



Meeting: **PLANNING COMMITTEE**  
Date: **WEDNESDAY, 10 MARCH 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. Minutes (Pages 1 - 12)**

To confirm as a correct record the minutes of the Planning Committee meetings held on 27 January 2021 and 10 February 2021.

5. **Planning Applications Received (Pages 17 - 18)**
- 5.1. **2020/1265/FUL - Land Adjacent 27 Low Street, Sherburn In Elmet, North Yorkshire (Pages 19 - 38)**
  - 5.2. **2020/1263/FUL - The New Little Coffee Shop, 8 Brook Street, Selby (Pages 39 - 54)**
  - 5.3. **2020/0514/S73 - Brocklesby Building Products Ltd, Unit 1, Long Lane, Great Heck, Goole (Pages 55 - 74)**
  - 5.4. **2019/0905/FUL - Castle Farm, Castle Hills Road, Womersley, Doncaster (Pages 75 - 100)**
  - 5.5. **2020/0976/FUL - Land Adjacent to A63 And Bawtry Road, Selby (Pages 101 - 124)**

*Janet Waggott*

**Janet Waggott, Chief Executive**

<b>Dates of next meeting (2.00pm)</b> Wednesday, 7 April 2021
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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**

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### **Recording at Council Meetings**

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# Agenda Item 4



## Minutes

### Planning Committee

Venue: Microsoft Teams - Remote  
Date: Wednesday, 27 January 2021  
Time: 2.00 pm

Present remotely via Teams: Councillor J Cattanach in the Chair

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

Officers Present remotely via Teams: Martin Grainger – Head of Planning, Ruth Hardingham – Planning Development Manager, Glenn Sharpe – Solicitor, Mandy Cooper – Principal Planning Officer, Rebecca Leggott – Senior Planning Officer, Irma Sinkeviciene – Planning Officer, Victoria Foreman – Democratic Services Officer

#### **60 APOLOGIES FOR ABSENCE**

There were no apologies for absence.

The Chair amended the order of business at this point and moved directly to the Chair's Address to the Planning Committee.

#### **61 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE**

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

Members noted that any late representations on the applications would be summarised by the Officer in their presentation.

Lastly, the Chair informed the Committee that the applicant for agenda item 5.2 – 2019/1008/COU – The Barn, 7 Sherburn Street, Cawood had requested that consideration of the application be deferred; the Senior Planning Officer explained the reasons why. It was proposed, seconded and agreed by the Committee that the item should be deferred to a later date.

## 62 DISCLOSURES OF INTEREST

Councillor K Ellis declared a non-pecuniary interest in agenda item 5.2 – 2019/1008/COU – The Barn, 70 Sherburn Street, Cawood as he had received an email from Cawood Parish Council about the application, but as the matter was not being discussed at the meeting, the disclosure was not required.

Councillor M Topping declared a non-pecuniary interest in agenda item 5.1 – 2019/0759/FUL – Land Adjacent A163, Market Weighton Road, North Duffield as he had attended a meeting of North Duffield Parish Council at which the application was discussed. He was aware of local issues but had not expressed an opinion on the scheme, and as such his consideration of the matter at the meeting would not be affected.

## 63 MINUTES

The Committee considered the minutes of the Planning Committee meetings held on 9 and 23 December 2020.

Members suggested a number of amendments as follows:

### 9 December 2020

Minute item 55.1 - 2019/0668/OUT - Pasture Cottage, Main Street, Thorganby

To remove the word 'of' in the resolution.

Minute item 55.2 - 2020/0821/FUL - Land Adjacent, Village Hall, Main Street, Church Fenton:

To remove the word 'under' in the first paragraph.

To remove the redundant word 'approve' in the resolution.

An additional point was made by Members that, as was requested in the minutes, the reasons for refusal had not been brought back to the Committee as the applicant had subsequently withdrawn the application.

### 23 December 2020

Minute item 59.2 - 2020/0449/HPA - 2 The Glade, Escrick, York

To amend the resolution to include an additional point asking Officers to formally draft the reasons for refusal based on those reasons suggested by the Committee which already form part of the resolution.

### **RESOLVED:**

**To approve the minutes of the Planning Committee meetings held on 9 and 23 December 2020 for signing by the Chairman, subject to the amendments detailed above.**

## 64 PLANNING APPLICATIONS RECEIVED

The Planning Committee considered the following planning applications:

### 64.1 2019/0759/FUL - LAND ADJACENT A163, MARKET WEIGHTON ROAD, NORTH DUFFIELD

**Application:** 2019/0759/FUL

**Location:** Land Adjacent A163, Market Weighton Road, North Duffield

**Proposal:** Proposed erection of 5 dwellings and associated infrastructure

The Principal Planning Officer presented the application which had been brought before Planning Committee as the development was a departure from and therefore contrary to the requirements of the Development Plan. Officers considered however that there were material considerations which would support a recommendation for approval.

The Committee noted that the application was for the proposed erection of 5 dwellings and associated infrastructure.

The Committee asked questions in relation to the future use and landscaping of land to the north west of the site and its red line boundary, car parking and previous permissions for use of the land and their relation to the Council's five-year land supply.

The Democratic Services Officer read out a representation on behalf of Nancy Gray, objector, which spoke against the application.

Councillor Karl Arthur, Ward Member, was invited remotely into the meeting and spoke against the application.

Vikki Sykes, agent, was invited remotely into the meeting and spoke in support of the application.

Members debated the application and acknowledged that it was not a straightforward scheme and went on to express their concerns as it was a departure from the Council's Development Plan, and a site that had been given initial permission when the Council did not have a five-year land supply. The Committee agreed that it should be deferred and looked at again by both the applicant and Officers, as there were alternative and

more affordable proposals that the local community would be more likely to support.

The Committee also asked for more information in general from Officers on sites that had been agreed previously when there had been no five-year land supply.

It was proposed and seconded that consideration of the application be deferred. A vote was taken on the proposal and was CARRIED.

**RESOLVED:**

**That the application be DEFERRED in order for Officers to undertake further work on the proposals and examine alternative options, including a more affordable type of housing that would be better suited to the local community.**

**64.2 2020/0768/FUL: LAND TO REAR OF 5-13, STUTTON ROAD, TADCASTER**

**Application:** 2020/0768/FUL

**Location:** Land to the Rear of 5 – 13, Stutton Road, Tadcaster

**Proposal:** Erection of a detached dwelling

The Planning Officer presented the application which had been brought before Planning Committee at the discretion of the Head of Planning.

The Committee noted that the application was for the erection of a detached dwelling.

The Committee asked questions in relation to previous applications on the site having been dealt with via delegated powers, changes to the footprint, design and layout of the scheme, resolution of issues around legal ownership of the land, parking and the overshadowing of limited private amenity space of neighbouring properties.

Members debated the application and felt that the application should have been dealt with via delegated powers. The Committee agreed with the Officer's reasons for refusal and the views expressed in the Planning Inspector's report that there were no differences between the current application and that which had been submitted and refused previously.

It was proposed and seconded that the application be

refused. A vote was taken on the proposal and was CARRIED.

**RESOLVED:**

**That the application be REFUSED for the reasons set out in paragraph 7 of the report.**

The meeting closed at 3.29 pm.

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## Planning Committee

Venue: Microsoft Teams - Remote  
Date: Wednesday, 10 February 2021  
Time: 2.00 pm

Present remotely via Teams: Councillor J Cattanach in the Chair

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

Officers Present remotely via Teams: Martin Grainger – Head of Planning, Glenn Sharpe – Solicitor, Yvonna Naylor – Principal Planning Officer, Chris Fairchild – Senior Planning Officer and Victoria Foreman – Democratic Services Officer

### **65 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor M Topping. There was no substitute appointed.

### **66 DISCLOSURES OF INTEREST**

There were no disclosures of interest.

### **67 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE**

The Chair announced that an Officer Update Note had been circulated and could be viewed alongside the agenda on the Council's website, and that any late representations on the applications would be summarised by the Officer in their presentation.

The Principal Planning Officer informed the Committee that in relation to agenda item 4.2 - 2020/0137/FUL – Land Adjacent to 2 Prospect Villas, Barlow Common Road, Barlow a revised scheme had been submitted by the applicant on Monday 8 February 2021, after publication of the agenda. The Officer had contacted the applicant who confirmed that they wished for the new drawing to formally supersede the original scheme. The scheme included changes to the materials of the building, changes to boundary treatments (including removal of the hedge and change to the fence type) and compound surface. Therefore, it was recommended that the application be deferred to

enable the Officer to assess the revised scheme and to seek feedback on the changes from the North Yorkshire County Council Highway Officer.

Members proposed, seconded and agreed that the item should be DEFERRED.

## **68 PLANNING APPLICATIONS RECEIVED**

The Planning Committee considered the following planning applications:

### **68.1 2019/0668/OUT - PASTURE COTTAGE, MAIN STREET, THORGANBY**

**Application:** 2019/0668/OUT

**Location:** Pasture Cottage, Main Street, Thorganby

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

The Senior Planning Officer presented the application which had been brought back before Planning Committee as there had been a material change in circumstances since Members resolved to grant permission at Planning Committee on 9 December 2020.

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

The Officer Update Note set out details of the material changes in circumstances since the Council's adoption of the Infrastructure Funding Statement (IFS) upon Members' previous resolution to grant permission. The IFS changed the planning contributions that should be sought only and did not reopen any wider planning considerations. Therefore, if Members were still minded to approve the application, Officers advised that the additional contributions required by the IDS should not be sought (in this unique instance), and set out the recommended conditions for Members to approve the application.

The Officer Update Note also gave details of some corrections and clarifications to the report as well as additional conditions and informatives.

It was accordingly proposed and seconded that the application be GRANTED.

**RESOLVED:**

**To GRANT the application subject to the conditions and informatives as set out at paragraph 2.0 of the report and in the Officer Update Note.**

**68.2 2020/0445/FUL - COMUS INN, SELBY ROAD, CAMBLESFORTH**

**Application:** 2020/0445/FUL

**Location:** Comus Inn, Selby Road, Camblesforth

**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

The Senior Planning Officer presented the application which had been brought before Planning Committee as there had been more than 10 letters of representation had been received in objection to the application, contrary to Officers' opinion where they would otherwise have approved the application under delegated powers.

The Committee noted that the application was for the conversion of the existing conservatory into dining area, relocation of kitchens to new rear extension and new dining / function room to the rear, link attached through walkway.

The Officer Update Note set out details of a change to policy context at paragraph 4.3 of the report which had been updated to reflect that the Local Plan had moved into the next stage of consultation.

The Committee asked questions about the control of noise disturbance and the conditions suggested in the report to address this.

Jade Campey, applicant, was invited remotely into the meeting and spoke in support of the application.

Members debated the application and agreed that with the high rate of local pubs closing, it was important to support those which were investing in their future and were often at the heart of local communities. The Committee acknowledged that the Environmental Health Officer was satisfied that any issue of noise disturbance had been checked, conditioned and mitigated by Officers.

It was proposed and seconded that the application be GRANTED subject to conditions.

**RESOLVED:**

**That the application be GRANTED subject to the conditions set out at 7.1 of the report.**

**68.3 2020/1161/COU - MANOR FARM, HIRST ROAD, CHAPEL HADDLESEY**

**Application:** 2020/1161/COU

**Location:** Manor Farm, Hirst Road, Chapel Haddlesey

**Proposal:** 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

The Senior Planning Officer presented the application which had been brought before Planning Committee as the proposal was contrary to the requirements of the development plan (namely criterion 1 of Policy RT11 of the Selby District Local Plan), but it was considered that there were material considerations which would justify approval of the application.

The Committee noted that the application was for the 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.

The Officer Update Note explained that the policy context noted at paragraph 4.3 of the report had been updated to reflect that the Local Plan had moved into the next stage of consultation. There were also details of an amendment to informative 01 which incorrectly noted the application complied with the development plan.

The Committee asked questions in relation to the precise location of the shepherd's hut, drainage and sewerage connections, whether the application site was on garden land and the potential for the movement of the hut. Members agreed that this should be conditioned in order to limit the number of hut pitches; Officers confirmed that whilst the land was not in the curtilage of a dwelling, it had been used as a garden.

Members agreed that the application should be granted, subject to the additional condition to limit the number of huts on the site. It was therefore proposed and seconded that the application be GRANTED.

**RESOLVED:**

**That the application be GRANTED subject to the conditions set out at paragraph 7.1 of the report, and the additional condition to be drafted by Officers to limit the number of pitches for shepherds' huts on the site to one.**

The meeting closed at 15.08pm.

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## Planning Committee – Remote Meetings

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

**Contact:** Democratic Services

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

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# Agenda Item 5

## Items for Planning Committee

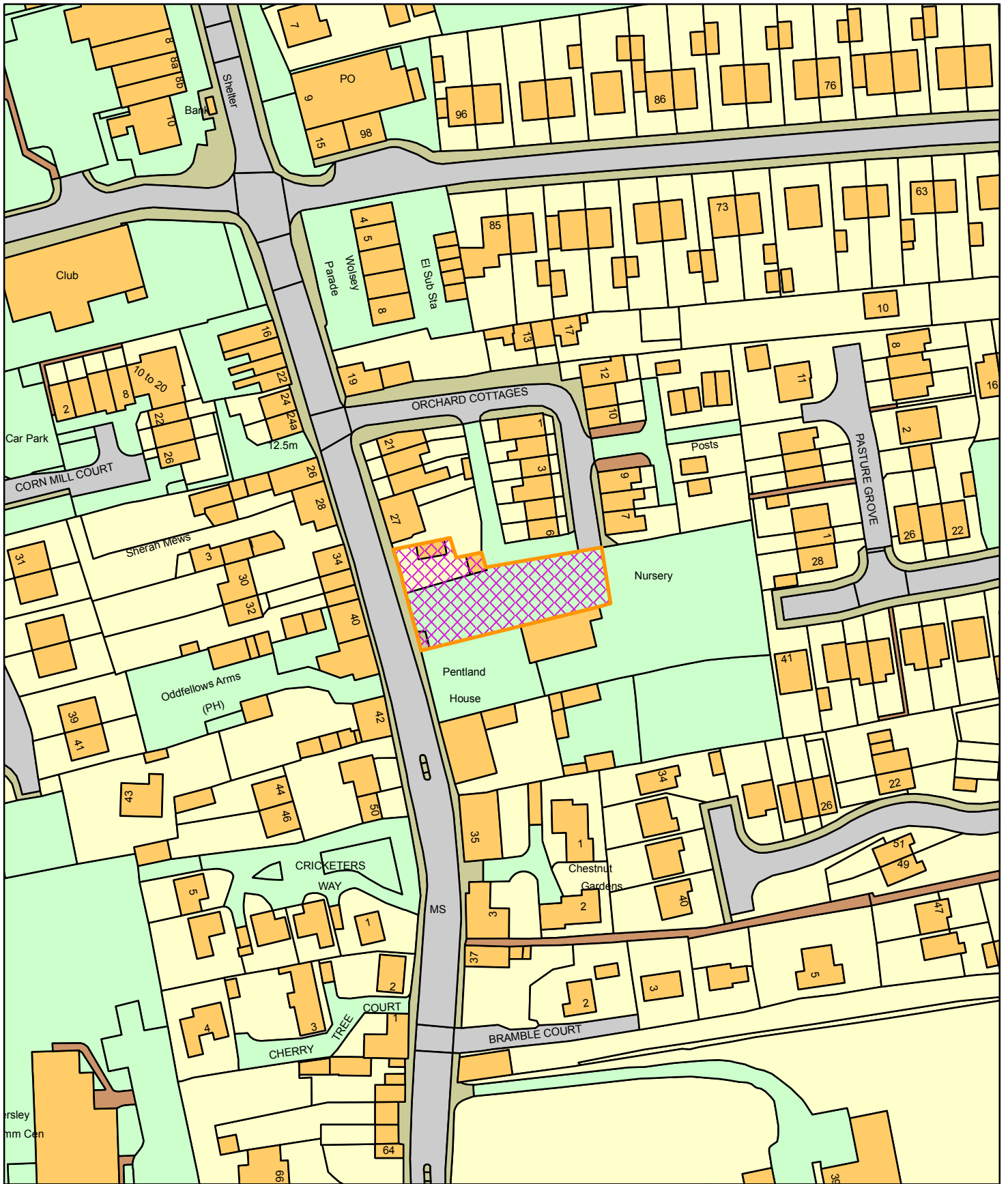
10 March 2021

Item No.	Ref	Site Address	Description	Officer	Pages
5.1	2020/1265/FUL	Land Adjacent 27 Low Street Sherburn In Elmet North Yorkshire	Proposed residential development comprising 5 new build houses, with 11 parking spaces, and associated amenity	ELMA	19 - 38
5.2	2020/1263/FUL	The New Little Coffee Shop 8 Brook Street Selby	Continued use of ground and first floor cafe (being a variation to the opening hours)	GAST	39 - 54
5.3	2020/0514/S73	Brocklesby Building Products Ltd Unit 1 Long Lane Great Heck Goole	Section 73 application to remove condition 06 (HGV Traffic Routes) of approval 2019/1340/FULM Proposed change of use of existing maintenance and vehicle processing building to include block cutting and processing, erection of 6m high cctv pole, erection of replacement dry dust silo, erect new gates, change existing fencing to concrete fencing and improve HGV parking on site by increasing the areas in which they can park on the existing site granted on 16 April 2020	GAST	55 - 74
5.4	2019/0905/FUL	Castle Farm Castle Hills Road Womersley Doncaster	Proposed conversion of part of barn to residential and erection of a sun lounge	CHFA	75 - 100
5.5	2020/0976/FUL	Land Adjacent to A63 And Bawtry Road Selby	Erection of petrol filling station (sui generis) with ancillary retail Kiosk (Use Class E) and erection of Drive-Thru Coffee Shop (Use Class E) with associated hard and soft landscaping and access arrangements.	GABE	101 - 124

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# Agenda Item 5.1

Land adjacent to 27 Low Street, Sherburn in Elmet  
2020/1265/FUL



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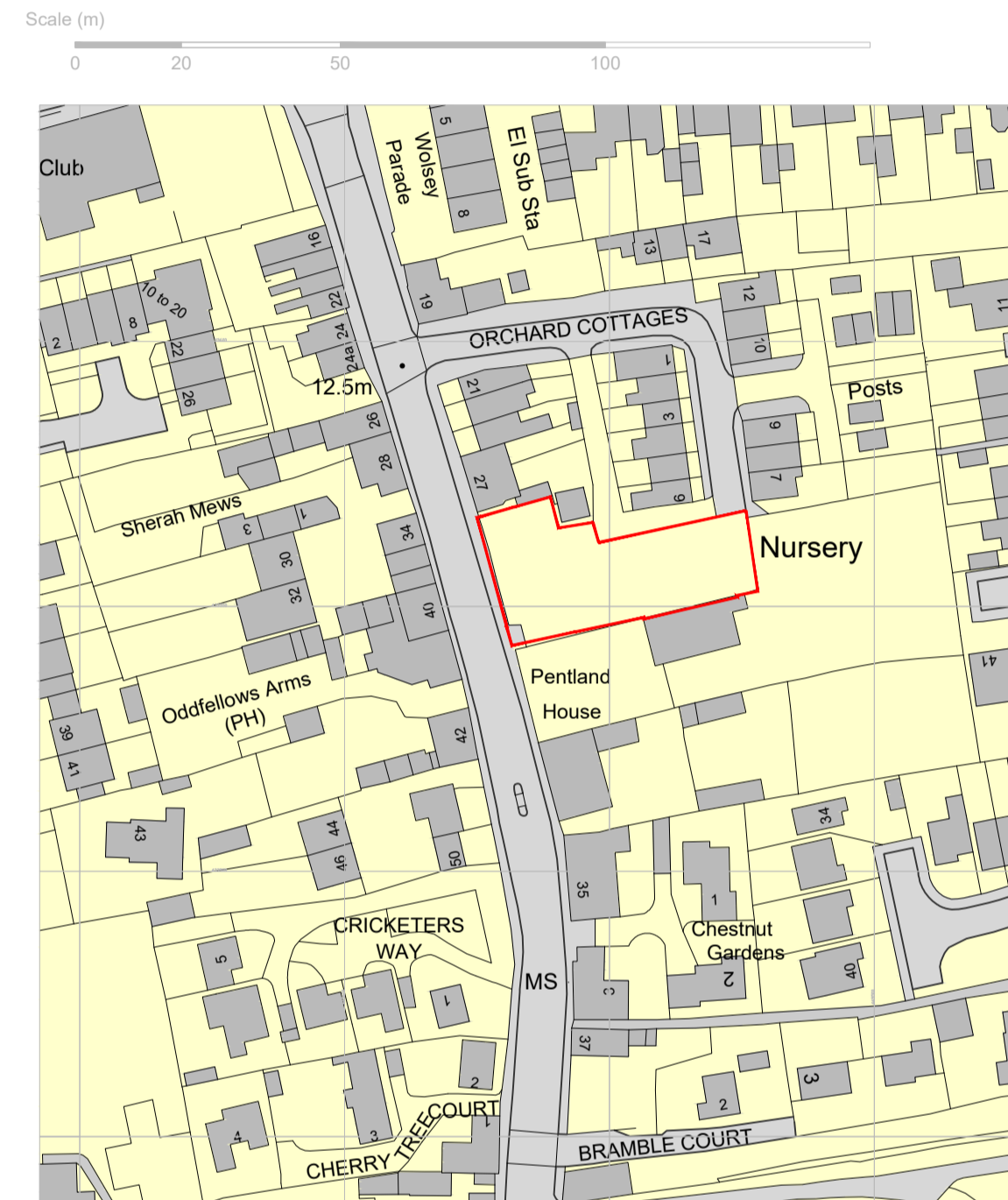
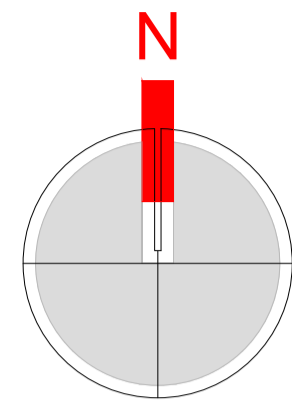
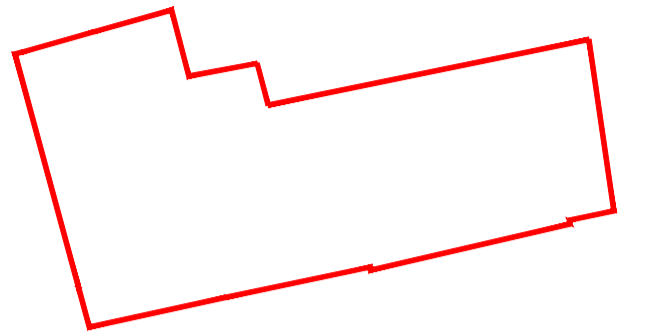
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**SCHEDULE OF ACCOMMODATION**

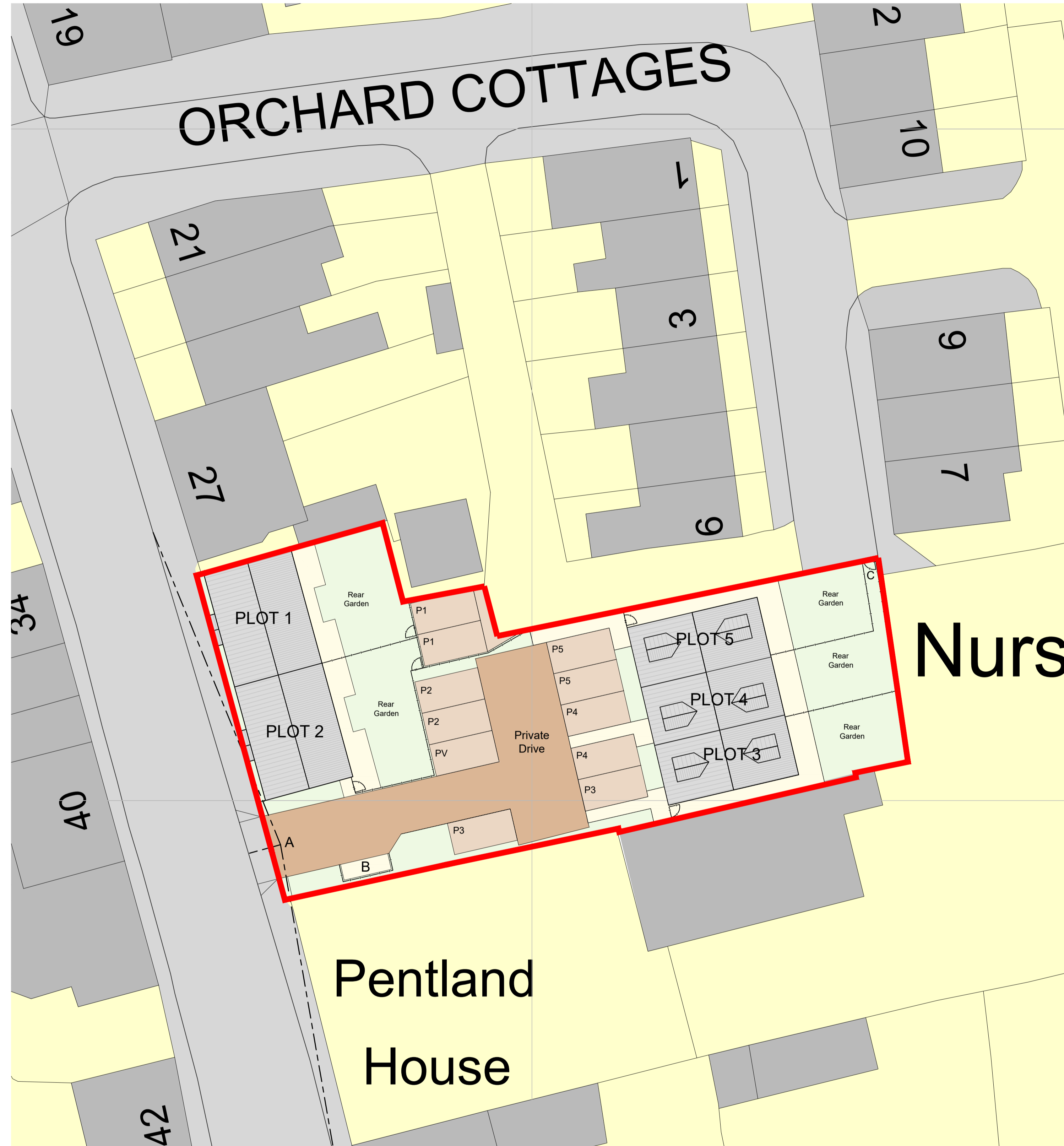
PLOT 1 = 3B	@	102 SQ M	/ 2 STOREY
PLOT 1 = 3B	@	102 SQ M	/ 2 STOREY
PLOT 3 = 3B	@	101.3 SQ M	/ 2.5 STOREY
PLOT 4 = 3B	@	101.3 SQ M	/ 2.5 STOREY
PLOT 5 = 3B	@	101.3 SQ M	/ 2.5 STOREY

