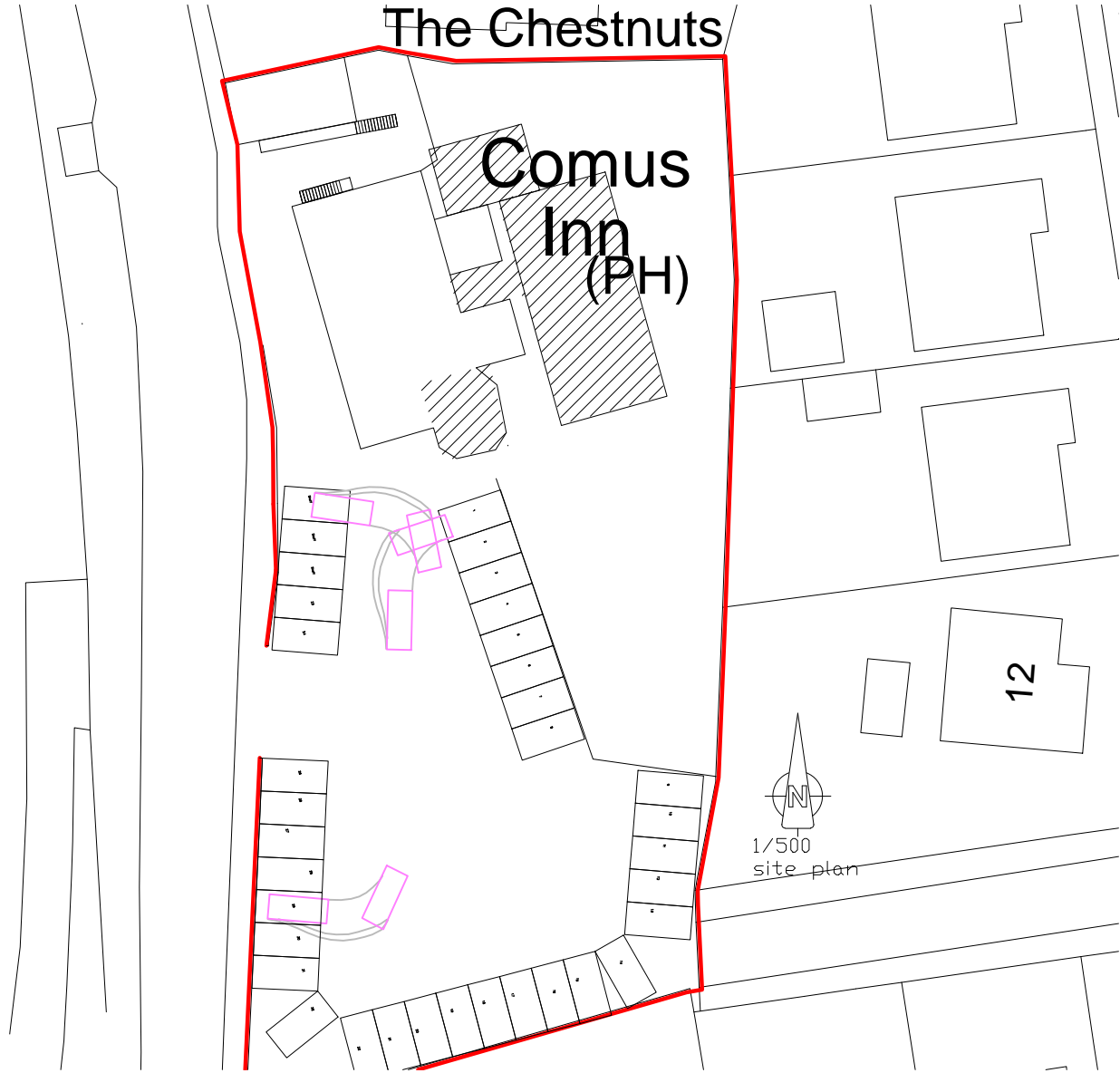
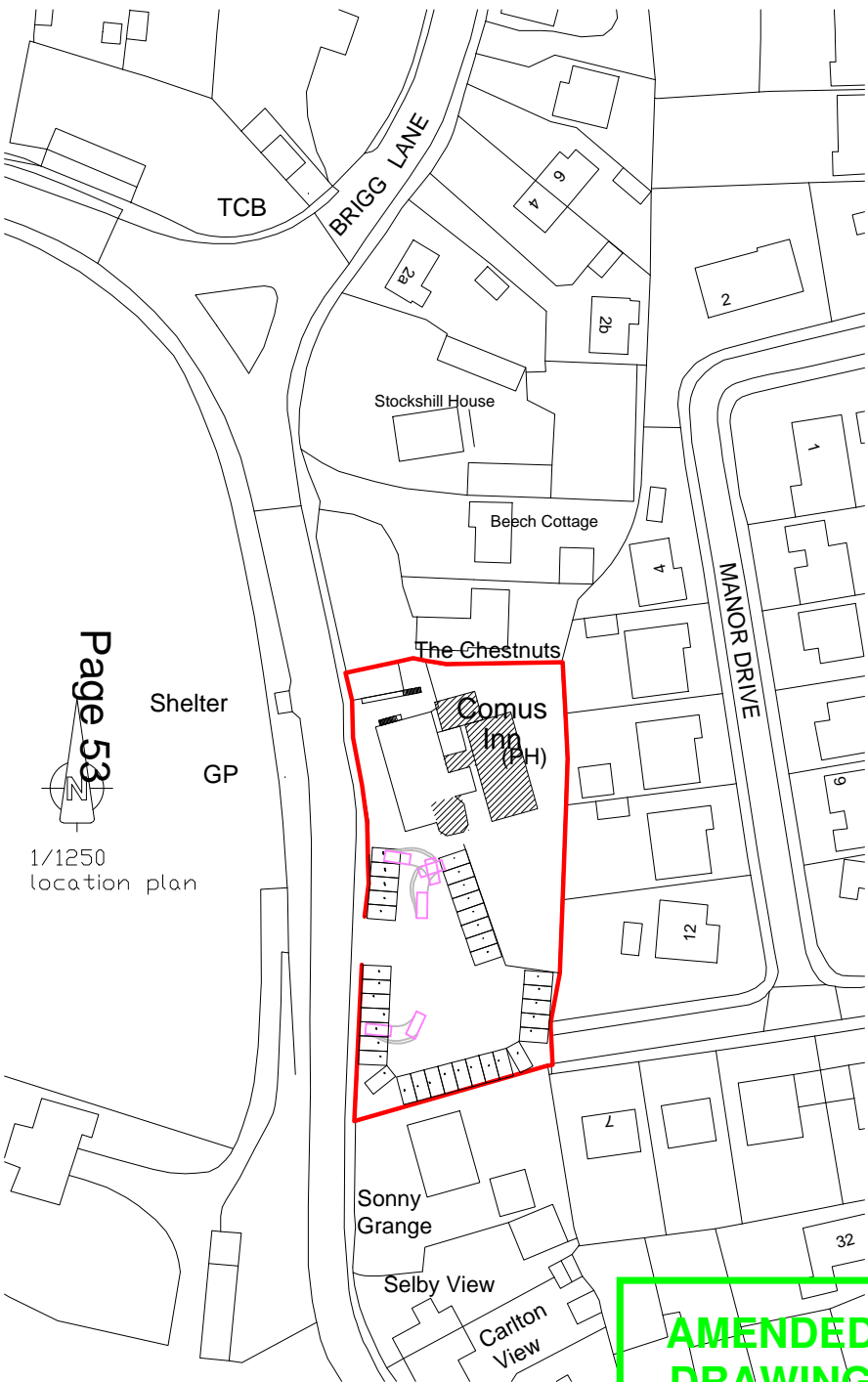
Comus Inn, Selby Road, Camblesforth  
2020/0445/FUL



