



Meeting: **CEO URGENT DECISION SESSION - PLANNING**  
Date: **WEDNESDAY, 1 APRIL 2020**  
Time: **9.30 AM**  
Venue: **CHIEF EXECUTIVE'S OFFICE**

## Applications List

1. **Planning Applications Received (Pages 3 - 4)**
  - 1.1. **2019/0311/FUL: The Byre, Sweeming Lane, Little Fenton (Pages 5 - 26)**
  - 1.2. **2019/0513/FUL: Hilagarth, Main Street, Church Fenton (Pages 27 - 52)**
  - 1.3. **2019/0883/FUL: Cranton, Church Crescent, Stutton (Pages 53 - 80)**
  - 1.4. **2019/1214/FUL: Cemetery, Long Mann Hills Road, Selby (Pages 81 - 92)**

*Janet Waggott*

**Janet Waggott, Chief Executive**

Enquiries relating to this list, please contact Victoria Foreman on [vforeman@selby.gov.uk](mailto:vforeman@selby.gov.uk) or 01757 292046.

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## **CEO Urgent Decision Session - Planning**

Planning Committees are cancelled due to the Covid19 Outbreak.

In order to continue to determine planning applications that would otherwise have been determined by the Planning Committee, the Chief Executive Officer (CEO), (or other such officer nominated in writing by her) will determine the applications using delegated urgency power, at a "CEO Urgent Decision Session – Planning". It is proposed that these be held weekly in order to continue to process applications in a timely manner.

The Planning Officer will prepare a written Officer Report (OR), that will be considered by the CEO. The list of applications to be considered at the weekly CEO Session will be published online beforehand.

The CEO will consult with the Chair and Vice of Planning Committee and have regard to their comments when taking the decision. The whole Committee will also have the opportunity to comment on the planning applications.

In the absence of a Committee meeting, it follows there is no right to speak available to the public. In order to maintain the planning process at this time, those wishing to comment on an application should submit their written representations within the statutory time limit applicable to the application in question. Information on planning applications will be available as usual on public access.

The CEO will be advised by the Planning Officer at the weekly CEO Urgent Decision Session – Planning of any new issues arising since the publication of the OR. If there are new material planning considerations raised, then the CEO will be advised to defer until the next CEO Urgent Decision Session – Planning, to enable an updated OR to be published if necessary.

Decisions made by the CEO will be published as delegated decisions online (in place of a Planning Committee Minute). The Notice of Decision will be issued in the usual way and published on Planning Public Access.

### **Contact**

Vicky Foreman – Democratic Services Officer

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## Items for CEO Urgent Decision Session - Planning

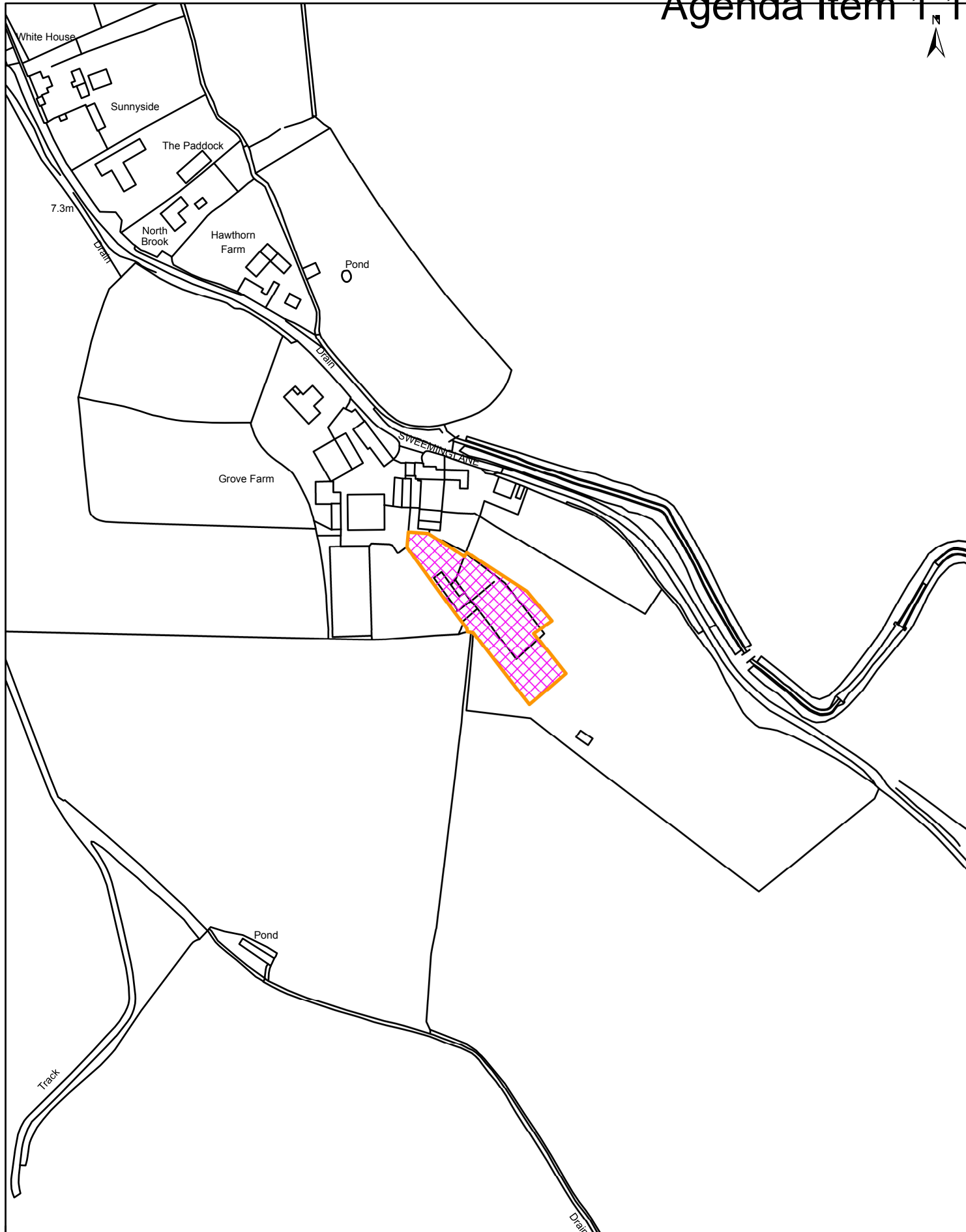
1 April 2020

Item No.	Ref	Site Address	Description	Officer	Ward	Pages
1.1	2019/0311/FUL	The Byre, Sweeming Lane, Little Fenton	Proposed conversion of and extension to a stable/garage block to create a residential property, erection of a detached garage, erection of stables and creation of manege	JETY	Appleton Roebuck and Church Fenton	5 - 26
1.2	2019/0513/FUL	Hilahgarth, Main Street, Church Fenton	Proposed erection of three detached dwellings following demolition of existing dwelling	YVNA	Appleton Roebuck and Church Fenton	27 - 52
1.3	2019/0883/FUL	Cranton, Church Crescent, Stutton	Proposed demolition of existing bungalow and construction of 3no. new-build dwellings	GAST	Tadcaster	53 - 80
1.4	2019/1214/FUL	Cemetery, Long Mann Hills Road, Selby	Proposed erection of a bee apiary	IRSI	Selby West	81 - 92

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Agenda Item 1

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**APPLICATION SITE**

The Byre, Sweeming Lane, Little Fenton  
2019/0311/FUL

1:2,500



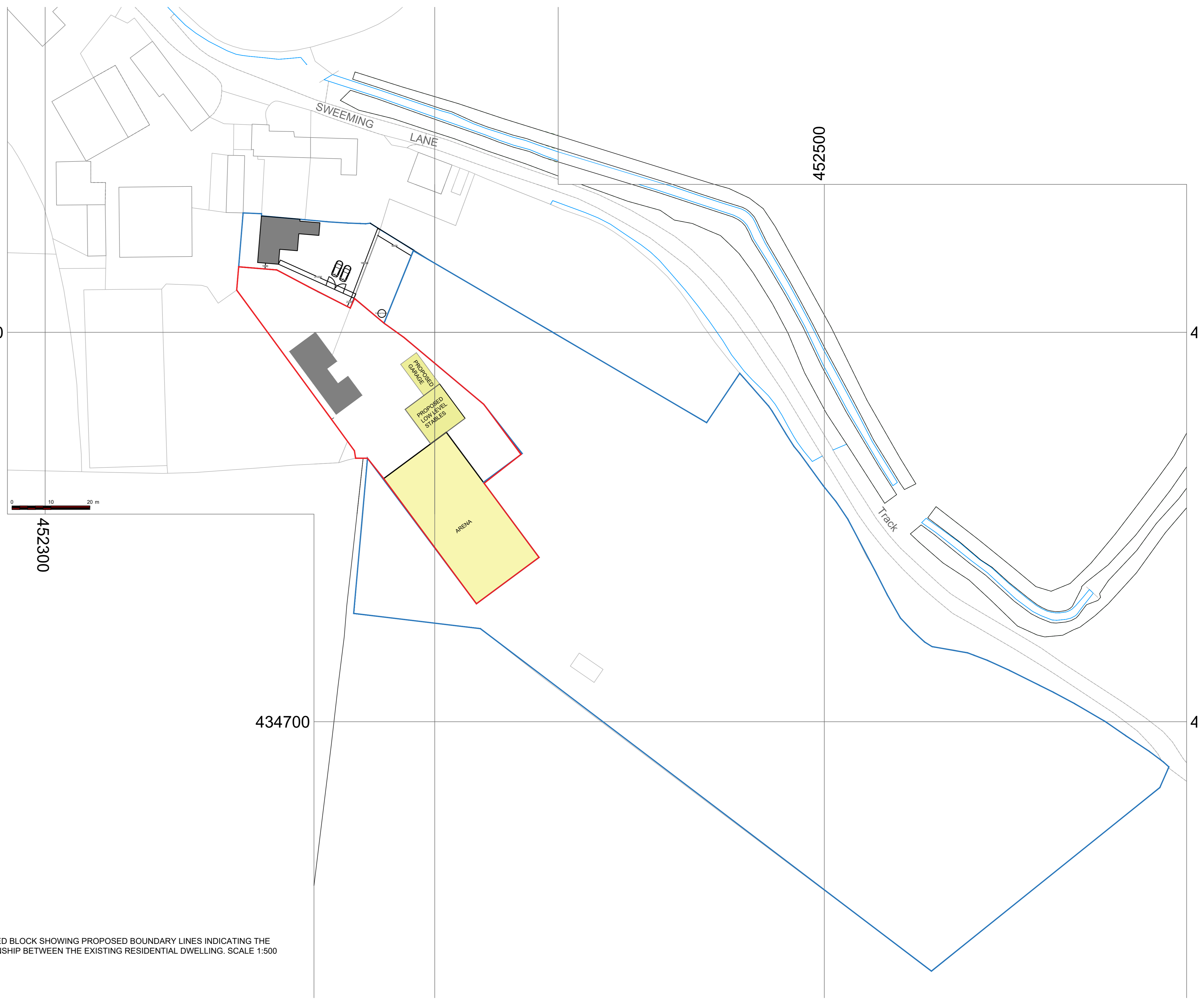
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PROPOSED BLOCK PLAN ALSO INDICATING THE NEW BOUNDARY LINES  
SCALE 1:200

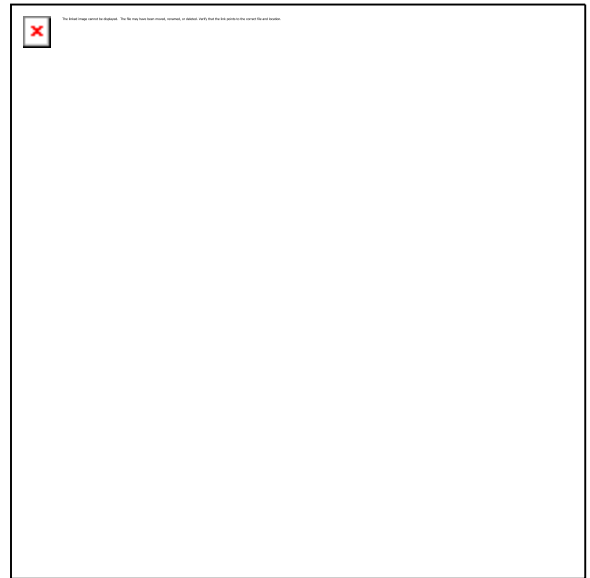
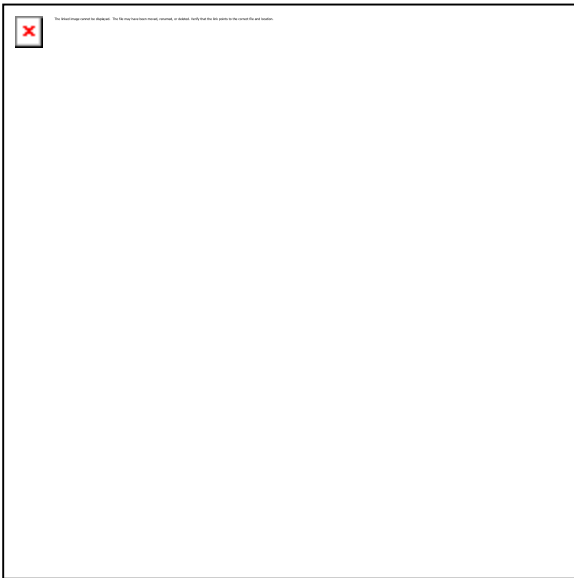


PROPOSED BLOCK SHOWING PROPOSED BOUNDARY LINES INDICATING THE RELATIONSHIP BETWEEN THE EXISTING RESIDENTIAL DWELLING. SCALE 1:500

**AMENDED  
DRAWING**

Project: THE BYRE, SWEEMING LANE, LITTLE FENTON, LS25 6HF		
Drawing Title: PLANNING APPLICATION - PROPOSED BLOCK PLAN AND BOUNDARY LINES		
CAD Ref.:	Drawn	
Date: 23.03.2019	Scale: VARIES @A0	Drawn: @A0
Project No.:	DWG. No.:	Revision:
	B002	F

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**Report Reference Number:** 2019/0311/FUL

**To:** Planning Committee  
**Date:** 1<sup>st</sup> April 2020  
**Author:** Jenny Tyreman (Senior Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0311/FUL	PARISH:	Little Fenton Parish Council
APPLICANT:	Mr Andrew Cook	VALID DATE:	30th April 2019
		EXPIRY DATE:	25th June 2019
PROPOSAL:	Proposed conversion of and extension to a stable/garage block to create a residential property, erection of a detached garage, erection of stables and creation of manege		
LOCATION:	The Byre Sweeming Lane Little Fenton Leeds North Yorkshire LS25 6HF		
RECOMMENDATION:	MINDED TO GRANT		

This application has been brought before 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 there are material considerations which would justify approval of the application. Furthermore, more than 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 located outside the defined development limits of any settlement and is therefore located within the open countryside. The application site is wholly located within Flood Zone 2, which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.
- 1.2 The application site comprises; an existing stable/garage block constructed from brick and render walls with a pantile roof; an area of hardstanding for parking, turning and manoeuvring; an existing manege; and paddock land. To the north of the application site are existing dwellings and existing agricultural/equestrian buildings located off Sweeming Lane; while to the east, west and south of the application site are open fields.
- 1.3 In terms of whether the existing development at the site (garage/stable block and manege) are lawful or unlawful, it should be noted that planning permission was granted for the erection of a stables and garage and the creation of an arena on 09 November 2012 under planning permission reference 2012/0859/FUL. That permission granted two separate buildings of timber construction, one to be used as a stable block and one to be used as a garage block, with a manege located to the south west of those buildings. However instead, a single stable/garage block constructed from brick and render walls with a pantile roof was constructed at the site, in roughly the same location as the two buildings permitted under reference 2012/0859/FUL, and a manege was constructed in a different location to that permitted under reference 2012/0859/FUL, to the west of that building. Officers are of the view that given the differences between the permitted scheme and the constructed scheme, that the 2012/0859/FUL permission was not implemented. As such, Officers are of the view that a breach of condition has not occurred (in which case the time limit for enforcement action would have been 10 years from the date of the breach), but rather that building operations have taken place without the benefit of planning permission (in which case the time limit for enforcement action would be four years from the substantial completion of those building operations). In terms of the existing garage/stable block, given the passage of time since it was substantially completed, the unauthorised development has become lawful and immune from enforcement action. In terms of the existing manege, while this remains unlawful, the current application seeks planning permission for the relocation of the manege to a different location within the site, which if granted and implemented would rectify this breach of planning control.