TOTAL = 5 HOUSES @ 507.9 SQ M . ( 5467 SQ FT ) G.I.A

SITE AREA = 916.8 SQ M = 0.226 ACRES



LOCATION PLAN 1:1250



PROPOSED BLOCK PLAN 1:200

DRAWING TITLE  
PROPOSED BLOCK PLAN

DRAWING STATUS  
PLANNING

PROJECT ABB  
LOW STREET

PROJECT REF  
133 - 20

DRAWING REF  
PL03



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**PROJECT**  
 LAND OFF LOW STREET  
 SHERBURN IN ELMET  
 LS25 6BB  
**CLIENT**  
 WHEATLEY DEVELOPMENTS

REV	NOTE	DATE
1	FIRST ISSUE FOR DISCUSSIONS	30/9/20
2	OPTION B ISSUED FOR DISCUSSION.	10/10/20
3	MINOR REVISIONS TO SITE LAYOUT.	9/11/20
4	REVISIONS TO PLOTS 3 AND 4 FOLLOWING CONF CALL.	10/11/20
5	DRAWING UPDATED AS PER SELBY L.A. REQUEST.	20/11/20

**SCALE**  
 1:1250 & 200  
**REVISION**  
 5  
**PAPER SIZE**  
 A1

**DRAWN**  
 M.E.  
**CHECKED**  
 P.M.  
**DATE**  
 SEPT 2020

**PROJECT ABB**  
 LOW STREET  
**PROJECT REF**  
 133 - 20  
**DRAWING REF**  
 PL03

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**Report Reference Number:** 2020/1265/FUL

**To:** Planning Committee  
**Date:** 10 March 2021  
**Author:** Elizabeth Maw (Senior Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/1265/FUL	PARISH:	Sherburn In Elmet Parish Council
APPLICANT:	Wheatley Developments	VALID DATE: EXPIRY DATE:	23rd November 2020 18th January 2021
PROPOSAL:	Proposed residential development comprising 5 new build houses, with 11 parking spaces, and associated amenity		
LOCATION:	Land Adjacent 27 Low Street Sherburn In Elmet North Yorkshire		
RECOMMENDATION:	Minded to APPROVE subject to a S106 Agreement on Recreational Open Space and Waste/ Recycling Contributions		

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 is a vacant piece of land located in Sherburn in Elmet. It is 0.09ha and previously occupied by a detached house. The house was demolished in approximately 2013. The land has been stood vacant since.
- 1.2 The site is located on Low Street and just outside the defined commercial centre of Sherburn. The surrounding land uses are a mixture of both residential and commercial. It is a high activity area with regular traffic and footfall.
- 1.3 To the north of the application site is Orchard Cottages. These are terraced cottages extending back from Low Street. These houses are accessed via a narrow lane, which is an adopted highway but it has a traffic regulation order to restrict use

to access only. It is regularly used for on street parking and part of the lane is used for resident bin storage. To the south and east is a house called Pentland House; a domestic property that has had a number of uses operating from the land over the years including a market, garden centre and a haulage business. Directly opposite the site is housing and a public house.

## **The Proposal**

- 1.4 The proposal is for five new houses and associated works. The layout shows two houses fronting onto Low Street and three houses behind. All the properties are three bedrooms. The drive to Plot 1 would be accessed from Orchard Cottages. The remaining four plots would be accessed from Low Street.

## **Relevant Planning History**

- 1.5 The following historical applications are considered to be relevant to the determination of this application.

Application Number: 2009/0995/OUT  
Alternative Reference: 8/58/946/PA,  
Outline planning permission with all matters reserved for 5no townhouses (two and a half storey) following demolition of existing dwelling.  
Withdrawn: 2<sup>nd</sup> February 2010

Application Number: 2010/0448/OUT,  
Alternative Reference: 8/58/946A/PA,  
Outline application for the erection of five No. two and a half storey town houses following demolition of the existing dwelling.  
Withdrawn: 21-FEB-11

Application Number: 2013/0738/DEM  
Prior notification for the demolition of Barnstone.  
Granted 19-SEP-13

## **2. CONSULTATION AND PUBLICITY**

- 2.1 **Selby Area Internal Drainage Board** – No response received within the consultation period.
- 2.2 **Yorkshire Water Services Ltd** – No objections, subject to conditions.
- 2.3 **NYCC Highways** – Amended plans have been received to demonstrate that access width and required visibility is achievable. Plot 1 is proposed to be served off Orchard Cottage and this is considered acceptable because it would be accessed via an adopted street with low traffic levels.
- 2.4 **Contaminated Land Consultant** – A site investigation shows that the site has previously been developed. The report concludes that for development to go ahead, remediation is required, such as a capping layer of clean soils to any soft landscaped areas/gardens. The report is considered acceptable, but the proposed remediation requires further discussion. In conclusion there are no objections, subject to conditions.
- 2.5 **Parish Council** – Raised several concerns, which are summarised below:

Sherburn in Elmet, is one of the fastest growing settlements in North Yorkshire that will have an estimated 10,000 residents, (a 43% increase in population) when the current planned housing developments are completed. The town centre has remained much the same for the past 40 years with its limited shopping centre, road space and narrow pavements. Demand for retail outlets in the town centre is high as the number of retail premises limited. The availability of this site, in this location in the town centre, is a unique opportunity to improve the retail sector. More retail outlets to meet the demands of the existing community would be a better development than dwellings.

The five proposed houses are excessive for this plot.

The site is located in a busy area with a public house directly opposite and it is on a part of the street with parking restrictions. The Parish Council has highway concerns including visibility, larger vehicles being unable to use the shared parking court, which encourage these vehicles to park on Low Street and create a highway issue and insufficient parking.

There is a surface water problem on Low Street. This development and its associated hardstanding will add to the surface water problems.

- 2.6 **Environmental Health** – The development is close to noise sources including road noise and a public house opposite. It is considered that the houses will be able to mitigate for these noise levels. It is preferable to provide a noise survey before a decision is being made but the pub is closed and the area is in lockdown, therefore the noise survey would not give accurate readings. In this case, a noise survey can be conditioned. The noise survey should include appropriate mitigation.

There could be a construction noise impact, particularly in the event that piled foundations are necessary. A construction statement is therefore recommended by condition which will need to demonstrate how local residents will be protected from noise during the construction phase.

- 2.7 **Waste and Recycling Officer** – No objections and it is noted that the development has provided a bin collection point near to the entrance. If the development is approved, as there are 4 properties, the developer will be required to pay for the waste and recycling containers.

- 2.8 **Archaeology** - Sherburn in Elmet is of considerable archaeological interest. However, map regression indicated at least two successive periods of post-medieval development. As a result, any archaeological deposits would be likely to be truncated and of limited evidential value. Therefore, no objections and no conditions are recommended.

## **PUBLICITY**

- 2.9 The application was advertised by site notice and neighbour notification letter. 10 letters of objection have been received. The objections are summarised below:

Highway and parking concerns due to an access being created off Orchard Cottages.

Highway safety concerns because the development would result in vehicles crossing over a pavement that has a high footfall.

Low Street has surface water flooding problems. Concerns that the development will add to the problems, including flooding of houses and businesses.

The stone wall that divides the site from Orchard Cottage is of value to the historic character of Sherburn. The partial demolition of the wall to create an access for Plot 1 would be detrimental to its historic value.

The development does not have sufficient visitor spaces. The lack of visitor spaces would result in an increased parking demand on Orchard Cottages. This is a street that is already under significant parking pressure.

Overlooking concerns from the rear elevations of the frontage properties to the properties on Orchard Cottages.

The two frontage properties are proposed to be faced in a red brick. Render would be a better external finish as it would tie in with the properties that are close to the front of the site.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The site has very few constraints. It is located within the Development Limits of Sherburn and defined as 'previously developed land'. The site is within flood zone 1 so it is not vulnerable to river flooding but letters of representation advise there are surface water issues along Low Street.

### **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. Consultation on preferred options took place in early 2021. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.

4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.

4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

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

**Selby District Core Strategy Local Plan**

4.6 The relevant Core Strategy Policies are:

- SP1 - Presumption in Favour of Sustainable Development
- SP2 - Spatial Development Strategy
- SP4 - Management of Residential Development in Settlements
- SP15 - Sustainable Development and Climate Change
- SP19 - Design Quality

**Selby District Local Plan**

4.7 The relevant Selby District Local Plan Policies are:

- ENV1 - Control of Development
- T1 - Development in Relation to the Highway Network
- T2 - Access to Roads
- RT2 - Open Space Requirements for New Residential Development
- VP2 - Vehicle Parking Standards

**Supplementary Planning Documents**

4.8 Sherburn in Elmet Village Design Statement SPD

**5 APPRAISAL**

5.1 The main considerations of this application are:

- Principle of the development
- Design and the impact upon the appearance of the area
- The effect upon residential amenity
- Residential standards
- Highway, parking and traffic considerations
- Flooding and drainage
- Open space contributions
- Waste and Recycling

## **Principle of the Development**

- 5.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF.
- 5.3 Policy SP2A(a) of the Core Strategy states "The majority of new development will be directed to the towns and more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints". Proposals for development on non-allocated sites must meet the requirements of Policy SP4".
- 5.4 Policy SP4(a) of the Core Strategy states that "*in order to ensure that development on non-allocated sites contributes to sustainable development and the continued evolution of viable communities, the following types of residential development will be acceptable in principle within Development Limits*". In Selby, Sherburn In Elmet, Tadcaster and Designated Service Villages - "*Conversions, replacement dwellings, redevelopment of previously developed land, and appropriate scale development on greenfield land (including garden land and conversion/redevelopment of farmsteads)*."
- 5.5 The application site is previously developed land and located within the defined development limits of Sherburn In Elmet, which is a Designated as a Local Service Centre.
- 5.6 The Parish Council and some letters of representation considers this site to provide an opportunity to improve the provision of shops and services, which is needed more than housing. The LPA have to assess the proposal put forward and cannot insist on a site being used for an alternative purposes or refuse the application for this reason, particularly when it is outside of the defined commercial centre.
- 5.7 The proposal for housing is therefore acceptable in principle given the councils spatial strategy allows for growth within the settlement of an appropriate scale.
- 5.8 It is noted that Policy SP4 (c) of the Core Strategy states, "in all cases proposals will be expected to protect local amenity, to preserve and enhance the character of the local area, and to comply with normal planning considerations, with full regard taken of the principles contained in Design Codes (e.g. Village Design Statements), where available".
- 5.9 Therefore, whilst being acceptable in principle it will be subject to the considerations of design, character and later as detailed below.

## **Design and the Impact upon the Appearance of the Area**

- 5.10 Relevant policies in respect to design and impact on the character and appearance of the area include Policy ENV1 (1) and (4) of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy.

- 5.11 Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF. Relevant policies within the NPPF which relate to design include paragraphs 127, 130 and 131.
- 5.12 The Village Design Statement for Sherburn in Elmet is afforded material weight as well.
- 5.13 Low Street has a high-density settlement pattern and a mixed local vernacular but with a number of distinguishing characteristics. The older buildings along Low Street are in a linear arrangement and border the roadside. These older buildings are two storeys with pitched roofs, simple gables and some traditional fenestration including chimneys, windows with a vertical emphasis and heads and cills. The materials on these older buildings are predominantly render or stone and a mixture of roof tiles. Many of the older buildings have lost some of their traditional features and there are newer infill developments that has further diluted the traditional character. However, the older buildings continue to define the street and dominate the character of Low Street.
- 5.14 Developments behind Low Street can be seen between the gaps of the frontage buildings and they vary in their design and settlement pattern. The Village Design Statement provides a good assessment of the character and it states, "*There are several infill developments of varying ages throughout this area, but overall the character has been retained and it is relatively well defined against the lower density suburban developments surrounding it*".
- 5.15 The two proposed frontage houses are close up to the roadside with a form and detail that is very much reflective of traditional buildings along Low Street. The two frontage houses will complement the street scene and the historic buildings along Low Street. A letter of representation considers the use of a red brick to the frontage plots would be unsuitable and a render would be more characteristic. There is the use of red brick on Low Street although they are a lesser dominant material and more prevalent on the Victorian buildings. As such, officers agree that render would be more of an appropriate choice of material for the frontage plots or stone as a second alternative. A materials condition will give the LPA an opportunity to agree either stone or render with the developer.
- 5.16 The three proposed houses at the rear of the plot are two and a half storey townhouses. They are less traditional in their form, but they have a lesser influence on the street scene because they are set back into the plot and the character of buildings in the background of Low Street is very mixed. The materials proposed are a red brick but stone or render would be more suitable. A material condition will secure either stone or render as the external finish.
- 5.17 One other matter that has been raised by local residents is the stone boundary wall that runs between Orchard Cottages and the north boundary of the site. Residents consider this wall to enhance the historic character of Sherburn. They would like to see this wall kept intact. There is no known intention to disturb this wall except for removing a small section to create an access to Plot 1. Removing this small section is deemed to have an immaterial impact to the character of the area and the amenity value of the wall. Furthermore, the wall is not listed and not within a conservation area, therefore it is not offered any statutory protection.
- 5.18 In conclusion, the design and layout are well thought out, subject to a condition for materials to be agreed. The proposed design and layout are in accordance with the

NPPF and local policies ENV1 and SP19. These are policies that seek to ensure new development is sympathetic to the character of an area.

### **The Effect Upon Residential Amenity**

- 5.19 Protecting residential amenity is one of the fundamental principles of good design. Paragraph 127 of the NPPF is relevant to this stance as it states planning decisions should ensure that developments “...*will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development*”.
- 5.20 Local Policy ENV1 (part 1) advises proposals to take account of the effect upon the amenity of adjoining occupiers.
- 5.21 The proposed frontage properties will be directly opposite a public house and residential properties. The separation distance is about 10m. A separation distance of 10m is low but not unusual or unacceptable for street facing elevations because street facing elevations tend to have a lower standard of privacy due to regular passing footfall and traffic. Secondly, the houses directly opposite are overlooked by the housing next door to this site, therefore whilst overlooking will increase it will not be new or detrimental to privacy.
- 5.22 The rear elevations of the proposed frontage properties will have a view towards Orchard Cottages but with a separation distance of 25m, there would be no harm to privacy.
- 5.23 The proposed three houses to the rear are carefully sited. They would be relatively in line with the terraces on Orchard Cottages and Pentland House, which is to the south. Plot 5 would result in some increased overlooking to properties on Orchard Cottages, particularly No9, but the elevations have been carefully designed to reduce this impact. The rear elevation of Plot 5 has only one central window on each floor. This creates an obtuse angle between the rear of plot 5 and the properties on Orchard Cottages. Furthermore, the cottages are already overlooked by the properties on the opposite side of their street.
- 5.24 Pentland House would not be detrimentally affected by the proposal. The layout of the proposed development promotes good separation distances and no overshadowing issues. The wall that separates the two sites will ensure occupiers of Pentland House do not have headlights shining into their property or become disturbed by comings and goings and a condition will be imposed to ensure this wall is retained.
- 5.25 Plots 4 would have a garden gate onto Orchard Cottages. The plot would be served off Low Street and the garden gate is only intended to provide access for maintenance. This would be an irregular use and not expected to generate regular footfall onto Orchard Cottage.

### **Highway, Parking and Traffic Considerations**

- 5.26 Policy in respect to highway safety and capacity is provided by SDLP Policies ENV1 (2), T1 and T2 and criterion f) of Core Strategy Policy SP15. The aims of these policies accord with paragraph 108 (b) of the NPPF which states that development should ensure that safe and suitable access can be achieved for all users to a site. In addition, paragraph 109 of the NPPF advises that development should only be



refused (on highway grounds) where it would result in an unacceptable impact on highway safety.

- 5.27 Appendix 4 of the Selby District Local Plan stipulates parking standards for new dwellings. It states two off street parking spaces are required for each three-bedroom property plus one visitor space per five dwellings. These standards are expressed as a maximum.
- 5.28 There are a total of 11 parking spaces for five houses, which will provide 2 spaces to each of these family sized dwellings and one space for visitors. This development achieves maximum parking standards. The local service centre of Sherburn is a sustainable area in policy terms. It benefits from a commercial area with numerous shops. Schools are close by. The town is served by public transport including buses and a train station. When sites are located in sustainable areas (such as this site) there is an opportunity to rely less on the car, which in turn can reduce car ownership. When considering the sustainable location and the development achieving maximum parking standards, the parking levels are acceptable and in accordance with the local plan.
- 5.29 Four of the five plots will be served off Low Street. This will lead onto a private drive with shared parking court. The parking court allows vehicles to turn and exit in a forward gear. The parking layout does not allow sufficient room for a bin wagon or larger vehicles, which is not unusual or expected for a private drive with shared parking court. Bins will be collected from Low Street and a bin collection point near the entrance is indicated on the drawings.
- 5.30 Plot 1 is proposed to be served off Orchard Cottages. This is a narrow access road that serves the existing terraces only. The road of Orchard Cottages is in a loop with part of it being used for both access and parking and another part only used for access because it is so narrow. It is an adopted highway but with such low usage on the narrower section, residents store their bins on the edge of this highway. Plot 1 would have two parking spaces that are accessed from Orchard Cottages. The suitability of this new access has been contentious with local residents who live on Orchard Cottages. The objectors from Orchard Cottages advise parking is very limited. They object to Plot 1 being served from this street in case it creates further parking pressure. Additionally, residents advise that this is a road with very little traffic levels; they don't use the road and use it for bin storage and children playing, despite it being adopted. Many residents therefore object to the access for Plot 1 and the resulting additional traffic being created on Orchard Cottages.
- 5.31 From an officer and highways point of view, the proposal only seeks to create an access for one plot off Orchard Cottages. This situation would generate very little vehicle movements. It would not create additional parking pressure on Orchard Cottages because the plot has two off street parking spaces. The reversing out of the parking spaces is not considered to cause a highway safety issue because of the low usage of the street.
- 5.32 A negative aspect is when vehicles reverse from the drive of Plot 1 and want to gain access onto the main road (Low Street). Occupiers of Plot 1 may on occasion find it difficult to drive down Orchard Cottages because it is a very narrow road with bin storage either side. It is unusual for bins to be stored in a highway, but it appears to be an established situation for occupiers of Orchard Cottages. Providing access off this lane for Plot 1 may create occasional friction with existing residents of Orchard Cottages if access cannot be gained due to obstructions from bins. This is a

negative impact of the proposed layout. On the other hand, this is an adopted road with a right of access and a car was parked on the lane on a recent visit so there is occasional use. One extra dwelling being served off this lane would have a very little impact on traffic levels along Orchard Cottages and it would keep traffic levels low.

- 5.33 Notwithstanding the above, officers have discussed the objections with the agent and asked if there was a possibility of moving the parking for plot 1 to the newly created parking court off Low Street. The agent advised that it is only possible if the parking ratio for the new houses is reduced. This change would mean the site has only 9 spaces for five family homes. This alternative could appease residents' concerns but create other problems, eg increasing on street parking. It is therefore an option that hasn't progressed.
- 5.34 In conclusion and on the basis of the favourable comments from the Highway Officer, the highway specifics are considered to be acceptable and no highway safety issues would arise, therefore the proposal for five dwellings would accord with Page 39 Local Plan Policies T1 and T2; Core Strategy Policy SP15 and the advice within the NPPF.

### **Flooding and Drainage**

- 5.35 The site is within Flood Zone 1, therefore not vulnerable to any sea or river flooding. Objections have advised that Low Street regularly floods because of surface water. Additionally, cars travelling through the standing surface water creates waves up to the pavement and housing. An objector and local Councilor are concerned this development would increase the surface water problems.
- 5.36 The existing site is relatively flat and partially covered in hard standing. Given the small-scale nature of the site and with it being a relatively flat site with existing hardstanding, the impact of this development on surface water levels would be minor. Permeable paving for the parking areas is proposed as well. Nevertheless, several small developments in a local area can incrementally start to affect surface water levels and a development of five houses on this site will reduce impermeable areas. It would be reasonable in this case to impose conditions that will ensure surface water is properly drained to mitigate for the increase in density on this site. Appropriate conditions would result in a neutral impact to surface water levels.

### **Open Space Contributions**

- 5.37 Local Plan Policy RT2, Core Strategy Policies SP12 and SP19, in addition to the Developer Contributions Supplementary Planning Document relate to the provision of recreational open space.
- 5.38 The Supplementary Planning Document for Developer Contributions and Policy RT2 states a requirement for schemes of more than 4 dwellings and up to and including 10 dwellings would require a commuted sum to provide new or upgrade existing facilities in the locality.
- 5.39 Policy RT2 b) advises that the following options would be available, subject to negotiation and levels of existing provision:
- provide open space within the site;
  - provide open space within the locality;

- provide open space elsewhere;
- where it is not practical or not deemed desirable for developers to make provision within the site the district council may accept a financial contribution to enable provision to be made elsewhere.

5.40 The viable option here is for a commuted sum to upgrade or provide new public open space. The cost per dwelling for upgrading existing open space is £991. The cost per dwelling for provision of new recreation facilities is £1,095. Payment would be secured through the applicant entering into a Section 106 Agreement prior to the issuing of any planning permission.

5.41 Sherburn Parish Council have been asked whether they would prefer a contribution towards new or existing space in the locality. No response has been received so far. Should no response be received by the Planning Committee meeting then officers recommend a legal agreement that requires a commuted sum to be spent on the upgrading of existing open space within Sherburn.

### **Waste and Recycling**

5.42 For developments of 4 or more dwellings, developers must provide waste and recycling provision at their own cost and as such should the application be approved a condition could be imposed to secure a scheme for the provision of waste and recycling equipment.

5.43 The waste and recycling contribution would be provided under the Section 106/Unilateral Agreement in accordance with Developer Contributions.

### **Other Contributions**

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

## **6 CONCLUSION**

6.1 The proposed development is acceptable in principle. The proposal would redevelop a Brownfield site in a sustainable area with family dwellings. The design and layout compliment the character of Low Street. There would be no harmful impact to the residential amenity. Access off Low Street is acceptable and it has sufficient parking for the four houses it will serve. The access for plot 1 is acceptable on the basis that there would be no parking issue or highway safety issue and it is a new access being created off an adopted highway. Surface water can be controlled by planning condition.

## **7 RECOMMENDATION**

7.1 This application is recommended to be GRANTED subject to the following conditions and the applicant enters into a S016 agreement for Recreation Open Space and Waste/ Recycling Contributions:

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 not be carried out otherwise in complete accordance with the approved plans and specifications set out below (but excluding the materials legend):

Drawing Number: PL01 Revision 1: Location and Block Plan

Drawing Number PL03 Revision 5: Proposed Block Plan

Drawing Number PL04 Revision 1: Proposed Site Plan

Drawing Number PL05 Revision 2: House Type A Proposed Plans (Plots 3,4 & 5)

Drawing Number PL06 Revision 2: House Type B Proposed Plans (Plots 1 & 2)

Drawing Number PL07 Revision 2: House Type A Proposed Elevations (Plots 3,4 & 5)

Drawing Number PL08 Revision 2: House Type B Proposed Elevations (Plots 1 & 2)

Drawing Number PL09 Revision 1: House Block A Block Plans and Elevations (Plots 3,4 & 5)

Drawing Number PL10 Revision 1: House Block B Block Plans and Elevations (Plot 1 & 2)

Reason:

To ensure that no departure is made from the details approved and that the whole of the development is carried out, in order to ensure the development accords with Policy ENV1.