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 1/1250  
 location plan

**AMENDED  
 DRAWING**

**Technical Services** Selebia House 3 Bondgate Selby Y08 3LS Tel 01757 709821

Designed by S.C.S.	Checked by S.C.S.	REF 10-11-20 Campey o-s	Scale 1/100
Owner MR. Ian Campey Braycliffe house Doncaster rd Brayton Selby		Proposed conversion of existing conservatory into dining area relocation of kitchens to new rear extension and new dining / function room to the rear, link attached through walkway at Comus Inn, Selby Road, Camblesforth, Selby, Y08 8HR	

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Report Reference Number 2020/0445/FUL

**To:** Planning Committee  
**Date:** 10 February 2021  
**Author:** Chris Fairchild (Senior Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0445/FUL	PARISH:	Camblesforth Parish Council
APPLICANT:	Mr Ian Campey	VALID DATE: EXPIRY DATE:	11th May 2020 6th July 2020
PROPOSAL:	Conversion of existing conservatory into dining area relocation of kitchens to new rear extension and new dining / function room to the rear, link attached through walkway		
LOCATION:	Comus Inn Selby Road Camblesforth Selby North Yorkshire YO8 8HR		
RECOMMENDATION:	GRANT subject to conditions		

This application has been brought before Planning Committee as there have been more than 10 letters of representation received in objection of the application contrary to Officers' opinion where they would otherwise have approved the application under delegated powers.

## 1 INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application related to the Comus Inn, Camblesforth, a village pub set adjacent the main through the village and residential properties.

### The Proposal

- 1.2 Conversion of existing conservatory into dining area relocation of kitchens to new rear extension and new dining / function room to the rear, link attached through walkway

### Relevant Planning History

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

Ref: 2018/0216/FUL  
Description: Retrospective planning application for prefabricated double garage and single garage  
Address: Comus Inn, Selby Road, Camblesforth, Selby, North Yorkshire, YO8 8HR  
Decision: Permitted 19-JUN-18

Ref: 2015/0608/COU  
Description: Proposed retention of the rear extension to accommodate new cellar facilities and conversion of the existing cellar/garage/store building to 6 ensuite ancillary guest rooms to be used ancillary to the existing public house  
Address: Comus Inn, Selby Road, Camblesforth, Selby, North Yorkshire, YO8 8HR  
Decision: Permitted 02-SEP-15

Ref: 2009/0740/FUL  
Description: Erection of a single storey extension to the rear to form disabled WC and hard landscaping to include creation of a wheelchair accessible terrace to the front and car park improvements  
Address: Comus Inn, Selby Road, Camblesforth, Selby, North Yorkshire, YO8 8HR  
Decision: Permitted 16-OCT-09

Ref: CO/1992/0625  
Description: Proposed erection of a conservatory on the rear elevation of,  
Address: The Comus Inn, Selby Road, Camblesforth,  
Decision: Permitted 18-AUG-92

## **2 CONSULTATION AND PUBLICITY**

### **Environmental Health Officers (EHO)**

- 2.1 Environmental Health Officers (EHO) initial consultation response noted concerns regarding the use of the proposed Function Room and requested a noise assessment to consider the impact of noise from this source on the surrounding residential properties. Provision of toilet facilities to cater for the additional internal floorspace of 181m<sup>2</sup> was also requested.
- 2.2 Following reconsultation, the EHO considered the submitted Risk Assessment for Odour to be undertaken in accordance with out of date guidance albeit noted the assessment indicated that a high level of odour control will be required, but is on the verge of the very high risk rating and this hinges on the dispersion being at least 1m above the eaves at 10 to 15m/s. Concerns regarding the single storey kitchen extension in respect of two storey buildings in close proximity will hinder dispersion, and the flue is not shown on the submitted plans. The suggested mitigation methods in the assessment are in line with the guidance but cannot be agreed until issues around dispersion have been resolved and what specific odour mitigation measures are to be provided and how this meets the level of odour control required to prevent an issue.

- 2.3 Following reconsultation, in respect of sanitary accommodation provision, the wash hand basins should be provided on a one to one basis with WC's.
- 2.4 Following reconsultation, in respect of the Kitchen Ventilation statement, the EHO considers the information provided does not adequately consider the efflux velocity or the impact of surrounding buildings on dispersion. However, providing the suggested equipment specification with an increased number of carbon filters is included this would be satisfactory.
- 2.5 Following reconsultation in respect of the submitted Noise Impact Assessment, the EHO raised a number of queries relating to the methodology and calculations contained within. The applicants provided a revised Noise Impact Assessment which in turn was assessed further by the EHO. Following review, the EHO considers that whilst a range of measures could be conditioned, the Noise Impact Assessment does not fully assess the potential noise impacts arising from this development.
- 2.6 Following further revisions to plans and additional information from the applicants, the EHO considered the external curfew would prevent the loss of amenity being caused by patrons using the external areas after 11pm, but does not prevent an issue being caused by patrons leaving the site up to or beyond 1am. The EHO noted the findings of the Noise Impact Assessment. The EHO goes on to recommend planning conditions.

#### **Local Highway Authority**

- 2.7 The proposed conversion and extension is likely to result in the ability to cater for additional covers, however no details of car parking arrangements have been provided and the additional highway impacts will be difficult to assess without further information. The Local Highway Authority requested details of parking provision before making a formal recommendation.
- 2.8 Following submission of additional details and subsequent reconsultation, there were no Local Highway Authority objections to the proposed development.

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

- 2.9 The IDB set out their guidelines for surface water drainage and recommend conditions are included on any permission in line with this guidance as necessary.

#### **Yorkshire Water**

- 2.10 No consultation response was received following consultation.

#### **Environment Agency**

- 2.11 No consultation response was received following consultation.

#### **Parish Council**

- 2.12 No consultation response was received following consultation.

#### **Publicity**

- 2.13 The application was advertised via site notice and by mail addressed to surrounding properties. Following this consultation 32 responses were received, 22 in support and 10 in objection.

2.14 Those in support cite the following matters:

- The pub is the hub of the community
- The pub serves the best food in the area.
- Creation of more local jobs.
- Securing existing jobs.
- The area currently lacks quality dining establishments.
- Work being undertaken on site has been high quality, as will these proposals.
- During current crisis investment in rural pubs should be encouraged.
- Improvements to pub by owners should be further encouraged.
- The pub is an asset to the village.
- Too many pubs are closing down.
- The village lacks a permanent indoor facility since the village hall closed.
- A function room is more neighbour friendly than marquees.
- Food is an essential part of pub trade.
- If the application is refused the pub could be lost and the site would be attractive for housing.
- Surrounding villages are growing and the pub is required to grow to accommodate these new resits.

2.15 Those in objection cite the following matters:

- Impact on quality of life: use of surrounding residential gardens will be impacted, and noise will be heard inside residential dwellings.
- Adverse impact on house price
- Recent live events were noisy, this proposal will exacerbate issues
- The proposal lacks detail of sound proofing.
- When doors are open (e.g. Summer) noise will exceed stated levels.
- Work is currently being undertaken on site.
- Access to the car park appears to have been created from Manor Close.
- The day to day running of the pub causes noise disturbance and loud noise and music are heard at all times.
- The car park has been extended demonstrating the crowds expected.
- The scale of proposal and proximity to surrounding residential properties is inappropriate due to noise concerns.
- Numerous complaints have been made by neighbours to Selby District Council's Environmental Health Officers.
- Relocating kitchens to the rear will cause odour issues.
- The application lacks details of frequency, type and duration of functions
- The proposed mitigation of keeping the doors closed is unlikely to be upheld in reality.
- How will the proposed maximum noise level be managed.
- The background noise level does not reflect usual circumstances due to the A19 diversion and Coronavirus lockdown/slowdown
- Drunk patrons leaving the pub will be difficult to manage.
- Conditions may not be complied with.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The site is located within the Development Limits of Camblesforth, defined as a Secondary Village within the development plan.
- 3.2 There are no heritage assets nor ecological designations on or near the site. The site is located with Flood Zone 2

#### **4 POLICY CONSIDERATIONS**

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

SP1 Presumption in Favour of Sustainable Development  
SP2 Spatial Development Strategy  
SP13 Scale and Distribution of Economic Growth  
SP14 Town Centres and Local Services  
SP18 Protecting and Enhancing the Environment  
SP19 Design Quality

## Selby District Local Plan

4.7 The relevant Selby District Local Plan (SDLP) Policies are:

- ENV1 Control of Development
- ENV2 Environmental Pollution and Contaminated Land
- T1 Development in Relation to the Highway network
- T2 Access to Roads
- S3 Local Shops

## 5 APPRAISAL

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

1. Principle of Development.
2. Impact upon Amenity.
3. Access & Highway Safety.
4. Appearance & Impact upon Character of Area.
5. Flood Risk & Drainage.