### **The Proposal**

- 1.4 The application seeks full planning permission for the conversion of and extension to an existing stable/garage block to create a residential property; the erection of a detached garage; the erection of stables; and creation of a manege (through the relocation of an existing manege).
- 1.5 The conversion of and extension to the existing stable/garage block to create a residential property would involve the erection of two modest flat roof extensions to the existing building, which would result in it having a U-shape. The first would measure 2.6 metres by 3.2 metres with a height of 2.6 metres above ground floor level; while the second would measure 9.2 metres by 3.2 metres with a height of 2.6 metres above ground floor level. Furthermore there would be the insertion of some additional openings in the south east, south west and north west elevations along

with internal alterations. The materials used in the external construction of the proposed dwelling would match those of the existing stable/garage block.

- 1.6 The proposed detached garage would be located to the north east of the existing stable/garage block which is proposed to be converted and would measure 5.1 metres by 10 meters and would have a pitched roof with eaves to a height of 2.7 metres above ground floor level and ridge to a height of 3.7 metres above ground floor level. No details have been provided regarding the materials to be used in the external construction of the proposed garage.
- 1.7 The proposed stables would be located to the south east of the existing stable/garage block which is proposed to be converted, and to the south of the proposed garage. The proposed stables would measure 11.1 metres by 11.1 metres and would have a shallow pitched roof with eaves to a height of 2.1 metres above ground floor level and ridge to a height of 2.6 metres above ground floor level. No details have been provided regarding the materials to be used in the external construction of the proposed stables.
- 1.8 The proposed manege would be located to the south east of the existing and proposed buildings and would measure 20 metres by 40 metres. The submitted sectional drawing (no. B008) demonstrates that the proposed manege would be raised from the ground by 300mm, surfaced in sand and have an approximately 1.3 metre high post and rail fence surround.

### **Relevant Planning History**

- 1.9 The following historical applications are considered to be relevant to the determination of this application.
- 1.10 An application (reference CO/1988/1424) for the proposed conversion of an existing barn and stable to use as two dwellings was granted on 17 February 1989.
- 1.11 An application (reference CO/2002/0318) for the proposed conversion of an existing redundant barn to form 1No. dwelling was granted on 30 July 2002.
- 1.12 An application (reference CO/2003/0731) for the extension to and conversion of an existing barn to create one dwelling was granted on 08 August 2003.
- 1.13 An application (reference 2006/1141/FUL) for the proposed extension to a dwelling and two storey garage was refused on 07 December 2006.
- 1.14 An application (reference 2006/1179/FUL) for the propped erection of an agricultural barn was granted on 06 December 2006.
- 1.15 An application (reference 2007/0253/FUL) for a two storey front extension, conservatory to side and dormer to front was granted on 14 May 2007.
- 1.16 An application (reference 2012/0859/FUL) for the erection of a stables and garage and creation of an arena was granted on 09 November 2012.

## **2. CONSULTATION AND PUBLICITY**

- 2.1 **Parish Council** – No response within statutory consultation period.

- 2.2 **NYCC Highways** – No objections.
- 2.3 **Environmental Health** - Given the close proximity of the proposed dwelling to the stables/arena, future occupants will likely experience loss of amenity, notably odour, light and noise emissions. In view of this, it is recommended that the ownership of the dwelling is formally linked to that of the stables/arena. If such a link is not agreeable then the applicant should provide further details demonstrating that future occupants will not suffer loss of amenity from odour, light and noise associated with the stables. Furthermore, the applicant proposes the installation of air source heat pumps (ASHP) within the proposed garage. ASHPs are a notorious source of noise disturbance, particularly during the quieter hours when the tone is more dominant. In view of this, and nearby sensitive receptors, it is recommended that further information is sought regarding the make/model and associated noise levels (typically found within manufacturer's literature) for further consideration.
- 2.4 **Yorkshire Water Services Ltd** – No response within statutory consultation period.
- 2.5 **Selby Area Internal Drainage Board** - If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year. If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow. If the surface water is to be discharged to any watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission and would be restricted to 1.4 litres per second per hectare or greenfield runoff. No obstructions within 7 metres of the edge of a watercourse are permitted without Consent from the IDB. If surface water or works are planned adjacent to a Main River within the Drainage District, then the Environment Agency should be contacted for any relevant Permits.
- 2.6 **The Environment Agency (Liaison Officer)** – Advised they are not required to be consulted – need to follow Standing Advice.
- Telephone conversation dated 14.01.2020: Clarified that although the Standing Advice requires ground floor levels to be a minimum of whichever is higher of: 300 millimetres (mm) above the general ground level, or 600mm above the estimated river or sea flood level; where the estimated river or sea flood level has not been modelled, the proposal would be acceptable where the ground floor levels are a minimum of 300 millimetres (mm) above the general ground level and where flood resistance measures are incorporated 300mm above ground floor level.
- 2.7 **County Ecologist** – The application is supported by an assessment of bat roost potential which is of a high standard and has been very clearly presented. The survey found that the building has negligible potential to support roosting bats, so no further surveys are required. Advice on installing a bat box in the new building has been provided in section 12 of the report. This would be an enhancement and we would not require this to be conditioned, though it could be highlighted in an Informative if appropriate.
- 2.8 **North Yorkshire Bat Group** – No response within statutory consultation period.
- 2.9 **Yorkshire Wildlife Trust** – No objection.

2.10 **HER Officer – Initial response dated 12.06.19:** The application site lies within an area of archaeological potential. Archaeological excavation in advance of the construction of the Assembly to Aberford pipeline in 2010 discovered Iron age/Romano-British settlement activity, nearby to the south west of the application area. The excavation revealed a large number of archaeological features which have been interpreted as part of a fairly extensive and long-lived Romano-British settlement that may have had its roots in the Iron Age. Many of the features have been dated by pottery to the later third to fourth century AD, a large assemblage of animal bone and one neo-natal human burial were also found. Therefore, there is the potential for ground disturbing works in this area to encounter archaeological remains dating from the Iron Age/Romano-British periods. It is therefore recommended that a condition requiring archaeological monitoring is attached to any planning permission granted.

Further response dated 20.11.19: The amended plans include a proposed section through the arena area and a flood risk assessment that indicates that levels will be raised rather than reduced. This reduces the physical impact of the footprint of the development on the potential archaeological remains and therefore the previous recommendation for archaeological monitoring is removed.

2.11 **National Grid** – No objections.

2.12 **Public Rights Of Way Officer** – No objections. Informative recommended regarding adjacent public rights of way.

2.13 **Contaminated Land Consultant** – No objections, subject to a condition relating to the reporting of any unexpected contamination.

2.14 **Neighbour Summary** – All immediate neighbours have been informed by neighbour notification letter, a site notice has been erected and an advert placed in the local press. Twelve letters of representation have been received from five neighbouring properties as a result of the advertisement of this application, all of which raise objections to the application. Concerns have been raised in respect of: (1) the existing stable/garage building and menege not being constructed in accordance with planning permission reference 2012/0859/FUL; (2) inaccuracies within the application documents; (3) the inappropriate nature of the proposed development within the open countryside and Green Belt; (4) the lack of infrastructure to support the proposed development; (5) the potential for the proposed development to set a precedent for further development within the settlement; (6) the building to be converted is still in use as a stable/garage and not a redundant building; (7) the unnecessary nature of the proposed development; (8) the proposal does not comply with Policy H12 of the Selby District Local Plan; (9) highway safety; (10) flood risk and drainage; (11) the potential for impact on wildlife; (12) the potential for noise from the air source heat pump to impact on the residential amenities of neighbouring properties; (13) the impact of the proposal on the environment; (14) the site having been recently on the market; and (15) that the application may have circumnavigated the planning system to get a dwelling within the open countryside.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The application site is located outside the defined development limits of any settlements and is therefore located within the open countryside.
- 3.2 The application site is wholly located within Flood Zone 2, which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.
- 3.3 The application site lies within an area of archaeological potential.

#### **4 POLICY CONSIDERATIONS**

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

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

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

- 4.6 The relevant Core Strategy Policies are:

SP1 – Presumption in Favour of Sustainable Development  
SP2 – Spatial Development Strategy



SP5 – The Scale and Distribution of Housing  
SP9 – Affordable Housing  
SP15 – Sustainable Development and Climate Change  
SP18 – Protecting and Enhancing the Environment  
SP19 – Design Quality

### **Selby District Local Plan**

4.7 The relevant Selby District Local Plan Policies are:

ENV1 – Control of Development  
ENV2 – Environmental Pollution and Contaminated Land  
ENV28 – Other Archaeological Remains  
H12 – Conversion to Residential Use in the Countryside  
T1 – Development in Relation to the Highway Network  
T2 – Access to Roads  
RT9 – Horse Related Development

## **5 APPRAISAL**

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

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage
- Impact on Archaeology
- Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing
- Other Issues

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

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

5.3 The application site is located outside the defined development limits of any settlements and is therefore located within the open countryside.

5.4 Policy SP2A (c) of the Core Strategy states that *"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."*

Conversion of and Extension to an Existing Stable/Garage Block to Create a Residential Property and Erection of a Detached Garage

- 5.5 Policy H12 of the Selby District Local Plan specifically relates to conversion of rural buildings to residential use in the countryside and sets out that such proposals would be acceptable in principle subject to a number of criteria.
- 5.6 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”*. The proposal does not meet this criteria and is therefore contrary to the requirements of the development plan. However, the approach taken by Policy SP2A(c) is significantly different to that taken in Policy H12 as it does not require the more onerous tests set out in H12(1), with SP2A(c) merely expressing a preference for employment uses where proposals involve the re-use of a building. It is therefore considered that Policy H12 of the Selby District Local Plan should be given limited weight due to the conflict between the requirements of Criterion (1) of the policy and the less onerous approach set out in the Core Strategy.
- 5.7 Notwithstanding the above, Criterion (3) and (4) of Policy H12 require that *“the building is structurally sound and capable of re-use without substantial rebuilding”* and *“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”*.
- 5.8 In terms of Criterion (3), the existing building is less than 10 years old and is constructed from blockwork, brick and render walls with a pantile roof. It was clear from the site visit that the building was structurally sound and capable of re-use without substantial rebuilding. Thus it is considered that the proposal would comply with Criterion (3) of Policy H12.
- 5.9 In terms of Criterion (4), the proposals would involve the erection of two modest flat roof extensions to the existing building, which would result in it having a U-shape. The first would measure 2.6 metres by 3.2 metres with a height of 2.6 metres above ground floor level; while the second would measure 9.2 metres by 3.2 metres with a height of 2.6 metres above ground floor level. The proposed extensions would result in a 31% increase in the floor space of the building and a 17.5% increase in the volume of the building, which is not considered to be extensive. Furthermore there would be the insertion of some additional openings in the south east, south west and north west elevations along with internal alterations, which again are not considered to be extensive. On this basis, it is considered that the proposal would comply with Criterion (4) of Policy H12.
- 5.10 The remaining criteria of Policy H12 relate to the impacts of the proposed conversion and extension and will therefore be assessed later in this report.
- 5.11 The proposed detached garage would be located to the north east of the proposed dwelling and would measure 5.1 metres by 10 metres and would have a pitched roof with eaves to a height of 2.7 metres above ground floor level and ridge to a height of 3.7 metres above ground floor level. It would be reasonable to allow a residential property to have the benefit of a detached garage, even when located within an open countryside location – indeed permitted development rights allow for such outbuildings incidental to the enjoyment of a dwellinghouse in principle (subject to certain size criteria). Thus the principle of the proposed erection of a

detached garage within the application site is considered to be acceptable in principle.

#### Erection of Stables and Creation of a Manege

- 5.12 Policy RT9 of the Selby District Local Plan specifically relates to horse related development and sets out that such proposals would be acceptable in principle subject to a number of criteria which will be assessed later in this report.

#### Conclusion on the Principle of the Development

- 5.13 Having regard to the above, it is considered that the proposed development involving the conversion of and extension to an existing stable/garage block to create a residential property, the erection of a detached garage, the erection of stables, and the creation of a manege would be acceptable in principle and in accordance with Policies SP1 and SP2 of the Core Strategy and Policies H12 (3) and (4) and RT9 of the Selby District Local Plan.

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

- 5.14 The application site comprises an existing stable/garage block constructed from blockwork, brick and render walls with a pantile roof; an area of hardstanding for parking, turning and manoeuvring; an existing manege; and paddock land. To the north of the application site are existing dwellings and existing agricultural/equestrian buildings located off Sweeming Lane; while to the east, west and south of the application site are open fields.
- 5.15 In terms of the conversion of and extension to the existing stable/garage block to form a residential property, it should be noted that the existing building already has a very domestic appearance rather than being a traditional rural building. The proposed alterations to the building including the insertion of some additional openings in the south east, south west and north west elevations would be in-keeping with the existing building and would not have any significant adverse impact on the character and appearance of the area. Furthermore, the proposed extensions would be modest in size and scale, constructed of materials to match the existing building and although flat roofed, would not appear unduly out of character with the existing building, given its design, and thus, on balance, would not have any significant or detrimental impact on the character and appearance of the area.
- 5.16 In terms of the proposed detached garage, this would be modest in size and scale and would have a simple form. No details have been provided regarding the materials to be used in the external construction of the proposed garage, however, a condition could be attached to any planning permission granted regarding materials to ensure the proposed detached garage would be in-keeping with the character and appearance of the area and would not have any adverse impact on the character and appearance of the area.
- 5.17 In terms of the proposed stables, the submitted drawings demonstrate that the proposed building would be of an appropriate size and scale for its intended end use. No details have been provided regarding the materials to be used in the external construction of the proposed stables, however, a condition could be attached to any planning permission granted regarding materials to ensure the proposed stables would be in-keeping with the character and appearance of the

area and would not have any adverse impact on the character and appearance of the area. The proposed manege, given its size, scale and design, would blend into the rural environment and would be surrounded by post and rail fencing typical of rural areas, thus would not have any adverse impact on the character and appearance of the area.

- 5.18 Subject to the aforementioned conditions, the proposed development would be in accordance with Policies ENV1 (1) and (4) H12 (5) and RT9 (1) of the Selby District Local Plan, Policy SP19 of Core Strategy and national policy contained within the NPPF.