- 03 Prior to the commencement of the relevant works, details of the materials to be used in the construction of the exterior walls and roofs of the dwellings hereby approved; shall be submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

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

- 04 Prior to any boundary treatments being installed, removed or altered, a scheme detailing all boundary treatments to be used in the final development and boundaries to be removed/ retained shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved scheme.

Reason:

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

- 05 No development shall take place until a Construction Management Plan has been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Local Highway Authority and the Council's Environmental Health Team. The approved Plan shall be adhered to throughout the construction period relating to the development hereby approved. The plan shall provide for the following:

- a. the parking of vehicles of site operatives and visitors
- b. loading and unloading of plant and materials

- c. storage of plant and materials used in constructing the development
- d. erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
- e. details of how noise, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated.
- f. details of construction hours.

Reason:

In accordance with Policies ENV1, ENV2, T1 and T2 of the Selby District Local Plan and to provide for appropriate on-site vehicle parking and storage facilities in the interests of highway safety and to protect the general amenity of the area, the environment and local residents from pollution. The details need to be agreed before development commencing to ensure the construction phase does not create issues from the outset.

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

Reason:

In the interest of satisfactory and sustainable drainage

- 07 There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:
- i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
  - ii) the means of discharging to the public sewer network at a maximum rate of 3.5 litres per second.

Reason:

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

- 08 Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical 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 risks to workers, neighbours and other offsite receptors.

- 09 Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a 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.

- 10 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 of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason

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

- 11 There must be no access or egress by any vehicles between Low Street and the application site until clear visibility has been provided in accordance with the visibility splay as shown on drawing number PL04 Revision 1. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, the visibility splay must be maintained clear of any obstruction and retained for its intended purpose at all times.

Reason:

In the interests of highway safety and in accordance with Policy T2.

- 12 No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas have been constructed in accordance with the approved drawing PL04 Revision 1. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason

In accordance with SDLP policies T1 & T2 and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

- 13 A noise survey to confirm external noise levels and recommend any required mitigation to protect residents from noise from road traffic and the public house opposite shall be submitted to and approved in writing before commencing construction of the dwellings hereby approved. The development shall be completed in accordance with the approved details prior to the occupation of the permitted dwellings, unless otherwise agreed in writing by the Local Planning Authority. The protection measures in the agreed scheme shall be maintained throughout the life of the development.

## Reason

To safeguard the amenity of the proposed dwellings from the predicted noise levels which exist on the site.

## Informatives

- 01 **INFORMATIVE:**  
The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.
- 02 **INFORMATIVE**  
Community Infrastructure Levy - The development approved by this permission may be liable to a Community Infrastructure Levy, which is payable after development begins. If your scheme is liable, and you have not already done so, you must submit an Assumption of Liability Notice to the Council before development commences. If your scheme is issued with a CIL charge, it is essential you submit a Commencement Notice to the Council before the development commences. Any application for relief or exemption should also be submitted before commencement. The Council will impose penalties where the correct forms are not submitted, or are late, or where the information provided is inaccurate.  
All forms are available via the Planning Portal ([www.planningportal.co.uk](http://www.planningportal.co.uk) (search for CIL) and should be emailed to [cil@selby.gov.uk](mailto:cil@selby.gov.uk)  
Further information on CIL can be found at [www.selby.gov.uk/planning](http://www.selby.gov.uk/planning) or by contacting the Council's CIL and S106 Officer via [cil@selby.gov.uk](mailto:cil@selby.gov.uk)
- 03 **INFORMATIVE**  
The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

## 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 2020/1265/FUL and associated documents.

**Contact Officer:**

Elizabeth Maw, Senior Planning Officer

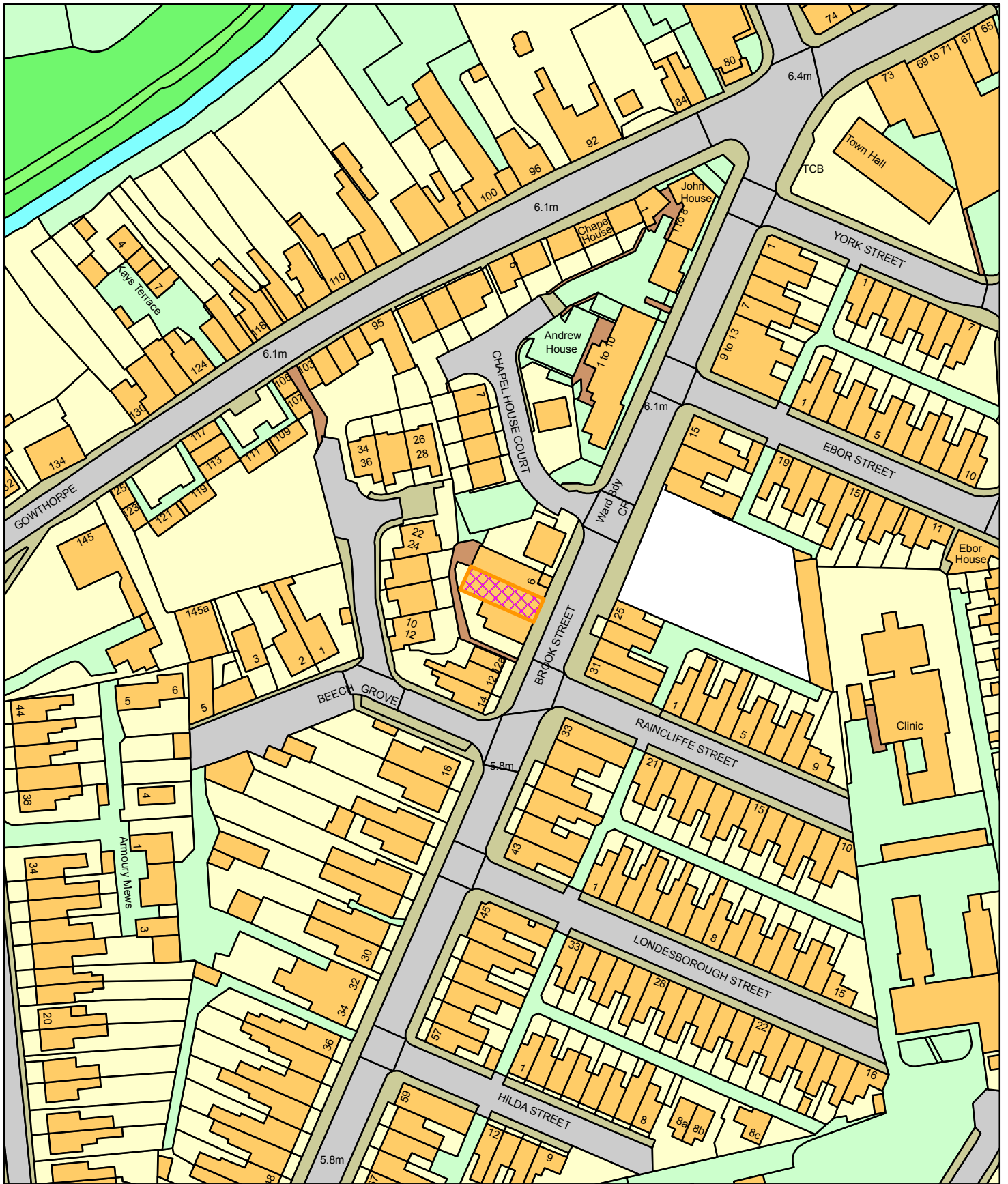
[emaw@selby.gov.uk](mailto:emaw@selby.gov.uk)

**Appendices:** None



# Agenda Item 5.2

The New Little Coffee Shop, 8 Brook Street, Selby  
2020/1263/FUL



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**Report Reference Number:** 2020/1263/FUL

**To:** Planning Committee  
**Date:** 10 March 2021  
**Author:** Gareth Stent (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/1263/FUL	PARISH:	Selby Town Council
APPLICANT:	Mr Timothy Baldwin	VALID DATE: EXPIRY DATE:	25th November 2020 20th January 2021
PROPOSAL:	Continued use of ground and first floor cafe (being a variation to the opening hours)		
LOCATION:	The New Little Coffee Shop 8 Brook Street Selby YO8 4AR		
RECOMMENDATION:	Grant		

This application has been brought before Planning Committee at the request of Cllr J Chilvers, who submitted the request in line with the respective call-in period and objects to the proposal.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 This is a full application to vary the opening hours at an existing café known as 'The New Little Coffee House', 8 Brook Street Selby. The café operates at ground and first floor.
- 1.2 The premises lie on the south western fringe of the town centre off Brook Street, which is one of the main routes out of the town centre towards Brayton. The premises are the central property in a small terrace, with No.6 to the north being a vacant retail unit at ground floor with flats above and No.10 to the south being a residential dwelling. Part of the first floor of the application site, i.e., No.8a, is a self-contained flat.
- 1.3 The area is essentially residential in character with some commercial premises opposite and elsewhere within the street frontage, particularly on corner locations.

The site lies within Development Limits, within the Selby Town Centre Conservation Area and within the Shopping and Commercial designated area of the town centre.

1.4 The current opening hours are restricted by 2 permissions, i.e.:

#### Ground floor

- 2013/0821/COU – Change of use of the ground floor from A1 shop to A3 café. This was approved with the following condition (No.2) relating to opening hours: Monday to Saturday 9-5pm (closed on Sunday) limited to the ground floor by condition No.4 relating to floor plans.

#### First floor

- 2015/0673/COU – Change of use of part of the 1st floor from residential to A3 café. This was approved with the following condition relating to the opening hours of the upstairs café: Monday to Saturday (11am-3pm) excluding Bank Holidays.

1.5 On this basis, the permitted opening hours are:

- **Ground Floor:** Monday to Saturday 9am-5pm; (2013 permission)
- **First Floor:** Monday to Saturday 11am-3pm (excluding bank holidays) (2015 permission)

1.6 By way of overall context an application was made in 2019 (2019/0446/S73) to vary condition 02 of planning approval 2013/0821/COU and requested opening hours of Monday – Sunday 8:30am -10:30pm on a permanent basis, however this was later withdrawn as the times were deemed by Officers to be excessive. The applicant did contact the Council with a view to discussing what may be regarded as being acceptable. This has generated the current application now before Members.

1.7 Finally, this application was originally submitted as a Section 73 application to vary the 2015 (upstairs) consent but also requested consent to change the ground floor opening hours. This would have involved the variation of two permissions, which is not capable under a Section 73 submission. On this basis the application was converted to a 'full' consent to vary hours.

### **The Proposal**

1.8 This is a full application for the continued use of ground and first floor cafe being a variation to the permitted opening hours. Following discussions with officers, the proposed hours are as follows:

#### Ground Floor

- Monday - Saturday 09:00 - 17:00
- Sunday 11:00 - 16:00

#### First Floor

- Monday - Saturday 11:00 - 15:00
- Sunday 11:00 - 16:00

Late night opening on Friday's or Saturdays from 17:00 until 22:00 for no more than 12 nights per annum and only 1 per calendar month. (12-month temporary period from when the use first occurs)

### **Relevant Planning History**

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

- CO/1985/0487 - Proposed conversion of existing dwelling into furniture showroom with flat above at. Refused 29-AUG-86.
- CO/1987/0564 - Proposed conversion of existing house to provide ground floor extension to adjoining furniture showroom, for use as carpet display area, with self-contained three bed roomed flat at first floor level. Permitted 16-APR-87.
- CO/1987/0565, Proposed conversion of existing house to provide ground floor extension to adjoining furniture showrooms, for use as carpet display area, with self-contained three bedroom flat at first floor level. Permitted 12-NOV-87.
- CO/1988/0686 - Proposed change of use of house and first floor flat to residential hotel at 6 (first floor flat) 8 Brook Street, Selby. Refused 12-AUG-88.
- CO/1989/0669 - Erection of double storey extension to provide extra showroom and storage accommodation to the rear elevation, conversion of first floor to self-contained flat and alterations to shop front. Permitted 31-MAR-89.
- CO/1989/0670 – Proposed removal of planning conditions 5 & 6 imposed on planning decision 8/19/804B/PA dated 12.11.87. Permitted 02-MAR-90.
- CO/1993/0527 -Proposed change of use of first floor office and part ground floor office and sales area to a self-contained flat at 8 Brook Street, Selby. Refused 19-AUG-93.
- CO/1995/0052 - Proposed change of use of first floor office and part ground floor sales area to bed sitting room with kitchenette and shower room. Permitted 18-APR-95.
- 2013/0821/COU - Change of use from A1 (shops) to A3 (restaurants and cafes). Permitted 14-OCT-13. Condition 2 – The use hereby approved shall be open for customers between the hours of 09:00 to 17:00 Monday to Friday, 09:00-17:00 Saturday and closed Sunday. Was limited to the ground floor only.
- 2013/1010/ADV - Application for consent to display a non-illuminated fascia sign and projecting sign. Permitted 28-NOV-13.
- 2015/0673/COU - Change of use from residential to A3 Cafe, Permitted 24-AUG-15. Although the description of the application didn't allude to it, the permission was for the first floor only. i.e., the residential use to café use and floor plans reflect this. This had condition 3 limiting its use between 11:00 -15:00 Mon - Sat.

- 2019/0446/S73 - Section 73 application for Change of use from A1 (shops) to A3 (restaurants and cafes) without complying with condition 02 of planning approval 2013/0821/COU granted on 14 October 2013 – Withdrawn 28-AUG-19. Requested hours Monday – Sunday 8:30am -10:30pm.

## **2. CONSULTATION AND PUBLICITY**

- 2.1 Environmental Health – (18.1.2021 -comments on in respect of the previous Section 73 application) The applicant received pre-application advice in relation to a temporary 12-month permission; therefore, these comments are written in this context.
- 2.2 The premises adjoin residential properties, and I would raise concerns regarding the potential for unacceptable noise impact, notably from amplified music, fixed plant installations (such as kitchen extraction/ventilation) and raised voices. Furthermore, a consequence of extending opening hours to 2200 potentially shifts the business context from café to restaurant under planning use class A3.
- 2.3 Amplified music – I would recommend that further information is sought regarding the playing of amplified music with a view to limiting disturbance at adjoining/neighbouring residential properties.
- 2.4 Fixed plant installations – I would recommend that further information is sought regarding extraction/ventilation and corresponding acoustic data often located in manufacturer’s literature.
- 2.5 Raised voices – In the absence of any sound insulation testing an assumption is made that speech transmission between adjoining walls is likely, particularly in the evening when a reduction in background sound levels is observed. These concerns extend to neighbouring properties as customers leave the premises, particularly during the warmer months when residents are likely to spend more time outdoors and with windows open. Therefore, the intention to extend opening hours on a weekly basis seems excessive in the context of a café. I would recommend that this is negotiated, and I would suggest operating on a monthly basis during any temporary permission.
- 2.6 Environmental Health’s formal revised response will be added to the officer update note.
- 2.7 Enforcement Team – No response received.
- 2.8 Selby Town Council - No objections to this application subject to consultation with occupants of neighbouring properties.

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

- 2.9 The proposal was publicised by a site notice, press notice and direct neighbour notification of residents.
- 2.10 1 letter of objection was received from a resident that immediately adjoins the premises i.e., No.10 Brook Street. These were in response to the initial Section 73 application which proposed unrestricted late evening open Fridays or Saturdays all year. The grounds of objection are as follows:

- As a resident of an adjoining property, I wish to strongly object to the proposed change on the following grounds.

#### Impact on Residential Amenity

- Policy ENV (1) requires the Council to take into consideration 'The effect upon the character of the area or the amenity of adjoining occupiers.'
- The Officer report relating to the original application for change of use from A1 (shops) to A3 (restaurants and cafes) included a condition that the opening hours be restricted to 09.00 to 17.00 Monday to Saturday and closed on Sunday. The reason for this was 'In the interests of residential amenity having regard to Policy ENV1 of the Selby District Local Plan.'
- There has been no material change to this policy and since the condition was put in place there has been a further intensification of amenity issues with approximately 20 additional residential properties either having been built or which are under construction within 100 meters of the Little Coffee House.
- In addition, an alcohol licence was granted in 2019 which was not in place when the restriction on opening hours was put in place.
- There are no hospitality / service premises in this area of Brook Street with extended opening hours. It is a quiet residential street on an evening and on a Sunday meaning that the additional noise and disturbance from the extended hours would have a significant negative impact on the residential amenity of the area.
- There are four flats and one house directly adjoining the premise. The flat at 8a Brook Street shares the same front entrance as the Little Coffee House and its living areas are directly above the kitchen / serving area. Any additional opening hours would have a significant impact on this property as well as those adjoining and in the surrounding area.

#### The Local Plan

- Policy SEL/08 of the Local Plan relates to proposals for the establishment or extension of retail use within the defined shopping and commercial centre of Selby. The premises are not within the defined core shopping area of Selby (inset map 53). I am not aware of any SDC plans or policies that support either the further commercialisation of areas outside of the core shopping area or the establishment of night-time economy businesses in this area.
- The applicant has supplied no evidence to support the application to overturn this condition nor do they explain what they wish to do with the extended hours. An article in the Selby Times last year confirmed that under a previous application the intention of securing the additional hours was to run a series of themed events every two to three weeks. I have no reason to believe that this is not still the intention of the business.
- In effect these additional hours have been trialled over the last 18 months as the premises have held a number of 'events' outside of their permitted opening hours and in breach of the planning condition. On each occasion this has been reported to the Council's planning enforcement team and on each occasion, I have been

affected by increasing noise levels until gone 10.30pm. These events include a Mexican themed night held on the evening of Saturday 24th August 2019 which offered customers a bottle of Desperado (tequila flavoured beer) and a tequila shot per person. I have also had to move customers off my property where they have been smoking and dropping cigarette ends.

- There is a vast difference between customers having coffee during the day and attending a themed event with alcohol on an evening. This is changing the whole feel of the premise from a coffee shop to a bar and I believe this is completely inappropriate in a residential area. At one-point last year the business was also advertising Christmas Party nights for parties of 10 or more with a fully stocked bar. Their own flyer for the events advertised themselves as 'The Little Coffee House' by day and 'The Place to B' by night.
- Whilst these events did not take place as the previous planning application was withdrawn, this type of highly charged event for large groups of people is guaranteed to create excessive noise and would have a significant negative impact on neighbouring properties. This is not simply an extension of their existing day time business operations.
- I don't believe that any grounds have been submitted which would support the overturning of the original Officers decision in 2013 and would urge the Council to retain the existing conditions and my residential amenity by refusing. This matter has caused me increasing stress and anxiety over the last few years and I look forward to a swift resolution.

#### New full application

2.11 The application was readvertised by site notice and neighbour letters on the 10.2.2021 following the application being converted to full application. No further letters have been received. Any further letters will be reported within the officer update note.

#### 2.12 Representation from Cllr Judith Chilvers

- I am writing as ward councillor to object to this application on grounds that any extension of hours would be out of keeping with the surrounding area which is mainly residential.
- The residents would suffer due to increased noise, traffic and pollution. Brook Street is a very busy road which could be a danger to customers leaving the premises.

### **3 SITE CONSTRAINTS**

#### **Constraints**

3.1 The site lies within settlement limits, within the Selby Town Centre Conservation Area and within Flood Zone 3. The site is also within the Shopping & Commercial Centre.



## 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. Consultation on preferred options took place in early 2021. 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  
SP14 - Town Centres and Local Services  
SP18 - Protecting and Enhancing the Environment.

### **Selby District Local Plan**

- 4.7 The relevant Selby District Local Plan Policies are:

ENV 1 – Control of Development  
ENV 25 - Control of Development in Conservation Area.

## 5 APPRAISAL

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

- Principle of Development.
- Impact on Residential Amenity
- Impact on the Conservation Area

### Principle of Development

5.2 The site lies within the Shopping and Commercial Centre as defined within the Local Plan. Policy SEL/10 states '*proposals for the establishment or extension of commercial uses such as financial and professional services, public houses, cafes, restaurants and takeaways within defined shopping and commercial centre of Selby, will be permitted provided;*

*1) They satisfy the provisions of Policy SEL/8 (no longer relevant as not a saved policy)*

*2) In the case of ground floor premises within core shopping frontages, as defined on the proposals map, the predominantly retail character of the frontage will be retained by ensuring:*

- a) That not more than two non-retail premises are located side by side; and*
- b) That not more than one third of each frontage is devoted to nonretail uses.*

*In addition, in assessing the impact of the proposals on the retail function of the frontage, and the centre, the following other factors will be taken into account:*

- i) The location and prominence of the premises within the shopping frontage;*
- ii) The floorspace and frontage of the premises;*
- iii) The particular nature and character of the use proposed, including the level of activity associated with it; and*
- iv) The impact of the proposal in terms of noise, smell or other environmental problems.*

5.3 Whilst described as a full application, it is in effect the variation of 2 previous planning consents, which controlled the ground and first floor opening times separately. Therefore, the principle of the A3 café use is already established in accordance with Policy SEL/10 and is operating as such (pre-Covid). The new hours proposed are regarded as an extension of the commercial use, not physically but in terms of the operating hours.

5.4 The premises are lawfully permitted to open as per the 2013/0821/COU and 2015/0673/COU permissions as detailed in the introduction. As such the main consideration of this application, is in relation to the new proposed opening hours and the impact these will have.

5.5 The applicant wishes to develop the business through select late night opening for themed events. The applicant explains that they have operated 3 themed nights in 2019 and were unaware of the breach of planning control. Other events like baby showers and funeral wakes have been hosted at the premises in recent years and have continued outside permitted opening hours.

5.6 The current permitted hours versus the proposed hours are explained below:

**Ground floor**

Day	Approved	Hrs	Proposed	Hrs	Difference per day hrs
Monday	9 – 17:00	8	09:00 – 17:00	8	0
Tuesday	9 – 17:00	8	09:00 – 17:00	8	0
Wednesday	9– 17:00	8	09:00 – 17:00	8	0
Thursday	9– 17:00	8	09:00 – 17:00	8	0
Friday	9 – 17:00	8	09:00 – 22:00	13	5
Saturday	9 – 17:00	8	09:00 – 22:00	13	5
Sunday	-		11:00 – 16:00	5	5
	Total	48	Total	63	15

**First Floor**

Day	Approved	Hrs	Proposed	Hrs	Difference per day hrs
Monday	11 – 15:00	4	11:00 – 15:00	4	0
Tuesday	11 – 15:00	4	11:00 – 15:00	4	0
Wednesday	11 – 15:00	4	11:00 – 15:00	4	0
Thursday	11 – 15:00	4	11:00 – 15:00	4	0
Friday	11 – 15:00	4	11:00 – 15:00	4	0
Saturday	11 – 15:00	4	11:00 – 15:00	4	0
Sunday	-		11:00 – 16:00	5	5
	Total	24	Total	29	

5.7 The tables above demonstrate that the main aim is to continue to operate the business in ‘normal’ daytime trading hours, but allow late night opening from 5pm until 10pm to operate theme nights for up to 12 times per year. This is proposed at ground floor only. The applicant has also agreed to trial this for 12 months once the premises are allowed to re-open. It is also the intention to operate the ground and first floor of the premises 11:00 -16:00 on Sundays.

Impact on Residential Amenity

5.8 One of the Core Principles of the NPPF is to always seek to ensure a good standard of amenity for all existing and future occupants of land and buildings is achieved. Policies ENV1 1) and SEL/10 2) iv) of the Local Plan requires proposals not to have a significant adverse effect on residential amenity.

5.9 The issue of residential amenity is the main issue for Members to consider, particularly as this has generated the most concern within the representations from the residential property immediately adjacent to the site. The representations explain in detail how previous permissions controlled the hours of operation by condition and the reasons given were ‘In the interests of residential amenity having regard to Policy ENV1 of the Selby District Local Plan.’ The objection states that further residential dwellings have been built since the original permission, also that an alcohol license has been granted.

- 5.10 Despite its location being within the designated commercial and shopping area of the town centre, the objection describes the area as being ‘a quiet residential street on an evening and on a Sunday’ stating that ‘the additional noise and disturbance from the extended hours would have a significant negative impact on the residential amenity of the area. There are no hospitality / service premises in this area of Brook Street with extended opening hours.’ There are four flats and one house directly adjoining the premise. The flat at 8a Brook Street shares the same front entrance as the Little Coffee House and its living areas are directly above the kitchen / serving area. Any additional opening hours would have a significant impact on this property as well as those adjoining and in the surrounding area.’ This concern is noted, however the remaining surrounding residents have not objected to the proposal, in particular the flat at 8a Brook Street.
- 5.11 The application proposes late evening opening until 10pm for 12 times a year to trial the impact and give the business an opportunity to prove that the amenity concerns will not occur. The objection however explains how the hours have already been trialled over the last 18 months by themed nights outside of their permitted opening hours and explains the nuisance these have caused. This is through ‘increased noise levels beyond 10.30pm and having to move customers off adjoining property my property where they have been smoking and dropping cigarette ends.’ This current proposal suggests a 10:00pm closing so marginally earlier than the concern listed above.
- 5.12 The objection states that the proposed hours will change the whole feel of the premises from customers having coffee during the day and attending a themed event with alcohol on an evening which is inappropriate in a residential area.
- 5.13 The above matters are all genuine concerns, particularly given that residential dwellings exist immediately adjacent to the premises. It is inevitable that visitors coming to the premises and leaving will cause some disturbance, also when taking smoking breaks will congregate outside the premises near the windows of the private residential property adjacent. Similarly, there may be some noise transmission between party walls. All this has the potential to cause harm.
- 5.14 This has to be balanced against the needs of the business and Selby District Councils commitment to supporting “back to business” and assisting in the recovery of the local economy and the District’s town centres post-Covid. The Local Planning Authority accepts the need for some element of flexibility, particularly for small businesses, as part of this economic recovery. However, it is noted that the café is located in a predominantly residential area and whilst there are some commercial premises on the other side of Brook Street, these are shops which have daytime opening hours.
- 5.15 The proposed Sunday hours (11-4pm) will mean the café is open 7 days a week, however this is not considered to be sufficiently harmful to the amenities of neighbouring occupiers given its midday and afternoon opening. The Sunday opening is therefore supported on a permanent basis.
- 5.16 The proposed 10pm closing for 12 occasions a year will obviously change the character and nature of the premises in those evenings when it occurs, and any harm created would be limited to a specific period. The applicant initially wanted unrestricted usage on Fridays and Saturday’s days, however then agreed to having these controlled and initially request 26 days/events per year and then later agreed to 12 days per year, allowing one theme night per month. This equates to 3.2% of

days per year. This is considered a reasonable compromise between meeting the needs and aspirations of the business and safeguarding the amenities of the adjacent occupiers for the remaining 353 days that year. The 10pm closing will also mean any disturbance will be contained to a specific period and the 10pm closing is a reasonable time considered not to significantly interrupt sleep.