### Principle of Development

#### Context

- 5.2 CS Policy SP1 of the Core Strategy outlines that "*when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework*" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.
- 5.3 CS Policy SP2 controls the location of future development within the District and directs the majority of new development to towns and more sustainable villages depending on their future role as employment, retail and service centres. The site lies within Camblesforth which is designated as a Secondary Village within the Core Strategy, the policy is silent on non-residential development in Secondary Villages.
- 5.4 CS Policy SP2 also requires proposals for development on non-allocated sites to meet the requirements of CS Policy SP4. However, given CS Policy SP4 relates to residential development this policy is not applicable.
- 5.5 CS Policy SP13B.1 supports the "*modernisation of existing premises, expansion, redevelopment, re-use, and intensification*" of exiting employment sites with Development Limits. CS Policy SP13B.3 seeks to promote "*opportunities relating to recreation and leisure uses*". CS Policy SP13D states:
- "In all cases, development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity."*
- 5.6 The site is not located within an Established Town Centre as defined within the development plan. In such locations CS Policy SP14A sets out broad support for local shops and services through resisting their loss and promoting establishment of new facilities.

- 5.7 SDLP Policy S3 relates to proposals for public houses (amongst others) outside Established Town Centres and these will be permitted subject to the following criteria:
- 1) *“The proposal is within defined development limits;*
  - 2) *The proposal is intended to serve a purely local function or there is a demonstrable need for the particular outlet in the locality (including facilities related to tourism);*
  - 3) *The scale of provision would be appropriate to the locality;*
  - 4) *The proposal would not create conditions prejudicial to highway safety or the free flow of traffic;*
  - 5) *Satisfactory parking and servicing could be achieved, and the site is accessible and safe for pedestrians and cyclists; and*
  - 6) *The proposal would not have a significant adverse effect on residential amenity or the character and appearance of the area.”*

### Assessment

- 5.8 The site currently accommodates the Comus Inn a long-established public house. The applicants are seeking to further diversify their offer by increasing dining capacity and creating a function room.
- 5.9 CS Policy SP13 supports the redevelopment and intensification of businesses, particularly recreation and leisure uses, and SDLP Policy S3 permits development of pubs subject to criteria: both of these policies contain criteria requiring such development to be appropriate to the locality, have suitable access, and not have a detrimental impact on resident’s amenity.
- 5.10 Officers consider that the proposal are of a scale that is commensurate to that of Camblesforth and satisfies the requirements of CS Policy SP13 and SDLP Policy S3. Subject to considerations of amenity and access (considered below) the proposals are acceptable in principle.

### **Impact upon Amenity – Environmental Health**

#### Context

- 5.11 SDLP Policy ENV1 provides eight broad aspirations for achieving ‘good quality development’ that should be taken into account where relevant. SDLP ENV1(1) requires *“the effect upon the character of the area or the amenity of adjoining occupiers”* to be taken into consideration.
- 5.12 SDLP Policy ENV2A states development that would be affected by unacceptable levels of noise, nuisance, contamination or other environmental pollution will be refused unless satisfactorily remediated or prevented.
- 5.13 CS Policy SP19(k) seeks to prevent development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water, light or noise pollution or land instability.

#### Assessment

- 5.14 The proposal seeks to create additional dining capacity and relocate kitchens to the rear of pub. The rear of the pub backs on to a number of residential properties, the

extension will be within c.4.5m of the rear garden of the property to the north (The Chestnuts) and c.7.5m to the property itself. The rear gardens of the dwellings to the east (6 – 10 Manor Drive) are between c.4.5m-9m of the proposed extension, whilst the dwellings' elevations are between c.18.5m-20m from the proposed extension. The proposals are therefore in close proximity and have the potential to generate an adverse impact upon the amenity of these residents.

- 5.15 The EHO has made several consultation responses to these proposals considering additional information submitted by the applicants to demonstrate that a significant adverse impact will not arise from an odour and noise perspective.
- 5.16 In respect of odour, the applicants submitted a *Risk Assessment for Odour* alongside a Kitchen Ventilation Statement and technical specifications of proposed plant. In considering this information, the EHO agrees with the proposed methodology subject to the equipment being installed in accordance with their consultation response (02.11.2020). Officers are satisfied that subject to compliance with this installation, which will be secured via condition, that the proposals will not result in a significant adverse impact upon from an odour perspective and are therefore acceptable.
- 5.17 In respect of noise, the applicants have submitted a noise assessment that establishes the potential noise impact of use of the proposed function room on the nearest noise sensitive receptors and determines what mitigation is required. The noise assessment sets how the extension will function:

*“The extension will primarily be used as a dining room, but will also serve as a function room for occasional events, such as wedding receptions, birthdays, wakes and baby showers. Events would operate within the existing operating hours of the premises, which are 1100–0000 hours Sunday to Thursday and 1100–0100 hours on Friday and Saturday”.*

- 5.18 Following submission of the initial Noise Impact Assessment, the EHO raised a number of queries relating to the methodology and calculations contained within. The applicants provided a revised Noise Impact Assessment which in turn was assessed further by the EHO. Following review, the EHO considered that a range of measures could be conditioned but that the Noise Impact Assessment did not fully assess the potential noise impacts arising from this development.
- 5.19 The applicants supplied additional information and amended the plans, notably enclosing the “link” to create a small lobby area and agreeing to a curfew on external events. The EHO has considered the changes and recommended conditions. Whilst the EHO does not exclude disturbance arising from guests leaving the pub, Officers do not consider that the potential for disturbance arising from “event guests” leaving will be materially different from the potential disturbance arising from public house patrons. Subject to conditions in line with the EHO’s comments, the Noise Impact Assessment, ensuring the “link” is enclosed, and a curfew on outdoor events the proposals are considered acceptable from an environmental health perspective.

#### **Impact upon Amenity – Overlooking, Overshadowing, Overbearance**

- 5.20 As set out in the preceding section, the proposal is set within a residential context with residential properties surrounding the rear of the pub. The southern elevation of the Chestnuts contains a windows at ground floor ant first floor, albeit the site is



separated by a large boundary wall. The properties at Manor Drive are bungalows and separated by a large fence and boundary vegetation.

- 5.21 In regards to the Manor Drive dwellings, given the single storey to single storey relationship, boundary screening and separation, officers do not consider any adverse overlooking, overshadowing or overbearance will occur and is acceptable.
- 5.22 With respect of overlooking, the proposals are single storey and therefore limits any views into The Chestnuts. The proposed roof lights are placed on a roof that is pitched perpendicular to the dwelling's windows and are recessed away from the northern elevation: officers do not consider any adverse overlooking would occur from these windows. Given the ground floor nature of the bi-fold doors, height of the separating wall and distance between the two relative elevations, officers do not consider that any overlooking will arise. Similarly, the ground floor nature of the eastern elevation windows, height of the separating wall and distance between the two relative elevations, will not lead to any overlooking.
- 5.23 Given the single-storey nature of the proposals, separation distances and respective boundary treatments officers do not consider there any significant adverse overshadowing or overbearance will occur to any of the surrounding properties.
- 5.24 The proposals will not, therefore, give rise to any significant adverse overlooking, overshadowing, or overbearance and are acceptable from this perspective.