### **Impact on Residential Amenity**

- 5.19 To the north of the application site are existing neighbouring dwellings.
- 5.20 Given the nature of the proposals, the separation distances to neighbouring residential properties and the size, scale, siting and design of the proposed development, it is not considered that the proposals would result in any significant adverse effects in terms of overshadowing, oppression or overlooking so as to have to have any significant adverse effects on any neighbouring residential properties in these respects.
- 5.21 In terms of the potential for noise and disturbance, the Council's Environmental Health Officer (EHO) has been consulted on the proposals. They have advised that given the close proximity of the proposed dwelling to the stables/manege, future occupants would likely experience a loss of amenity, notably from odour, light and noise emissions. In view of this the EHO recommends that the ownership of the proposed dwelling is linked to that of the stables/manege. This is considered reasonable and necessary and can be secured by way of condition. In terms of whether adequate provision would be made for the storage and disposal of soiled bedding material, no objections have been raised by the EHO to the information submitted. The EHO does however raise concerns regarding the potential for the air source heat pumps to be installed in the proposed garage to result in noise disturbance to neighbouring residential properties and recommends that further information is sought regarding the make/model and associated noise levels associated with the air source heat pumps. It would be considered reasonable and necessary to secure the provision of these details prior to the installation of any air source heat pumps into the development in the interests of the residential amenities of neighbouring residential properties.
- 5.22 Policy RT9 (3) of the Selby District Local Plan requires "*adequate provision is made for the storage and disposal of soiled bedding material and applicants [to] demonstrate that suitable arrangements are to be made for this purpose*". No such details have been submitted as part of the application, however, it would be considered reasonable and necessary for this to be conditioned as part of any planning permission granted to ensure the proposals comply with criteria 3 of Policy RT9 of the Selby District Local Plan.
- 5.23 Subject to the aforementioned conditions, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policies ENV1 (1), H12 (5), RT9 (3) of the Selby District Local Plan and national policy contained within the NPPF.

### **Impact on Highway Safety**

- 5.24 The proposed development would be served from an existing vehicular access.
- 5.25 NYCC Highways have been consulted on the proposals and have not raised any objections.
- 5.26 Having regard to the above, it is considered that the proposal would be acceptable in terms of highway safety in accordance with Policies ENV1 (2), H12 (7), RT9 (4), T1 and T2 of the Selby District Local Plan and national policy contained within the NPPF.

### **Flood Risk and Drainage**

- 5.27 The application site is wholly located within Flood Zone 2, which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.
- 5.28 Paragraph 155 of the NPPF states *“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere”*.
- 5.29 Paragraph 158 of the NPPF states *“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. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding”*.
- 5.30 Paragraph 159 of the NPPF states *“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”*.
- 5.31 Paragraph 164 of the NPPF states *“Applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 50”*.
- 5.32 The Council has produced a guidance note on the application of the sequential test within Selby District – “Selby District Council Flood Risk Sequential Test Developer Guidance Note” dated October 2019. Having regard to the national policy contained within the NPPF and the advice contained within the Guidance Note, the sequential test would not be required for the conversion of or an extension to the existing stable/garage block to form a residential property, as this would involve a change of use. Nevertheless, the sequential test would be required for the other aspects of the proposal including the erection of a detached garage, the erection of stables and creation of a manege. In terms of the application to the sequential test to these aspects of the proposed development, given the nature of the proposed

development involving horse related development and an ancillary residential building, it would be considered reasonable to narrow down the geographical coverage area for the sequential test to the land within the applicant's ownership.

- 5.33 A site specific flood risk assessment and a sequential test have been submitted with the application.
- 5.34 The submitted sequential test sets out *“The development is within the boundary of the site which is completely owned by the applicant. In addition, the development is positioned at the highest point of the site, thus locating the barn, garage and arena to the other part of the site would increase flood risk. The development therefore passes the sequential test”*. The submitted sequential test has not been carried out in accordance with national policy contained within the NPPF or the advice contained within the Council's Guidance Note. Notwithstanding this, Officers have undertaken the sequential test on the required parts of the proposed development (the erection of a detached garage, the erection of stables and creation of a manege) in accordance with the national policy contained within the NPPF and the advice contained within the Council's Guidance Note, using the geographical coverage area of the land within the applicants ownership. All of the land within the applicant's ownership is located within Flood Zone 2, aside from a very small pocket to the south west of the application site, which would not be of sufficient size to accommodate the proposed development. As such, the proposed development (the erection of a detached garage, the erection of stables and creation of a manege) is considered to be acceptable in terms of passing the sequential test. As the proposed development is not classified as being 'highly vulnerable' the exception test is not required in this instance.
- 5.35 The submitted site specific flood risk assessment has been undertaken by the applicant. The Environment Agency have been consulted on the site specific flood risk assessment and have advised that they are not required to be consulted on the proposal given the flood zone and the vulnerability of the proposed development and that instead the Local Planning Authority need to follow the Standing Advice. The Standing Advice relates to surface water management, access and evacuation and floor levels. Officers are seeking further advice from the Environment Agency to confirm whether the proposal complies with the Standing Advice, as it is not clear in this instance. Members will be updated on this issue at Planning Committee.
- 5.36 In terms of drainage, the submitted application form sets out that surface water would be disposed of via an existing watercourse, while foul sewerage would be disposed of via an unknown means. The submitted site specific flood risk assessment sets out that surface water would be disposed of via existing drains and foul water would be disposed of via septic tank. The Selby Area Internal Drainage Board and Yorkshire Water have been consulted on the proposals. The Selby Area Internal Drainage Board have advised that if the surface water is to be discharged to any watercourse within the Drainage District, separate consent from the Board would be required in addition to planning permission and would be restricted to 1.4 litres per second per hectare or greenfield runoff. Alternatively, if the surface water is to be directed to a mains sewer system the Board would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow. Yorkshire Water have not raised any objections to the proposals. In terms of the discharge of foul water to a septic tank, an informative should be attached to any planning permission granted to draw the attention of the applicant to the information provided on the Environment Agency website, <https://www.gov.uk/guidance/general-binding-rules-small-sewage->

discharge-to-surfacewater. This information states *"If you have a septic tank that discharges directly to a surface water you will need to replace or upgrade your treatment system by 1 January 2020"*. Hence depending on the outlet for the water from the system the applicant may want to consider a package treatment plant.

- 5.37 It is considered that the proposals are acceptable in respect to drainage in accordance with Policy SP15 of the Core Strategy, Policy RT9 (2) of the Selby District Local Plan and national policy contained within the NPPF.

### **Impact on Archaeology**

- 5.38 The application site lies within an area of archaeological potential, therefore NYCC Archaeology have been consulted on the application.
- 5.39 NYCC Archaeology have advised that archaeological excavation in advance of the construction of the Assembly to Aberford pipeline in 2010 discovered Iron age/Romano-British settlement activity, nearby to the south west of the application area. The excavation revealed a large number of archaeological features which have been interpreted as part of a fairly extensive and long-lived Romano-British settlement that may have had its roots in the Iron Age. Many of the features have been dated by pottery to the later third to fourth century AD, a large assemblage of animal bone and one neo-natal human burial were also found.
- 5.40 In their initial response to the application, NYCC Archaeology advised that as there is the potential for ground disturbing works in this area to encounter archaeological remains dating from the Iron Age/Romano-British periods, a condition should be attached to any planning permission granted requiring archaeological monitoring. However, further information was submitted during the course of the application, which demonstrated that the proposals would not result in significant ground disturbing works, which would reduce the physical impact of the footprint of the development on the potential archaeological remains. Therefore NYCC Archaeology advised that their previous request for a condition relating to archaeological monitoring could be removed.
- 5.41 Having regard to the above, it is considered that the proposals would not harm any archaeological remains and is therefore in accordance with Policy ENV28 of the Selby District Local Plan and national policy contained within the NPPF.

### **Nature Conservation and Protected Species**

- 5.42 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2017. The presence of protected species is a material planning consideration.
- 5.43 The application has been supported by a Bat Scoping Survey undertaken by John Gardner ARPS, dated 5<sup>th</sup> March 2019. The Survey concludes that the site has negligible roosting value for bats and sets out that no further activity surveys are required. NYCC Ecology have been consulted on the application and have reviewed the application documents in full, including the Bat Scoping Survey. NYCC Ecology have advised that the application has been supported by an assessment of bat roost potential which is of a high standard and has been very clearly presented. The survey has found that the site has negligible potential to support roosting bats and so no further surveys are required. This is accepted. Section 12 of the Survey provides advice on installing a bat box within the newly extended building, which

would be an enhancement. This would not be required to be conditioned, but an informative could be included on any planning permission granted to highlight the potential for ecological enhancement.

- 5.44 Having regard to the above, it is considered that the proposals would not harm any acknowledged nature conservation interests or protected species and is therefore in accordance with Policies ENV1 (5) and RT9 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, national policy contained within the NPPF, the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2017.

### **Land Contamination**

- 5.45 The application has been supported by a planning application form and a contaminated land screening assessment form. The planning application form sets out that the proposed use would not be particularly vulnerable to the presence of contamination, but as the proposed use of the site would partly be for residential purposes, it is considered that the proposed use would be vulnerable to the presence of contamination.
- 5.46 The submitted information has been reviewed by the Council's Contaminated Land Consultant who has advised that the submitted contaminated land screening assessment form does not identify any significant potential contaminant sources, so no further investigation or remediation work is required. The Council's Contaminated Land Consultant therefore advises that there are no objections to the proposed development subject to a condition relating to the reporting of any unexpected contamination.
- 5.47 Subject to the aforementioned condition, it is considered that the proposal would be acceptable in respect of land contamination in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and national policy contained within the NPPF.

### **Affordable Housing**

- 5.48 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.
- 5.49 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"*. 'Major development' is defined in Annex 2: Glossary as *"For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more"*.
- 5.50 The application proposes the creation of one dwelling on a site which has an area of less than 0.5 hectares, such that the proposal is not considered to be major development as defined in Annex 2 of the NPPF. It is therefore considered that



having had regard to Policy SP9 of the Core Strategy, the Affordable Housing SPD and national policy contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

### **Other Issues**

- 5.51 It is noted that some of the neighbouring properties have made reference to the application site being located within the Green Belt. For clarity, the application site is not located within the Green Belt, but is instead located within the open countryside and the proposals have been assessed as such.

## **6 CONCLUSION**

- 6.1 The application seeks full planning permission for; the conversion of and extension to an existing stable/garage block to create a residential property; the erection of a detached garage; the erection of stables; and creation of a manege (through the relocation of an existing manege).
- 6.2 The proposed development is considered to be acceptable in principle in accordance with Policies SP1 and SP2 of the Core Strategy and Policies H12(3) and (4) and RT9 of the Selby District Local Plan. Policy H12(1) of the Selby District Local Plan is given limited weight as the approach taken by Policy SP2A(c) is significantly different to that taken in Policy H12 as it does not require the more onerous tests set out in H12(1).
- 6.3 Furthermore, having assessed the proposals against the relevant policies, it is considered that the proposals are acceptable in respect of their design and impact on the character and appearance of the area, impact on residential amenity, impact on highway safety, drainage, impact on archaeology, nature conservation and protected species, land contamination and affordable housing.
- 6.4 In regards to flood risk, Officers are seeking further advice from the Environment Agency to confirm that the proposal complies with the Standing Advice. Members will be updated on this issue at Planning Committee.

## **7 RECOMMENDATION**

This application is recommended to be minded to GRANT subject to confirmation that the proposals comply with the Environment Agency's Standing Advice Note, following the expiry of the consultation period and subject no new issues being raised and subject 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 listed below:

B001A – Existing Location Plan

B002 F – Proposed Block Plan and Boundary Lines

B003 E – Proposed Boundary Lines  
B004 – Existing Plans and Elevations  
B005 B - Proposed Plans  
B006 B - Proposed Elevations  
B007 – Proposed Garage Plans  
B008 – Proposed Stable and Arena Plans  
B009 A - Access from Highway

Reason:

For the avoidance of doubt.

03. The materials to be used in the construction of the external surfaces of the proposed extensions hereby permitted to the existing stable/garage block to be converted to a residential property shall match those of the existing building in colour and texture.

Reason:

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

04. No development above foundation level shall commence until details of the materials to be used in the construction of the exterior walls and roof(s) of the proposed garage have been 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.

05. No development above foundation level shall commence until details of the materials to be used in the construction of the exterior walls and roof(s) of the proposed stables have been 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.

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

Reason:

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

07. The stables and manege hereby permitted shall not be used for commercial horse breeding, riding or boarding activities and shall only be used for private use in association with the residential property hereby permitted.

Reason:

In the interests of residential amenity and in order to protect the openness of the countryside in accordance with Policies ENV1 and RT9 of the Selby District Local Plan and national policy contained within the NPPF.

08. Prior to the installation of any air source heat pumps in the buildings hereby permitted, details of noise attenuation shall be submitted to and approved in writing by the Local Planning Authority. The air source heat pumps shall thereafter be installed in full accordance with the agreed scheme and maintained as such throughout the lifetime of the development.

Reason:

In the interests of residential amenity having had regard to Policy ENV1 of the Selby District Local Plan and national policy contained within the NPPF.

09. Prior to the stables hereby permitted being brought into use, details regarding the storage and disposal of soiled bedding material shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the development shall be carried out in accordance with the submitted details.

Reason:

In the interests of residential amenity having had regard to Policies ENV1 and RT9 (3) of the Selby District Local Plan and national policy contained within the NPPF.

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.

INFORMATIVE:

The attention of the applicant to the information provided on the Environment Agency website, <https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-surfacewater>. This information states *"If you have a septic tank that discharges directly to a surface water you will need to replace or upgrade your treatment system by 1 January 2020"*. Hence depending on the outlet for the water from the system the applicant may want to consider a package treatment plant.

INFORMATIVE:

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

INFORMATIVE:

The applicant's attention is drawn to the mitigation and compensation measures contained in Section 12 of the Bat Scoping Survey undertaken by John Gardner ARPS, dated 5<sup>th</sup> March 2019, which states "*In order to comply with planning policy guidelines which state that developments should aim to increase a site's potential for wildlife, an artificial roost should be incorporated into the proposed new extension, ideally on the west or south elevation. This should be in the form of an enclosed bat house, such as an Ibstock bat house or a Schwegler 1FR bat tube which can be covered by the external render. All bat houses should be located high up (around or above 4m) and away from windows*".

**INFORMATIVE:**

This grant of planning permission does not include the provision of any outdoor lighting. Should the applicant wish to erect any outdoor lighting in the future, this would need to be subject to a further application for planning permission.