- 5.17 A temporary 12-month consent to start from when the first themed night occurs will help the Local Planning Authority to monitor these events. If the events occur without cause for complaint then this could be extended in the future to a permanent 12-day allowance per year, however if the nuisance is to such a degree that its harmful then the temporary consent would not be renewed, and the opening would revert to the permanent permitted hours recommended in condition 1.
- 5.18 The environmental health officer raised initial concerns over the previously suggested hours and the number of events proposed, however did suggest the applicant limit these to 12 per year. The environmental health officer agreed these in principle and the formal response will be relayed to Members at the committee meeting.
- 5.19 Therefore whilst the representations do raise valid concerns and the matter is finely balanced, a combination of 10pm closing and limiting any potential nuisance to a 12 events per year on a temporary one-year basis is a reasonable compromise and would not warrant refusal of the planning application. The proposal would accord with Policies ENV1 and SEL/10 of Selby District Local Plan and Policies SP14 of Selby Core Strategy.

#### Heritage impacts

- 5.20 The site lies partly within the Selby Town Centre Conservation Area. When considering proposals which affect Conservation Areas regard should be made to S72 (1) of the Planning (Listed Building and Conservation Area Act) 1990 which states that with respect to any buildings or other land in a Conservation Area, of any powers, under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Relevant policies in respect to the impact of development on the Selby Town Conservation Area and the character and form of the area include Policy ENV1 (1), (4) and (5) and ENV25 of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy. Relevant policies within the NPPF, which relate to development within a Conservation Area and the significance of the setting of the adjoining listed building, include paragraphs 189, 190, 191, 192 193 and 194.
- 5.21 The proposal is solely to change the opening hours and no external alterations to the building are proposed. The increase in hours will naturally increase the intensity of the use which would be more apparent within the late evening when the premises would otherwise have been closed. This may be regarded as creating vibrancy within the commercial fringe and in officers view will have a neutral impact on the Conservation Area, particularly given the limited events that are proposed. The proposal is therefore in compliance with the abovementioned policies.

## **6 CONCLUSION**

- 6.1 The proposed change to the opening hours of an established café use undoubtedly has the potential to cause harm to the living conditions of neighbouring occupiers,

particularly given their proximity. The objections received raise valid concerns and these have to be balanced against the location of the premises on the edge of the commercial core of the town centre, despite it being essentially residential in nature. The premises will continue to operate largely as per the previously permitted day time hours but will allow for Sunday opening from late morning until late afternoon. This is considered acceptable given its use and location on the fringe of the town centre and is not considered to cause significant harm.

- 6.2 The proposed late evening opening does have the potential to create more nuisance and therefore as a compromise the premises should close at 22:00 hours and the number of events (opening beyond 5pm) be limited to 12 per year. This will restrict the potential for nuisance to a limited period and the matter can then be reassessed after the first 12 events have occurred. The proposal would therefore accord with Policies ENV1 and SEL/10 of Selby District Local Plan and Policies SP14 of Selby Core Strategy subject to condition.

## **7 RECOMMENDATION**

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

01. The Class E café shall only be open for customers between the following hours:

### Ground Floor

- Monday - Saturday 09:00 - 17:00
- Sunday 11:00 - 16:00

### First Floor

- Monday - Saturday 11:00 - 15:00
- Sunday 11:00 - 16:00

Reason:

In the interests of residential amenity, having had regard to Policy ENV1 of the Selby District Local Plan.

02. Notwithstanding Condition 1 above, late night opening and use of the ground floor only on Fridays or Saturdays from 17:00 until 22:00 hours is hereby permitted for a temporary 12-month period, starting from the first time the premises are open beyond 17:00 hours. Late night opening shall not occur for more than 12 nights per annum and shall not occur on more than 1 occasion per calendar month.

The applicant shall keep a logbook of the dates on which the café is open until 22:00 and this shall be made available to Selby District Council upon request.

Upon expiry of the 12-month period the opening hours shall revert to those in Condition 1 above.

Reasons:

To enable the Local Planning Authority to assess the impact of the late night opening on the living conditions of nearby and adjacent occupiers, having had regard to Policy ENV1 of the Selby District Local Plan.

## 8 Legal Issues

### 8.1 Planning Acts

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

### 8.2 Human Rights Act 1998

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

### 8.3 Equality Act 2010

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

## 9 Financial Issues

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

## 10 Background Documents

Planning Application file reference 2020/1263/FUL and associated documents.

### **Contact Officer:**

Gareth Stent, Principal Planning Officer  
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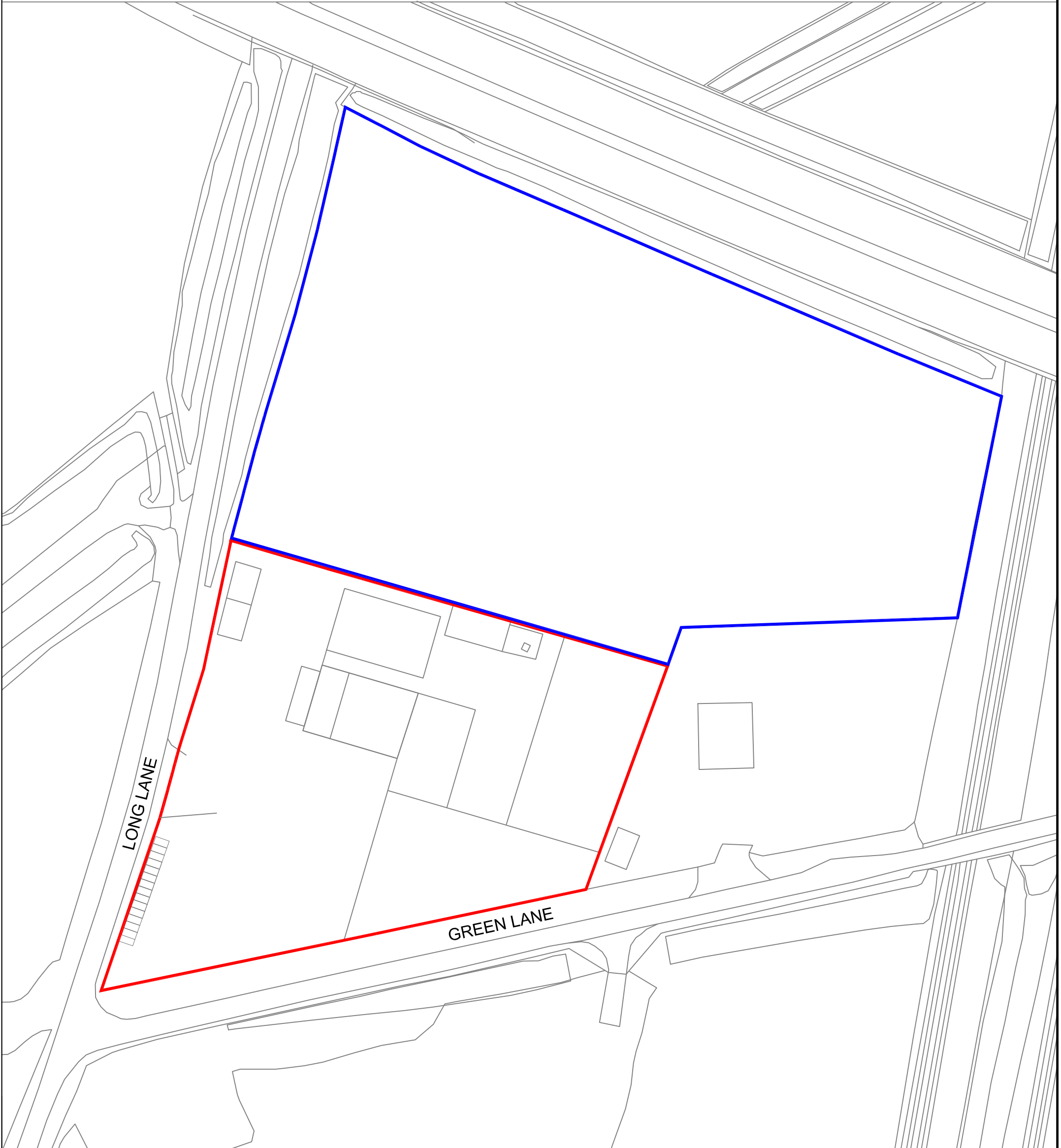
**Appendices:** None

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# Agenda Item 5.3

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LOCATION PLAN GREAT HECK		
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**Report Reference Number 2020/0514/S73**

**To: Planning Committee**  
**Date: 10 March 2021**  
**Author: Gareth Stent (Principal Planning Officer)**  
**Lead Officer: Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2020/0514/S73	PARISH:	Heck Parish Council
APPLICANT:	Brocklesby Building Products Limited	VALID DATE: EXPIRY DATE:	4th June 2020 3rd September 2020
PROPOSAL:	Section 73 application to remove condition 06 (HGV Traffic Routes) of approval 2019/1340/FULM Proposed change of use of existing maintenance and vehicle processing building to include block cutting and processing, erection of 6m high cctv pole, erection of replacement dry dust silo, erect new gates, change existing fencing to concrete fencing and improve HGV parking on site by increasing the areas in which they can park on the existing site granted on 16 April 2020		
LOCATION:	Brocklesby Building Products Ltd Unit 1 Long Lane Great Heck Goole East Yorkshire DN14 0BT		
RECOMMENDATION:	Approve		

This application has been brought before Planning Committee as the original decision to impose condition 6 was made via an Urgent Decision Session on the 8<sup>th</sup> April 2020, where the Chief Executive Officer determined to grant the consent. Also 13 letters of representation have been received, which raise material planning considerations in objection to the scheme and officers would otherwise determine the application contrary to these representations.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The site is located north of Green Lane, east of Long Lane and is close to the M62 motorway, which lies to the north. The nearest residential village is Great Heck, which lies around 500m to the south/south west of the application site. The site is surrounded by a mixture of agricultural land and pepper potted large industrial sites, such as block manufacturers Plasmor and H&H Celcon to the south east. A similar block manufacture and processing plant exists opposite the site known as Sellite Blocks Ltd. This business currently has a major planning application with the Council (2020/0149/FULM), for the construction of a foamed glass manufacturing facility including hard surfacing for material storage, which is pending consideration.
- 1.2 The area has historically become a 'hot spot' for concrete block manufacturing given pulverised ash from the coal fired power stations was in local supply. Indeed, there is also a current application being considered by North Yorkshire County Council for the partial excavation of Pulverised Fuel Ash at the Gale Common disposal site.
- 1.3 The site is approximately 1.6 ha and comprises a predominantly hard surfaced yard with a portal framed building with offices in the centre of the site, HGV parking to the south and a smaller portal framed building in the north eastern corner of the site. Access is taken from Long Lane via a large, gated entrance.
- 1.4 The application site is operated by Brocklesby Building Products Ltd, which are a company specialising in the cutting, processing and distribution of concrete blocks with ancillary haulage yard. This is a subsidiary spin off business from the wider block manufacturing that occurs locally. Brocklesby Building Products rely on stock from adjoining block manufacturing sites for their business needs.
- 1.5 The site was effectively split by a planning permission in 2011, where half of the western side of the central building, along with the haulage yard were classed as Unit 1. The building in the north western corner and eastern side of the central building and all the yard to the east was Unit 2. The building in the north western corner of the site is rented out and is used for HGV maintenance. The applicant also owns the field to the north, which borders the west bound side of the M62.
- 1.6 The haulage yard is used by the current block cutting company and is rented to other HGV operators, who use the site as a haulage base in association with the historical use of the site and the certificate of lawfulness issued in 2018 at appeal.

### **The Proposal**

- 1.7 This Section 73 application is to remove condition No.6 relating to the need to agree HGV traffic routes before the development approved by 2019/1340/FULM comes into use. This will enable HGV traffic to turn left out of Brocklesby's yard via Long Lane and then on to Heck and Pollington Lane, without restriction.
- 1.8 The 2019/1340/FUL approval was for the expansion of the block cutting facility through the change of use of the existing maintenance and vehicle processing building, to include block cutting and processing. Other more minor changes also gained permission, including the erection of 6m high cctv pole, erection of replacement dry dust silo, erection of new gates, change existing fencing to concrete fencing and improve HGV parking on site by increasing the areas in which

they can park on the existing site. This permission was granted on 16th April 2020 at a CEO Urgent Decisions session.

- 1.9 The applicant has started to use building G (as labelled on the approved plan), which was for the change of use for block cutting to keep the premises Covid safe for his employees but has not implemented any other element permitted by the 2019/1340/FULM consent.

### **Relevant Planning History**

- 1.10 The site has an extensive history with the original buildings being given permission in the 1990's for a transport depot and storage building. A series of permissions then followed for new buildings and recycling uses and the buildings/site were split into Unit 1 and Unit 2.
- 1.11 A certificate of lawfulness was granted in July 2018 for the existing use of Unit 1 as a sui generis mixed use of a haulage yard and the handling, cutting, processing and distribution of concrete blocks. This was for a much-reduced site area than the current application site.
- 1.12 2004/0778 - In 2004 permission was granted for a dual use of the building: a vehicle recycling depot including the storage of cars (Unit 2) and continued use as a haulage depot (Unit 1).
- 1.13 2005/1465/TEL - Application for the erection of a 20m telecommunications pole with 3 No. antennas, transmission Dish and 6 No. equipment cabinets at Brocklesby Haulage, Approved 27-JAN-06.
- 1.14 2011/0328/FUL - Construction of a steel segmental arch building for use as maintenance workshop, Approved 02-JUN-11. Positioned against the southern boundary and never implemented.
- 1.15 2011/0677/FUL - Erection of a general-purpose commercial building, Brocklesby, Unit 1 Approved 22-AUG-11. Resubmission of 2011/0328/FUL on the south of the site and again never implemented.
- 1.16 2011/1016/COU - Change of use from a vehicle recycling depot to a recyclates and vehicle recycling depot, Unit 2, Approved, Decision Date: 14-JUN-12. This was all the site which excluded Unit 1 referred to in the 2017 certificate of lawfulness 2017/0146/CPE.
- 1.17 2015/1278/FUL - Proposed change of use of land to facilitate the expansion of existing commercial uses, to include the construction of an industrial building and creation of on-site hardstanding/parking facilities, Refused 05-FEB-16 due to visual impact concerns. This was on the field to the north adjoining the M62.
- 1.18 2017/0146/CPE - Application for a lawful development certificate for the existing use of the site as B2 (General Industrial) and B8 (Storage & Distribution) for the handling, cutting, packaging and distribution of concrete blocks, Unit 1, Long Lane, Great Heck, Goole, East Yorkshire, DN14 0BT, Decision: Non-determination. Allowed at appeal APP/N2739/X/17/3182568 issued July 2018.

“No enforcement action could be taken in respect of it because the time for taking enforcement action had expired – a material change of use of part of the appeal site to a mixed use of a haulage yard and the handling, cutting, processing and distribution of concrete blocks occurred more than 10 years ago, the mixed use continued thereafter, and there is nothing to show that the use was subsequently superseded or abandoned.

(Officer note: this related to only part of the site.)

- 1.19 2019/0314/FULM - Proposed change of use of existing maintenance building to include block cutting and processing, erection of cctv pole, erection of replacement dry dust silo, erect new gates, change existing fencing to concrete fencing and improve HGV parking on site by increasing the areas in which they can park on the existing site: Withdrawn.
- 1.20 2019/1340/FULM - Proposed change of use of existing maintenance and vehicle processing building to include block cutting and processing, erection of 6m high cctv pole, erection of replacement dry dust silo, erect new gates, change existing fencing to concrete fencing and improve HGV parking on site by increasing the areas in which they can park on the existing site. Granted 16.4.2020 CEO Urgent Decision session.

## **2. CONSULTATION AND PUBLICITY**

- 2.1 Parish Council – No response received.
- 2.2 NYCC Highways Canal Rd - Condition 6 was requested by the Highway Authority due to the problems currently encountered in Great Heck with HGV's. The main concern is centred around the Main Street and not Long Lane. Whilst ideally a condition should be attached to the planning permission restricting access through Main Street, Great Heck, it is appreciated from the information supplied that the applicants intentions are to turn left from the site and proceed along Heck and Pollington Lane to Celcon. It is also noted that the applicant has in their supporting statement advised that some vehicles cannot proceed along the A645 due to the low bridge. Therefore, the Highway Authority would not object to the removal of this condition.
- 2.3 Environmental Health – (12<sup>th</sup> June 2020 first response) - I have noted the contents of the letter submitted in support of this application and the reference to the route taken between the site and Celcon Blocks. It should be noted that Environmental Health have received complaints in relation to HGV traffic passing through the village of Great Heck and the impact on air quality. Whilst no direct monitoring of air quality has been undertaken by Selby District Council in this area regard has been given to the Defra Air Information Resource and we have no concerns relating to air quality in this area.
- 2.4 Environmental Health – (7<sup>th</sup> July 2020) -Further to the material provided by Cunnane Town Planning in the form of an Environmental Noise Assessment carried out by The Yes Consultancy in 2016, a letter from H&H Celcon to NYCC regarding the extraction of PFA from Gale Common dated 28 November 2019 and a letter to SDC from Cunnane Town Planning LLP.

Air Quality:

- 2.5 I have considered the information in section 5 of the letter from Cunnane Town Planning and would advise you of the following: The letter states that the area is too small to justify the creation of an Air Quality Action Area. I am not sure what is referred to by the term Air Quality Action Area, but it is not too small to be declared an Air Quality Management Area (AQMA) as can be seen in the district as the AQMA in Selby Town Centre consists of short length of street including the properties fronting the street at both sides.
- 2.6 As I have previously alluded to SDC must consider the air quality in its area to determine if the National Air Quality Strategy Objectives (AQSO) are being exceeded at a relevant receptor location. In doing this the authority may carry out monitoring, refer to information provided by Defra and guidance again provided by Defra. This information has been considered in detail for the 1km grid square referred to in the Cunnane Town Planning letter. The National Air Quality Strategy Objectives gives levels for various pollutants including particulate matter, Nitrogen Dioxide and Carbon Monoxide but not Hydrocarbons as a whole.
- 2.7 The impact of the HGV traffic on immediate air quality adjacent to the bridge in the village of Great Heck has also been considered to determine if it warrants further investigation or monitoring. In 2018 I was provided with a traffic count by local people who indicated that 449 vehicles in a 24 hr period. The level at which a local authority is expected to carry out further investigation is a count of 2,500 HDV's/day and have relevant exposure within 10m of the kerb. This situation, therefore, did not warrant further investigation.
- 2.8 I would also point out that if the HGV traffic from this site is to be directed to use the M62 to gain access to the H&H Celcon site that the impact on the air quality in this particular grid square is unlikely to change significantly but the overall emissions will be greater.

Noise:

- 2.9 I have considered the information provided in the Environmental Noise Assessment and have noted that the assessment consisted of an attended period of time from 4.45am to 8.45am outside the property and unattended monitoring for 2 days plus. The assessment concluded that the occupants of the front bedrooms of the property were exposed to noise levels which are likely to affect the quality of sleep and exceeded recommended levels.
- 2.10 This situation has now changed with the introduction of the restriction of HCV movements over the railway bridge between 11pm and 6.30 am, although the initial restrictions were imposed for an 18 month period and last until September 2020.
- 2.11 The assessment also concluded that internal levels and daytime external levels exceeded recommended limits, with a qualification that the external levels in a space where residents would be expected to enjoy the garden would not be exceeded.
- 2.12 The applicant has advised that the business operations amount to 5 loads per day to H&H Celcon, and that they observe the night time restrictions and rarely travel after 6pm. Hence, they will not be adding to a sleep disturbance issue or impact on the use of gardens during the evening period.

- 2.13 Considering the 10 daytime vehicle movements compared to the 449 HGV noted during a traffic count the impact of these vehicle movements would be insignificant. I do not object to this application on noise or air quality grounds but would recommend the vehicle movements are restricted to day time hours.
- 2.15 North Yorkshire Bat Group – No response received.
- 2.16 County Ecologist – No objections.
- 2.17 Yorkshire & Humber Drainage Boards – No response received.
- 2.18 SuDS and Development Control Officer – No response received.
- 2.19 Highways England – No objection.

### **Neighbour Summary**

- 2.20 The proposal was publicised by a site notice, Press Notice (18.6.20) and direct neighbour notification of 2 residents. 13 letters of objection were received (3 representations from the same person raising different issues). 1 letter of support was received from H+H Celcon.
- 2.21 Complaints were received that the original consultation was insufficient and all those residents that commented on the 2019/1340/FULM application should have been notified. On this basis, these were all sent notification letters on the 8.2.2021 and 3 additional site notices were displayed south east of the site along Long Lane near the bridge and near the right turn to the Heck village to give wider publicity to the application.
- 2.22 The concerns raised were as follows:

#### Residential Amenity – Noise, Dust, Air Pollution

- The proposal will add to the horrendous dust, noise and air pollution already in the village. Residents request companies to be monitored but unfortunately the planning and environmental department always come up with no objections to these plans even to the point of saying there is no air quality problem in the areas of development.
- Please consider our objections we have after all to live with these issues' HGV traffic being one of the big problems, we can no longer walk or enjoy Long Lane or Heck and Pollington Lane due to the high volume of HGV traffic.
- Children cannot use the local play area or cycle on the roads they should feel confident and safe in the environment they live in.
- Constant noise affecting sleep patterns, exhaustion due to sleep deprivation as well as the inhalation of excessive dust causing various bronchial health issues.
- Dust created due to industrialisation preventing the use of personal space gardens external areas and constant cleaning of cars and window ledges, this has a huge effect on residents health and well being.



- A noise assessment was submitted from a residential property undertaken in 2016 (close to the railway bridge) which showed base line conditions to be exceeded and noise to be a significant impact on the living conditions of surrounding residents. Traffic levels has increased since 2016.
- In terms of air pollution, the National Atmospheric Emissions Inventory identifies a hot spot of air pollution within the grid square associated with Long Lane road/rail crossing. Whilst the location is too small to justify the creation of an air quality action area, it is clear that the level of pollutants has breached international limits. The additional HGV movements over the bridge will add to an already unacceptable level of noise and air pollution thus contrary with Local plan policies ENV 1 (1 and 2), ENV 2 (A) and EMP 9 (1).

### Highways

- The amendment will only add to the congested HGV traffic within the village turning it into an industrial estate. Bottlenecks are created at the bridge and this is an accident waiting to happen. HGVs regularly mount the pavement to pass which represents a safety concern for pedestrians.
- The Parish Council did an HGV count last year with an average of 550 HGVs passing residential properties every day. Long Lane is already extremely congested with hundreds of HGV movements daily, if this condition were to be removed the traffic situation would deteriorate further.
- In terms of the applicants supporting letter: Very few HGV's cannot pass under the bridge in question, and as for an extra £100 per vehicle a day to take the alternate route to Pollington is that more important than local residents' lives being made unbearable with the amount of traffic on this road.
- Brocklesby Building Products Ltd have a large amount of other companies vehicles parking up at the yard (renting parking areas) this combined with his own vehicles amounts to a large fleet of HGV's which if this condition were to be removed would worsen the traffic situation.
- Condition 06 is at this moment in time being flouted as Brocklesby HGV's have regularly been seen by residents turning left out of the Brocklesby yard unit 1 Long Lane.
- The proposal will increase traffic movements which will increase chances of speeding, accidents, damaged roads and roadsides. Residents have no respite at all from HGVs. The 'C' Road is unable to cope with current traffic.
- It is very unfortunate that Great Heck suffers from being on the border of Selby DC, East Yorkshire and North Yorkshire. Several large companies have been granted planning permission, which use large numbers of HGVs, on a piecemeal basis over the years without considering the residents who live on the lorry routes. If these industries are to continue and expand as they are, then an alternative access for the benefit of the residents in North and East Yorkshire is urgently needed.