### **Access & Highway Safety**

#### Context

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

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

- 5.26 SDLP Policy T1 stipulates development will only be permitted where existing roads have adequate capacity and can safely serve the development, unless appropriate off-site highway improvements are undertaken by the developer.
- 5.27 SDLP Policy T2 only allows for a new access or the intensification of the use of an existing access will be permitted provided where (1) there would be no detriment to highway safety; and 2) the access can be created in a location and to a standard acceptable to the highway authority.
- 5.28 Paragraph 109 of the NPPF states that planning applications should only be refused where there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

#### Assessment

- 5.29 The proposals have been considered by the Local Highway Authority who, following clarification from the Applicants with regards to parking, have no objection to the proposals.
- 5.30 Officers sought revisions from the applicants to remove parking immediately adjacent the pub itself due to the lack of on-site manoeuvring to access these parking spaces requiring reversing into a busy highway. The proposal now

incorporates 35 car parking spaces accessed from the existing car park access. Following these revisions, Officers consider the proposals will not have a detrimental impact upon highway safety and the proposals comply with SDLP Policy T1 & T2.

## **Appearance & Impact upon Character of Area**

### Context

- 5.31 CS Policy SP19 expects development to achieve high quality design and have regard to the local character, identity and context of its surroundings.
- 5.32 SDLP Policy ENV1 requires (1) the effect of the character of an area, and; (4) the standard of layout, design and materials in relation to the site and its surroundings and associated landscaping to be taken into account.

### Assessment

- 5.33 In comparison to the existing pub, the proposed extensions are of a significant scale and a modern appearance. However, the proportions and layout achieve a sense of subservience to the existing pub and the material choices – wooden doors, windows, clay roof tiles, and a render finish relate well to the pub and the surrounding built vernacular.
- 5.34 The site will extend the existing car park, whilst this is a substantial area it does not lead to the loss of any vegetation, albeit grassland will be removed, and will not change the character of the site or that of the surrounding area.
- 5.35 Officers consider the proposals do not have an adverse impact upon the character of area and comply with CS Policy SP19 and SDLP Policy ENV1.

## **Flood Risk & Drainage**

### Context

- 5.36 The majority of the site sites within Flood Zone 2, including the area covered by the extensions.
- 5.37 CS Policy SP15A(d) seeks to ensure that development in areas of flood risk is avoided wherever possible through the application of the sequential test and exception test (if necessary). This policy is in line with NPPF Paragraph 155 which seeks to direct development away from areas at highest risk.
- 5.38 NPPF Paragraph 163 requires all planning applications within Flood Zone 2 to be accompanied by a site-specific flood risk assessment (FRA) and sets out the requirements where development in areas at risk of flooding can be allowed.
- 5.39 National Planning Practice Guidance (NPPG) sets out how FRAs should be assessed. For a development of this nature, the NPPG sets out that the proposed development should follow the standing advice for vulnerable developments as laid out by the Department for Environment, Food & Rural Affairs and Environment Agency in respect of: 1) surface water management, 2) access and evacuation, and 3) floor levels.

- 5.40 SDC's Flood Risk Sequential Test Developer Guidance Note (October 2019) is also a material consideration. The Guidance Note accords with Paragraph 164 and footnote 51 of the NPPF which clarifies that minor development is exempt from requiring a sequential and exception test.

### Assessment

- 5.41 The proposal constitutes a small non-residential extension i.e. minor development and in accordance with the Guidance Note a sequential test and exception test is not required. The proposal complies with CS Policy SP15A(d).
- 5.42 The initial FRA submitted with the application was insufficient to assess the flood risk impacts of the proposal and a revised FRA was submitted.
- 5.43 Paragraph 7.2 of the FRA provides evacuation plan details. Officers consider the proposed evacuation measures are appropriate and given the front of the pub is within Flood Zone 1 that occupants could leave the site to safety. The proposed evacuation measures rely on subscription to the Environment Agency's flood warning alert service to manage such an evacuation in a timely manner and it is therefore recommended this be secured by condition.
- 5.44 The Government's advice for *minor extensions*<sup>1</sup> requires floor levels to be either no lower than existing floor levels or 300 millimetres (mm) above the estimated flood level. The applicants have provided a range of flood resistance and resilience measures and these are contained within Section 11 of the FRA, Recommendations. A number of the recommendations are inconclusive or contradictory, conditions are therefore recommended to ensure the proposal is acceptable from a flood risk perspective.
- 5.45 The revised FRA is non-committal in terms of surface water drainage but suggests there will be "*very little change to the surface water run-off and any reduction in drainage capacity*" as a result of the proposals whilst suggesting "*as good practice and if this can be easily achieved then sustainable drainage should be incorporated into the site*". Officers consider that the proposal will increase surface water run-off from the site and given the location with Flood Zone 1 it is appropriate to utilise sustainable drainage as the primary approach. Subject to conditions requiring details of the efficacy and design (if applicable) of the proposed sustainable drainage system the proposal is acceptable from a surface water perspective.

## **6 CONCLUSION**

- 6.1 The extension of the public house to accommodate a dining/event space, and to the car park is considered acceptable in principle. The proposals have been considered from all relevant development management considerations and have been found acceptable, subject to the recommended conditions, and it is therefore recommended that planning permission is granted.

## **7 RECOMMENDATION**

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

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<sup>1</sup> Preparing a flood risk assessment: standing advice

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

Reason:

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

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

- 15-12-20 Campey Proposed Elevations and Plans
- 10-11-20 Campey o-s Proposed Site Plan

Reason:

For the avoidance of doubt.

3. Prior to the occupation of the development the finished floor levels shall be constructed no lower than the prevailing floor levels of the existing building. The finished floor levels shall be retained at this height or above thereafter.

Reason:

To reduce the impacts of flooding upon the proposed development and future occupants.

4. The applicant or future owner/operator shall register with the Government's flood information service prior to occupation of the dwelling.

Reason:

To reduce the impacts of flooding upon the proposed development and future occupants.

5. Prior to the use commencing the following measures shall be installed:

- i) a noise limiter to prevent the music level exceeding 90 dBL<sub>aeq,T</sub>.
- ii) prominent clear and legible notices are displayed at all exits requesting patrons to respect the needs of local residents and to leave the area quietly.
- iii) the glazing specified for the bi-fold door on the northern façade shall have a minimum sound reduction index (SRI) of circa 36 dB RW+C<sub>tr</sub> and a sound insulation performance of at least 22 dB Rw and 28 dB Rw in the 63 Hz and 125 Hz octave bands respectively.
- iv) the glazing on remaining façades has a minimum SRI of circa 32 dB RW+C<sub>tr</sub> and a sound insulation performance of at least 18 dB Rw and 24 dB Rw in the 63 Hz and 125 Hz octave bands respectively.
- v) The roof inner lining shall be double boarded with 2 x 15 mm SoundBloc plasterboard on resilient bars, with 100 mm (minimum) mineral wool insulation above. The SRIs of the roof construction have been modelled using insulation prediction software (INSUL) at 56 dB RW+C<sub>tr</sub>, 34 dB Rw (63 Hz) and 46 dB Rw (125 Hz).
- vi) The SRIs of a masonry external wall are taken 48 dB RW+C<sub>tr</sub>, 34 dB Rw (63 Hz) and 40 dB Rw (125Hz).

vii) The kitchen extract fan is fitted with a 1D silencer.

Once installed, the measures shall be retained and operated in accordance with the approved details for the lifetime of the development.

Reason:

To protect the amenity of surrounding residents.

6. The plant and machinery shall be installed prior to occupation and in accordance with the Kitchen Ventilation statement subject to the following criteria:

- Electrostatic precipitator for grease and smoke particulate control configured in single configuration.
- In-duct ultraviolet light in the C-band for grease and odour control.
- Activated carbon for ozone control at a level to achieve Very High Level Odour Control based on the Defra 2005 assessment.

Once installed the plant and machinery shall be retained and operated in accordance with the approved details for the lifetime of the development.

Reason:

To protect the amenity of surrounding residents.