## **8 Legal Issues**

### **8.1 Planning Acts**

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

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

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

### **8.3 Equality Act 2010**

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

## **9 Financial Issues**

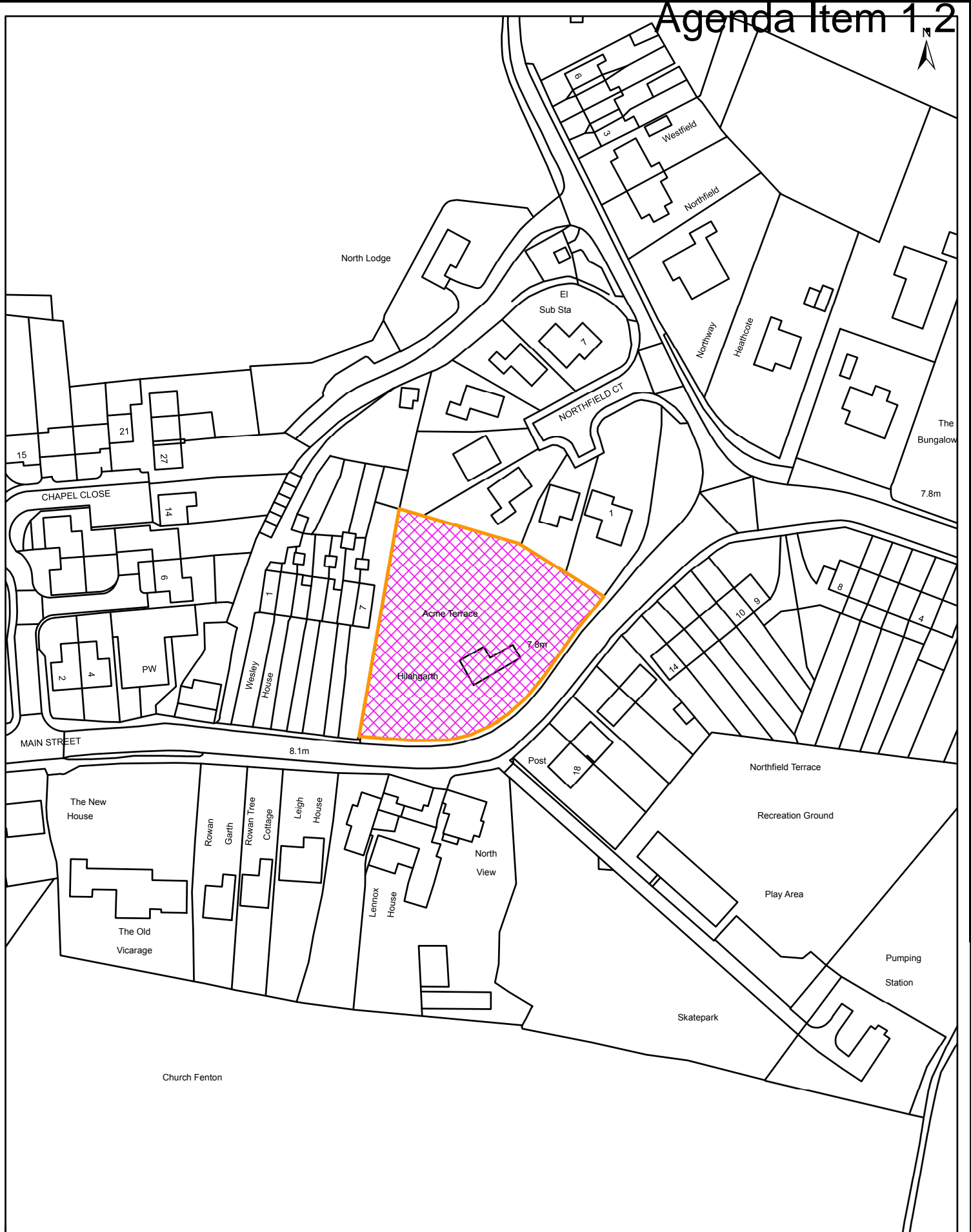
Financial issues are not material to the determination of this application.

## **10 Background Documents**

Planning Application file reference 2019/0311/FUL and associated documents.

**Contact Officer:** Jenny Tyreman (Senior Planning Officer)

**Appendices:** None



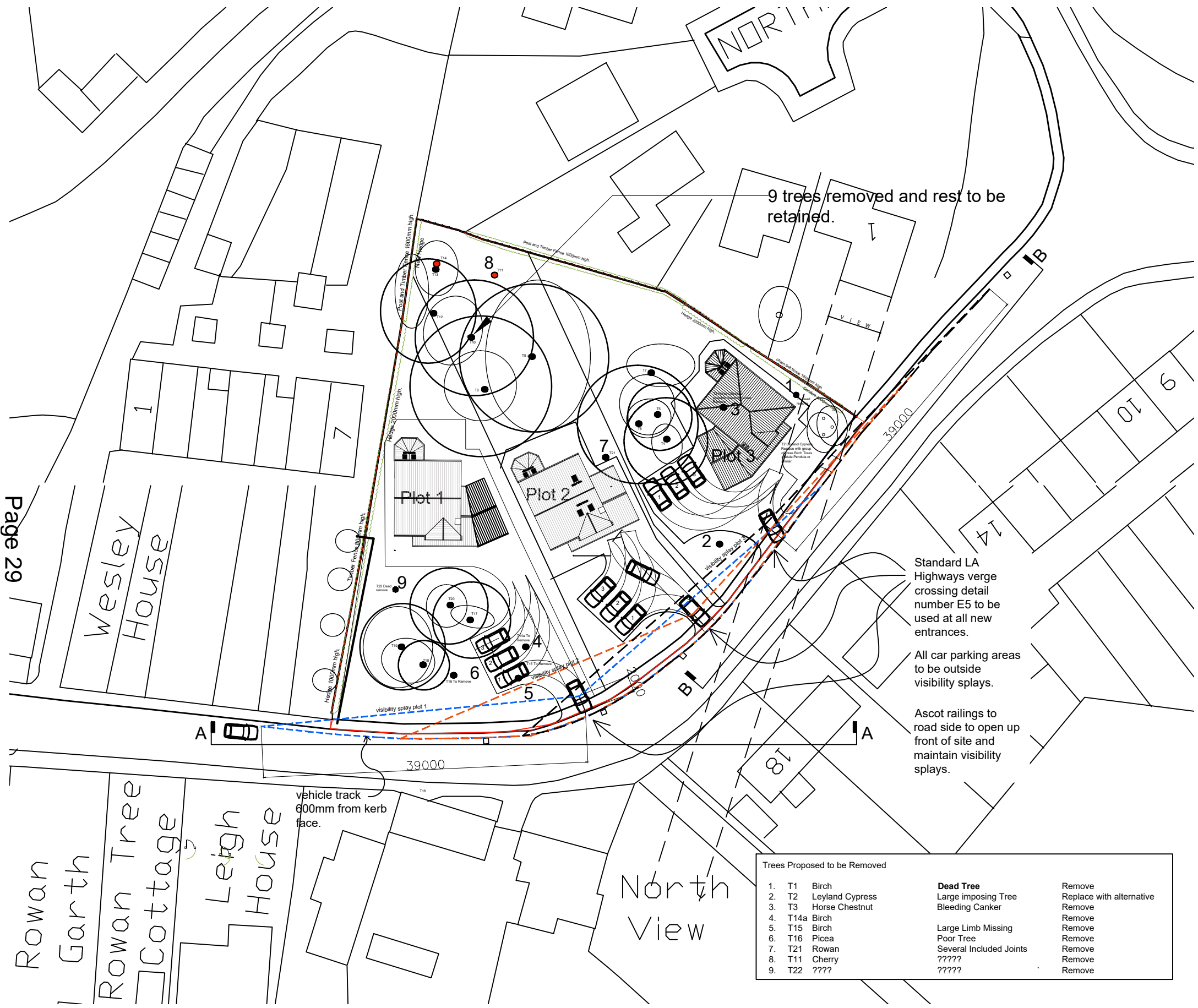
### APPLICATION SITE

Hilahgarth, Main Street, Church Fenton  
2019/0513/FUL

1:1,250



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Trees Proposed to be Removed		
1. T1	Birch	Remove
2. T2	Leyland Cypress	Replace with alternative
3. T3	Horse Chestnut	Remove
4. T14a	Birch	Remove
5. T15	Birch	Remove
6. T16	Picea	Remove
7. T21	Rowan	Remove
8. T11	Cherry	Remove
9. T22	????	Remove
	<b>Dead Tree</b>	
	Large imposing Tree	Remove
	Bleeding Canker	Remove
	Large Limb Missing	Remove
	Poor Tree	Remove
	Several Included Joints	Remove
	?????	Remove
	?????	Remove

9 trees removed and rest to be retained.

Standard LA Highways verge crossing detail number E5 to be used at all new entrances.

All car parking areas to be outside visibility splays.

Ascot railings to road side to open up front of site and maintain visibility splays.

**PLEASE NOTE:**  
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Telephone 01759 373656 Fax 01759 371810  
E-mail:chicorybarn@the-pdp.co.uk www.the-pdp.co.uk

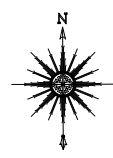
**Client**  
Estate of RF Dean (Deceased)  
C/D Vaughan Lindley, Crombie Wilkinson

**Project**  
Proposed Housing Scheme Feasibility  
Hilthgarth Church Fenton

**Drawing**  
Proposed Block Plan  
3 HOUSES

Date	Jan 2019	Drawn	RTJD
Scale	1/500 @ A3	Rev.	C
Status	Planning		
Drawg. No.	S/YTA 01 - 002		

# PROPOSED Block Plan - Scale 1:500



- C Amended layout after comments from LA planning. House 3 reduced in scale. PAQR 17/12/19
- B Amended layout after comments from LA planning and Landscape Architect. PAQR 10/6/19
- A SW drainage amended to discharge into sw sewer PAQR 10/6/19

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**Report Reference Number: 2019/0513/FUL**

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**To: Planning Committee**  
**Date: 1 April 2020**  
**Author: Yvonne Naylor (Principal Planning Officer)**  
**Lead Officer: Ruth Hardingham (Planning Development Manager)**

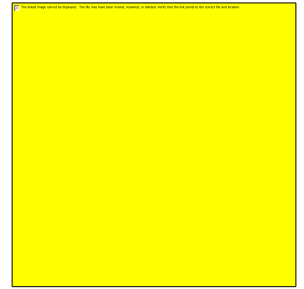
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## **1.0 Introduction**

- 1.1 The above application was reported to the Planning Committee meeting of 4<sup>th</sup> March 2020 with a recommendation for approval from Officers subject to a Deed of Variation to the Section 106 and subject to conditions. A copy of the Officer's report is attached as Appendix A.
- 1.2 At the Committee Meeting Members were minded to refuse the application and resolved to defer the application to allow Officer's to consider the indicative reasons suggested at the meeting and to bring back to Committee detailed reasons for refusal. The indicative reasons for refusal are in the minutes. Therefore the following reasons for refusal are suggested below for Member's consideration:
01. The proposed development of the site for 3 (no.) dwellings is not considered to be acceptable on highways grounds on the basis that the proposed introduction of three access points onto Main Street Church Fenton from the site would result in highways issues given the character of the road, surrounding uses and the speed of traffic using the road. As such the development is considered to be to be contrary to Policy ENV1 of the Selby District Local Plan (2005), Policy T1 of the of the Selby District Local Plan (2005) and the NPPF.
  02. The proposed development of the site for 3 (no.) dwellings represents overdevelopment of the site and will result on unacceptable long terms impacts on the trees subject of TPO 08/2019. Therefore the development is considered to be to be contrary to Policy ENV1 of the Selby District Local Plan (2005), Policy SP4 of the Core Strategy and the NPPF.

**Recommendation: That Members determine the Application.**

## APPENDIX A



**Report Reference Number:** 2019/0513/FUL

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**To:** Planning Committee  
**Date:** 4<sup>th</sup> March 2020  
**Author:** Yvonne Naylor (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

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APPLICATION NUMBER:	2019/0513/FUL	PARISH:	Church Fenton Parish Council
APPLICANT:	The Estate Of R F Dean (Deceased)	VALID DATE: EXPIRY DATE:	29th May 2019 24th July 2019 (Extension of Time to 6 <sup>th</sup> March 2020)
PROPOSAL:	Proposed erection of three detached dwellings following demolition of existing dwelling		
LOCATION:	Hilahgarth Main Street Church Fenton Tadcaster North Yorkshire LS24 9RF		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as it has received more than 10 letters of objection as a result of consultations which raise material considerations; as such it is considered locally controversial.

The application was initially considered at the 5<sup>th</sup> February 2020 meeting with Members deferring a decision for a Site Visit, which is to be held on the 3<sup>rd</sup> March 2020.

### 1. INTRODUCTION AND BACKGROUND

#### Site and Context

- 1.1 The application site is located on Main Street Church Fenton and is currently occupied by a single dwelling known as "Hilahgarth" which comprises a detached two storey dwelling with a side element which is single story. The dwelling sits within a plot of approximately 0.25 hectares and there are two existing vehicle access points in place from Main Street.
- 1.2 The site is surrounded by existing residential development, comprising a row of terrace properties to the east, Northfield Court to the north / north east which is a

small development of detached dwellings and semi/terrace development on the opposite side of Main Street known as Northfield Terrace, as well as a grouping of detached properties which includes North View and Lennox House.

- 1.3 The site is within Flood Zone 2, so of medium probability of flooding. There are no statutory national or local landscape or wildlife designations covering the application site. There is no Conservation Area or nearby listed buildings that are affected.
- 1.4 There are a number of established trees within the site to the sides and rear of the existing dwelling.
- 1.5 There is a Tree Preservation Order relating to trees within the site as confirmed on the 22<sup>nd</sup> January 2020.

### **The Proposal**

- 1.4 The application was initially submitted for the erection of four (no 4) dwellings on the site although this was reduced to three (no. 3) during the life of the application with amended plans being submitted accordingly. The description of development also confirms the demolition of the existing property on the site.
- 1.5 The proposed scheme shows erection of 3 No. detached dwellings all facing onto Main Street. The scheme was revised during the life of the application, reducing the number of units from 4 to 3 and changing the layout and the latest revisions made on the 19<sup>th</sup> December 2019. As a result of these changes the scheme shows Plots 1 and 2 as 2/5 storey units providing 5 bed accommodation and Plot 3 being a two storey unit with a hipped roof design.
- 1.6 Plots 1 and 2 provide accommodation over three floors with the fifth bedroom being within the roof space with roof lights. Plot 3 is a 4 bed unit with accommodation over two floors. The floor plans also accommodate an integral garaging for each unit with a person access door from the garden areas. A series of streetscenes have been provided as part of the application accounting for changes in ground levels as set out in the submitted Flood Risk Assessment which notes that the dwellings would be set at least 300m above the ground level of the adjacent land.
- 1.7 The design of the units includes features such as chimneys and includes retention of trees within both frontage / side and rear garden areas.
- 1.8 The units will have individual access points from Main Street with turning areas provided to the front of each dwelling with car parking composite to the size of the dwellings. Submitted plans also show the visibility splays, confirm that the access crossings will be to design standard E5 and that all car parking provision outside visibility splays as well as the use of "ascot railings" on the road side to maintain visibility.
- 1.9 The site would be connected to mains services for both surface and foul water drainage.
- 1.10 The submitted plans confirm that a mix of fencing and hedges will define the boundaries of the site.
- 1.11 In terms of materials then the application form and the submitted Design and Access Statement state that the design incorporates detail such as art stone sills

and detail courses and that materials would be utilise to blend into the local vernacular. Such details are also shown on the elevation plans.

## **Relevant Planning History**

- 1.12 Although there was an application in 1975 for an extension to the existing house (Ref 8/62/10/PA) was granted there are no other historical applications considered to be relevant to the determination of this application.

## **2. CONSULTATION AND PUBLICITY**

- 2.1 **Church Fenton Parish Council** – initial comments from the Parish Council (June 2019) noted an objection to the application on the basis that

1. The proposal includes 4 new driveways on a corner where there is poor visibility. This area is already hazardous, with the previous owners never using the driveway opposite the entrance to the Recreation Ground as they felt it was unsafe. This proposal would be significantly detrimental to highway safety in an area that is regularly used by young children accessing the Recreation Ground.
2. There is no requirement in the Selby District Local plan for additional dwellings in Church Fenton. Numbers already with planning consent significantly exceed any need, so a less intensive proposal that has less impact can easily be justified.
3. The proposal includes 3 storey houses which is contrary to the approved Village Design Statement which is reinforced by Policy H2 in the draft Neighbourhood Plan which has recently been subject to a Regulation 14 consultation.
4. The proposal is contrary to Policy H1 of the draft Neighbourhood Plan in that it fails to provide a mixed development of integrate with neighbouring properties and landscape. Instead it offers large dwellings only.
5. The existing character of the site including a mature hedgerow and trees would be lost to the detriment of local amenity. There is significant concern about the loss of trees either as part of the development or once dwellings are occupied.
6. The site lies within Flood Zone 2. The Flood Risk assessment states that there are no other sites within the Church Fenton area that could accommodate this development. However there is no requirement in planning terms for any new development in Church Fenton, and there are many more development opportunities in nearby areas (such as Sherburn-in-Elmet).