### Cumulative impact

Right now, there are planning applications which will have direct detrimental impact on Heck from:

- Sellite - a new foam glass plant (SDC Planning Ref: 2020/0149/FULM) to erect a 26.5m building in the middle of our village, operating 24/7. This will increase the traffic on the road.
- Gale Common - the partial excavation of the country's largest stockpile of PFAs. Celcon have officered a letter of support for this scheme and its understood that Celcon is one of the main destinations for this material with order is 400k tonnes a year out of the expected 1million tonnes;
- The whole area is being eroded by piecemeal development. Both the above proposals have the potential to increase HGV movements along the Long Lane route.

### Great Stink

- It was stated by the company on the last application that if the plans were to be passed in relation to block processing it would generate funds to enable the stinking rubbish still on the site to be removed. This has still not been resolved and the waste remains.

### Notification & other planning comments

- Residents were concerned about the lack of notification particularly of residents that live on Long lane, and those that objected to the scheme previously. This is unsatisfactory and contrary to the council's adopted Statement of Community Involvement. The 2 properties that were notified had no involvement in the previous application, and members of the public that did have involvement never received additional notification of this Section 73 application. *(officers note this has been remedied by the latest consultation)*
- The removal is unjustified and there have been no 'material change' in circumstances since the condition was originally imposed. The Local Planning policies remain the same, the physical surroundings remain the same i.e. same location and number of dwellings, same road conditions, same bottlenecks created on the route from the application site to Celon and Pollington, as the road passes over the railway bridge.
- Other comments stated that the development is contrary to Green Belt policy, *(officer note - the site is not within the Green Belt)*.
- The decision makers on the 2019 application recognised the need for the condition and that it met the six tests of reasonableness within paragraph 55 of the NPPF. Also prior to its imposition the applicant must have considered it reasonable give that it was a pre commencement condition. The condition remains necessary, relevant to planning and to the development, enforceable, precise and reasonable in all respects.
- The appellants case for deletion that it would cost £100 per day by going an alternative route adds 6km between the two sites is unsubstantiated. Secondly the claim that the 'hook loader' vehicle used by Brocklesby Building Products Limited

cannot go under the bridge on Broach Lane is unsubstantiated given it accommodates most HGV and has a height of 14'3" clearance. The applicants claim that an alternative route would mean more residential dwellings were passed is irrelevant, as is the issue concerning business rates, the length of time the applicant has previously used a particular route.

- There is no other solution or way in which the condition can be varied to meet the objective of condition 6 i.e. highway safety and general amenity.

2.23 Support – 1 letter of support was received from H+H Celcon and explains that Brocklesby Building products currently cut waste product from H+H Celcon into coursing blocks. No increase in current consumption forecasted for 2021 and therefore no increase in HGV traffic through the village of Great Heck. The changes proposed to the current buildings are to increase the extraction capacity of the machines.

### **3 SITE CONSTRAINTS**

#### **Constraints**

3.1 The site lies within open countryside and within Flood Zone 1.

### **4 POLICY CONSIDERATIONS**

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

4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. Consultation on preferred options took place in early 2021. 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  
ENV2 - Environmental Pollution and Contaminated Land  
T1 - Development in Relation to Highway  
T2 - Access to Roads  
EMP9 - Expansion of Existing Employment Uses  
EMP2 - Location of Economic Development

## **5 APPRAISAL**

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

- The Principle of Development
- Conditions Test
- Material changes in circumstances
- Applicant case in support of the condition removal
- Impact on Residential Amenity & Highway Safety

### Principle of Development

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

*(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and*

*(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.”*

- 5.3 As such, the only consideration of this application is in relation to the condition of the approval and the impact the proposed removal would have. Therefore, key to the determination of this application is whether a new planning consent for the development with the proposed removal of Condition 06 (HGV routes) of planning permission reference 2019/1340/FULM, would be contrary to the provisions within the development plan, or whether there are reasonable grounds for refusal if this condition was retained in its present form.
- 5.4 The 2019/1340/FULM planning permission included the expansion of the block cutting element into another adjoining building and the improvement of the concrete hard surfacing areas for HGV parking on site and block storage. These were the elements, which potentially increased the sites operating capacity/output and generated the need for the additional controls on vehicle movements to be considered. The applicant, however considered this more a consolidation of the business, rather than expansion as the output and vehicle movements from the site will remain the same. The moving of the cutting saw between the internal partitions of the building, simply gives the workers more room for loading and unloading blocks via the forklift and more space to work within. This has now occurred and was necessary to enable more space for workers due to COVID-19.
- 5.5 The application also included other more minor elements i.e. the erection of a 6m high cctv pole, erection of replacement dry dust silo, new gates and concrete fencing. These elements were more to enhance the site operations and security and would not have necessarily increased the capacity at the site or led to the need for the condition in question. These works have yet to be implemented.
- 5.6 This was considered acceptable under planning permission reference (2019/1340/FULM), subject to conditions, and in accordance with the relevant policies contained within the Selby District Core Strategy, Selby District Local Plan and the National Planning Policy Framework.
- 5.7 Condition 6 was suggested by North Yorkshire County Highway Authority and states;

*No part of the development shall come in to use until details of the routes to be used by HCV traffic have been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Highway Authority. Thereafter the approved routes shall be used by all vehicles connected with the site.*

*Reason*

*In accordance with policies ENV1(2), EMP9 (1), T1 and T2 of the Selby District Local Plan and in the interests of highway safety and the general amenity.*

- 5.8 In terms of the reasoning, policy ENV1 seeks to ensure good quality development and (2) indicates the District Council will take account of the relationship of the proposal to the highway network, the proposed means of access, the need for road/junction improvements in the vicinity of the site, and the arrangements made for car parking.
- 5.9 Policy EMP9 (1) deals with the expansion or redevelopment of existing industrial and business uses outside development limits and established employment area. Its states 'proposals will be permitted where is would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity.'
- 5.10 Finally T1 & T2 of the Local Plan relates to development in relation to the highway network. T1 states 'Development proposals should be well related to the existing highways network and 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.' Policy T2 states development proposals which would result in the creation of a new access or the intensification of the use of an existing access will be permitted provided:
- 1) There would be no detriment to highway safety.
- 5.11 The suggested condition was advised to the agents prior to decision being taken and debated at the CEO session April 2020 in light of the third party comments received on traffic related issues. Concern over its content arose post decision, when the applicant registered his concerns with the planning agent. The decision was therefore taken to apply for its removal as opposed applying to discharge the condition.

#### Conditions test

- 5.12 When imposing planning conditions, it is necessary to ensure they accord with the 6 test and those outlined in Paragraph 55 of the NPPF i.e., that they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
- 5.13 The condition was suggested by the highway authority as its clear from the representations that a problem of HGV's using rural roads exists in the locality and highways wanted to ensure this new proposal wouldn't unnecessarily add to this existing problem. The issue therefore centres around whether it is reasonably necessary given the scale of development proposed. Also, whether it was enforceable and precise and reasonable in all other respects.
- 5.14 In terms of reasonableness, it is important to note that the condition would only have been able to control the matters that were the subject of the 2019/1340/FULM application, as the routing agreement could not have been retrospectively applied to the existing site operations or HGV's that historically operate from the site. To make the operator comply with a routing agreement retrospectively would have been unreasonable.
- 5.15 It is therefore important to assess if this condition was reasonably necessary. As discussed in the introduction, the applicants regard this proposal as a consolidation of the business, rather than expansion. It is obvious that the new fencing,

extraction system and cctv would not have warranted the need for the condition, so it falls to the change in the use of a building, which increases the block cutting capabilities of the site, which may increase production and may increase vehicle movements. The applicants the view that all the expansion into the adjoining building has done, is enable the large block cutting saw to be turned so it spans two buildings allowing more space for employees and provides a safer working environment. Production hasn't increased and the amount of lorry loads has not increased either. Having viewed the reconfigured building officers agree that even if it increased production marginally, this would be regarded as a significant extension in capacity to warrant the condition.

- 5.16 In terms of enforceability, given the condition could only control vehicle movements associated with the development proposed, i.e. the change of use of the building to block cutting, this would be very difficult to enforce, as its one complete operation operated by the same vehicles and from the same building. Therefore, it would not have been possible to establish if the movement of a lorry turning left was from the lawful element of the business or a journey generated from the new expanded part of the business.
- 5.17 In terms of whether the condition was precise, again concern exists over this particularly as its states '*No part of the development shall come in to use until*'. There were several elements of development occurring some of which would not have warranted the need for the condition. On reflection the condition could have been more precise to tackle the specific matters in hand.

#### Material Change in Circumstances

- 5.18 It is also necessary consider if there has been any change in circumstances since the condition was originally imposed. In terms of national and local policy considerations these remain the same. In terms of the physical layout of the premises, number of residential properties affected and general road conditions, these also remain the same. 2 new planning permissions have been submitted as alluded to in the introduction and representations i.e. a new glass block manufacturing application at Sellite and a North Yorkshire County Council application for the extraction of pulverised ash from Gale Common. Neither of these have permission, however if approved will naturally have the potential to increase vehicle movements in the locality or help sustain existing local businesses with raw material, such a Celcon.
- 5.19 Therefore there have been no physical changes to the site or surrounding area since the condition was imposed. It therefore is necessary to establish the additional justification presented post decision and within the supporting submissions to see if they warrant a relaxation of the condition.

#### Applicant case in support of the condition removal

- 5.20 Concerns were first raised by the applicant over the condition following the approval in spring 2020. These are stated below and were explained within the supporting letter received with this section 73 application.
- 5.21 Current movements: - The applicants make the point that they have been turning left out of the site to Celcon for 15 years without restriction as visits to Celcon are essential for their business. "This unrestricted access is also the same for many

other local businesses in the area and from those outside the area. It would be uncompetitive and unjust for Brocklesby Building Products (BBPL) to now be restricted have used this route since 2005. There is also a restriction put in place so that HGV don't travel through Heck between 11pm and 6:30am which they are abiding by. The supporting letter states it is on exceedingly rare occasions that BBPL travel through after 6 pm."

- 5.21 Alternative route: - "BBPL can confirm that alternative routes available have been tried, however, this adds approximately 6 km additional distance each way totalling 12 km per load. 5 loads per day is the average which amounts to an additional 60 km every day at a cost of approximately £100 per day. The financial implications and the environmental issues that arise from this are not sustainable for the company."
- 5.22 "Additionally, this route is through Pollington camp who already complain about the traffic travelling through, there are also more houses to pass using that route than through Great Heck Village and BBPL do not see the benefits of using a longer route creating more pollution and reducing the efficiency of the business, which actually passes more properties."
- 5.23 "It is also of great concern to BBPL that the alternative route suggested by the Highways Authority has a low bridge and the company's 'Hookloader' which takes the waste back are unable to use this route as the plant is too high for the bridge. BBPL would like to reiterate that this planning application is not to expand the business but to make a better use of the yard to make a safer and better working environment for the workforce, the owner and his sons."
- 5.24 "There would be no increase in throughput of the product as BBPL already take all the rejected product Celcon produce, bring it to their depot/yard, cut it into a usable product and take it back to them. It is critical that BBPL is allowed to continue to run the business in the most effective and efficient manner possible." Also not all the product is from Celcon, some comes via other companies and arrives via the M62 and then gets exported from the site with lorries turning right and heading for the M62.
- 5.25 "With regards to the future, there are 6 companies who park trucks in BBPL's yard, none of these companies use Great Heck as a through route apart from the time when they need to have essential six weekly inspections carried out by a local company who carry these out as part of their licensing obligations, this route is only used as they cannot get under the low bridge. Nobody has at the moment asked to park extra vehicles at their depot but if this should arise in the future BBPL would be more than happy to agree that they only access the premises from the M62 side and not from Great Heck."
- 5.26 Other issues were raised about the waste issue that remains on site, however this is not relevant to this decision.
- 5.27 It is clear from the above that the applicant considers he would potentially lose all of his current rights if he agreed to a routing agreement under condition 6. The condition would have allowed some discussions over volumes and timings over routes, however the applicant chose to apply for its removal.
- 5.28 Therefore the key test is how reasonable was it to impose such a condition, given the current unregulated and historical permissions that exist at this site, combined



with the enforceability of the condition and the level of development proposed. The third party representations received clearly explain in significant detail the impact that HGV's have in the area, and this is not to be underestimated, however the situation is an existing one that would be largely unaffected by this current permission. The objections also examine the supporting statement and cast doubt over its validity and the claims made. It is however obvious that turning right out of the site would incur extra mileage and extra cost to the company, when vehicle movements have been previously unrestricted.

#### Impact on Residential Amenity & Highway Safety

- 5.29 The condition was imposed in order to protect the living conditions of nearby residential properties in the village of Heck and to control the amount of HGV's on this part of the highway in the interests of highway safety.
- 5.30 North Yorkshire County Highway Authority has reviewed the supporting information submitted by the applicant and now appreciates the need for the operator to turn left from the site and proceed along Heck and Pollington Lane to Celcon where it gets its raw materials from. It is also noted that the applicant has in their supporting statement advised that some vehicles cannot proceed along the A645 due to the low bridge. Therefore, whilst this issue concerning the truck heights has not been examined in detail, the Highway Authority has stated that they would not object to the removal of this condition.
- 5.31 Therefore whilst the intention of the condition was fair, its implementation and reasonableness given the additional information provided cannot be sustained, particularly if no support exists from the highway authority. The use of the road by HGV at night can be controlled by other means i.e. the traffic regulation orders and it is not thought that the additional capacity created by this permission warrants the routing agreement condition in its current form.
- 5.32 In terms of residential amenity, it is clear that Long Lane and Great Heck residents suffer from an existing problem of HGV traffic. These representations suggest this causes, noise, sleep deprivation, fumes, air pollution, litter and dust. These are obviously existing problems with or without the implementation of 2019/1340/FULM and this condition would not significantly improve this situation or be made worse by its deletion.
- 5.33 The third party representations discuss air pollution in detail, however this matter has been previously considered by the Environmental Health team who did not regard the area warranted designation as an Air Quality Management Area (AQMA).
- 5.34 Likewise this issue of noise was considered by the Environmental Health Officer, who examined a noise assessment submitted with an objection from 2016 that showed that a nearby resident was exposed to noise disturbance from HGV's during the night. The Environmental Health Officer recognised the restrictions-imposed movements over the railway bridge between 11pm and 6.30 am which controlled this issue and also the statement of the applicant that only 5 loads per day move between the site and H&H Celcon. Considering the 10 daytime vehicle movements compared to the 449 HGV noted during a traffic count the impact of these vehicle movements would be insignificant.

- 5.35 On this basis no objections were raised. The Environmental Health Officer did suggest vehicle movements are restricted to day time hours, however this isn't a matter for consideration, as the timing and ability to control movements isn't being applied for. This would again be hard to enforce and control and would be more appropriately left to the traffic regulation orders to control.

## **6 CONCLUSION**

- 6.1 The applicant seeks to remove the need to agree a HGV routing agreement prior to the 2019/1340/FULM permission commencing. The applicant explains that they need to turn left out of the site onto Long Lane to visit Celcon to collect and deliver the reprocessed damage blocks, which is the mainstay of their block cutting business. The applicant feels trying to control the use of the entire site is unreasonable especially given the unrestricted access over many years. A rerouting of vehicles would also have cost implications and concern is raised over the height of the bridges on the alternative route suggested. The highway authority who originally requested this condition have since agreed that, due to the operational needs of the applicant, a routing agreement would be unreasonable.
- 6.2 Officers have also raised concern over its reasonableness given the unrestricted historical use of the site, its precision and enforceability.
- 6.3 The removal has been met with strong opposition, particularly given the problems with HGV's using local roads in the area and all the nuisance and highway safety concerns this causes. However, Environmental Health officers have raised no objection to the removal, particularly given the scale of the development and the measures already in place to control night time HGV movements.
- 6.4 In terms of the existing conditions on the 2019 permission, the time limit is no longer needed as part of the permission has been implemented. The remaining conditions i.e. (2) approved plans list, (3) Dust silo details, (4) Ecology mitigation and (5) stacking height of blocks are reiterated with the exception of condition No.6 which is deleted.
- 6.5 Therefore in the absence of any firm grounds to retain the condition, its removal is recommended.

## **7 RECOMMENDATION**

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

01. The development hereby permitted shall not be carried out otherwise in complete accordance with the approved plans and specifications.

Existing Site Plan LIGH 017  
Existing Floor Plan LIGH 021  
Proposed site plan LIGH 027 (Amended - dated March 2020)  
Proposed elevations LIGH 026  
Existing Elevations LIGH 019  
Drainage Statement Dec 2019  
Fence and Gate Elevations LIGH 029  
Extraction system layout QN-3164-001 - Rev A- 23.1.20  
CCTV details - HIK Vision system (Pole mounted 4m Max height)

Reason:

To ensure that no departure is made from the details approved and that the whole of the development is carried out, in order to ensure the development accords with Policy ENV1.

02. The dust silo hereby permitted shall operate in the following ways as per the details supplied:
- 1) The dust silo shall feed to an enclosed screw conveyor feeding to an enclosed skip. Once full the skip shall be sealed before movement either on or off site.
  - 2) The dust silo and attached screw conveyor shall be fitted with high level alarms and an automatic cut off to prevent overfilling.
  - 3) The air filtration system shall ensure that the dust level in the emitted air is less than 10mg/m<sup>3</sup> of dust.
  - 4) The extraction system shall ensure that fugitive dust emissions are removed from the air inside the shed.

Reason:

In the interests of maintaining the air quality for the workforce and maintaining the amenities of surrounding land uses with regards to air pollutants leaving the site.

03. The development hereby approved shall be carried out in accordance with method statement contained in Appendix C of the EclA report (LM Ecology, April 2019), which covers removal of waste piles and vegetation clearance.

Reason:

To ensure compliance with the Wildlife & Countryside Act 1981 and policies ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy.

04. Any outside storage of blocks shall not be stacked or deposited on the site above a height of 4 metres measured from ground level.

Reason:

In the interests preserving the character and appearance of the area in accordance with Policies ENV1 (1), (4) and EMP9 (1) of the Selby District Local Plan, Policy SP13 of the Core Strategy (2013).

## **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 2020/0514/S73 and associated documents.

**Contact Officer:**

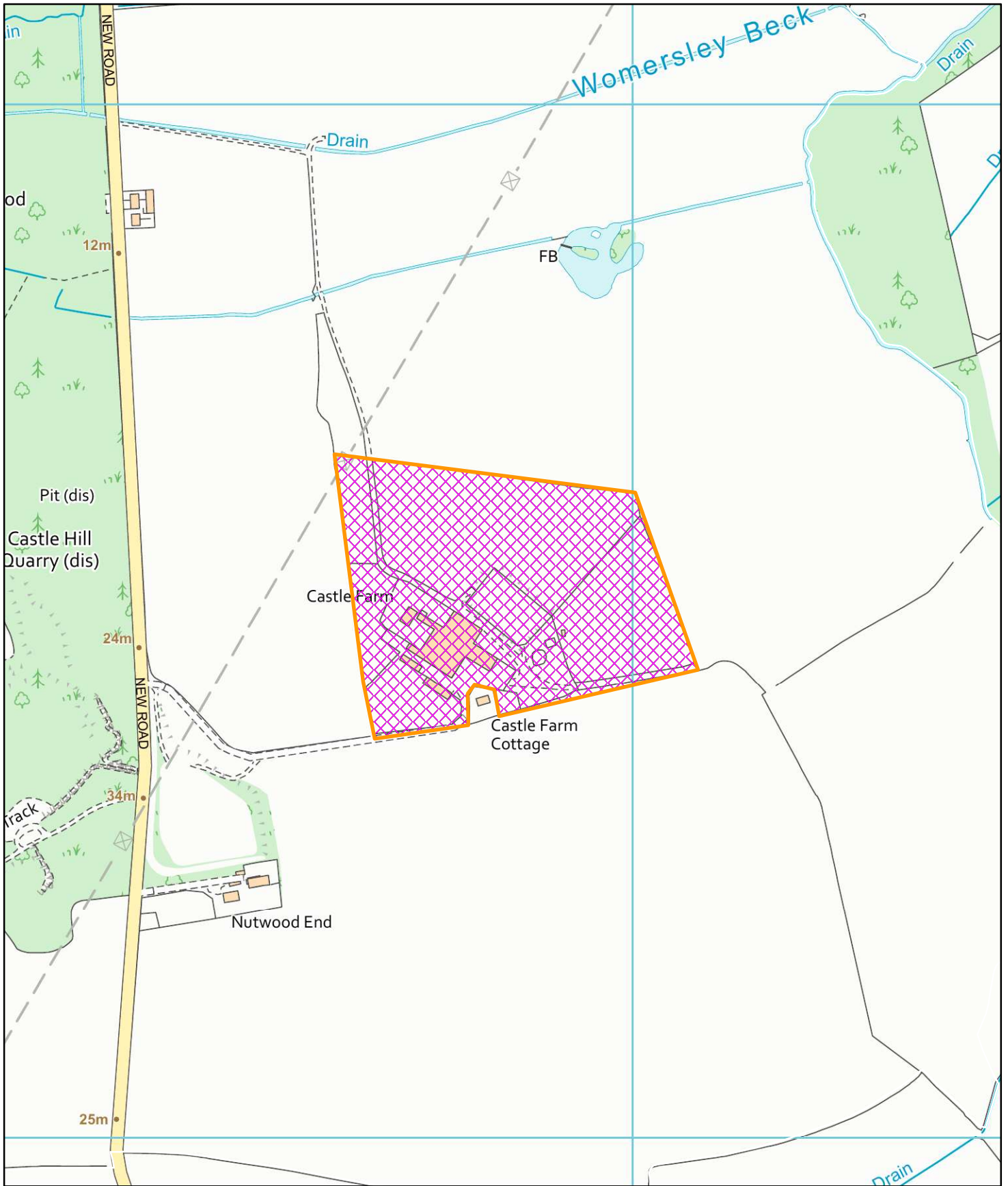
Gareth Stent, Principal Planning Officer

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

**Appendices:** None

# Agenda Item 5.4

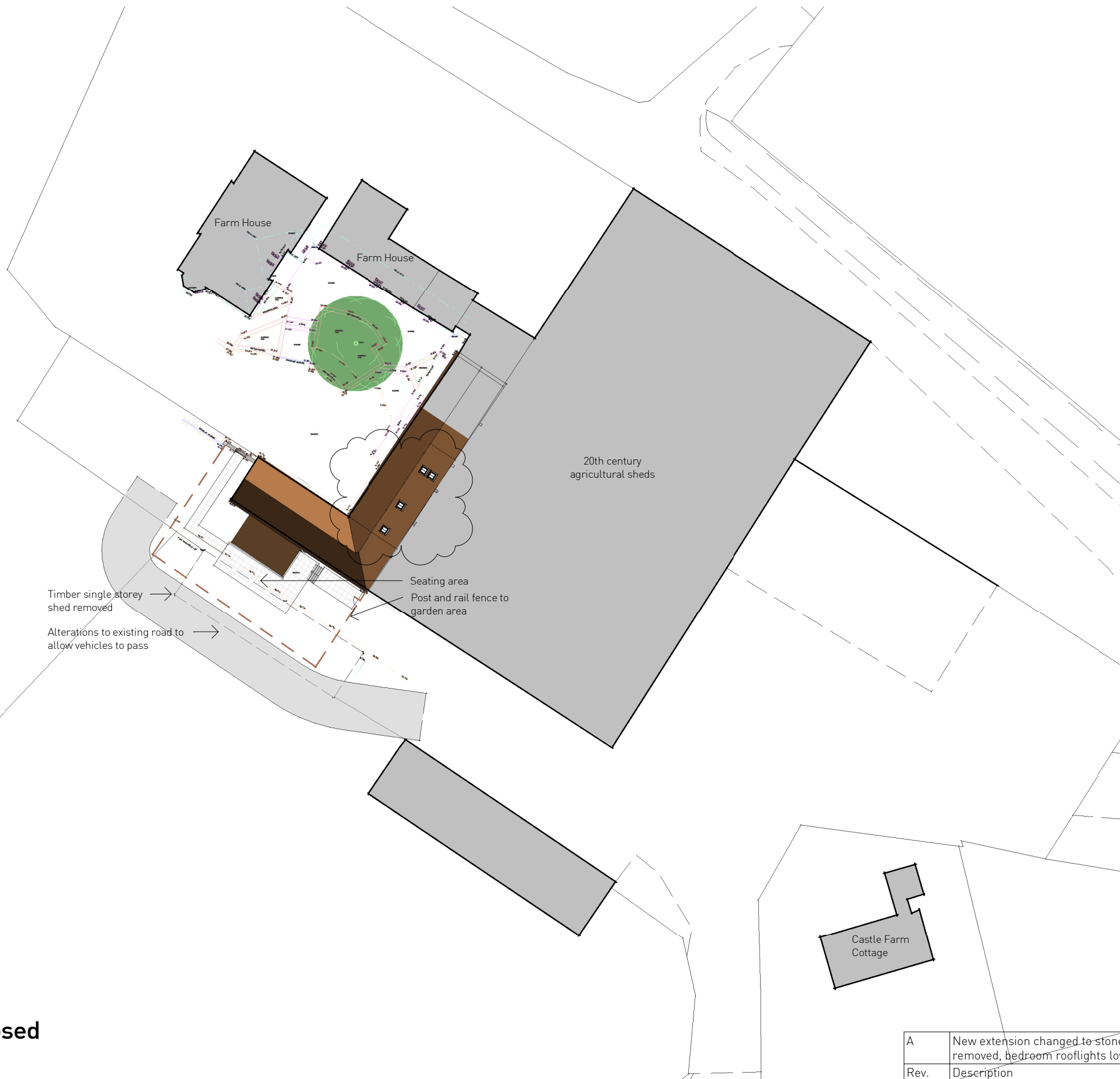
Castle Farm, Castle Hills Road, Womersley  
2019/0905/FUL



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AMENDED  
DRAWING

**Site Plan - Proposed**  
 1 : 500

A	New extension changed to stone and pan tile, landing rooflights removed, bedroom rooflights lowered	8Feb21
Rev.	Description	Date



**Site Plan - Proposed** **Pegasus**  
**Castle Hills Road, Doncaster** Urban Design

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**Report Reference Number:** 2019/0905/FUL

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

APPLICATION NUMBER:	2019/0905/FUL	PARISH:	Stapleton Parish Council
APPLICANT:	Mrs Jayne Hopkinson	VALID DATE: EXPIRY DATE:	26th September 2019 21st November 2019
PROPOSAL:	Proposed conversion of part of barn to residential and erection of a sun lounge		
LOCATION:	Castle Farm Castle Hills Road Womersley Doncaster South Yorkshire DN6 9AU		
RECOMMENDATION:	GRANT subject to planning conditions and informatives		

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

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1. The planning application was submitted in 2019 for the above description of development. The supporting information originally provided, namely the structural survey and bat survey, were of some age and not an appropriate basis to determine the application. The Conservation Officer raised several comments, including the need for a listed building consent application.
- 1.2. The application was put on hold whilst the information was obtained, and an accompanying listed building consent application submitted.