7. During any organised events that utilise the approved development, i.e. use of the area other than for dining associated with the day-to-day operation of the public house, the windows and bi-folding doors of the function room should be kept closed throughout the duration of the event.

Reason:

To protect the amenity of surrounding residents.

8. The windows and bi-folding doors of the function room should be kept closed when amplified or unamplified music is played, or any other sound system is utilised, regardless of use of the approved development.

Reason:

To protect the amenity of surrounding residents.

9. Use of the external area of the public house for events is permissible only between the hours of 08:00 and 22:00.

Reason:

To protect the amenity of surrounding residents.

10. The "lobby" area shown on the approved plan shall be completed prior to the use commencing and shall be retained as such for the lifetime of the development. The door leading to the external area must be closed and secured between the hours of 22:00 and 08:00.

Reason:

To protect the amenity of surrounding residents.

## INFORMATIVES

1. The applicants should consider incorporating as many of the measures contained within Section 9 of the submitted Flood Risk Assessment (completed 10/11/2020) as feasible.
2. For the avoidance of doubt, the limitation on the hours of use for the external area within Condition 9 shall include, for example setting-up and clearing up, all of which must be undertaken within these hours.

## 8 Legal Issues

### Planning Acts

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

### Human Rights Act 1998

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

### Equality Act 2010

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

## 9 Financial Issues

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

## 10 Background Documents

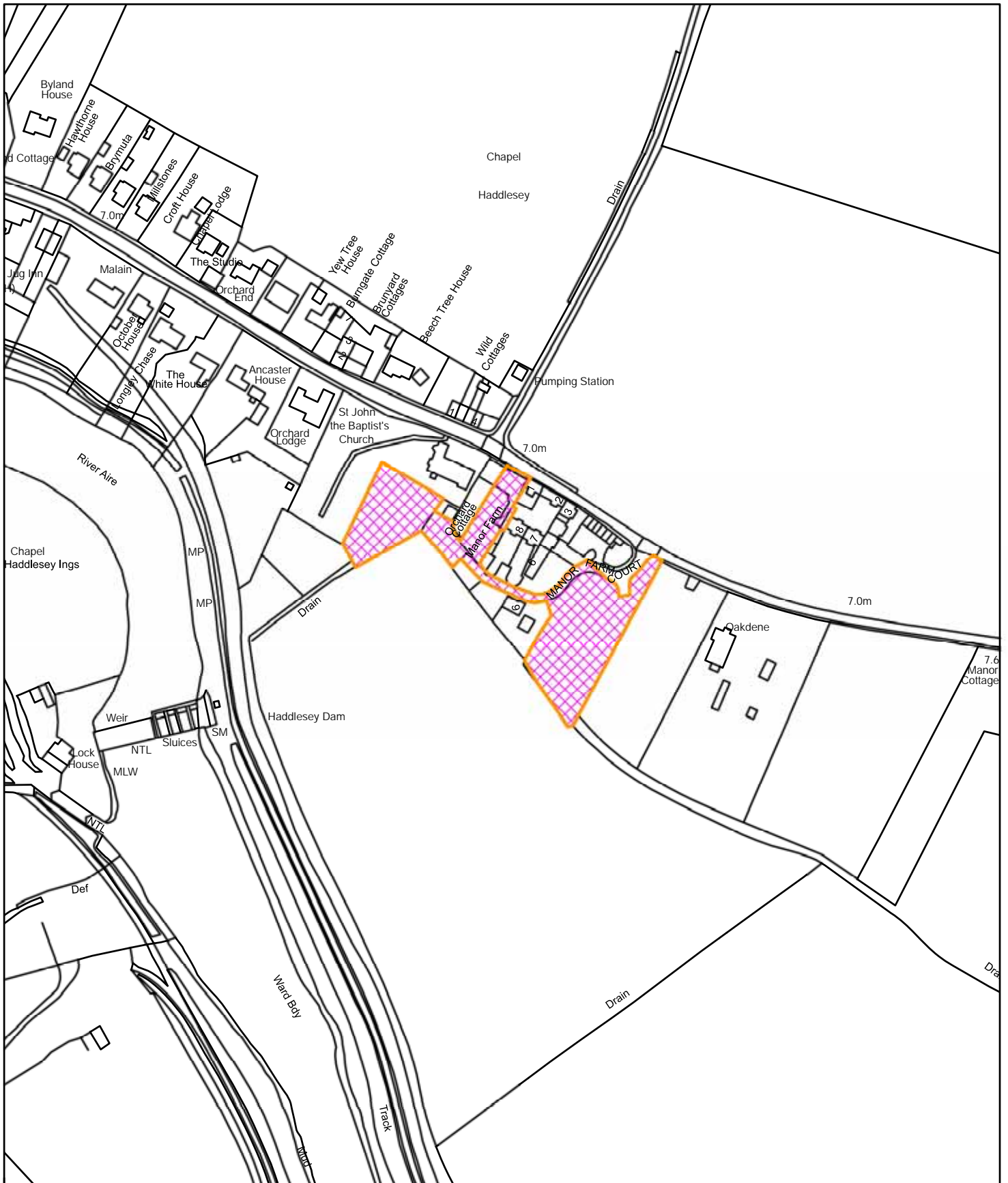
- 10.1 Planning Application file reference 2020/0445/FUL and associated documents.

**Contact Officer: Chris Fairchild (Senior Planning Officer)**

**Appendices: None**

# Agenda Item 4.4

Manor Farm, Hirst Road, Chapel Haddesley  
2020/1161/COU



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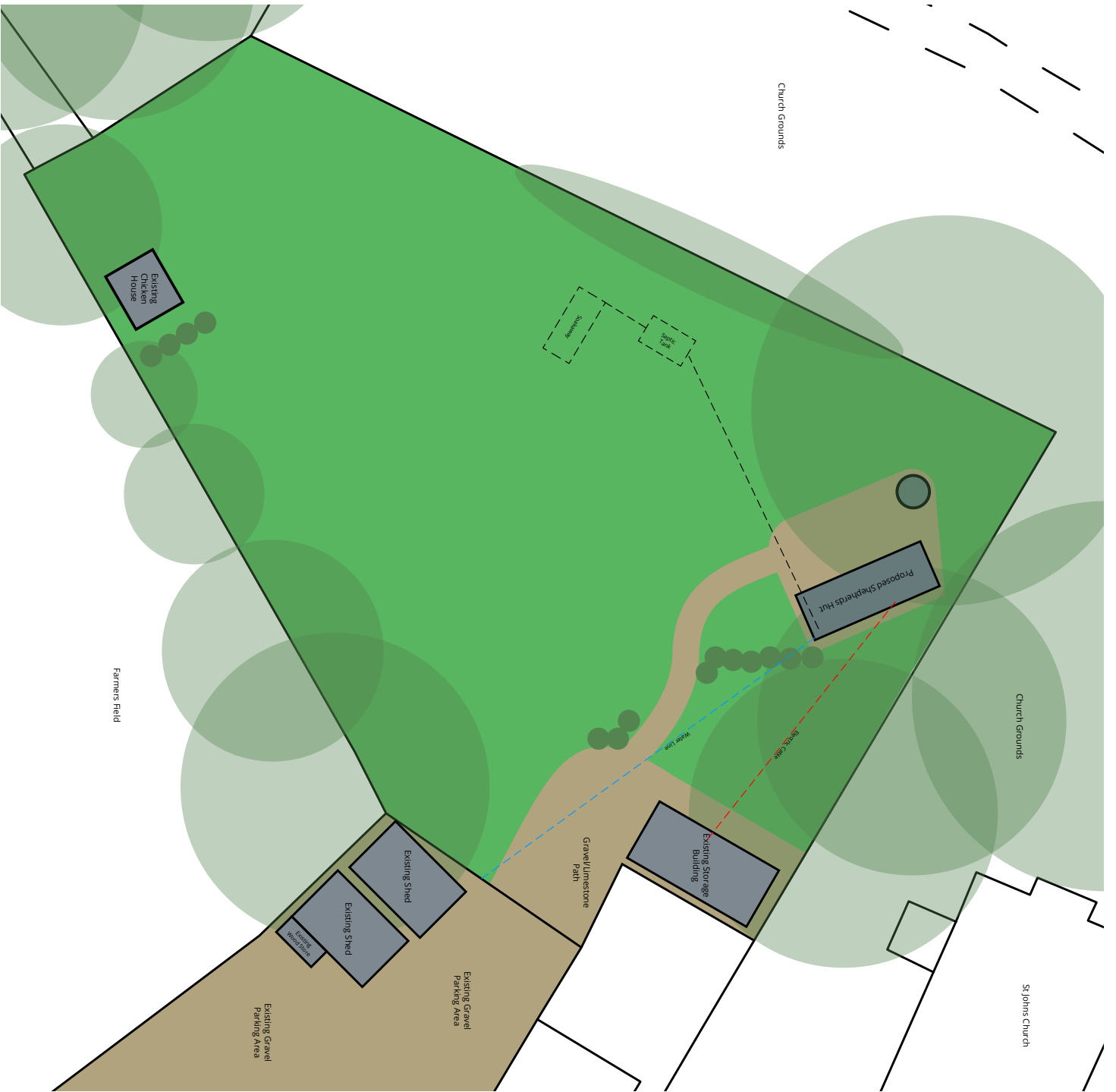
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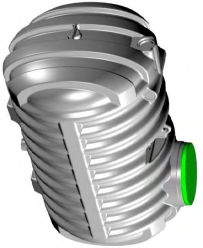