Following revisions to the scheme in September 2019, further comments were received from the Parish Council noting

“The Parish Council have considered the revised proposals that have been submitted for this site. It does not consider that the changes are adequate to mitigate any of the previous objections. On that basis the Council wishes to reconfirm its comments sent on 8th July 2019. As well as being contrary to the Village design guide the proposed houses are not in keeping with the character and design of the nearby area (such as Northview and Northfield Court, and would dominate the area. However it would suggest that a development of 2 dwellings served off a single access could potentially provide an acceptable development solution. This would allow similar sized dwellings to be provided without the need for a 3rd storey.”

Following revisions to the scheme in December 2019, further comments were received from the Parish Council noting that “The Parish Council have considered the revisions and do not feel the changes are substantial enough to justify changes to the previous comments made by the Parish Council”.

**2.2 NYCC Highways** – initial comments on the application sought further information on the approach to the four access points in terms of visibility.

Following revisions to the scheme and the provision of additional speed survey information NYCC Highways Officer advised that they have no objections to the scheme subject to conditions on

- Construction of private access / verge crossing requirements
- Closing of existing access points
- Visibility splay requirements
- Pedestrian Visibility splay requirements
- Provision of approved accesses, parking and turning areas prior to being brought into use
- Garage conversion to habitable rooms restrictions without a planning application

**2.3 Yorkshire Water Services Ltd** – Advised that there are no observations on the scheme based on the information submitted.

**2.4 Environment Agency (Liaison Officer)** – Confirmed that the proposed development falls within Flood Zone 2, which is land defined in the planning practice guidance as being at risk of flooding. Advised therefore that the Council consider their standard comments for local planning authorities and planning applicants to refer to on 'lower risk' development proposals.

**2.5 Selby Area Internal Drainage Board** – Advised that the application site lies within their District, noting that the development would increase the impermeable area on the site. In this context they note that the application may relate to work in, on, under or near a watercourse within the Internal Drainage Board (IDB) Drainage District and requires consent from the IDB in addition to any landowner agreements for works, access, easements and planning permissions.

As such they note the following

- i) If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year.
- ii) If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow.
- iii) If the surface water is to be discharged to any watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission and would be restricted to 1.4 litres per second per hectare or greenfield runoff.
- iv) No obstructions within 7 metres of the edge of a watercourse are permitted without Consent from the IDB.
- v) If surface water or works are planned adjacent to a Main River within the Drainage District, then the Environment Agency should be contacted for any relevant Permits
- vi) Should Consent be required from the IDB as described above then we would advise that this should be made a condition of any Planning decision any

surface water discharge into any watercourses in, on, under or near the site requires consent from the Drainage Board.

2.6 **Environmental Health** – Confirmed that they consider that the proposed development will not have any adverse effects on surrounding property and local amenities once operational. However, do foresee potential adverse effects on residents of the existing residential properties surrounding the development site during demolition and construction. These phases are likely to create dust, noise and vibration which may cause disturbance. To reduce the likelihood of such disturbance; it is recommended that the developer should submit a Demolition and Construction and Environmental Management Plan (DEMP/CEMP). The plans should outline controls and procedures to be followed during demolition and construction to control noise, dust and vibration emissions from the site. Working hours and times of large deliveries to the site should also be outlined. As such recommends imposing of a condition requiring prior to the site preparation demolition and construction work commencing; a scheme to minimise the impact of noise, vibration, dust and dirt on residential property in close proximity to the site.

2.7 **County Ecologist** – confirmed that are satisfied with the scope and content of the submitted Ecological Impact Assessment (EclA) (MAB Ecology - April 2019 has been undertaken in accordance with current best practice guidelines. The assessment concludes that there will be no significant impact upon designated sites or protected species. Section 8 identifies some local level impacts which can be adequately avoided, mitigated or compensated through measures outlined in Section 9 of the report. As such, provided that the measures in section 9 are adhered to there will be no ecological impacts resulting from the development. Current National policy advocates building in enhancement measures for biodiversity and this is covered within section 10 of the report.

As such provided that the requirements within section 9 and section 10 of the report can be secured via a suitably worded condition, then there will be no significant ecological impacts

2.8 **North Yorkshire Bat Group** – No responses received in the statutory consultation period.

2.9 **Yorkshire Wildlife Trust** – No responses received in the statutory consultation period.

2.10 **Landscape Consultant** - No objection to the revised layout 'Proposed Block Plan 3 Houses dwg S/YTA 01 - 002 Rev B' provided that key trees are retained to protect local amenity, and a detailed landscaping scheme is secured via condition, alongside the erection of fencing for the protection of any retained tree must be undertaken in accordance with the Arboricultural Survey & Implications Study Amended October 2019, before any equipment, machinery or materials are brought on to the site for the purposes of the development, and must be maintained until all equipment, machinery and surplus materials have been removed from the site.

Following revisions to the scheme in December 2019, the Landscape Officer advised that previous comments apply and no further observations are required.

2.11 **Contaminated Land Consultant** - Confirmed that the Phase 1 report provides a good overview of the site's history, its setting and its potential to be affected by

contamination. On this basis recommends a condition to cover the occurrence of on unexpected contamination during the development works.

## **Neighbour Summary**

- 2.12 The application was advertised via a site notice and through neighbour notification letters. As a result of a total of 26 submissions from 16 different addresses were received. A further 11 submissions were made following changes to the scheme on the 19<sup>th</sup> December 2019 largely from those who previously commented on earlier consultations and schemes. The comments received throughout the application can be summarised as follows:

### *Principle of Development*

- There is no requirement for further development of this type in the village as there has been significant development already in the area and this should be a basis for rejecting this proposal
- The development is not needed - the Council has a 5 year housing land supply
- The current house is an asset to the community and a beautiful home

### *Highways*

- The approach to the individual accesses to each dwelling is contrary to Policy T2 of the Local Plan
- Located on a bend in Main Street which is dangerous and immediate opposite entrance to the Park there should not be so many entrances in this location
- Scheme should have a single access with a shared drive area with parking to the rear of the dwellings
- Car will be parked opposite the proposed entrances and this would hamper manoeuvres
- The owner of the site used to tell visitors to use the entrance closest to Northfield Court away from the bend
- Parked cars in this area will affect the visibility and result in highway safety issues given that there is already significant parking on the opposite side of the road from the development site given limited parking afforded to the Northfield Terrace properties as a result of their age
- Will conflict with HGV's and Buses that use the site as well as tractors and car traffic
- Appropriate visibility should be secured and maintained
- Appropriate car parking provision should be made within the site
- Development of the site will increase danger for pedestrians passing the site including school children
- The traffic survey was done at the quietest time of the year (summer) and as such is not representative of the reality in the area

### *Residential Amenity*

- Will result in overlooking of occupiers on Northfield Court as far is discernible from the information provided by the applicants
- The siting and scale of the units adjacent to Northfield Court will impact on the privacy and daylight enjoyed by existing adjacent occupiers
- Access points will impact on amenity of occupiers opposite the site
- The development is located too close to the boundaries with the adjacent existing properties particularly 1 and 2 Northfield Court

- The development will impact on the air of the adjacent occupiers
- Revised plans (reducing the scheme to 3 units) does not address impacts on the neighbouring properties on Northfield Court and even with a two storey unit on Plot 3 impacts on the adjoining occupiers
- The design of Plot 3 in terms of side windows will result in overlooking of 1 Northfield Court

#### *Design*

- The development represents over development of the site and it should be only for 2 houses
- The site should accommodate 2 dwellings and they should all be 2 storey not 3 storey
- The height of the proposed dwellings will be out of character with the surrounding area and they should all be two storey
- The proposed size and style of the dwellings are not acceptable
- The proposed dwellings are not in keeping with the area
- The emerging Neighbourhood Plan clearly demonstrates the importance and style and character and this area is peppered with historically significant buildings including some immediately adjacent to this site and this development should take account of these accordingly
- The scheme does not accord with the Village Design Statement
- A development of bungalows on the site should be considered

#### *Flood Risk and Drainage*

- The development should be designed to accommodate high rainfall and attenuation tanks to mitigate potential risk of flooding to neighbouring properties
- Existing drains in the area are already not accommodating excess rain water
- The site is in Flood Zone 2 and should not be developed particularly when no need for additional housing in Church Fenton

#### *Trees, Landscaping and Ecology*

- Development of the site will result in pressure to remove more trees from the site in the long term
- The submitted survey includes errors in terms of the grading of the trees within the site – in one section T9 is Category A but then later Category B – this should be reviewed
- Development will result in loss of habitat
- Hedge on road frontage should be retained

#### *Construction Impacts*

- Works should be controlled regarding the depositing of mud on the highway and cleaning of vehicles leaving the site
- Residents will be impacted when the site is being constructed including those that work from home

#### *Other matters*

- The land should be sold to NYCC Highways to allow them to make the road safer in this location through widening
- Request that the Planning Committee visit the site prior to making a decision on the application



- The development does not accord with the National Planning Policy Framework
- The annotations on the drawing imply that the applicants control the hedgerow to the rear of 1 Northfield Court – this is not the case
- Will reduce the property values of the adjacent properties
- The existing house would make a family home and should be retained as such – a single dwelling in a treed plot

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The application site is currently occupied by a dwelling within the development limits for Church Fenton.
- 3.2 There are no statutory national or local landscape or wildlife designations covering the site and there is no Conservation Area or nearby listed buildings that are affected.
- 3.3 The site is located within Flood Zone 2 and therefore has a medium risk of flooding.
- 3.4 There is a TPO (Ref TPO 08/2019) relating to the site which protects three groups of trees within the site.

### **4 POLICY CONSIDERATIONS**

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

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

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

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

- 4.6 The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development  
SP2 - Spatial Development Strategy  
SP4 - Management of Residential Development in Settlements  
SP8 - Housing Mix  
SP9 - Affordable Housing  
SP15 - Sustainable Development and Climate Change  
SP16 - Improving Resource Efficiency  
SP18 - Protecting and Enhancing the Environment  
SP19 - Design Quality

### **Selby District Local Plan**

- 4.7 The relevant Core Strategy Policies are:

ENV1 - Control of Development  
ENV2 - Environmental Pollution and Contaminated Land  
H2B - Housing Density  
T1 - Development in Relation to Highway  
T2 - Access to Roads

### **Other**

- 4.8 Church Fenton Village Design Statement (CF-VDS) was approved as Supplementary Planning Document in February 2012 and the site lies partly within Character Area 1 – Village Centre as a result of its location on Main Street.

## **5 APPRAISAL**

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

- Principle of Development
- Design and Impact on the Character and Appearance of the Area including Landscaping
- Impact on Residential Amenity
- Highway Impacts
- Flood Risk and Drainage
- Ecology and Protected Species
- Contamination
- Construction Stage Impacts
- Affordable Housing and Housing Mix
- Other Matters arising from Consultations

## **Principle of 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 the NPPF in relation to the presumption in favour of sustainable development and decision taking.
- 5.3 Policy SP2 of the Core Strategy sets out the Spatial Development Strategy with SP2(A) noting Church Fenton as a Designated Service Village (DSV) which are noted as having scope of additional residential and small scale employment growth to support rural sustainability subject to compliance with Policy SP4.
- 5.4 Policy SP4 (A) of the Core Strategy relates to development in settlements, and notes that in order to ensure that the development of non-allocated sites contributes to sustainable development and the continued evolution of viable communities then within DSV's supports conversions, replacement dwellings, redevelopment of previously developed land and appropriate scale development on greenfield sites (including garden land and conversion / redevelopment of farmsteads). SP4 (C) notes that schemes will be expected to protect local amenity, preserve and enhance the character of the local area and to comply with normal planning considerations and SP4 (D) notes that any scheme would need to be of a "appropriate scale" in relation to density, character and form of the local area and should be appropriate to the function of the settlement within the hierarchy.
- 5.6 The proposal would involve development on greenfield land as per the definition in the NPPF and is within the defined development limits of a DSV, as such the principle of development is supported by SP2 and SP4(A) on the site subject to normal planning considerations and the requirements of SP4 (D) of the Core Strategy. The impacts of the development in terms of in relation to highways, amenity, character and appearance of the area, nature conservation interests, design and landscaping, are considered within the later sections of this report.

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

- 5.7 Policy ENV1 requires consideration of the design and layout of schemes and their effect on the character of the area, in addition Policy SP4 of the Core Strategy considers the approach on the design of new buildings, in terms of design, materials, character of the area and landscaping.
- 5.8 In commenting on the application objectors have commented on the design of the scheme in terms of character of the area, the type of units, the height of the proposed units and that the scheme does not accord with the Village Design Statement (VDS).
- 5.9 The application site is located within a residential area in the central part of the village. In terms of the VDS then the site lies within "Character Area 1 – Centre of Village", an area which is acknowledge as being an area that has developed over time, with development having varied relationships to the road, being linear in character as well as including housing of varying type, size and design. The VDS

does also note a limited materials palette within the character area and that development is largely two storey units.

- 5.10 The proposed development would front the road with the units all facing Main Street and having parking / garden areas to both the front and the rears so the relationship to the road and is of a linear form. It is considered that this acceptable in terms of the character defined in the VDS but also in terms of the immediate area which is not wholly within the noted VDS character area.
- 5.11 In terms of the type, size and design of the units, then not only is the area immediately surrounding the development of varying types, size and design the VDS does acknowledge that the Character Area is also varied. The units are detached, design to be two storey in appearance whilst including accommodation in the roof spaces of Plots 1 and 2 and do include elevation design features to reflect the context such as window detailing and chimneys.
- 5.12 The submitted information forming part of the application notes that materials would be brick and pantile, and the specific colours and mix can be controlled via condition.
- 5.13 In terms of landscaping and tree impacts then the site is not within a protected landscape or within a Conservation Area although there are trees subject of preservation orders within the site as noted above. The proposed scheme would not result in the loss of any trees noted as worthy of protection under the TPO and the Councils Landscape Officer has raised no objections to the scheme having considered these relationships subject to conditions relating to a finalisation of a tree protection plan and agreement of a landscaping scheme.
- 5.14 As such the scheme is considered to take account of the context and the VDS and is considered to be acceptable in terms of the character of area, in terms of its height, scale and type. It also takes full account of the landscape context and via condition materials can be secured that reflect the surrounding context. As such the proposals are considered to comply with Policy ENV1 of the Local Plan which requires proposals to provide a good quality of development which takes account of the surrounding area. In this respect the development is compatible with the Development Plan as well as Policy SP4 of the Core Strategy.

### **Impact on Residential Amenity**

- 5.15 Relevant policies in respect of the impact of the proposal on residential amenity include Policy ENV1 (1) of the Selby District Local Plan. Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved for all existing and future occupants of land and buildings.
- 5.16 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 5.17 It is noted that objections have been received in relation to impacts on residential amenity particularly in terms of the relationship to Northfield Court (to the north) and existing properties fronting Main Street to the east.