- 1.3. The information and accompanying listed building consent application has now been submitted and presumably will be determined under delegated powers as and when planning permission is granted.

### **The Proposal**

- 1.4. Proposed conversion of part of barn to residential and erection of a sun lounge

### **Relevant Planning History**

- 1.5. The following historical applications are relevant to the determination of this application:

Ref: 2020/1306/LBC

Description: Listed building consent for conversion of barns to residential and erection of extension

Address: Castle Farm, Castle Hills Road, Womersley, Doncaster, North Yorkshire, DN6 9AU

Decision: Pending

Ref: 2007/0916/LBC

Description: Listed Building Consent for a two storey extension to the rear, extension to the existing farmhouse to form a link to an adjacent barn, conversion of the barn to additional living accommodation and conversion of barn to annexe and erection of single storey extension to form office at

Address: Castle Farm, Castle Hills Road, Womersley, Doncaster, North Yorkshire, DN6 9AU

Decision: Permitted 15-OCT-07

Ref: 2007/0915/FUL

Description: Proposed two storey extension to existing dwelling, single storey link extension from farmhouse to adjacent barn, conversion of barn to form extension to existing dwelling including erection of single storey garden room, erection of farm office extension, conversion of barn to form an annexe to the existing dwelling and various external alterations

Address: Castle Farm, Castle Hills Road, Womersley, Doncaster, North Yorkshire, DN6 9AU

Decision: Permitted 15-OCT-07

- 1.6. Refs. 2007/0915/FUL & 2007/0916/LBC are planning and listed building consent that covered the buildings subject of this current application and the wider farmhouse/farm buildings. In respect of the buildings subject of this current application, permission was given for a residential annexe (albeit restricted from operating as a separate dwelling).
- 1.7. The permission and consent were implemented by virtue of works to the farmhouse, however, works to the buildings subject of this current application were not undertaken. Officers consider the permission and consent remain extant and these works could be undertaken without further approval. Therefore, the buildings benefit from an extant residential permission and this carries significant weight in the determination of this application.

## **2. CONSULTATION AND PUBLICITY**

### **Conservation Officer**

- 2.1. The Conservation Officer noted that in 2007, Listed Building Consent to convert a different part of the barn had been submitted. The barns were considered curtilage and are also subject to Listed Building regulations. Therefore, Listed Building Consent is required for any alterations to the buildings.
- 2.2. The Conservation Officer noted no Heritage Statement was submitted. Due to the proximity of the development to the main Grade II Listed Building and affecting the fabric of a curtilage Listed Building, an assessment was required.
- 2.3. With regards to the development, the design of the extension was considered by the Conservation Officer noted to be inappropriate for the agricultural context and causes harm to the significance of the designated heritage asset.
- 2.4. Following the submission of the amended scheme the Conservation Officer was reconsulted.
- 2.5. The Conservation Officer considered both the grouping and size of the rooflights in a regular arrangement is not desirable and efforts should be made to reduce the number if possible (and ideally pulling them down from the ridge where they sit quite high). Rooflights should be true conservation types with black steel frame, central glazing bar, sit flush to the roof and be flashed in lead.
- 2.6. The new windows are drawn as side opening casements which are a relatively domestic style. Consideration should instead be given to single paned windows or those with inward opening hoppers.
- 2.7. The extension has been improved since the original submission in 2019 but I would question the use of timber cladding and consider that the side walls should be in stone. Pan tiles would be the preferred roofing material.
- 2.8. The Conservation Officer recommended conditions to cover: 1) schedule of works; 2) window and door details; 3) glazing to extension / constructional details of extension; and 4) works required to meet building control incl. air extraction and boiler flues.
- 2.9. The applicants submitted further revised drawings in response to these updated comments. The Conservation Officer considered the changes to the rooflights to be an improvement and preferable to "alternative openings". The Conservation Officer specifies that details of windows and roof materials would be preferable prior to determination of the application but is not opposed to use of planning conditions to secure these details.

### **Environmental Health Officer (EHO)**

- 2.10. The initial response from the EHO noted concerns relating to the impact of existing activities on the site on the residential amenities of those residing in the proposed dwelling in respect of odour, noise, and pests. If the converted barn is occupied by persons connected to the ongoing business, there would be no objections but would recommend that the occupation is tied to the business operations.

- 2.11. Following re-consultation, the EHO considered Paragraphs 3.38 to 3.40 of the updated Planning Statement and agreed with the approach of occupancy of the proposed dwelling being restricted to persons that are either related to the occupants of Castle House Farm or are employed at Castle House Farm. Subject to this being secured, there were no further objections to the application.

### **County Ecologist**

- 2.12. The initial response from the County Ecologist noted the lack of a bat roost potential assessment, including a check for Barn Owl activity.
- 2.13. Following submission of the revised application, a bat and breeding bird survey was provided and the County Ecologist reconsulted. The survey identifies the presence of 2 Common Pipistrelle day roosts occupied by individual bats and another roost occupied by a single Brown Long-eared Bat. Although such roosts are protected by law, they are of relatively low conservation significance. The proposed development is likely to entail disturbance or loss of roosting places, so appropriate mitigation measures will need to be licensed by Natural England.
- 2.14. Subject to appropriate mitigation, the proposed development is compatible with the test set out in Regulation 55(9)(b) of the Conservation of Habitats & Species Regulations 2017 that, "the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range". Although paragraph 6.1.3 of the assessment mentions some options for mitigation, no detail is provided. While the Ecologist recognised that details will need to be approved by Natural England as part of the licensing process, the Council needs to be confident as to the scope for mitigation. The report therefore needs to include an outline method statement. Swallow, House Sparrow and Wren nests were observed within the buildings to be converted. Should the Council be minded to approve this application, the ecologist recommends a Condition securing adherence to the mitigation measures set out in section 6.2 of the submitted report (Castle House Farm - bat and nesting bird survey by Skyline Ecology, dated October 2020).
- 2.15. An outline method statement was provided by the applicants and the County Ecologist reconsulted. The County Ecologist confirmed this provided the necessary information that the bat mitigation meets the test set out in Regulation 55(9)(b) of the Conservation of Habitats & Species Regulations 2017. A condition recommending adherence to the bat method statement is recommended.

### **North Yorkshire Bat Group**

- 2.16. No response was received following consultation.

### **Contaminated Land Consultant**

- 2.17. Whilst there were no particular contaminated land concerns a condition in respect of unexpected contamination was recommended, requiring: 1) reporting of unexpected contamination; 2) investigation and risk assessment; 3) remediation, and; 4) verification.

### **Parish Council**

- 2.18. The Parish Council had no comments.

### **Local Highway Authority**

- 2.19. The Local Highway Authority had no objections to the proposed development. The Local Highway Authority noted no details had been submitted regarding the proposed car parking arrangements. Conditions were recommended requiring: 1) details of vehicle parking, turning and manoeuvring, and; 2) provision of vehicle parking, turning and manoeuvring prior to use.

### **Yorkshire Water**

- 2.20. Yorkshire Water responded with no comments.

### **Danvm Drainage Commissioners Shire Group of IDBs (IDB)**

- 2.21. The IDB set out their guidelines for surface water drainage and request conditions are applied to any permission in accordance with these guidelines.
- 2.22. Following reconsultation the IDB had no comment on the application.

### **Publicity**

- 2.23. The application was publicised via the erection of a site notice, issue of letters to neighbouring occupiers by post, and advertisement within the local press. Following this consultation, no responses were received.

## **3. SITE CONSTRAINTS**

### **Constraints**

- 3.1. The site is located outside of any defined Development Limits and is therefore within the Open Countryside. This section of Open Countryside sits within the Green Belt and a Locally Important Landscape Area.
- 3.2. The building sits within the curtilage of the Grade II listed Castle Farmhouse. Besides the farmhouse there are no other listed buildings on or near the site.
- 3.3. There are no assets of environmental protection on or near the site. However, the site is noted as being a source of potential contamination because of its agricultural use.
- 3.4. The site is within Flood Zone 1.

## **4. POLICY CONSIDERATIONS**

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

- 4.2. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3. On 17 September 2019, the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. Consultation on preferred options took place in early 2021. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4. The 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 NPPF outlines the implementation of the Framework -

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

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

- 4.6. The relevant CS Policies are:

SP1 Presumption in Favour of Sustainable Development  
SP2 Spatial Development Strategy  
SP3 Green Belt  
SP9 Affordable Housing  
SP15 Sustainable Development and Climate Change  
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  
ENV24 Alterations to Listed Buildings  
H12 Conversion to residential use in the Countryside

## **5. PLANNING APPRAISAL**

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

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

## **Principle of Development**

### Context

- 5.2. CS Policy SP1 states that "when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. CS Policy SP1 is therefore consistent with national policy set out in the NPPF.
- 5.3. CS Policy SP2 controls the location of future development within the District and directs the majority of new development to existing settlements. CS Policy SP2A(c) relates to the open countryside and limits development to:

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

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

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

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

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

- 5.7. As noted earlier, planning permission refs. 2007/0915/FUL & listed building consent ref. 2007/0916/LBC permitted a residential annexe (albeit restricted from operating as a separate dwelling) for the buildings the subject of this application. The permission and consent remain extant and can be undertaken without further approval. Therefore, the buildings benefit from an extant residential permission and this carries significant weight in the determination of this application.

### Assessment

- 5.8. This proposal would result in the re-use of an existing building in the countryside and would therefore comply with Policy SP2A(c) of the Core Strategy and the NPPF.
- 5.9. However, unlike CS Policy SP2(c) and the NPPF, SDLP Policy H12 allows proposals for the conversion of rural buildings to residential uses provided “it can be demonstrated that the building, or its location, is unsuited to business use or that there is no demand for buildings for those purposes in the immediate locality”. The proposal does not meet this criterion and is therefore contrary to the requirements of the development plan in this regard.
- 5.10. However, NPPF Paragraph 79(c) does not require the more onerous tests for commercial or employment uses within converted buildings set out in SDLP H12(1).
- 5.11. Officers consider that the approach set out within SDLP Policy H12 is more onerous than, and conflicts with, NPPF Paragraph 79 and CS Policy SP2 and therefore limited weight is applied to criterion (1) of SDLP Policy H12. However, it is clear that the conversion of buildings within the countryside (outside settlement limits) is acceptable in principle and therefore the proposal is acceptable.
- 5.12. Moreover, the extant residential annexe permission for the buildings is afforded significant weight in the determination of this application for a separate dwelling. Given the extant consent and the development plan considerations above, the principle of development is acceptable.

### **Green Belt**

#### Context

- 5.13. CS Policy SP2A(d) states that within the Green Belt development must conform to CS Policy SP3 and national Green Belt policies. CS Policy SP3B echoes Paragraph 143 of the NPPF in that planning permission will not be granted for ‘inappropriate’ development unless the applicant has demonstrated that ‘very special circumstances’ (VSC) exist to justify why permission should be granted.
- 5.14. NPPF Paragraph 145 sets out which forms of development are not considered inappropriate development in the Green Belt. Paragraph 145(c) states:
- “the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;”*
- 5.15. NPPF Paragraph 133 states: *“the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”*



## Assessment

- 5.16. As per NPPF Paragraph 145(c) of the NPPF, the proposal is not inappropriate providing it does not result in a disproportionate addition over and above the size of the original building.
- 5.17. The footprint of the original building is c. 227m<sup>2</sup>, the extension is c.28m<sup>2</sup> i.e. an increase in floor area of c.12.5%. The existing building has a volume of c. 730m<sup>3</sup>, the extension is c.78m<sup>3</sup> i.e. an increase in volume of c.10.7%.
- 5.18. Officers do not consider this increase constitutes a disproportionate addition above the existing building in spatial terms. Furthermore, Officers consider the orientation of the bulk of the extension running in parallel to the building length lessens the impact as does the reduction in ground level and overall height above surrounding ground level.
- 5.19. Therefore, Officers consider the proposal is not a disproportionate addition over and above the size of the original building and is not inappropriate development within the Green Belt. The proposal satisfies NPPF Paragraph 145 and CS Policies SP2 & 3 and is acceptable from a Green Belt perspective.

## **Conservation & Historic Environment**

### Context

- 5.20. CS Policy SP18 seeks to sustain the high quality and local distinctiveness of the natural and manmade environment, this includes through the conservation of those historic assets which contribute most to the distinct character of the District (CS Policy SP18(2)).
- 5.21. CS Policy SP19 expects new development to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside.
- 5.22. Where appropriate schemes should take account of design codes and Neighbourhood Plans to inform good design. CS Policy SP19(b) sets a key requirement for development to positively contribute to an area's identity and heritage in terms of scale, density and layout.
- 5.23. SDLP Policy ENV1 states that development will be permitted provided a good quality of development would be achieved. SDLP Policy ENV1(5) requires the potential loss, or adverse effect upon, significant buildings, related spaces, trees, wildlife habitats, archaeological or other features important to the character of the area to be considered.
- 5.24. SDLP Policy ENV24 states:

*“The conversion, alteration, extension or change of use of a listed building will only be permitted where it can be demonstrated that the proposal:*

- 1) *Would not have any adverse effect on the architectural and historic character of the building, and its setting;*

- 2) *Is appropriate in terms of scale, design, detailing and materials; and*
- 3) *Would not harm the historic fabric of the building.”*

- 5.25. 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.
- 5.26. NPPF Paragraph 189 requires applicants to describe the significance of heritage assets and their setting that will be affected by development. The detail should be proportionate to the assets’ significance and sufficient to understand the impact of the proposals upon significance and be prepared using appropriate expertise where necessary.
- 5.27. NPPF Paragraph 190 requires Local planning authorities to identify and assess the significance of a heritage asset and setting that may be affected by a proposal taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.
- 5.28. NPPF Paragraph 193 requires great weight be given to the asset’s conservation irrespective of the level of potential harm. NPPF Paragraph 194 sets out that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification – substantial harm to Grade II listed buildings) should be exceptional.
- 5.29. NPPF Paragraph 195 states that where a proposed development will lead to substantial harm it should be refused unless it is necessary to achieve substantial public benefits that outweigh that harm.
- 5.30. NPPF Paragraph 196 relates to proposals generating less than substantial harm and states:

*“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 including, where appropriate, securing its optimum viable use.”*

### Assessment

- 5.31. The revised application is supported by a Built Heritage Statement, prepared by heritage specialists at Pegasus. The Statement notes “Building C” i.e. the southern building adjacent the access track was built between 1853 and 1892, (Building D) the building adjacent the modern farm buildings was built prior to 1840.
- 5.32. The Statement considers the heritage significance buildings as principally embodied in its physical fabric. Architectural interest is considered to derive from its 19th-century agricultural appearance including traditional vernacular materials. The buildings’ past uses as part of the farm, i.e. stables and threshing barn respectively, also has a degree of historical interest.
- 5.33. The Statement goes on to consider that the buildings contribute to the setting of the listed building, through their formation of the farmyard and enclosed character,

albeit the significance derived from the setting is less than that from its historic fabric: stone and pantile materials and features that demonstrates historic use. The Statement notes potential to increase significance via the opening of blocked openings and reintroduction of doors and windows.

5.34. Paragraph 7.55 of the Statement states:

*'While there will be very limited loss to some historic fabric it is considered that this loss will not materially harm the significance or the values of the buildings and as such the overall significance of the buildings will be preserved.'*

5.35. Paragraph 7.57 of the Statement states:

*'there will be no overall adverse effect on the Listed Buildings directly or via any change to their setting. In summary there shall be no harm and the Listed Buildings will be preserved.'*

5.36. Officers consider that the Statement adequately describes the significance of the heritage asset in a proportionate manner given the significance of the heritage asset, whilst recognising the significance of the buildings and their curtilage nature. As such, Paragraph 180 of the NPPF has been satisfied.

5.37. Officers recognise the farmhouse's appearance and association with Stapleton Hall, are the identified features of significance, whilst the surrounding outbuildings contribute to the setting through the enclosed courtyard nature as well as their historic use (still apparent) and appearance. Officers have sought the expertise of the Local Planning Authority's Conservation Officer.

5.38. The initial response from the Conservation Officer raised concern with the proposals, including through lack of an appropriate assessment failing NPPF Paragraph 189. Following submission of the Statement and through collaboration, the scheme has been amended in line with the Conservation Officer's comments who now considers the scheme acceptable subject to conditions. Officers consider the applicants have sought to minimise harm in accordance with NPPF paragraph 190.

5.39. Whilst Officers note the Statement concludes there would be no harm, Officers consider through a review of the Statement, available evidence and the comments from the Conservation Officer, that the proposals constitute less than substantial harm to the significance of the Farmhouse and its setting. NPPF Paragraph 196 is therefore triggered, and a balancing of public benefits, including securing the optimum viable use is required.

5.40. Officers consider that the conversion to residential development is a viable use, equally re-using the building as a farm building would be a viable use. PPG states that where there are multiple viable uses, the optimum viable use is the one likely to cause the least harm to the significance of the asset, through initial alterations, wear and tear, and future changes.

5.41. Officers consider that the extent of changes necessary to make the buildings suitable for modern farming needs (size of machinery, scale of operation) would be more significant than the conversion of the existing building to a residential use. The wear and tear of continued farming use and potential for future damage and

deterioration are also greater than a residential use which will secure the long-term future of the building. Given the comparative impacts, residential use is therefore the optimum viable use.

- 5.42. Officers consider the public benefits arising from the proposal mainly relate to the interventions necessary to secure the long-term future of the building and its importance as a contributing factor to the setting of the listed building. On the other hand, harm has been minimised through careful design and in response to Conservation Officer comments, furthermore significance has been enhanced where possible. Officers consider these benefits outweigh the less than substantial harm to the significance of the listed building.
- 5.43. In consideration of the proposed alterations, their impact and the benefits of the proposals, Officers consider that subject to the recommended conditions the proposal accords with Section 66 of the Act, NPPF Paragraphs 189-190 & 193-196, SDLP Policies ENV1 & ENV25, and CS Policies SP18 & SP19 and are acceptable from a heritage perspective.

### **Suitability for re-use**

#### Context

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

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

- 5.45. The application is supported by a Structural Condition Report that demonstrates that cracking to mortar and distortion to the southwest elevation is not of structural concern. Decayed timbers should be replaced. Gutters should be cleaned, Decayed wooden floors should be repaired locally.

#### Assessment

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

### **Extent of Alterations**

#### Context

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

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

#### Assessment

- 5.48. The majority of the development takes place within the fabric of the existing building. As described within the Green Belt section of this report, whilst an extension is proposed it is proportionate to the existing building in spatial terms and has been designed to lessen the impact as does the reduction in ground level and overall height above surrounding ground level.
- 5.49. Therefore, Officers consider the proposal has generally taken place within the fabric of the building and has not resulted in extensive alteration, rebuilding and/or extension. The proposal accords with SDLP Policy H12(4).

## **Landscape & Character**

### Context

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

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

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

### Assessment

- 5.53. Whilst the proposal will result in the building being interpreted as a residential dwelling, care has been taken to ensure the overall form of the building maintains references to its agricultural origins and respects the character and appearance of the area or the surrounding countryside. The recommended conditions in respect of the detailing (materials, joinery, etc.) will ensure this character is maintained.
- 5.54. A domestic garden is proposed to the south of the buildings surrounded by a post and rail fence. Given the scale of the garden and the existing domestic nature of the attached Farmhouse surrounding the site it is not considered that the proposals will have a significant adverse effect on the character or appearance of the area or the surrounding countryside.
- 5.55. As such, the proposals are considered to comply with CS Policy SP18 & SP19 and SDLP Policy ENV1 & H12.

## **Access & Highway Safety**

### Context

- 5.56. 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...”*

- 5.57. 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.
- 5.58. 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.
- 5.59. 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

- 5.60. Access to the site will be achieved from the existing access road to the farmhouse that runs adjacent the south of the buildings, albeit the route of the road will be modified to allow for the garden area to be created. The road will now deviate further southwards and require a timber shed to be removed and part of a field used to accommodate this change.
- 5.61. The proposals have been considered by the Local Highway Authority who find the proposals acceptable in principle subject to clarification of on-site parking and turning and provision of these prior to use. Subject to the recommended conditions, Officers consider the proposals will not have a detrimental impact upon highway safety and the proposals comply with SDLP Policy T1, T2 & H12.

#### **Residential Amenity**

##### Context

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

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

- 5.63. 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

- 5.64. In response to the EHO’s initial submission, the applicants have suggested limiting occupancy of the proposed dwelling being restricted to persons that are either related to the occupants of Castle House Farm or are employed at Castle House Farm. Following reconsultation the EHO considered this approach was acceptable.
- 5.65. The northern elevation of the proposal faces onto the courtyard parking area and farm building elevation beyond: the respective separation is c. 24m. Given the

separation distance and ancillary nature of the courtyard Officers consider no overlooking would occur.

- 5.66. The eastern elevation faces the entrance to the courtyard and the ancillary garden space of the Farmhouse lies c.22m beyond. Given the separation and that the garden space is ancillary, Officers do not consider any adverse overlooking would occur.
- 5.67. The southern elevation does not face any residential development and no overlooking will occur. The southern elevation contains the extension, given the immediate absence of residential development, overbearance or overshadowing is not a material consideration.
- 5.68. The proposals include sufficient windows to allow a reasonable standard of daylight and sunlight into the dwelling. Rooms are well proportioned, and the living space is commensurate with the scale of the dwelling. The proposed private amenity space is ample for future residents.
- 5.69. Subject to the above-mentioned conditions, it is considered that the proposals do not result in a significant adverse impact upon the amenity of existing residents and future residents and the proposals comply with SDLP Policies ENV1 & H12.

## **Ground Conditions**

### Context

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

### Assessment

- 5.72. The proposal is noted as a potential source of contamination owing to its historic use as a farm. The Contaminated Land Officer has no specific concern although recommends a condition in respect of reporting and remediating unexpected contamination. Officers consider that this approach is proportionate and subject to this condition the proposal is acceptable from a ground condition perspective and satisfies SDLP Policy ENV2A and CS Policy SP19(k).

## **Affordable Housing**

### Context

- 5.73. 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.

- 5.74. 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”.*

- 5.75. 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

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

### **Impact on Nature Conservation**

#### Context

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

#### Assessment

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

### **Flood Risk & Drainage**

#### Context



- 5.80. The site sits within Flood Zone 1, the area at lowest risk of flood risk. 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.

### Assessment

- 5.81. The site is located within Flood Zone 1 i.e. the area of lowest risk and therefore development in this location complies with CS Policy SP15 and NPPF Paragraph 155.
- 5.82. The application seeks to drain surface water via soakaways and foul drainage via septic tank. Officers agree that the use of soakaways and treated effluent is appropriate for the disposal of surface water subject to conditions requiring details of the efficacy and design (if applicable) of the proposed sustainable drainage system.

## **6. CONCLUSION**

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

## **7. RECOMMENDATION**

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

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

Reason:

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

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

- Loc 01                      Location Plan
- P20-1774-08 Rev.A Proposed Plans & Elevations
- P20-1774-09              Proposed Ground Floor
- P20-1774-10 Rev.A Proposed First Floor
- P20-1774-11 Rev.A Proposed Elevations 1 & 2
- P20-1774-12 Rev.A Proposed Elevations 3 & 4
- P20-1774-13 Rev.A Proposed Internal Perspectives
- P20-1774-14 Rev.A Proposed Perspectives
- P20-1774-17 Rev.A Site Plan - Proposed

Reason:

For the avoidance of doubt.

03. The residential dwelling hereby approved, shall at no time be occupied by anyone not related to the owners of Castle House Farm or not employed at Castle House Farm.

Reason:

In the interests of residential amenity.

04. 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 of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:

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

05. 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. Vehicular accesses
- b. Vehicular parking
- c. Vehicular turning arrangements

Reason:

In accordance with SDLP Policies T1 & T2 and to ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.

06. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under Condition 5 are available for use unless otherwise approved in writing by the Local Planning Authority. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with SDLP Policies T1 & T2 and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

07. The application shall be carried out in accordance with the mitigation measures set out in section 6.2 of the submitted report, Castle House Farm – bat and nesting bird survey by Skyline Ecology, dated October 2020.

Prior to any works associated with development that will disturb, modify or result in permanent loss of bat roost, a Natural England EPS development licence shall be obtained from Natural England.

Thereafter, works shall be carried out in accordance with the Outline Method Statement (23 December), and in conjunction with any subsequent mitigation measures outlined within the EPS development licence.

Reason:

In order to protect and enhance biodiversity.

08. 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.

09. Notwithstanding the submitted window and door opening details, joinery detail drawings of all windows, doors, glazed infill screens and glazing to elevation 2 of the extension (including elevation, horizontal and vertical sections including indication of reveal all at scale 1:10 and glazing bar section, if relevant, at scale 1:1) shall be submitted to and agreed in writing by the Local Planning Authority prior to installation. The works shall be carried out in accordance with the approved details.

Reason:

In order to safeguard the special architectural or historic interest, character, appearance and integrity of the listed building's setting by ensuring the retention and significance of the original features and in order to comply with Policies ENV1 and ENV24 of the Selby District Local Plan and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

10. Prior to their installation, product details of the rooflights (including means of flashing and installation details relating to the position of the rooflights in relation to the roof tiles) shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason:

In order to safeguard the special architectural or historic interest, character, appearance and integrity of the listed building's setting by ensuring the retention and significance of the original features and in order to comply with Policies ENV1 and ENV24 of the Selby District Local Plan and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

11. Prior to the carrying out of the works contained within it, a schedule of works relating to the implementation of the approved scheme shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

12. Prior to their installation, details of works required to be carried out in order to meet Building Regulations (for example, the provision of air extraction vents, insulation and heating systems) shall be submitted to and agreed in writing by

the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason:

In order to safeguard the special architectural or historic interest, character, appearance and integrity of the listed building's setting by ensuring the retention and significance of the original features and in order to comply with Policies ENV1 and ENV24 of the Selby District Local Plan and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

13. 'Notwithstanding the material shown on approved plan drwg P20-1774-11 Rev A details of the roof covering material to the single storey lean to extension on Elevation 2 shall be submitted to and agreed in writing by the Local Planning Authority prior to installation. The works shall only be carried out in accordance with the approved details.

Reason:

In order to safeguard the special architectural or historic interest, character, appearance and integrity of the listed building's setting by ensuring the retention and significance of the original features and in order to comply with Policies ENV1 and ENV24 of the Selby District Local Plan and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## INFORMATIVE

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. 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).
03. Works that have the potential to disturb, modify or result in permanent loss of bat roost include (but not limited to):
- Bat exclusion
  - Roof stripping and subsequent re-roofing
  - Erection of scaffolding
  - Pointing of brickwork
  - New windows and doors
  - Internal renovations

## 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 2019/0905/FUL and associated documents.

**Contact Officer:**

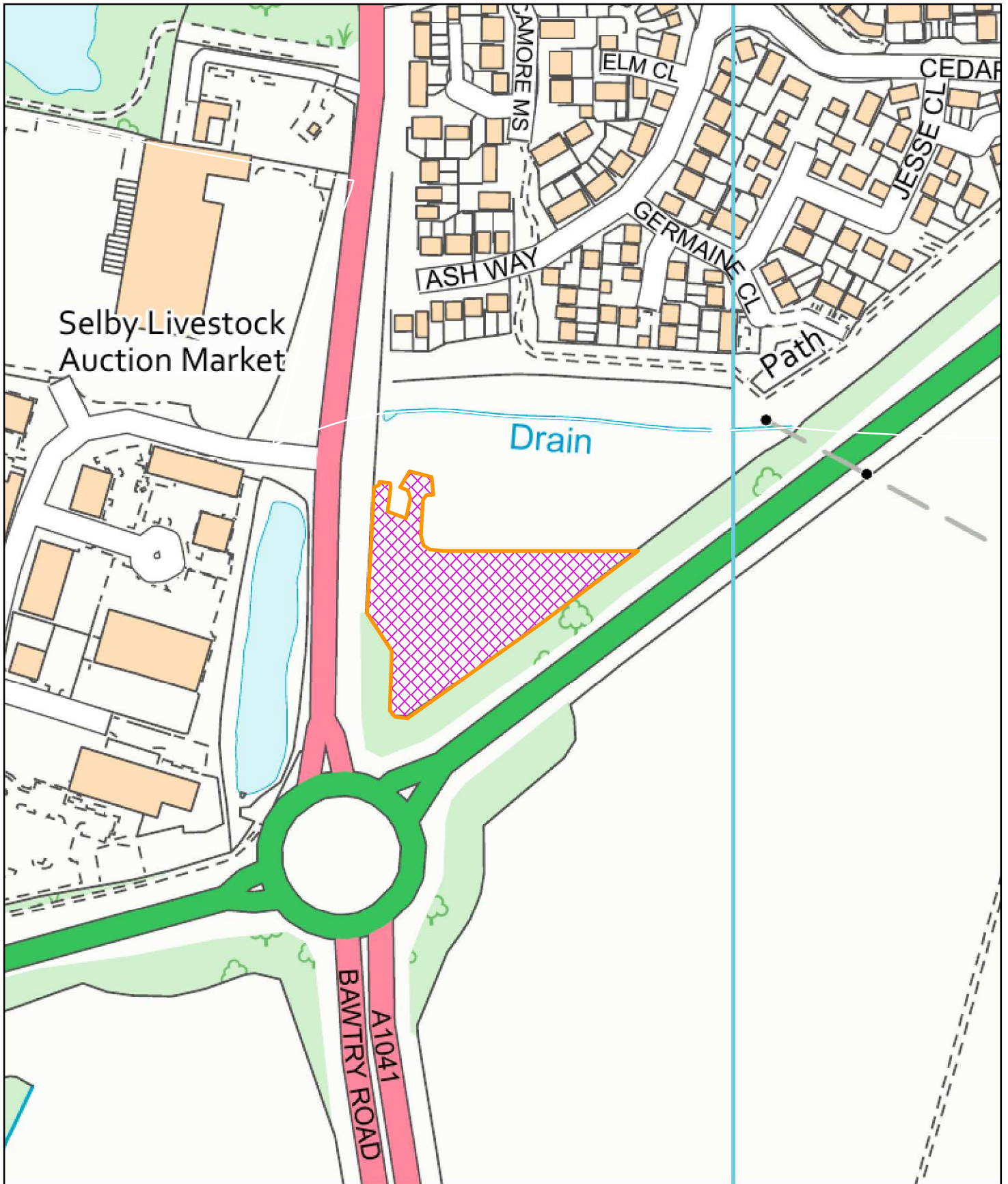
Chris Fairchild, Senior Planning Officer

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

**Appendices:** None

# Agenda Item 5.5

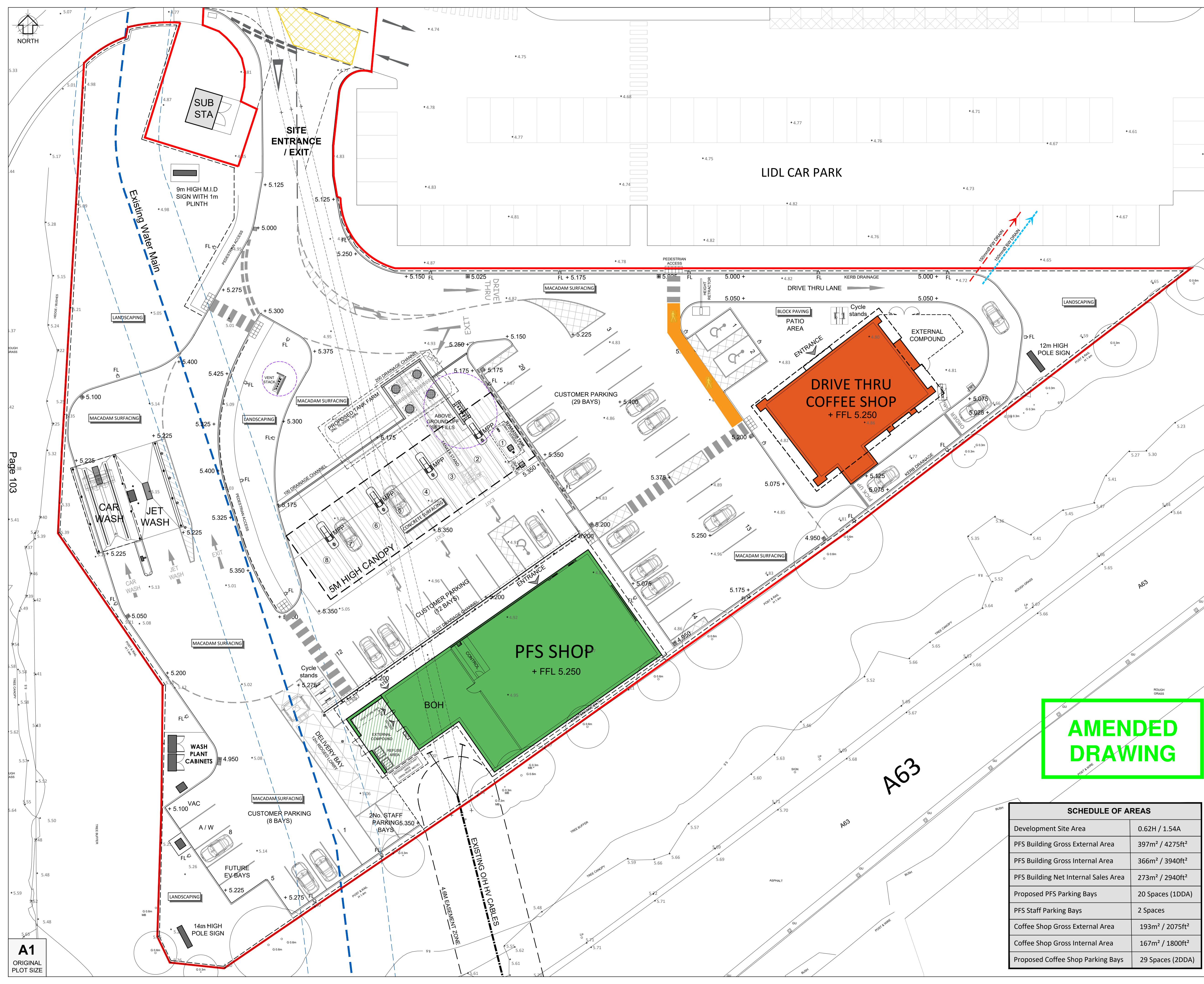
Land adjacent to A63 and Bawtry Road, Selby  
2020/0976/FUL



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**GENERAL SITE NOTES**

**SITE FENCING:**  
 Site fencing to generally consist of the following:  
 - 600mm High timber post & rail fence  
 - 1.2m High timber post and rail fence  
 - 1.2m High galvanised highway safety fence  
 - 2.4m High timber close boarded fence (PFS Compound)  
 - 2.6m High timber close boarded fence (Coffee Unit Compound)  
 See Surfacing Finishes Plan for fencing locations Dwg No. 191220\_05

**SITE DRAINAGE**  
 All site surface water is to be discharged off site via the noted 150mmØ final outfall pipe, which will discharge into the off site (Lidl) surface water detention pond (approved under separate planning application). All site foul water is to be discharged off site via the noted 150mmØ final outfall pipe, which will discharge into the off site (Lidl) foul water network (approved under separate planning application). All PFS brown water i.e. forecourt and tanker standing brown surface water will pass through a class 1 petrol interceptor prior to being discharged into the SW outfall drain. The PFS car & jet wash bays will discharge into the foul water drains

**SITE LANDSCAPING**  
 All denoted landscaped margins will either be seeded / turfed & any planting will be detailed by specialist

**SITE SURFACED MATERIAL**  
 See Surfacing Finishes Plan for additional information Dwg No. 191220\_05

**SITE FLOODLIGHTS:**  
 5m High galvanised floodlight columns (Location shown diagrammatically) to be installed on site as per specialist design layout, together with any building mounted bulkhead lights. All floodlight heads to be LED fittings and achieve

**PFS TANK FARM**  
 Install 2No. 70,000ltr tanks as shown, encased in pea gravel along with all associated pipework, offset fills, 5m high vent stack etc, all in accordance with current regulations (blue book)

**PFS CANOPY**  
 Traditional steel framed canopy over the forecourt to be set minimum 5.0m high from the highest forecourt level. Lighting to underside of the canopy to be LED fittings & designed by specialist. Canopy top sheets to be white aluminium sheets with canopy under sheets to be white aluminium profiled MM10 soffit sheets. All canopy fascia signage to form part of a separate advertisement application

**PFS ROLL OVER CAR WASH**  
 Roll over car wash bay to be built as shown with a traditional steel frame. Roof over to be white aluminium sheets with under sheets & boundary side wall constructed from white aluminium profiled MM10 cladding sheets. Forecourt side screen to be glazed and entrance and exits left open. 2No. GRP (black 2x2x1m) wash cabinets to be installed as shown to house all wash equipment

**PFS JET WASH BAY**  
 Jet Wash Bay to be built as shown with a traditional steel frame, open roofs and glazed screens

**PFS STAFF PARKING BAYS**  
 Allowance has been made for 2No. staff parking bays behind the delivery bay

**PFS CYCLE STANDS**  
 3No. Sheffield steel hoop cycle stands to be installed as shown

**PFS FUTURE CAR CHARGING BAYS**  
 Allowance has been made for 2No. future car charging bays, which until the EVC machines are installed will be utilised for customer parking

**PFS EXTERNAL PLANT & REFUSE AREA**  
 All external plant equipment and refuse bins are to be located within the part roofed over external compound area. External compound enclosed part by building structure and 2.4m high vertical fixed close boarded timber fence panels

**COFFEE UNIT EXTERNAL PLANT & REFUSE AREA**  
 All external plant equipment and refuse bins are to be located within the external compound area. External compound enclosed by a 2.6m high horizontally fixed close boarded timber fence panels

**BUILDING MATERIALS**  
 Refer to PFS & Coffee Unit Proposed Building Elevations Dwg.190371\_PL7-10

**AMENDED DRAWING**

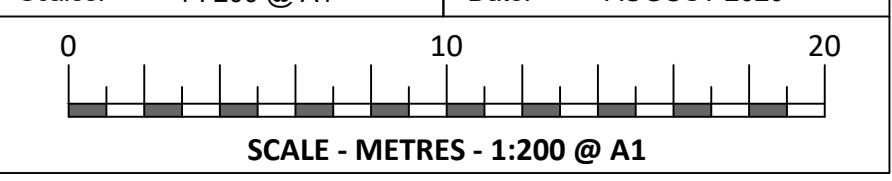
SCHEDULE OF AREAS	
Development Site Area	0.62H / 1.54A
PFS Building Gross External Area	397m <sup>2</sup> / 4275ft <sup>2</sup>
PFS Building Gross Internal Area	366m <sup>2</sup> / 3940ft <sup>2</sup>
PFS Building Net Internal Sales Area	273m <sup>2</sup> / 2940ft <sup>2</sup>
Proposed PFS Parking Bays	20 Spaces (1DDA)
PFS Staff Parking Bays	2 Spaces
Coffee Shop Gross External Area	193m <sup>2</sup> / 2075ft <sup>2</sup>
Coffee Shop Gross Internal Area	167m <sup>2</sup> / 1800ft <sup>2</sup>
Proposed Coffee Shop Parking Bays	29 Spaces (2DDA)

Revision	Date	Ref.
11.01.21		B
26.11.20		A

STATUS	PLANNING
TITLE	PROPOSED SITE PLAN
SITE LOCATION	BAWTRY ROAD SELBY



PLAN NO. **191220\_PL4B**



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**Report Reference Number:** 2020/0976/FUL

**To:** Planning Committee  
**Date:** 10 March 2021  
**Author:** Gary Bell (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0976/FUL	PARISH:	Brayton Parish Council
APPLICANT:	Brookfield Property (Holdings) Ltd and B & B Roper Ltd	VALID DATE: EXPIRY DATE:	15th September 2020 10th November 2020
PROPOSAL:	Erection of petrol filling station (sui generis) with ancillary retail Kiosk (Use Class E) and erection of Drive-Thru Coffee Shop (Use Class E) with associated hard and soft landscaping and access arrangements.		
LOCATION:	Land Adjacent to A63 And Bawtry Road Selby		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as the proposal is contrary to the requirements of the Development Plan. However, officers consider there are material considerations which would support the recommendation for approval.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site is located within the development limits of Selby which is identified as the District's Principal Town in the Core Strategy. The land is largely flat, has historically been used for agricultural purposes and is bounded to the south by a mature native hedgerow which returns for a short distance along Bawtry Road.
- 1.2 The site forms the southern-most part of a wider, triangular site located to the south west of the Staynor Hall residential development on the southern edge of the town. It is bounded by the A63 to the south, Bawtry Road to the west and the remainder of the site to the north is currently being developed by Lidl with the erection of a food retail unit. Dwellings on Germain Close and Ash Way, part of the Staynor Hall

estate, lie beyond the retail unit. On the opposite side of Bawtry Road is Selby Business Park, which includes small and medium sized business units, a hotel/pub and Selby Livestock Auction Market.

## **The Proposal**

- 1.3 Planning permission is sought for the erection of a petrol filling station (PFS), including car washing and electric vehicle charging facilities, with an ancillary retail kiosk along with the erection of a drive-thru coffee shop both with associated hard and soft landscaping. Access to the site will be gained from a new roundabout on Bawtry Road which has been constructed in connection with the neighbouring retail unit.

## **Relevant Planning History**

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

2020/0978/DOC: Discharge of conditions 12 (energy), 17 (travel plan) & 28 (archaeology) of approval 2015/1217/FUL Erection of a food retail store (Use Class A1) and construction of a roundabout and access road, parking areas and associated infrastructure: Staynor Hall Development, Bawtry Road, Selby: COND, 16-DEC-20

2020/0503/MAN2: Non-material amendment of 2015/1217/FUL Erection of a food retail store (Use Class A1) and construction of a roundabout and access road, parking areas and associated infrastructure: Staynor Hall Development, Bawtry Road, Selby: PER, 02-JUN-20

2019/0437/ADV: Advertisement consent for 2 large column mounted illuminated signs, 3 large advertisement billboard signage, 1 wall mounted logo sign, 1 poster display unit, 1 small wall mounted billboard, 1 large wall mounted billboard and 1 flag pole sign: LIDL UK GMBH, Bawtry Road, Selby: PER, 09-SEP-19

2019/0426/DOC: Discharge of conditions 10 (surface water), 13 (highway), 16 (highway condition survey), 18 (construction management plan), 19 (access), 20 (highway), 22 (parking, turning, manoeuvring, loading and unloading), 23 (noise, vibration, dust and dirt), 24 (external lighting), 26 (archaeology), 30 (surface water) and 31 (vehicle charging points) of approval 2015/1217/FUL for erection of a food retail store (Use Class A1) and construction of a roundabout and access road, parking areas and associated infrastructure: LIDL UK GMBH, Bawtry Road, Selby: COND, 26-SEP-19

2019/0098/FUL: Proposed re-alignment and extension of car park: Land Adjacent to A63 and Bawtry Road, Selby: PER, 26-SEP-19

2019/0095/MAN2: Non-material minor amendment of 2015/1217/FUL Erection of a food retail store (Use Class A1) and construction of a roundabout and access road, parking areas and associated infrastructure: Bawtry Road, Selby: PER, 26-SEP-19

2015/1272/FUL: Proposed erection of a public house with restaurant (Use Classes A3 and A4) and manager's accommodation with ancillary access, parking area and associated infrastructure: Staynor Hall Development, Bawtry Road, Selby: PER, 20-OCT-17

2015/1217/FUL: Erection of a food retail store (Use Class A1) and construction of a roundabout and access road, parking areas and associated infrastructure: Staynor Hall Development, Bawtry Road, Selby: PER, 20-OCT-17

## 2. CONSULTATION AND PUBLICITY

- 2.1 **NYCC Highways** - initially requested further information in respect of a range of matters including; road markings and signage; forward visibility and speed limits within the site; provision for pedestrians; lighting; drainage; cycle parking provision and; ground levels. Clarification was also requested regarding vehicular swept path analysis together with revisions to the submitted Transport Assessment.

Following the submission of additional information, the Highway Authority has no objection subject to appropriately worded planning conditions in respect of on-site lighting and works in accordance with the submitted plans and information.

- 2.2 **Parish Council** - no comments received.

- 2.3 **Yorkshire Water Services Ltd** - responded with comments and recommended conditions in order to protect the local aquatic environment, given the nature of the use, and YW infrastructure, most notably a 450mm diameter live water main that is laid within the site boundary.

- 2.4 **Selby Area Internal Drainage Board** - provided standard comments dependent upon the means of disposal of surface water and advice regarding under what circumstances separate consent would be required from the Board.

- 2.5 **Environmental Health** - initially sought a noise assessment given the likely level of vehicular movements associated with the proposed use and recommended a condition requiring details of external lighting to be submitted for approval.

Following the submission and consideration of a Noise Impact Assessment, a number of conditions are recommended regarding sound levels, delivery hours, car wash operating hours, the provision of electric vehicle re-charging units and the submission of a Construction Environmental Management Plan.

- 2.6 **Natural England** - no comments to make on this application.

- 2.7 **County Ecologist** - initially noted that the application is accompanied by a thorough Preliminary Ecological Appraisal (PEA) which identified very few ecological constraints on the application site. However, the appropriateness of particular ecological enhancements was questioned given the nature and location of the site as was the generic nature of other recommendations. Consequently, clarification as to what biodiversity enhancement measures were being planned was sought.

Following receipt of a revised PEA, and given that there are relatively few ecological constraints on the site, a more simple table of recommendations was suggested with specific reference to the provision of a sparrow nesting box and precautions to protect hedgehogs. In addition, an Informative relating to any clearance of trees, shrubs etc being undertaken outside the bird breeding season.

Following receipt of a further iteration of the PEA, provision of an appropriate scheme of landscaping was recommended in line with the submitted document.

- 2.8 **Yorkshire Wildlife Trust** - support the comments of NYCC Ecology in relation to the suitability of mitigation measures e.g. hedgehog houses, sparrow boxes, due to the proposed use of the site as a petrol station, and the need for more clarity on what the applicant is committed to implementing to demonstrate a 'measurable' net gain in biodiversity in line with current good practice.
- 2.9 **North Yorkshire Bat Group** - no comments received.
- 2.10 **Public Rights of Way Officer** - no comments received.
- 2.11 **NYCC Archaeology** - the application includes an archaeological desk based assessment prepared by the York Archaeological Trust which concludes that the site has a fairly low archaeological potential for most periods other than the Iron Age and Romano-British which has slightly higher potential. Since the desk based assessment was produced the results of archaeological monitoring to the north (Lidl site) have been made available. The results of this work were largely negative. Given the negative results of the recent archaeological work to the immediate north and the generally low potential identified in the desk based assessment there are no objections to the proposal.
- 2.12 **Environment Agency** - have reviewed the information submitted with the application and have no objection to the proposal, subject to appropriate conditions.
- 2.13 **Neighbour representations** - the application was publicised by site notice and direct notification of nearby residents as a result of which 3 letters of representation have been received. Two make comments neither objecting to or supporting the application but referring to the potential for vehicular conflict within the site, the need for measures to limit anti-social behaviour and request a limit on opening hours. The third expresses support for the proposal in providing welcome amenities close to the Staynor Hall residential development.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The application site is located within the development limits for Selby. It lies within Flood Zones 1, 2 and 3 (benefitting from flood defences) the latter of which has a high probability of flooding. The site does not contain any protected trees and there are no statutory or local landscape or heritage designations.

### **4 POLICY CONSIDERATIONS**

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

- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options 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 (CS)**

- 4.6 The relevant CS Policies are:

SP1 - Presumption in Favour of Sustainable Development  
SP2 - Spatial Development Strategy  
SP13 - Scale and Distribution of Economic Growth  
SP14 - Town Centre and Local Services  
SP15 - Sustainable Development and Climate Change  
SP16 - Improving Resource Efficiency  
SP18 - Protecting and Enhancing the Environment  
SP19 - Design Quality

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

- 4.7 The relevant SDLP Policies are:

ENV1 - Control of Development  
ENV2 - Environmental Pollution and Contaminated Land  
ENV28 - Other Archaeological Remains  
EMP2 - Location of Economic Development  
EMP6 - Employment Development within Development Limits  
BRAY/2 - Employment Allocation  
T1 - Development in Relation to Highway  
T2 - Access to Roads  
S3 - Local Shops

## 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 Appearance of the Area
- Impact on Highway Safety
- Impact on Residential Amenity
- Flood Risk and Drainage
- Nature Conservation

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

5.2 CS Policy SP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Paragraph 12 of the NPPF re-emphasises that the Development Plan is the statutory starting point for decision making, adding that where a planning application conflicts with an up-to-date Development Plan permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

5.3 The application site lies within the development limits of Selby which is identified as the District's Principal Town within the Core Strategy, being the main focus for housing, employment, shopping, leisure, health and cultural facilities. Selby is described as "the most sustainable settlement within the District" and consequently CS Policy SP2A (a) states that "Selby as the Principal Town will be the focus for new housing, employment, retail, commercial, and leisure facilities".