Shepherd Hut Style



Cedar Hot Tub Style



Gander Millennium 3000 Lite Shallow Dug Septic Tank



COMPACT POLYBED 2.7M3 Soakaway

**Proposed Shepherd Hut**  
 The Paddock, Manor Farm, Chapel Haddlesey  
 November 2020  
 Drawing: MF001-01 A  
 Scale: 1:200 @A3



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**Report Reference Number 2020/1161/COU**

**To: Planning Committee**  
**Date: 10<sup>th</sup> February 2021**  
**Author: Chris Fairchild**  
**Lead Officer: Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2020/1161/COU	PARISH:	Chapel Haddlesey Parish Council
APPLICANT:	Helen Macrow	VALID DATE:	10th November 2020
		EXPIRY DATE:	5th January 2021
PROPOSAL:	Change of use of land for a non-domestic shepherds hut for use as a holiday let, together with a 1600mm wood fire hot tub		
LOCATION:	Manor Farm Hirst Road Chapel Haddlesey Selby North Yorkshire YO8 8QQ		
RECOMMENDATION:	APPROVE		

This application has been brought before the Planning Committee as the proposal is contrary to the requirements of the development plan (namely criterion 1 of Policy RT11 of the Selby District Local Plan) but it is considered that there are material considerations which would justify approval of the application.

## **1. INTRODUCTION AND BACKGROUND**

### **Site and Context**

- 1.1. The site consists of an irregular shaped parcel of land at the end of a private residential cul-de-sac. The site sits adjacent to the urban form of the village, open fields lie to the south, residential dwellings and their curtilage exist to the east, St John The Baptist' Church and associated graveyard lie to the north and west.

### **The Proposal**

- 1.2. Full planning permission is sought for the change of use of the land and installation of a non-domestic shepherds hut for use as a holiday let, alongside a wood-fired hot tub.

### **Relevant Planning History**

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

## **2. CONSULTATION AND PUBLICITY**

### **Local Highway Authority**

- 2.1. There are no Local Highway Authority objections to the proposals.

### **Yorkshire Water**

- 2.2. No consultation responses were received following consultation.

### **Internal Drainage Board**

- 2.3. The IDB set out their guidelines in respect of surface water run-off and outline the conditions that would be sought in accordance with these guidelines.

### **Environmental Health**

- 2.4. The site is not on the main sewer network and that it is intended to install a septic tank for foul drainage provision. Consultation with Building Control and the Environment Agency is recommended in respect of the proposed septic tank and the disposal method of the water from the system. Regarding the wood-fired hot tub appropriate fuel must be used at all times and any smoke generated from its activity must not cause a statutory nuisance to nearby residential properties.

### **Parish Council**

- 2.5. Following consultation, the Parish Council raised no comments or concerns.

### **Environment Agency**

#### Drainage

- 2.6. The Environment Agency note the initial approach to disposal of foul sewage by septic tank and later suggestion of disposal via public sewer. The Environment Agency have no objection to either approach but prefer mains connection as the preferred disposal route.
- 2.7. In respect of disposing drain-down water, i.e. used hot tub water, if mains sewer disposal is not achievable, disposal via soakaways is acceptable providing it is of equivalent drinking water standard, and ambient temperature, prior to entering the soakaway system.

#### Flood Risk

- 2.8. In respect of flood risk, the Environment Agency notes that most of the site lies within Flood Zone 3, with a high probability of flooding from rivers and/or sea. The application is classified as 'more vulnerable' land use in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance: Flood Risk and Coastal Change. The Environment Agency have no objection to the proposal,

subject to a flood warning and evacuation plan being agreed with the Local Authority emergency planners being in place.

## **Publicity**

2.9. The application was publicised via the erection of a site notice and issue of letters to adjoining occupiers. Following this consultation, six responses were received, all raising objection to the proposal. The concerns are summarised as follows:

- Parking is already difficult in Manor Farm Court.
- Questions whether water pressure will cope.
- Doubts over whether the proposed septic tank will be adequate.
- The woodburning stove will be smelly, particularly in damp conditions. As a feature of the holiday let it is likely to be frequently lit.
- The proposal is out of character and does not respect local context and street pattern.
- The proposal would be harmful to residential amenity, particularly through issues with on-road parking, privacy and right to enjoy quiet safe residential environment.
- Maintenance costs of the private access are shared by residents. Increased use of the private access may lead to higher costs.
- Questions whether the site could accommodate more parking. Concerns over physical inadequacy of parking spaces.
- The Human Rights Act includes persons' right to respect for their private and family life and the protection of the countryside.
- Any permission should include new parking for residents.
- The existing septic tanks are at capacity. Provision should be made for increased sewerage.
- Delivery of the pod may result in damage.
- The access road is unsuitable for public access, an increase in traffic, all of which will result in additional noise nuisance.
- Restrictive covenants relating to the completion of the Manor Farm Court residential scheme restricted parking of caravans and use of property for business.
- Property values will decrease.
- Future development would take place at the site if successful.
- The site is not a garden, it is only used occasionally for residential use.
- Increased movements to the site will result in security concerns.
- The proximity to an in-use graveyard is insensitive and will harm the solemn nature of the graveyard.
- Permission would set a precedent.
- The "existing parking" shown on the plan is misleading. Rights of access exist to Orchard Cottage and parking in front of their access/garage wouldn't be lawful.
- Six parking spaces is insufficient.

## **3. SITE CONSTRAINTS**

### **Constraints**

3.1. The sites sits outside but immediately adjacent to the defined Development Limits of Chapel Haddlesey and is therefore considered to be within the open countryside.

- 3.2. The site is adjacent to St John The Baptist' Church and associated graveyard. The Church and graveyard are designated within the Development Plan as being as a Local Amenity Space.
- 3.3. There are no designated heritage assets on or near the site, however Officers consider the Church to constitute a non-designated heritage asset.
- 3.4. There are no designated areas of ecological importance on or near the site.
- 3.5. The site sits with Flood Zone 3, the area at highest risk albeit this section of Flood Zone 3 benefits from flood defences.

#### **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 Selby District Core Strategy Local Plan (CS) Policies are:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Development Strategy
- SP13 Scale and Distribution of Economic Growth
- SP18 Protecting and Enhancing the Environment
- SP19 Design Quality

### **Selby District Local Plan**

4.7. The relevant Selby District Local Plan (SDLP) Policies are:

- RT11 Tourist Accommodation
- ENV1 Control of Development

## **5. APPRAISAL**

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

1. Principle of Development
2. Flood Risk & Drainage
3. Residential Amenity
4. Heritage and Conservation
5. Design, Landscape and Character
6. Highways and Access

### **Principle of Development**

#### Context

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

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

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

5.4. Whilst CS Policy SP2 states development should be in compliance with CS Policy SP4, this policy relates to residential development within development limits and is not relevant to this application.