- 5.18 In terms of overlooking then the existing property (that is to be demolished) is two storey and overlooks the adjoining garden areas to the north and east. The proposed development will result in an increase in overlooking of these garden area, simply as a result of the increase in the number of dwellings, from 1 to 3, however it is considered that the extent of overlooking would by virtue of the siting of the units would not be so significant to warrant refusal of the scheme on overlooking grounds particularly given the orientations and internal layout. In order to ensure that there is control over alterations to the dwellings and future extensions windows, and outbuildings it is however considered appropriate to remove permitted development rights for all three plots via a condition on any consent.
- 5.19 In terms of overshadowing, then having considered not only the internal site layout plan, but also the relationships to the existing adjoining properties it is considered that there would be no impact in terms of overshadowing on the occupiers of Northfield Court (to the north) and only limited impact on those properties to the east. Again it is considered that by virtue of the siting of the units would not be so significant to warrant refusal of the scheme on overshadowing grounds.
- 5.20 In terms of the development being overbearing, then the key relationships are those of Plot 3 to the dwellings on Northfield Court and the relationship of Plot 1 to the dwellings to the east. In terms of Plot 1 then this unit is sited forward of the adjacent property, however the inter-relationship between the two properties, retained boundaries and the angle of the site means that the relationship would not result in the new dwelling being overbearing on the existing dwelling. In terms of Plot 3 then this units has a roof design which reduces the impact on the adjacent property and is also a traditional two storey unit thus its height reflects that of the adjacent property. There is also a defined boundary between the two units reducing any feeling of overbearing.
- 5.21 As such having balanced these considerations it is the view of Officers that the scheme is acceptable in terms of residential amenity in terms of both the internal layout but also the resultant relationship to surrounding properties and the scheme is thus considered acceptable in terms of residential amenity subject to the removal of permitted development rights via a suitably worded condition.

### **Highways Impact**

- 5.22 Policies ENV1 (2), of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements. Policy T1 of the Local Plan relate to consideration of the highways impacts of development. Policy T1 notes that development should be well related to existing highways networks and will only be permitted where existing roads have adequate capacity otherwise off site highways works may be required. It is considered that these policies of the Selby District Local Plan should be given significant weight as they are broadly in accordance with the emphasis within the NPPF.
- 5.23 There are two existing vehicles accesses into the site, serving the existing dwelling from Main Street. The submitted plans show the proposed units each having an access onto Main Street, with parking and turning provision also being provided within each plot. Two speed surveys have been undertaken in support of the application and the submitted plans show visibility splays for each units, confirm that the verge details will be constructed to highways standards, that all parking areas are outside the visibility spays and that railings will be used to define the frontage to the site to maintain the visibility splays.

- 5.24 In commenting on the application Objectors have raised concerns about highways safety at both the construction stage and once the dwellings are occupied. In addition concerns have been raised on the impacts on pedestrians and the amenity of occupiers opposite the application site in terms of increased vehicle movements from the site as a result of the increase in the number of dwellings. In addition concerns have been raised in terms of mud on the road during the construction phase.
- 5.25 In terms of the noted concern that the construction stage will increase mud on the road, then it is not within the remit of planning to address such issues, and this would be a matter for the Highways Authority should there be an issue on the adopted highway as a result of the construction.
- 5.26 As part of the negotiations on the application NYCC Highways Officers did request an additional traffic speed survey be undertaken, alongside confirmation on visibility splays and revisions to the scheme to ensure car parking and turning provision was appropriate. As a result they have no objections subject to conditions which have been confirmed as acceptable to the applicants as a pre-commencement condition and it has also been confirmed that the visibility splays can be attained within land in the applicants control or highways land.
- 5.27 In terms of the impact on occupiers as a result of increased vehicle movements then environmental health have raised no concerns on this and in any instance the scale of the development would not result in an increase in traffic so significant to warrant a refusal on these grounds particularly given the sites location in the central part of the settlement which will have an existing level of activity.
- 5.28 It is considered that in the context of no objections from NYCC Highways that there is no detrimental impact on the existing highway network and it would not create conditions prejudicial to highways safety to warrant refusal on highways grounds and as such the scheme accords with ENV1 (2) of the Local Plan.

### **Flood Risk and Drainage**

- 5.29 The application site is located within Flood Zone 2 which has a medium probability of flooding. Relevant policies in respect to drainage, climate change and flood risk include Policy ENV1(3) of the Local Plan and Policies SP15 and SP16 of the Core Strategy.
- 5.30 Objectors have noted concerns in terms of the drainage impacts of the development in terms of infrastructure capacity and the sites location within Flood Zone 2.
- 5.31 Consultations have been undertaken on the application with Yorkshire Water, the Environment Agency and the Internal Drainage Board, whose comments are all noted earlier in the report with no objections being lodged. In commenting the Environment Agency has referred Local Planning Authorities to standing advice and the IDB have noted a number of comments as set out earlier in the report.
- 5.32 In terms of the drainage approach for the site then the application form confirms that the site will utilise mains systems for both surface water and foul sewerage. The application is supported by a Flood Risk Assessment (FRA) which considers possible implications for the development and defines mitigation accordingly. The application is also accompanied by the sequential test within the submitted FRA

which considers other sites within the settlement in the context of the Council's Guidance Note on applying the Sequential Test. The FRA concludes there are no other available sites at a lower flood risk and that the development of the site can be developed subject to finished floor levels 300mm above the surrounding ground level and that the site is registered for the government flood warning system.

- 5.33 In terms of the comments of the IDB then the application forms confirm use of mains systems and as such the comments are noted but as a mains connections are being used there is no need for a condition on the matters noted by the IDB.
- 5.34 In terms of climate change then the Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate meet 8 criteria set out within the policy. Having had regard to the nature and scale of the proposal, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria of SP15 (B) of the Core Strategy. Therefore having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.
- 5.35 It is considered that subject to the implementation in accordance with the submitted mitigation within the FRA (increase in finished floors levels by 300m above existing ground level and registering for Flood Alert service) the scheme is considered to acceptable and accord with the noted Policies of the Local Plan and Core Strategy and the NPPF.

### **Ecology and Protected Species**

- 5.36 Policy ENV1(5) states that proposals should not harm acknowledged nature conservation interests, or result in the loss of open space of recreation or amenity value, or which is intrinsically important to the character of the area. These policies should be given significant weight as they are consistent with the NPPF.
- 5.37 Objectors in commenting on the application have raised concerns in terms of the loss of habitats.
- 5.38 The application is accompanied by Ecological Impact Assessment (EIA) dated April 2019 prepared by MAB Environment and Ecology Ltd which assesses protected species and, considered statutory and non-statutory protected sites and assessed the habitat on site through a data assessment and an extended Phase 1 Habitat Survey. It includes a series of recommendations including hedgerow retention / replacement, tree replacement, use of reasonable measures to protect great crested newts, installation of bird boxes, works outside breeding season in terms of demolition and clearance of vegetation and the installation of bat boxes.
- 5.39 Since the application was submitted and the EIA undertaken the scheme has evolved and a large number of trees within the site are now shown as being retained which clearly was not envisaged when the EIA was initially undertaken nor when the application was first submitted to the Council.
- 5.40 In any instance the recommendation and mitigation noted in the EIA have been considered by the County Ecologist and they have confirmed that they have no objections to the scheme noting that the scheme should be progressed in accordance with the recommendations of the report at Sections 9 and 10

accordingly. In addition as noted above a landscaping scheme for the site will be required taking account of the recommendations of the noted Report.

- 5.41 On balance it is considered that the Applicants have demonstrated to the satisfaction of the consultees that the impacts on protected species and habitats are acceptable subject to the noted conditions.

### **Land Contamination**

- 5.42 Relevant policies in respect of land contamination include Policy ENV2 of the Selby District Local Plan and Policy SP19 “Design Quality” of the Core Strategy.
- 5.43 The application is supported by a Phase 1 Desk Top Study – Preliminary Environmental Risk Assessment. The Councils Contaminated Land Consultant has been consulted on this application and has advised that the report provides a good overview of the site history, setting and potential to be affected by contamination. As such it is recommended that no further investigation is required and a condition relating to “unexpected contamination” would be sufficient in case of the occurrence of unexpected contamination during the development works.
- 5.44 Subject to the aforementioned condition, it is considered that the proposal would be acceptable in respect of land contamination and is, therefore, in accordance with Policy ENV2 of the Selby District Local Plan and Policy SP19 of the Core Strategy.

### **Construction Stage Impacts**

- 5.45 Policy ENV1 (1) requires that the District Council take account of "The effect upon... the amenity of adjoining occupiers". It is considered that policy ENV1 (1) of the Selby District Local Plan should be given significant weight as one of the core principles of the NPPF is to ensure that a good standard of residential amenity is achieved in accordance with the emphasis within the NPPF. In addition, Policy ENV2A states that “Proposals for development which would give rise to, or would be affected by, unacceptable levels of noise, nuisance, contamination or other environmental pollution including groundwater pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme”
- 5.46 In commenting on the application objectors have raised concerns at the impacts of the development at the construction phase, both in terms of noise and highways.
- 5.47 As noted above the Council’s Environmental Health Officers have been consulted on the application and they have advised that they do not consider that the scheme would have any adverse effects on surrounding property and local amenities once operational. They have however noted possible “effects on residents of the existing residential properties surrounding the development site during demolition and construction” as such they have outlined support for the use of a condition requiring submission and agreement of a “Demolition and Construction and Environmental Management Plan (DEMP/CEMP)”, noting that this should outline controls and procedures to be followed during demolition and construction to control noise, dust and vibration emissions from the site alongside working hours and times of large deliveries to the site.
- 5.48 Such conditions are not usually utilised on developments under 10 units in scale, so minor developments, and any issues could be addressed through statutory



nuisance procedures by the Environmental Health. The proposed use of such a pre-commencement condition has been discussed with the Applicants Agent (who have confirmed agreement accordingly) and on balance it is considered that in this instance given the sites location such a condition is appropriate.

- 5.49 In this context scheme is considered acceptable and construction impacts mitigated.

### **Affordable Housing**

- 5.50 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.

- 5.51 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”*. ‘Major development’ is defined in Annex 2: Glossary as *“For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more”*.

- 5.52 The application proposes the creation of three dwellings on a site which has an area of less than 0.5 hectares, such that the proposal is not considered to be major development as defined in Annex 2 of the NPPF. It is therefore considered that having had regard to Policy SP9 of the Core Strategy, the Affordable Housing SPD and national policy contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

### **Other matters arising from Consultations**

- 5.53 In commenting on the application objectors have noted that it is considered that the site should be kept as a single dwelling, or be used for highways improvements or utilised as a village green space. These alternative uses are not before the Planning Authority and as such options are not material considerations in the determination of this application.
- 5.54 In commenting on the application neighbours have questioned land ownership noting that there is a lack of clarity on the boundary between the application site and 1 Northfield Court. The landownership has been verified with the Applicant and it is understood that the red line is accurate.
- 5.55 Comments made on the application reference the “Church Fenton Neighbourhood Plan”. Although the NP has been subject of a pre-submission consultation the Plan has not been submitted to the Council for Consultation. However in any instance, this document is an emerging and although approaching the pre-submission consultation stage it has not progressed to a stage that it forms part of the Development Plan under Section 38(6) of the Planning and Compulsory Purchase Act 2004 as such it affords very limited weight on the consideration of this

application. Having considered these matters Officers do not consider that the scheme is unacceptable.

- 5.56 In commenting on the application objectors have requested that the Planning Committee visit the site prior to making a decision on the application, this is a matter for Members in considering the application and this Report.

## **6 CONCLUSION**

- 6.1 The scheme is for the demolition of an existing dwelling and redevelopment of the site for 3 dwellings. On balance it is considered that the scheme is acceptable subject to conditions and informatives having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations.

## **7 RECOMMENDATION**

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

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 following approved plans and documents, notwithstanding the details in the application form:

- Location Plan (Ref S/YTA 01-005)
- Block Plan – Existing (Ref S/YTA 01-001)
- Topographical Plan (Ref S/YTA 61-006)
- Proposed Block Plan (Ref S/YTA 01-002 Rev C)
- Floor Plans and Elevations (Ref - S/YTA 01-003 Rec D)
- Proposed Street Elevation and Parking Arrangements (ref S/YTA 01-061 Rev C)

Reason: For the avoidance of doubt.

03. No development shall commence above slab level until a sample panel of the proposed materials mix to be used in the construction of all of the external surfaces and boundary walls shall have been prepared on site for inspection and approved in writing by the Local Planning Authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including any roofing, cladding or render) to be used in the development. The development shall be constructed in accordance with the approved sample.

Reason : In the interest of design quality.

04. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the accesses to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements

- a. The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E5.
- b. Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
- c. Provision should be made to prevent surface water from the site discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.

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

Reason :In accordance with Policy ENV1 of the Selby District Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

- 05 No part of the development shall be brought into use until the existing access on to Main Street has been permanently closed off and the highway restored. These works shall be in accordance with details which have been approved in writing by the Local Planning Authority in consultation with the Highway Authority. No new access shall be created.

Reason : In accordance with Policy ENV1 of the Selby District Local Plan and in the interests of highway safety.

- 06 There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 39 metres measured along both vehicle track lines of the major road Main Street from a point measured 2 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In accordance with Policy ENV1 of the Selby District Local Plan and in the interests of highway safety.

- 07 There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until visibility splays providing clear visibility of 2 metres x 2 metres measured down each side of the access and the back edge of the footway of the major road have been provided. The eye height will be 1.05 metre and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason In accordance with ENV1 of the Selby District Local Plan and the interests of road safety to provide drivers of vehicles using the access and other users of the public highway with adequate inter-visibility commensurate with the traffic flows and road conditions.

- 08 No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas hereby approved have been constructed in accordance with the submitted drawing (Reference Drawing number S/YTA 01 - 002 Rev C). Once created these areas shall be

maintained clear of any obstruction and retained for their intended purpose at all times

Reason : In accordance with Policy ENV1 of the Selby District Local Plan and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development

- 09 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

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

10. No development approved by this permission shall be commenced until the Local Planning Authority has approved a Construction Management Plan. The scheme shall then be implemented in accordance with the agreed CMP.

Reason: In accordance with Policies ENV1 of the Selby District Local Plan and in the interest of amenity and to ensure a satisfactory means of highway safety access in the interests of vehicle and pedestrian safety and convenience.

11. The development hereby permitted must be carried out in accordance with the mitigation measures contained within Section 9 and 10 of the Ecological Impact Assessment dated April 2019.

Reason: In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, The Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010.

12. The development shall be carried out in accordance with the mitigation measures noted within the submitted Flood Risk Report. 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

13. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree / root protection plan) and the appropriate working methods (the Arboricultural Method Statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: 2012 Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the Local Planning Authority. The

scheme for the protection of the retained trees shall be carried out as approved and maintained until the scheme is completed.

Reason: To protect existing trees on the site during construction

14. Notwithstanding the detail shown on Plan S/YTA/01/061 Revision C no development shall commence above slab level until a full detailed landscaping / planting scheme and boundary / fencing details has been submitted and agreed with the Local Planning Authority. The scheme shall include:-
- Details of the species, location, planting density and stock size in respect of all tree and shrub planting
  - Details of the measures for the management and maintenance of the approved landscaping

All planting, seeding or turfing comprised in the approved plan shall be carried out in the first planting and seeding seasons following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner. Any trees which die, are removed or become seriously damaged or diseased within the first five years shall be replaced in the next planting season with others of similar size and species.

Reason: In order to ensure for the preservation and planting of trees and landscaping in accordance with s.197 of the Act and in order to comply with saved Policy ENV1 of the Selby District Local Plan.

15. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

16. Notwithstanding the provisions of Class A to Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) no extensions, garages, outbuildings or other structures shall be erected, nor new windows, doors or other openings inserted other than those hereby approved, without the prior written consent of the Local Planning Authority.