5.4 SDLP Policy EMP2 states that new employment development will be concentrated in and around Selby and allocates the application site as BRAY/2 for industrial/business development. CS Policy SP13 seeks to safeguard allocated employment sites unless it can be demonstrated that there is "no reasonable prospect of a site being used for that purpose". In late 2017 the Council, in considering an application for developing a public house on the site (2015/1272/FUL), accepted that the site had been undeveloped since it was last used for agriculture despite the long-standing allocation for industrial/business development. It was also noted that planning permission had been granted for well in excess of the requirement of 37 - 52 hectares of land identified in the Core Strategy for employment use and further permissions have been granted since 2017.

5.5 CS Policy SP14 supports local shops and services by promoting the establishment of new facilities to serve the day-to-day needs of existing communities. The uses proposed will undoubtedly serve the extensive residential area to the north and the business uses found across Bawtry Road, albeit the location alongside the Selby By-pass will also lead to use by passing customers.

5.6 The planning permission for the public house expired in October 2020 but there is no reason to believe that the site has become any more attractive for industrial/business development in recent years. Indeed, the permission granted on



the remainder of the allocated site for a retail food store has been implemented and the store is now nearing completion meaning something other than a complimentary use, such as proposed in this application, is highly unlikely to be brought forward. The agent for the application has argued that the proposed uses fall into the recently introduced Use Class E (Commercial, Business and Service) and thereby accords with the SDLP allocation however, officers do not concur with this assertion as fuel stations and food and drink outlets where consumption is mostly undertaken off the premises are both specifically excluded from Class E and are treated as 'Sui generis'.

- 5.7 It is considered that the proposal is in accordance with CS policies SP1, SP2 A, SP13 B.2 and SP14. The planning history, and specifically the Council's previous decision to grant permission for a public house on the site, and the length of time the site has remained vacant are considered to represent material considerations which outweigh the lack of compliance with SDLP policies EMP2 and BRAY/2 such that the proposal is considered to be acceptable in principle.

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

- 5.8 SDLP Policy ENV1 requires the effect of new development on the character of the area and the standard of design in relation to the site and its surroundings to be taken into account when considering proposals for new development. Similarly, CS Policy SP19 expects new development to have regard to the local character, identity and context of its surroundings. SDLP Policy BRAY/2 seeks a high quality of development in terms of form, design and landscaping. Paragraph 127 of the NPPF states that planning decisions should ensure that developments; are visually attractive as a result of layout and landscaping; sympathetic to local character, while not preventing change, and; establish a sense of place.
- 5.9 The application site comprises 0.62ha of undeveloped land located to the immediate south of a Lidl foodstore development which itself is nearing completion and beyond which to the north is the Staynor Hall residential area. The land to the west, across Bawtry Road is commercial in nature and south eastern boundary of the site is marked by established planting beyond which is the A63 Selby by-pass.
- 5.10 By its very nature, the proposed development is somewhat functional in form. The proposed PFS would be a modern, eight-pump facility offering a range of services for the motorist, including car cleaning and air & water facilities. The forecourt of the PFS would be sheltered by a steel canopy, underlit by LED lighting. The proposed retail kiosk would be finished in render, timber cladding and dark framed glazing. The kiosk would offer a selection of mainly convenience goods as an ancillary offer to the main use as well as providing wider customer facilities including toilets and an ATM facility. External plant and refuse bins associated with the PFS are to be located within an open roofed external component of the retail kiosk building. Associated car wash and jet wash bays will be constructed with steel frames and glazed or aluminium cladding sheets.
- 5.11 The drive-thru coffee shop will be of a complementary design to the PFS retail kiosk, incorporating similar materials and aluminium-framed glazing. A serving window is to be provided as part of the drive-thru bay. The roof of the coffee shop slopes gently downwards from front to back comprising a dark grey plastisol coated roof system.

- 5.12 Space remains within the site for landscaping at the entrance of the site, as well as to the south west of the PFS and north east of the coffee shop. The submitted documentation suggests these areas will be seeded / turfed and planted up, subject to a future design. Notwithstanding this statement, the details of new landscaping should be the subject of a planning condition. The application is also accompanied by a Tree Survey and a Woodland Management Plan which suggest that those “green areas at the fringes of the site” are to be retained, with some selective tree thinning as part of a programme of managed maintenance. However, the vast majority of the existing tree cover found on the southern and western boundaries of the site lies outside of the application boundary on highway land and, as such, any works will require the approval of the County Council in its capacity as Highway Authority. There is no reason to believe that the existing tree cover will be lost and will continue to screen and filter views of the development from the south.
- 5.13 From the residential dwellings to the north, which are in excess of 120 metres away and at a higher level, the site will be visible but with the larger Lidl store being the dominant building in what will appear as an almost entirely commercial scene. The proposed development will be seen as a complimentary element to the Lidl store and one which completes development of the site up to the major network of roads to the south and west.
- 5.14 In conclusion, the proposals for a PFS and drive-thru coffee shop are considered to be visually acceptable and would not detract from the character or visual amenity of the surrounding area. The proposed development is therefore considered to be in accordance with SDLP Policies ENV1 and BRAY/2, CS Policy SP19 and national policy contained in the NPPF.

### **Impact on Highway Safety**

- 5.15 SDLP Policy T1 requires new development to be well related to the existing highway network and Policy T2 states that development resulting in the intensification of the use of an existing access will be supported provided there would be no detriment to highway safety. The guidelines in SDLP Policy BRAY/2 similarly require access to be taken from Bawtry Road. The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 5.16 The application was accompanied by a Transport Assessment which, whilst recognising that traffic associated with the proposed development would be higher than for the previously approved public house, concluded that the new roundabout on Bawtry Road would operate below “practical capacity threshold levels”. This assessment included traffic associated with the Lidl store which also takes access from the roundabout arm serving the application site.
- 5.17 The Highway Authority was consulted and requested further information on a range of matters regarding the site layout and, particularly, the submitted Transport Assessment which it was considered did not provide a robust enough assessment of the impact of the proposal on the roads immediately adjacent to the site. Further information and evidence was submitted which concluded that the weekday PM period provides the highest background traffic flow levels and that the level of new traffic generated by the proposed development and impacting on the A63/Bawtry Road roundabout will not be significant. The Highway Authority raised no further objection.

5.18 It is considered therefore that the proposal is acceptable and in accordance with SDLP policies T1, T2 and BRAY/2 and also national policy contained in the NPPF.

### **Impact on Residential Amenity**

5.19 SDLP Policy ENV1 requires a good standard of layout and design and that the effect of new development upon the amenity of adjoining occupiers to be taken into account. Paragraph 127 of the NPPF similarly seeks to ensure that developments; are attractive and welcoming places to live as a result of layout, building types and landscaping. SDLP Policy ENV2 requires noise or other pollution to be mediated or prevented.

5.20 The development of an untidy and derelict site (showing signs of use during the construction of the Lidl building) will have a positive effect on the appearance of the local area to the benefit of general amenity. The nearest residential properties are some 120 metres to the north of the adjacent Lidl foodstore either on the Staynor Hall development or fronting Bawtry Road. The resulting relationship, given separation distances, existing buildings and landscaping, is considered to be acceptable in protecting the residential properties from overbearing, overlooking or overshadowing.

5.21 The most relevant consideration in terms of likely impacts on residential amenity is that of noise associated with the various elements of the scheme and their operation. The applicants submitted a Noise Impact Assessment which considered the potential sources of noise associated with the individual elements within the scheme; fuel deliveries; customer vehicle movements; operation of the PFS and drive-thru coffee shop; car wash and; fixed plant. The Assessment concluded that all noise, both from individual sources and cumulatively, would be below existing background noise levels such that the development could be considered to fall into the category of No Observed Effect Level. Environmental Health sought clarification and further information before concluding that, subject to conditions restricting the hours of certain operations, there would be no significant or harmful impact on the amenity of the nearest residential properties.

5.19 It is therefore considered that the proposal, subject to appropriately worded conditions, would not result in any significant impact on residential properties in the area in accordance with SDLP Policy ENV1 and national policy contained in the NPPF.

### **Flood Risk and Drainage**

5.27 SDLP Policy ENV1 requires account to be taken of the capacity of local services and infrastructure and CS Policy SP19 seeks to prevent development from contributing to or being put at risk from water pollution.

5.28 The Environment Agency flood map for planning shows that the site is located within all three Flood Zones with parts of the site therefore having a high risk of flooding from rivers. The application was accompanied by a Flood Risk Assessment which concluded that the site is at very low risk from all other sources and asserted that the site has not previously flooded.

5.29 Paragraph 158 of the NPPF states that "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not

be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Paragraph 159 of the NPPF states that “If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance”.

- 5.30 The Council’s Flood Risk Sequential Test Developer Guidance Note - October 2019 states that, when applying the sequential test, proposals for retail/town centre uses in out-of-town locations should be considered against other available sites within the catchment area for the development. The Council, in considering the previous application for a public house on the site, agreed that an appropriate area would be 500 metres from the Staynor Hall residential development. It was also agreed at the time that there were no reasonably available sites within the catchment area that are at a lower risk of flooding. There is no reason to consider this situation to have changed with land to the south being outside development limits, the majority of land to the east being Flood Zone 3 and land to the east and towards Selby town centre being largely developed. The site is also allocated for development in the SDLP. As such, the site is considered to pass the sequential test and is also considered appropriate development when considered against the national Flood Risk Vulnerability Classification and does not require an exception test.
- 5.31 The Environment Agency have reviewed the application and the submitted information and have no objection subject to conditions requiring adherence to the submitted flood risk assessment and measures to reduce the risk of pollution.
- 5.32 It is proposed to drain surface water via soakaways to an existing watercourse and foul water to the existing sewer network. Yorkshire Water have no objection to the proposals subject to a number of conditions aimed at delivering separate systems of drainage whilst protecting the existing network. The Internal Drainage Board has also recommended conditions and will need to grant separate consent for discharge into a watercourse which will stipulate the requirement for attenuation and restricted flows into the watercourse.
- 5.33 It is therefore considered that the proposals adequately address flood risk and, subject to appropriately worded planning conditions, can be properly drained in accordance with SDLP Policy ENV1, CS Policy SP19 and national policy contained in the NPPF.

### **Nature Conservation**

- 5.34 SDLP Policy ENV1 states that proposals should not harm acknowledged nature conservation interests and CS Policy SP18 seeks to safeguard the natural environment and increasing biodiversity. These policies are consistent with NPPF paragraphs 170 and 175 which seek to protect and enhance sites of biodiversity value.
- 5.35 The application was accompanied by a thorough Preliminary Ecological Appraisal (PEA) which identified very few ecological constraints on the application site. Not only does this reflect previous reports relating to the site but is perhaps to be expected given the construction activities that have subsequently taken place on the land immediately to the north. The PEA described the site as being in a flat and

sheltered location, linked to the wider countryside by hedgerows and ditches found in the locality, and stated that there are no designated sites within 2 kilometres of the application site. The PEA recommends those areas within the site that are available for landscaping should be planted with shrubs and as wildflower meadows and also that a bird box (sparrow terrace) be appropriately sited on the coffee shop building.

- 5.36 Throughout a number of iterations of the PEA, the County Ecologist has sought clarification on and simplification of the submitted information but has raised no objections. A number of conditions have been recommended which refer to measures to protect specific species and securing appropriate landscaping. As such, it is considered that the proposal is acceptable and in accordance with SDLP Policy ENV1, CS Policy SP18 and national policy contained in the NPPF.

## **6 CONCLUSION**

- 6.1 The application seeks full planning permission for the erection of a petrol filling station, including car washing and electric vehicle charging facilities, with an ancillary retail kiosk along with the erection of a drive-thru coffee shop with access being taken from the recently constructed roundabout on Bawtry Road. The land is within the Development Limits for Selby. The application site is located within the area allocated for employment development by SDLP Policy BRAY/2 and, given the proposed uses and notwithstanding that the detailed provisions of BRAY/2 are generally met, the development is contrary to the policy. The proposal is, however, considered to be in accordance with CS policies SP1, SP2 A, SP13 B.2 and SP14.
- 6.2 The planning history, and specifically the Council's previous decision to grant permission for a public house on the site, and the length of time the site has remained vacant are considered to represent material considerations which outweigh the lack of compliance with SDLP policies EMP2 and BRAY/2 such that the proposal is considered to be acceptable in principle. By completing development of this allocated site, in a manner complimentary to the development of a food store immediately to the north, the proposal would improve the appearance of the area in a manner sympathetic to the existing character of the area. Other matters of acknowledged importance such as the impact on the highway network, flood risk, drainage, impact on residential amenity, nature conservation, layout, scale and design are considered to be acceptable and in accordance with the Development Plan and national advice contained within the NPPF.
- 6.3 In recommending that the Committee approve this application, Members are requested to recognise that the application is not fully in accordance with the Development Plan but that the nature and extent of the material considerations justify a decision that is contrary to the provisions of the Plan. Subject to the recommended conditions, the material considerations as set out in this report, including the planning history of the site, outweigh the conflict with the Development Plan such that planning permission should be granted.

## **7 RECOMMENDATION**

This application is recommended to be GRANTED subject to the following conditions;

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

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

02. The development hereby permitted shall be carried out in accordance with the following approved plans:

191220_PL1A	Existing Site Plan/Location Plan
191220_PL4B	Proposed Site Plan
191220_PL5B	Proposed Surfacing Site Plan
191220_PL6	Proposed Site Elevations
191220_PL7	Proposed PFS Building Plan & Roof Plan
191220_PL8	Proposed PFS Building Elevations Sheet 1
191220_PL9	Proposed PFS Building Elevations Sheet 2
191220_PL10	Proposed Coffee Drive Thru Building Plan & Roof Plan
191220_PL11	Proposed Coffee Drive Thru Building Elevations
191220_PL12A	Proposed PFS Site Plan
191220_PL13B	Proposed DT Coffee Unit Site Plan
C-50 Rev F	Drainage Layout Plan

Reason: For the avoidance of doubt.

03. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be those specified on Drawing nos. 191220\_PL8, 191220\_PL9 and 191220\_PL11.

Reason: In the interests of the visual amenity of the area in accordance with Selby District Local Plan Policy ENV1 and Core Strategy Policy SP19.

04. Development shall not commence until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The Plan shall include details of how noise, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. The plan shall also include monitoring, recording and reporting requirements. The construction of the development shall be completed in accordance with the approved Plan unless any variation has been approved in writing by Local Planning Authority.

Measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean-up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. The Plan should also provide detail on the management and control processes.

Reason: In accordance with Selby District Local Plan policies ENV1, 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.

05. Details of any external lighting of the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. This information shall include:

- A contour map showing illumination spill beyond the site boundary measured in lux in the horizontal plane.
- The main beam angle of each light source.
- The uniformity ratio in respect of the lighting.
- The level of illuminance measured in lux, in the vertical plane at the windows of the nearest residential properties facing the site.
- The height of the lighting stanchions.
- Luminaire intensity at the receptors.

The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

Reason: To protect the appearance of the area, the environment and local residents from light pollution in accordance with Selby District Local Plan Policy ENV1 and Core Strategy Policy SP19.

06. No construction work relating to the development hereby approved, including works of demolition or preparation prior to building operations, shall take place other than between the hours of 08:00 and 18:00 Mondays to Fridays and 08:00 and 13:00 hours on Saturdays and at no time on Sundays or Bank or National Holidays.

Reason: To protect the residential amenity of nearby properties during construction in accordance with Selby District Local Plan Policy ENV2 and Core Strategy Policy SP19.

07. Should any of the proposed foundations be piled, no development shall commence until a schedule of works to identify those areas affected and setting out mitigation measures to protect residents from noise, dust and vibration has been submitted to and approved in writing by the local planning authority. The proposals shall thereafter be carried out in accordance with the approved schedule.

Reason: To protect the residential amenity of nearby properties during construction in accordance with Selby District Local Plan Policy ENV2 and Core Strategy Policy SP19.

08. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority .

Reason: To ensure that the site is properly drained and, in order to prevent overloading, that surface water is not discharged to the public sewer network.

09. The site shall be developed with separate systems of drainage for foul and surface water on and off site. If sewage pumping is required, the peak pumped foul water discharge must not exceed 5 (five) litres per second.

Reason: In the interest of satisfactory and sustainable drainage in accordance with Core Strategy Policy SP15.

10. Surface water draining from areas of hardstanding shall be passed through an oil interceptor or series of oil interceptors, prior to being discharged into any watercourse, soakaway or surface water sewer. The interceptors shall be designed and constructed to have a capacity compatible with the area being drained, shall be installed prior to the occupation of the development and shall thereafter be retained and maintained throughout the lifetime of the development. Clean roof water or vehicle washdowns and detergents shall not pass through the separators and should be drained instead to foul sewer or sealed system.

Reason: To reduce the risk of pollution to the water environment

11. No construction works in the relevant area(s) of the site shall commence until measures to protect the 450mm diameter live water main that is laid within 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 pipe for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times. Furthermore, no trees shall be planted within 5 meters of the centre line of the aforementioned water main.

Reason: In the interest of public health and maintaining the public water supply.

12. Surface water run-off from the forecourt of petrol stations, areas used for the delivery of fuel, areas used for and immediately adjacent to vehicle washing facilities and/or other similar areas where detergent is likely to be used shall not discharge to any public surface water sewer network. Surface water from such areas must pass through an oil, petrol and grit interceptor/separator of adequate design that has been submitted to and approved by the Local Planning Authority, before discharge to the public foul or combined sewer network.

Reason: To prevent pollution of the aquatic environment and protect the public sewer network.

13. The development shall be carried out in accordance with the submitted flood risk assessment by Met Engineers Reference P20-00647-RP FRA-01 Revision 00 Dated June 20 and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 300mm above the existing ground levels of the site for the proposed Petrol Filling Station and Drive Thru Coffee Shop. This would be to reduce the risk of flooding to the proposed developments. These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with Core Strategy Policy SP15.

14. No part of the development to which this permission relates shall be brought into use until the carriageway and any footway/footpath from which it gains access



has been constructed to base course macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

Reason: In accordance with Selby District Local Plan policies T1 and T2 and to ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of prospective users of the highway.

15. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas have been constructed in accordance with the Drawing no. 191220\_PL4B. 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 policies 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.

16. The development hereby approved shall be carried out in compliance with the submitted Wold Ecology Ltd Extended Phase 1 Habitat Survey and Ecological Appraisal (version 2), Revised November 2020 and specifically adherence to the following recommendations;

- Section 8.4.7 (provision of sparrow nesting box)
- Section 8.7.4 (precautions to protect hedgehogs)
- Sections 9.3.4 (wildflower meadows)
- Section 9.5 (timetable of works)
- Section 9.6 (location of mitigation features)

17. No development shall take place until full details of both hard and soft landscape works, together with a programme of implementation, have been submitted to and approved in writing by the Local Planning Authority. The details shall include written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. These works shall be carried out as approved prior to the occupation of any part of the development or as may be otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenity of the area and in accordance with Selby District Local Plan Policy ENV1 and Core Strategy Policy SP19.

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

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

19. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in

writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

20. Deliveries, either to the retail outlets or of fuel, shall not take place between 23:00 and 05.00 hours.

Reason: To protect the amenity of nearby properties in accordance with Selby District Local Plan policies ENV1 and ENV2 and Core Strategy Policy SP19.

21. The car wash hereby approved shall operate only between the hours of 08.00 and 20.00.

Reason: To protect the amenity of nearby properties in accordance with Selby District Local Plan policies ENV1 and ENV2 and Core Strategy Policy SP19.

22. The rating level of sound emitted from any fixed plant, deliveries to site and car movements on site associated with the development shall not exceed background sound levels between the hours of 0700-2300 (taken as a 15 minute LA90 at the nearest sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the nearest/any sound sensitive premises). All measurements shall be made in accordance with the methodology of BS4142:2014. (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments.

Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the local planning authority.

Reason: To protect the amenity of nearby properties in accordance with Selby District Local Plan policies ENV1 and ENV2 and Core Strategy Policy SP19.

23. A permanent sign should be erected at the entrance to the Drive-Thru coffee shop asking drivers to switch off their engines whilst stationary in the queue.

Reason: In order to safeguard the amenities of the occupiers of the area in respect of atmospheric pollution in compliance with Selby District Local Plan Policy ENV2 and Core Strategy Policy SP19.

24. Two free-standing, weatherproof, outdoor recharging units shall be provided in the shared parking provision on the site. The recharging points shall comply with

the latest British Standards or alternative appropriate standards to ensure reliability and safety.

Reason: In order to safeguard the amenities of the occupiers of the area in respect of atmospheric pollution in compliance with Selby District Local Plan Policy ENV2 and Core Strategy Policy SP19.

INFORMATIVES;

#### Internal Drainage Board

Any surface water discharge into any watercourses in, on, under or near the site requires consent from the Selby Area Internal Drainage Board. For further guidance, pre-application advice & consent form visit:

[www.shiregroup-idbs.gov.uk](http://www.shiregroup-idbs.gov.uk), and select 'Selby Area IDB'

For direct enquiries e-mail: [planning@shiregroup-idbs.gov.uk](mailto:planning@shiregroup-idbs.gov.uk)

#### Environment Agency

The site is in a flood alert area. The applicant/occupants should phone Floodline on 0345 988 1188 to register for Floodline Warnings Direct, or visit <https://flood-warninginformation.service.gov.uk/warnings>.

It is a free service that provides flood warnings direct by telephone and mobile. It also gives practical advice on preparing for a flood, and what to do if one happens. By providing an advanced warning, it will allow protection measures to be implemented, such as moving high value goods to an elevated level, as well as evacuating people off site.

Effluent discharged from any premises carrying on a trade or industry and effluent generated by a commercial enterprise where the effluent is different to that which would arise from domestic activities in a normal home is described as trade effluent. If you are not able to discharge effluent it will be classed as waste and you must then comply with your duty of care responsibilities.

A trade effluent consent or a trade effluent agreement with the water and sewerage company must be obtained before you discharge trade effluent to a public foul sewer or a private sewer that connects to a public foul sewer.

Materials and chemicals likely to cause pollution should be stored in appropriate containers and adhere to Pollution Prevention Guide 26 for the storage of drums and intermediate bulk containers.

Any facilities, above ground, for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Appropriate procedures, training and equipment should be provided for the site to adequately control and respond to any emergencies including the clean up of spillages, to prevent environmental pollution from the site operations.

The Environment Agency advise that polluting materials and chemicals are stored in an area with sealed drainage Please contact the National Customer Call Centre (Tel: 03708 506 506) for further information and guidance.

### Yorkshire Water

Company records indicate an existing 450mm diameter live water main crosses through the red line site boundary. No obstruction should encroach within 5 metres either side of the main i.e. a protected strip width of 10 metres. The development should be constructed in full accordance with the layout shown in Drawing no. 191220\_PL4B which shows that there will be an adequate stand-off between the pipe and any buildings etc. Protection measures during construction of the development e.g. metal plating over the pipe during passage of heavy vehicles.

Any accidental damage to the pipe will cause loss of water supplies to the local area and the cost of any emergency repair works will be recharged back to the developer. It is therefore recommended that the exact line of the main will have to be determined on site under Yorkshire Water Services supervision if this has not already been done. It may be possible for the main to be diverted under s.185 of the Water Industry Act 1991. These works would be carried out at the developer's expense. The cost of these works may be prohibitive.

IMPORTANT NOTE - There needs to be at least 750mm of ground cover maintained over the pipe and existing levels cannot not increase by more than 600mm. Access to the pipeline needs to be maintained 24/7. For further information and advice to discuss protection measures for the water main, the Distribution Asset Manager should be contacted.

### Ecology

Any clearance of trees, shrubs, brambles or other dense vegetation should preferably be undertaken outside the bird breeding season (March to August inclusive for most species). Should that not be possible, a competent person should first check that no active nests are present; any which are must be left undisturbed until young have fledged to ensure compliance with the Wildlife & Countryside Act 1981 (as amended).

### Environmental Health

The site will need to apply for and receive a permit issued by the Council under the Pollution Prevention and Control Act 1999, and The Environmental Permitting (England and Wales) Regulations 2016 as amended. The permit will require compliance with Stage I and II petrol vapour recovery.

## **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 2020/0976/FUL and associated documents.

### **Contact Officer:**

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### **Appendices:**

None

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# Annex

## Glossary of Planning Terms

### **Community Infrastructure Levy (CIL):**

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

### **Curtilage:**

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

### **Environmental Impact Assessment (EIA):**

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

### **National Planning Policy Framework (NPPF):**

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

### **Permitted Development (PD) Rights**

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

### **Previously Developed Land (PDL)**

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

### **Planning Practice Guidance (PPG)**

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

### **Recreational Open Space (ROS)**

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

## **Section 106 Agreement**

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

## **Site of Importance for Nature Conservation**

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

## **Site of Special Scientific Interest (SSI)**

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

## **Scheduled Ancient Monument (SAM):**

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

## **Supplementary Planning Document (SPD)**

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

## **Tree Preservation Order (TPO):**

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

## **Village Design Statements (VDS)**

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



## Planning Committee 2020-21



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