5.5. CS Policy SP13C relates to the rural economy and provides broad support for '*sustainable economic growth through local employment opportunities or expansion of businesses and enterprise*' and sets out an open-ended list of examples of the

types of development which satisfy this criteria, the fourth example of which cites: *‘rural tourism and leisure developments, small scale rural offices or other small scale rural development’.*

5.6. CS Policy SP13D states:

*“In all cases, development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.”*

5.7. SDLP Policy RT11(1) permits tourism accommodation where it is either within the defined development limits, or where outside these limits the proposal represents use of either: existing historic buildings, structurally sound buildings, or extension of existing accommodation.

5.8. SDLP Policy RT11(2) requires accommodation proposals to not have an adverse impact on highway safety, nor have an adverse impact on residential amenity. SDLP Policy RT11(3) requires car parking and access to avoid significant adverse impact on the setting of the building or character of the area. SDLP Policy RT11(4) requires the size and scale of the proposal to be appropriate to the locality. SDLP Policy RT11 also seeks to limit the time period guests can stay.

5.9. With Section 6 of the NPPF includes the sub-section *‘supporting a prosperous rural economy’*. NPPF Paragraph 83(c) states that planning decisions should enable *‘sustainable rural tourism and leisure developments which respect the character of the countryside’*.

5.10. NPPF Paragraph 84 states that planning decisions should recognise:

*‘that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist’.*

### Assessment

5.11. The application site and proposed development are of a small-scale. Officers consider the development is of an “appropriate scale” within the context of the site itself, as well as the site’s immediate physical connection to Chapel Haddlesey, as opposed to an isolated location in the countryside.

5.12. Whilst only of a small-scale, Officers consider the proposal would contribute towards and improve the local economy. As the proposal constitutes a small-scale rural and tourism development the proposal it accords with the type of development envisaged by CS Policy SP13. The proposal therefore satisfies CS Policy SP2 and CS Policy SP13.



- 5.13. Whilst CS Policies SP2 and SP13 provide broad support for tourist development outside Development Limits, SDLP Policy RT11(1) only permits tourism accommodation outside Development Limits where it relates to an existing building or use. The proposal constitutes a change of use and introduction of built development and does not meet the criteria of policy and is therefore contrary to the requirements of the development plan in this regard.
- 5.14. However, NPPF Paragraphs 83 and 84 seek to support a prosperous rural economy and enable sustainable tourism development that respects the character of the countryside and does not impact upon highway infrastructure. The NPPF recognises that, in meeting local business needs, sites adjacent to settlement limits may be required and actively encourages the use of suitable sites that are adjacent and physically well-related to existing settlements.
- 5.15. Officers consider that the approach set out within SDLP Policy RT11(1) is more onerous, and conflicts with, NPPF Paragraphs 83 & 84 and CS Policies SP2 & SP13 and therefore limited weight is applied to the need for existing buildings or uses to be present for development to be acceptable in principle.
- 5.16. It is clear within the context of the Core Strategy and NPPF that small-scale tourist development adjacent, and well-related to, settlements is acceptable in principle. Officers consider the proposals satisfy this criteria and the proposals are acceptable in principle.
- 5.17. In respect of the intended length of stay condition proposed by SDLP Policy RT11, Officers consider that such a condition is no longer applicable and instead a condition limiting the use of the hut to a holiday let within use class C3 provides a sufficiently robust condition to ensure the property is not occupied for permanent residential purposes.

## **Flood Risk & Drainage**

### Context

- 5.18. The site sits with Flood Zone 3, the area at highest risk albeit this section of Flood Zone 3 benefits from flood defences.
- 5.19. CS Policy SP15A(d) seeks to ensure that development in areas of flood risk is avoided wherever possible through the application of the sequential test and exception test (if necessary). This policy is in line with NPPF Paragraph 155 which seeks to direct development away from areas at highest risk.
- 5.20. NPPF Paragraph 163 requires all planning applications within Flood Zone 3 to be accompanied by a site-specific flood risk assessment (FRA) and sets out the requirements where development in areas at risk of flooding can be allowed. Paragraph 63 also requires incorporate sustainable drainage systems unless there is clear evidence that it would be inappropriate.
- 5.21. National Planning Practice Guidance (NPPG) sets out how FRAs should be assessed. For a development of this nature, the NPPG sets out that the proposed development should follow the standing advice for vulnerable developments as laid out by the Department for Environment, Food & Rural Affairs and Environment Agency in respect of: 1) surface water management, 2) access and evacuation, and 3) floor levels.

5.22. SDC's Flood Risk Sequential Test Developer Guidance Note (October 2019) is also a material consideration. The Guidance Note accords with Paragraph 164 and footnote 51 of the NPPF which clarifies that minor development is exempt from requiring a sequential and exception test.

### Assessment

5.23. Given the site's location within the area of highest flood risk it is necessary to establish whether the proposal should be considered from a sequential perspective. The proposal does not constitute a form of development that falls within "minor development" (defined by NPPF Paragraph 164 and Footnote 51) whereby sequential tests are not required.

5.24. SDC's Flood Risk Sequential Test Developer Guidance Note (October 2019) is a material consideration in considering the sequential approach and allows a pragmatic approach to be taken.

5.25. The proposal constitutes a small-scale development of an oddly-shaped and otherwise underused piece of land within the applicant's ownership that is adjacent to the settlement. The proposal is not for a large commercial business where a more robust sequential approach should be adopted, nor would it be preferable to locate the development in a more remote and unsustainable location.

5.26. Furthermore, whilst the development is classed as 'more vulnerable', it is notable that the Environment Agency have no objection subject to an evacuation plan being prepared and approved. Officers agree and consider given the small-scale, semi-permanent nature of the proposal, that the proposal is relatively benign from a flood risk perspective.

5.27. Having considered the requirements of the NPPF, the Environment Agency's lack of objection and the Flood Risk Sequential Test Developer Guidance Note, Officers consider the proposals are satisfactory from a flood risk perspective and satisfy CS Policy SP15 subject to a condition requiring a flood evacuation plan being submitted and approved.

5.28. In respect of foul drainage, the applicants originally proposed foul drainage would be disposed of via septic tank believing a mains connection would not be possible. However, later on-site surveys revealed the true location of the combined public sewer with the applicants now considering a connection to that sewer to be feasible. It is the applicant's preference that connection to the mains sewer be pursued.

5.29. Yorkshire Water, the water body in charge of the mains sewer network, were consulted in respect of the initial septic tank approach and subsequent approach to seeking mains sewer connection, no consultation response was forthcoming in both cases. In the absence of any comments, it is assumed such a connection is acceptable subject to an application for a new connection to the public sewer network under the provisions of sections 106 & 102 of the Water Industry Act 1991.

5.30. In respect of surface water drainage, the NPPF requires that in high-risk areas a sustainable drainage system is utilised unless there is clear evidence that this would be inappropriate. Officers consider that, whilst a connection to a combined sewer may be possible for both foul and surface water drainage, the originally proposed use of soakaways should be maintained. The Environment Agency's advice in

respect of the quality of hot-tub water being fed into the soakaway should be controlled by an appropriately worded condition.

## **Residential Amenity**

### Context

- 5.31. SDLP Policy RT11(2) requires accommodation proposals to not have an adverse impact on residential amenity.
- 5.32. SDLP Policy ENV1 provides eight broad aspirations for achieving 'good quality development' that should be taken into account where relevant. SDLP ENV1(1) requires "the effect upon the character of the area or the amenity of adjoining occupiers" to be taken into consideration.