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

## **Informatives**

01. NPPF – 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 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.
03. A that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The ‘Specification for Housing an Industrial Estate Roads and Private Street Works’ published by North Yorkshire County Council, the Highway Authority, is available at the County Council’s offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in Condition 04.
04. Condition 5 – Highways - These works shall include, where appropriate, replacing kerbs, footways, cycleways and verges to the proper line and level.

## **8 Legal Issues**

### **8.1 Planning Acts**

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

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

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

### **8.3 Equality Act 2010**

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

## **9 Financial Issues**

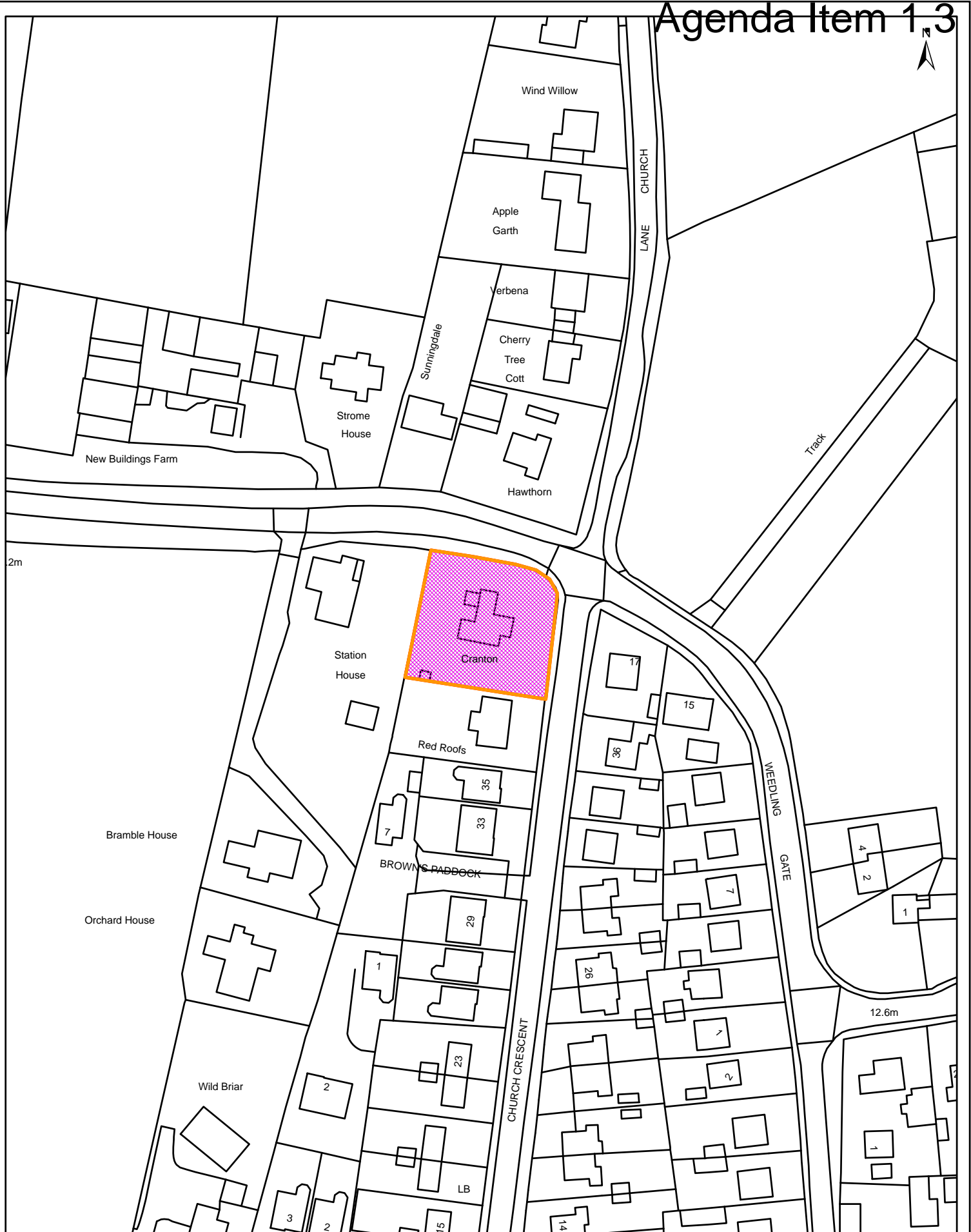
Financial issues are not material to the determination of this application.

## **10 Background Documents**

Planning Application file reference 2019/0513/FUL and associated documents.

**Contact Officer: Yvonne Naylor (Principal Planning Officer)**

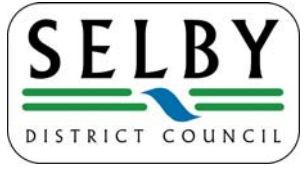
**Appendices:** None



### APPLICATION SITE

Cranton, Church Crescent, Stutton  
2019/0883/FUL

1:1,250



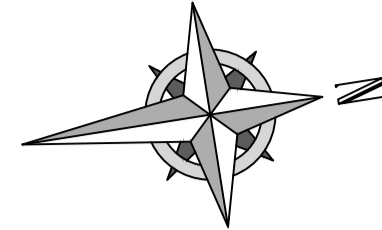
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0 2.5 m 5 m 10 m

SCALE: 1:100



Notes

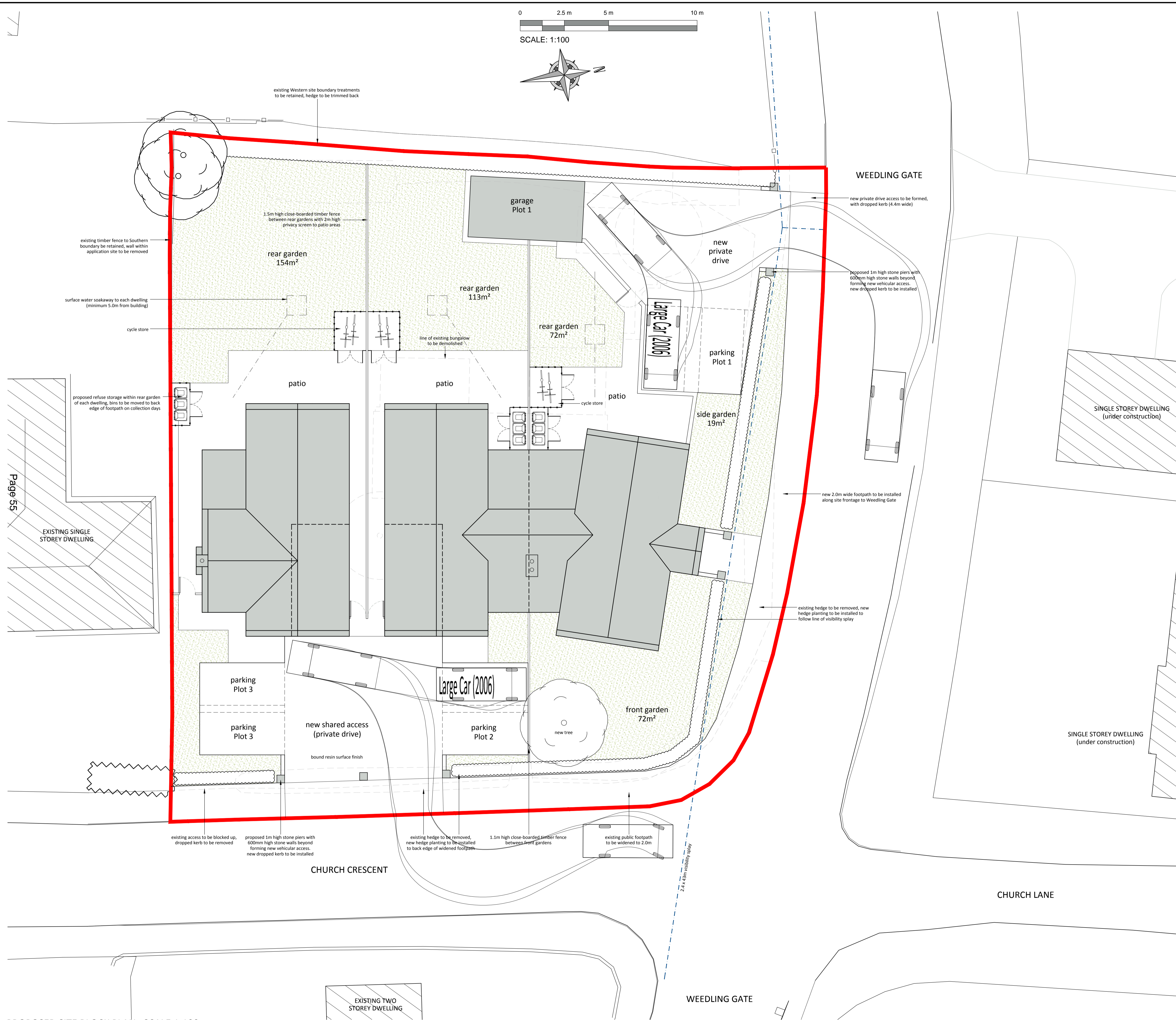
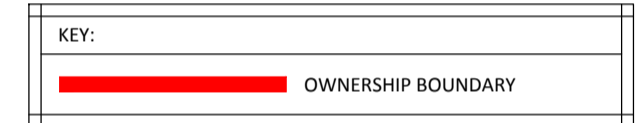
1. Do not scale drawing. If in doubt contact DMS Architecture Ltd.
2. All dimensions are in millimetres unless noted otherwise.
3. Not for construction unless otherwise shown.
4. When appropriate, this drawing to be read in conjunction with project specific Designers Risk Assessments, produced in accordance with requirements of Regulation 13 of the Construction (Design and Management) Regulations 2007.
5. The design shown on this drawing is the property of DMS Architecture Ltd and is not to be used or the drawing copied, communicated or disclosed, in whole or in part, except in accordance with a contract, licence or agreement in writing with DMS Architecture Ltd.



SITE LOCATION PLAN SCALE 1:1250

0 25 m 50 m 100 m

SCALE: 1:1250



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**AMENDED DRAWING**

REV.	DATE	DESCRIPTION	DRN	CKD.
D	14-11-19	Proposed floor area of each dwelling reduced	MS	--
C	08-10-19	Vehicular entrance arrangement to Plot 1 amended. Vehicle tracking added. Parking to Plots 2 & 3 adjusted	MS	--
B	18-09-19	Vehicular entrance arrangement to Plots 2 & 3 amended. Vehicle tracking added	MS	--
A	14-08-19	Plot 01 chimney relocated/combined with Plot 02. Cycle stores added to each plot	JPE	DM

**DMS ARCHITECTURE**  
 THE OLD POLICE STATION, HIGH STREET  
 NORMANTON, WF6 2AL  
 Tel: 01924 899749  
 E-mail: mail@dmsarchitecture.co.uk www.dmsarchitecture.co.uk

PROJECT  
**PROPOSED RESIDENTIAL DEVELOPMENT ON LAND ADJACENT TO WEEDLING GATE & CHURCH CRESCENT STUTTON, TADCASTER**

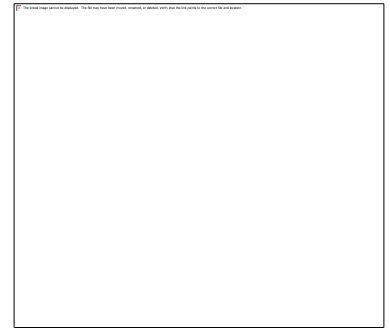
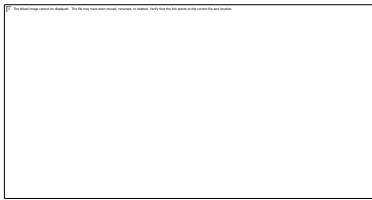
TITLE  
**SITE LOCATION PLAN AND PROPOSED SITE BLOCK PLAN**

STAGE  
**PLANNING**

PROJECT No. 1434	DRAWING No. A(20)001	REV. D
SCALE 1:100 & 1:1250 @ A1	DATE AUGUST 2019	
DRAWN MS & JPE	CHECKED MS	

PROPOSED SITE BLOCK PLAN SCALE 1:100

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**Report Reference Number:** 2019/0883/FUL

**To:** Planning Committee  
**Date:** 1<sup>st</sup> April 2020  
**Author:** Gareth Stent (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0883/FUL	PARISH:	Stutton With Hazlewood Parish Council
APPLICANT:	Kyme Homes	VALID DATE:	30th August 2019
		EXPIRY DATE:	25th October 2019
PROPOSAL:	Proposed demolition of existing bungalow and construction of 3no. new-build dwellings		
LOCATION:	Cranton Church Crescent Stutton Tadcaster North Yorkshire LS24 9BJ		
RECOMMENDATION:	Refusal		

This application has been brought before Planning Committee as directed by the Head of Planning due to the sensitive consideration of infill policy matters in secondary villages.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site is located in the small rural village of Sutton. The site situated on the crossroads where Church Crescent meets Church Lane to the north and Weedling Gate passes west to east. The dwelling that currently occupies the site is a moderate, detached single storey bungalow, which is sett in a large generous garden. The existing dwelling is constructed from buff brick and concrete tile.
- 1.2 The south boundary has 2 metre high render and brick built wall and other boundaries are served by hedgerows which range in height from 1metre to 1.8metre. To the south is the bungalow known as Red Roofs and opposite the site to the north is the former bungalow known as Hawthorn, which has been redeveloped for two new detached bungalows (2017/0442/OUT).

- 1.3 The dwellings to the south along the eastern side of Church Crescent are modern and more densely developed dwellings. The area is best described as having a good range of architectural styles and densities.

### **The Proposal**

- 1.4 The proposal is to demolish the existing detached bungalow known as Cranton and construct 3 no 4-bed dwellings, including 1 detached (plot 3) and a pair of semi-detached dwellings (Plots 1-2).
- 1.5 The application is the resubmission of application 2019/0134/FUL which was refused under delegated powers. The Local Planning Authority has also sought counsel advice on this application in light of the comments received from the brewery and with regards to the context of other decisions made directly opposite the site.
- 1.6 Changes have been made to this submission as a result of discussions with officers i.e. Gross Internal floor space has been reduced and swept paths shown on the site plans as a result of the highway officer comments.

### **Relevant Planning History**

- 1.7 The following historical application is considered to be relevant to the determination of this application.
- 2019/0134/FUL, Proposed demolition of existing bungalow and construction of 3 no. new-build dwellings. Refused 10.5.2019 for the following reasons:
    1. *The proposed development fails to provide any evidence on how it would enhance or maintain the vitality of the rural community and therefore fails to accord with Policy SP2A (b) of the Core Strategy.*
    2. *The proposed development does not fall under any of the above types of residential development which are identified as acceptable in principle in Policy SP4 a) and therefore the proposal fails to accord with Policy SP4 of the Core Strategy*
    3. *The proposed development is considered to be a cramped form of development which would overdevelop the site detracting from the character, appearance and form of the surrounding development in the village. This would conflict with Policies SP4 c) and d) and SP19 of the Core Strategy and ENV1 of the Local Plan.*
    4. *The scheme fails to retain the existing parking relationship of the surrounding area as it introduces large uncharacteristic parking areas to the frontage of plots 2 and 3 and to rear of plot 1. The proposed scheme is therefore considered to have a detrimental harmful impact upon the character and form the area and fails to accord with Policy ENV1 of the Selby District Local Plan and the Policies SP4 and SP19 of the Core Strategy.*

5. *The proposed is considered to provide insufficient information in relation to the scheme impact upon protected species or any other species of conservation interest. The proposed scheme therefore fails to accord with Policy ENV1(5) of the Selby District Local Plan (2005), Policy SP18 of the Selby District Core Strategy Local Plan (2013) and the NPPF.*

#### Site opposite The Hawthorns

- 1.8 2017/0442/OUT - Outline application with all matters reserved for the erection of two detached dwellings following the demolition of an existing bungalow. Granted delegated 10.07.2017.