### Assessment

- 5.33. Officers consider the modest structure of the hut and the site's separation from neighbouring dwellings will not lead to any overlooking, overbearance, overshadowing, or loss of daylight and sunlight.
- 5.34. The proposed holiday accommodation has bed space for a maximum of two adults and two children could sleep on the floor at most, in most instances Officers consider this will constitute accommodation for one family and on rare occasions no more than two families. As such it is likely that travel would be via one vehicle only and again no more than two vehicles and only on rare occasions. The resultant vehicle movements arising from this proposal are considered to be modest and would not be a detriment to neighbouring resident's amenity.
- 5.35. The proposals include a wood-fired hot tub. Officers consider such a hot tub could be included in any of the existing resident's gardens and the inclusion in this site is not a materially different circumstance, although it is welcomed that the hot tub is situated to the west of the plot away from neighbouring dwellings. The applicants should note Environmental Health's comments regarding appropriate fuel and the regulations regarding statutory nuisance.
- 5.36. Future guest's enjoyment of the hut and grounds is not materially different from that which could occur in any of the gardens of the surrounding dwellings.
- 5.37. Officers consider therefore that the proposals will not result in a significant adverse impact upon the amenity of surrounding residents and comply with SDLP Policy RT11 and SDLP Policy ENV1.

## **Heritage and Conservation**

### Context

- 5.38. NPPF Paragraph 197 requires the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. A balanced judgement should be taken, considering the scale of any harm or loss and the significance of the heritage asset.

### Assessment

- 5.39. The significance of the church is two-part, one being its appearance but moreover its history as a long-established place of worship and hub for the community over generations.
- 5.40. The site sits adjacent to the church and its grounds, separated by mature trees and a tall brick wall. The proposed hut will be visible from the grounds of the church but will not materially affect its setting and the asset's significance will be retained satisfying NPPF Paragraph 197.

## **Design, Landscape and Character**

### Context

- 5.41. SDLP Policy RT11(3) requires car parking and access to avoid significant adverse impact on the setting of the building or character of the area.
- 5.42. CS Policy SP19 expects development to achieve high quality design and have regard to the local character, identity and context of its surroundings.
- 5.43. SDLP Policy ENV1 requires (1) the effect of the character of an area, and; (4) the standard of layout, design and materials in relation to the site and its surroundings and associated landscaping to be taken into account.

### Assessment

- 5.44. The immediate character of the area is mixed, being on the fringe of the village, adjacent to a church and churchyard and with open fields beyond. The site itself does not have an identifiable character, it is a left-over parcel of land that is neither agricultural nor residential in character.
- 5.45. Given the scale of the proposal, Officers do not consider that the proposal would have a significant adverse impact upon the church and its graveyard. The quasi-agricultural and semi-permanent nature of the hut is considered by Officers to reflect the transitional urban/rural fringe characteristic of the site.
- 5.46. As such, the proposals are considered to comply with CS Policy SP18 & SP19 and SDLP Policy RT11.

## **Highways and Access**

### Context

- 5.47. SDLP Policy RT11(2) requires accommodation proposals to not have an adverse impact on highway safety.
- 5.48. SDLP Policy T1 stipulates development will only be permitted where existing roads have adequate capacity and can safely serve the development, unless appropriate off-site highway improvements are undertaken by the developer.
- 5.49. SDLP Policy T2 only allows for a new access or the intensification of the use of an existing access will be permitted provided where (1) there would be no detriment to highway safety; and 2) the access can be created in a location and to a standard acceptable to the highway authority.

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

### Assessment

- 5.51. As stated earlier in this report, the vehicle movements arising from the proposals are modest. Sufficient parking exists for six vehicles, Officers consider this is sufficient for the two vehicles using the site and to accommodate parking for the applicant's own use.
- 5.52. The Local Highway Authority have no objections to the proposals and Officers agree that the proposals will not cause an adverse impact upon from a highway perspective. The proposal accords with SDLP Policy RT11, T1 & T2.

## **6. CONCLUSION**

- 6.1. Planning permission is sought for the change of use and installation of a Shepherd's hut as a holiday let. A hot tub and drainage connections are also proposed.
- 6.2. The application is considered to be acceptable in principle and represents appropriate development in the countryside in accordance with Policies SP2 and SP13 of the Core Strategy and national policy including paragraphs 83 and 84 of the NPPF. Policy RT11(1) of the Selby District Local Plan is given limited weight as the approaches taken by the Core Strategy and NPPF are significantly different to that taken in Selby District Local Plan RT11(1) as they do not require the more onerous tests set out within that policy.
- 6.3. Officers have considered the proposals against all material considerations that arise from the development, including the relevant criteria of SDLP Policy RT11. This report demonstrates that the proposals overcome each of these issues including by way of conditions where appropriate.

## **7. RECOMMENDATION**

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

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

Reason:

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

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

- (00)001 Location Plan
- MF001-01A Proposed Site Plan
- 01 Hut Elevation & Floor Plan

Reason:

For the avoidance of doubt.

03. The development hereby permitted shall be used for holiday accommodation only and for no other purpose including any purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order.

Reason:

To ensure that the approved holiday accommodation is not used for unauthorised permanent residential accommodation.

04. The holiday let hereby approved:

- Shall be occupied for holiday purposes only;
- Shall not be occupied as a person's sole or main place of residence; and
- Shall require the owners/occupiers to maintain up-to-date register of the names of all owners/occupiers of the of the holiday let, and their main home addresses with the local planning authority.

Reason:

To ensure that the approved holiday accommodation is not used for permanent residential occupation.

05. Prior to the use of the approved development, details of surface water drainage shall be submitted to the Local Planning Authority. In the first instance, the applicant shall carry out soakaway testing, in accordance with BRE Digest 365, in order to ascertain whether the soil structure is suitable for a soakaway system, and the results of this testing shall be submitted to the Local Planning Authority. Should the testing demonstrate soakaways are achievable then the design for the soakaway shall be submitted to the Local Planning Authority for approval prior to the use of the approved development, incorporating:

- Storage volume should accommodate a 1:30 year event with no surface flooding; and
- Storage volume should accommodate no overland discharge off the site in a 1:100 year event; and
- A 30% allowance for climate change should be included in all calculations.

If the results of the soakaway testing demonstrate soakaways are not achievable then connection to a watercourse, directly or indirectly, will be permissible subject to the submission and approval of details to the Local Planning Authority for approval. The scheme will satisfy the following criteria:

- Establish the extent of any existing discharge to that watercourse.
- Peak run-off will be attenuated to 70% of any existing discharge rate (existing rate taken as 140lit/sec/ha or the established rate whichever is the lesser for the connected impermeable area).

- Storage volume should accommodate a 1:30 yr event with no surface flooding and no overland discharge off the site in a 1:100yr event.
- A 30% allowance for climate change should be included in all calculations.
- A range of durations should be used to establish the worst-case scenario.

The approved surface water drainage shall be installed prior to the use of the approved development and shall be retained and maintained as such thereafter.

Reason:

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

06. If disposing hot tub drain-down water to a public sewer is not possible, it shall be disposed of via a soakaway provided it has been left to stand, has been left to cool to ambient temperature, has been dechlorinated in situ and is of drinking water quality standard with no discernible hazardous substances prior to disposal.

If disposing draw-down water via a soakaway, the design of the soakaway under Condition 5 should be designed to accommodate the volume and frequency of disposal arising from the development.

Reason:

To ensure the development is provided with satisfactory means of drainage.

07. Prior to the use of the approved development a flood evacuation plan shall be prepared, submitted and approved by the Local Planning Authority.

Reason:

To ensure the development is satisfactory from a flood risk perspective.

## INFORMATIVES

01. The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.

02. Any discharge of sewage or trade effluent made to either surface water or groundwater will need to hold a permit issued by the Environment Agency.

## 8. Legal Issues

### Planning Acts

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

### Human Rights Act 1998

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

### **Equality Act 2010**

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

### **9. Financial Issues**

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

### **10. Background Documents**

- 10.1. Planning Application file reference 2020/1161/COU and associated documents.

**Contact Officer: Chris Fairchild**

**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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