#### Site to the north east referred to in the Brewery's representation

- 1.9 2016/1476/OUT - Outline application for erection of a detached dwelling on land to the north east of Church Lane/Weedling Gate. Refused. Appeal dismissed - APP/N2739/W/17/3169716. This was directly opposite the site to the north east. The site was outside development limits.

## **2. CONSULTATION AND PUBLICITY**

- 2.1 **Parish Council** – 17/9/2019 meeting - wish to reinforce and restate the original observations of the 15/3/19."Observations of the council were: this will add a further access point to what is already a busy junction, 3 double height properties - appearance is in conflict with neighbouring properties, density of properties on the site is too high, not in keeping with the Village Design Statement" and although the design has changed the visual impact is greater. The reasons for refusal of the original application have not materially altered other than the environmental survey.

There are no shared drives on Church Crescent, The Public House has not been open for over 12 months. There is no playgroup or community centre within the village and also that the bus service whilst being regular is infrequent (3 buses per day). Some of the materials proposed are not in keeping with the village design statement. The new application fails to mention that the proposed vehicle exits are going to be altered and a new exit created which does not leave the required m, visibility split contrary to what the application states. Car parking is an issue, with insufficient turning space. The council does not feel that proposed soakaways are a sustainable proposal based on evidence from recent developments in the area. The parish council hopes its views will be taken into consideration when a decision is made.

- 2.2 10.10.19 Meeting - Changes have occurred to this planning application since the extraordinary meeting. These changes are to parking/turning space on the proposal. The access point has moved closer to the junction. The council strongly felt that this was making it even more dangerous in respect of the positioning of the access point, the visibility was worsened and the proposed turning was not felt to be practical. The council resolved to observe vehicles leaving this site will be turning onto a busy junction. Felt to be gross overdevelopment. Car parking is an issue, with insufficient turning space.
- 2.3 14/11/2019 meeting - Changes have occurred to this planning application since the earlier October meeting. The council have examined the revised application and still feel that the 42 m visibility has not been addressed and the proposed turning was

not felt to be practical. The council resolved to observe vehicles leaving this site will be turning onto a busy junction. Car parking is an issue, with insufficient turning space.

- 2.4 **NYCC Highways Canal Rd** – No objections following amended plans which show how plots 1 and 2 are able to turn within the site (swept paths shown). Conditions suggested covering details such as the access/verge crossing construction requirements, closing off of the existing access, visibility splays being maintain for plot 1, widening of the footway and the retention of garage spaces.
- 2.5 **Yorkshire Water Services Ltd** – No response received.
- 2.6 **Ainsty (2008) Internal Drainage Board** – No objections.
- 2.7 **North Yorkshire Bat Group** – No response received.
- 2.8 **Yorkshire Wildlife Trust** – No response received.
- 2.9 **County Ecologist** – No objections subject to a condition ensuring the development is undertaken in accordance with the recommendations made in the Extended Phase 1 Habitat Survey and Preliminary Ecological Appraisal and bat report.
- 2.10 **Design Officer** - The revised proposals have taken on most of the design advice previously offered to the applicant, and appear much more in keeping with the traditional character of the village, in particular the buildings at the bottom end of the road where the village runs out along Green Lane. It feels as if there's a real chance to achieve an outcome with similar levels of quality to these, provided sufficient care is given to choice of materials and levels of craftsmanship, as well as attention to details, landscape and boundaries.
- 2.11 **Neighbour and 3rd Party representations**

The proposal was publicised by a site notice and direct neighbour notification of residents. 2 representations were received one from the occupier of Station House to the west and one from Cunnane Town Planning on behalf of Samuel Smith Old Brewery.

Occupier of Station House comments:

Resubmission

This application does not address the issues relating to the previous application 2019/0134/FUL. In fact in terms of appearance the second application has a greater negative visual impact.

Village Appearance

The village whilst having significant development has to date retained its overall feel and appearance with in the main detached properties with good separation, front gardens, built with the same stone and set back from the roadside. This proposed development is shoehorned into the site and is completely at odds with the appearance of the village.

The proposal does not comply with criterion c) of Policy SP2 to protect local amenity and character of the local area in line with local design codes.

It does not comply with the Stutton Village Design Guide describing the distinct character of the area as "individual Villa Style".

The sheer density of this development, the minor image dwellings, the unique parking courtyard directly conflict with the Design Guide and it certainly does not accord with Policy SP2A (b) of the Core Strategy.

The submission by Cunnane Town Planning 8th April relating to the previous application is still completely relevant to this new application.

The proposal will have a negative impact on the village, leads to over development of the site and could be avoided if the developers follow the example of the new development of two single story dwellings on the similarly sized site on the corner opposite. The developers on this other site were sensitive to ensuring compatibility with the overall appearance and ambiance of the village.

### Road safety issues

This development is on the corner of Church Crescent and Weedling Gate. The latter has a mixture of local resident traffic and through traffic cutting through from the A64 to the A162 road to Towton.

- Concerns that the visibility splays and lines of sight could be interrupted if the hedge adjacent to plot isn't maintained.
- Parking on Weedling Gate to access the front door of plot 1 will create a traffic hazard. At present there is no need for on street parking and this will come as a consequence of the developer wishing to over develop a constrained site.
- Concerns over parked vehicles outside plot 2 & 3. The current bungalow had ample parking. The parking arrangement shown means visitors and delivery drivers will park outside the site causing concern for vehicles approaching the junction.

### Amenity to Station House

- The proposal will overlook Station House by 8 first floor windows, representing a significant loss of amenity.

### Samuel Smith Old Brewery representation

The proposal is contrary to the development plan and is not outweighed by material considerations.

The Appeal APP/N2739/W/17/3169716 is of relevance for a site directly over the road. This appeal considered the development of a new dwelling on the site. The main issue considered by the Inspector was whether the location would be consistent with local and national policies relating to housing in rural areas, with particular regard to access to everyday facilities by a range of means of transport.

Relevance of the appeal relates to the Inspectors consideration of the facilities in the settlement and whether they are suitable for sustaining the addition of a new dwelling, which provides a useful indication of the issues facing the development of further residential uses in this area. The appeal was dismissed because of the poor access to everyday services and facilities within Stutton, and the reliance that future residents would have on the private car would conflict with the social and environmental dimensions of sustainability as set out in Paragraph 7 of the NPPF.

- Principle of Development – The principle of residential development on this site is governed by the ‘sustainability’ of the proposal and the ability of the applicants to demonstrate that the scheme meets the requirements of the ‘golden thread’.
- SP2 of the Core Strategy governs the councils approach to housing in the district, with the majority of development located to the main town centres or designated service villages which have ‘some’ scope for additional development. Below these tiers the policy moves to restricting development unless specific circumstances are met, i.e. limited development may be absorbed within secondary villages (such as Stutton) where it will enhance or maintain vitality or rural communities and which conform to the provisions of SP4 and SP10. If the development fails to address these two requirements it should be refused unless justified by other material considerations.
- The applicant has not identified the positive impact of the proposal on the rural community. The proposal is contrary to SP2.
- Having regard to the appeal decision on the site opposite the objection wishes to highlight the inspector’s conclusions with regard to sustainability of the location in relation to the settlements ability to provide for needs of new residents in a sustainable manner. It is clear that he considered there to be no realistic prospect of future residents being able to enjoy a reasonable level of access to schools, shops and employment without heavy reliance on the private car. This is recognised by the applicant in their provision of three car parking spaces for each dwelling.
- SP4 of the Core Strategy provides guidance with regard to the detailed management of residential development in the District. Previously developed land within secondary villages can be acceptable subject to a number of detailed criteria.
- This site cannot be fully considered as previously developed land owing to the definition in the NPPF. Only the footprint of where the current building is regarded as previously developed.
- Secondly Criteria c) of SP4 requires that all development must protect local amenity, preserve or enhance the character of the local area and comply with any local design codes.
- The Sutton Village Design Guide identifies the site as falling within a distinct character area of individual villa styled development and then lists in detail the areas overall character. This proposal represents a significant intensification of the development on the plot, where surrounding development is characterised by dwellings set within generous garden areas, with clear spacing between dwellings. This proposal creates 2 storey dwellings in very close proximity and erosion of the low density and spacious character of the area.



- This is exacerbated by the angle at which plot 1 would present itself to Church Crescent. This would breach the established building line and provide an incongruous orientation of the properties.
- The use of a shared driveway leads to the erosion of individual dwellings.
- The uniformed appearance of the dwellings is contrary to the areas individual character.
- SP4 d) requires the application to be of a suitable scale and will be assessed in relation to the density, character and form of the local area. The majority of the dwellings are individually designed, detached and low density. The larger development to the south has different design detailing, still retains large spacious plots and generous gardens and individual private driveways. This application seeks to over develop the site, by shoe horning 3 4-bed dwellings onto a plot directly abutting the boundary of the settlement. This alters the character of the settlement resulting from the density providing too little space on the site for the gaps between the buildings, garden areas and arrangement of the driveways, off street parking and garaging.
- The proposal therefore does not reflect the character, density and form of the local area and is an inappropriate form of development contrary to SP 4.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 Within the Development Limits of Stutton - Designated as a Secondary Village.

### **4 POLICY CONSIDERATIONS**

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.

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

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

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

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

4.6 **The relevant Core Strategy Policies are:**

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

SP1 - Presumption in Favour of Sustainable Development  
SP2 - Spatial Development Strategy  
SP4 - Management of Residential Development in Settlements  
SP5 - The Scale and Distribution of Housing  
SP9 - Affordable Housing  
SP15 - Sustainable Development and Climate Change  
SP16 - Improving Resource Efficiency  
SP18 - Protecting and Enhancing the Environment  
SP19 - Design Quality

### **Selby District Local Plan**

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

ENV1 - Control of Development  
ENV15 – Locally Important Landscape Areas  
T1 - Development in Relation to Highway  
T2 - Access to Roads

## **5 APPRAISAL**

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

- The principle of development SP2 & SP 4 compliance.
- Access to facilities and locational sustainability
- Impact on the Character and Form of the Locality
- Impact on Residential Amenity

- Impact on the Highway
- Affordable Housing
- Impact on Nature Conservation and Protected Species
- Drainage, Climate Change and Energy Efficiency
- Land Contamination
- Other material considerations

## Principle of the Development

### SP2

- 5.2 Core Strategy Policy SP2 is a broad spatial strategy policy which sets out the Council's main cascade of appropriate settlements for new development. Secondary villages sit somewhat down this hierarchy, below Selby, the Local Service Centres and Designated Service Villages. SP2(b) describes that "limited" development will be allowed within the settlement limits of secondary villages such as Stutton and then only where it will "enhance or maintain the vitality of rural communities" and "conform to the provisions of Policy SP4 and Policy SP10".
- 5.3 The Core Strategy describes Secondary villages as "less sustainable" or are otherwise constrained in terms of the development they can sustainably support. Planned growth is said not to be appropriate although "some housing" in defined circumstances is said to be permitted "where it will enhance or maintain the vitality of rural communities". No further guidance is given in relation to what will "enhance or maintain the vitality of rural communities". This is therefore a matter left to judgement, however this is similar to the wording of paragraph 78 of the NPPF which states that:
- "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities."*
- 5.4 An example is given later within NPPF [78] that "where there are groups of smaller settlements, development in one village may support services in a village nearby." Accordingly, there is no requirement for a village to have its own services and a decision-maker can look at whether the day to day needs of future residents can be met by a group of settlements within a reasonable travel distance.
- 5.5 The Planning Practice Guidance states that "People living in rural areas can face particular challenges in terms of housing supply and affordability, while the location of new housing can also be important for the broader sustainability of rural communities..."
- 5.6 This proposed redevelopment of the site for x3 dwellings would therefore be capable of at least maintaining the current vitality of Sutton and might assist with some small additional spend within Tadcaster. The policy does not require enhancement and therefore maintenance of the status quo is sufficient.
- 5.7 Therefore officers disagree that potential conflict exists with SP2 as highlighted in the letters of representation which note that the applicant "has not identified any positive impact of the proposal on the rural community". Whilst this is factually correct, this is not required in order to demonstrate compliance with SP2. The term

“maintain” cannot be properly interpreted as requiring a positive contribution and no assertion is made that the contribution to vitality would be negative.

- 5.8 There is therefore also conflict with the previous delegated decision in relation to 2019/0134/FUL and reason for refusal 1. Officers consider requiring positive evidence asks too much of applicants as the wording of the policy is clear that maintenance is sufficient. On this basis the proposal is in compliance with Policy SP2 (b).

#### SP4

- 5.9 Policy SP4 ‘Management of Residential Development in Settlements’ allows for development in principle in secondary villages through the following; SP 4 a)
- 1) Conversions;
  - 2) Replacement dwellings;
  - 3) Redevelopment of previously developed land;
  - 4) Filling of small linear gaps in otherwise built up residential frontages; and
  - 5) Conversion/redevelopment of farmsteads.
- 5.10 The key assessment is whether the proposal falls within any of the categories identified above. The Development is described as demolition of one dwelling and its replacement with three new dwellings. Plainly, this is not a conversion or a farmstead development. Nor do officers consider that it falls within any of the other categories:
- 5.11 It is not a ‘replacement dwelling’. This category, in line with green belt policies, envisages the replacement of one existing dwelling with a new dwelling on the same site. It does not encompass an increase in the number of dwellings on any given site.
- 5.12 The site is only part previously developed land. NPPF definition i.e. the space occupied by the current buildings on the site. The definition goes on to clarify that residential gardens in built up areas are not considered to be PDL. However, the proposed scheme would not build on all of the existing garden area and allows for a significant amount of garden space and landscaping for the future occupiers. The Development is therefore not wholly the ‘redevelopment of previously developed land’.
- 5.13 Officers do not consider that the Development can be described as the ‘filling of a small linear gap in an otherwise built up residential frontage’. The Development includes permission to demolish an existing dwelling. At present, there is no gap within the frontage and only by demolition can the applicant ‘create’ a gap, however, this activity is part of the development for which planning permission is sought. The development as a whole is therefore not within an existing gap and thus falls outside this category.
- 5.14 This is emphasised by the supporting text to Policy SP4. Paragraph 4.55 states that Policy SP4 is intended to “avoid...the worst excesses of garden grabbing particularly in smaller settlements”. Further, paragraph 4.58 contrasts the position in

larger settlements where greenfield and garden development is permissible with the situation envisaged for secondary villages where residential development will be “more restricted so that development on garden land will be resisted...” Officers therefore consider the plan seeks to prevent greenfield, garden development in secondary villages.

- 5.15 This proposal artificially creates a gap whereas the policy is aimed at infilling pre-existing gaps in frontages where development would ‘make sense’ in the context of the existing densities. The stated purpose of the spatial strategy in relation to secondary villages is set out within paragraph 4.53 of the Core Strategy as being to “recognise...some scope for continued growth in villages to help maintain their viability and vitality. However, this must be balanced with concerns about the impact of continued residential infilling on the form and character of our villages, particularly through the practice of developing on garden land...and redeveloping existing properties at higher densities.” In this context, officers consider that the Core Strategy and SP4 seek to prevent developments such as the Application where the majority of the development will be on garden land and which will increase the density of the site.
- 5.16 Officers also accept that a similar proposal was permitted opposite the site where a dwelling was demolished and replaced by 2 dwellings (2017/0442/OUT-Hawthorn’s), however given the above the previous reason for refusal No.2 of 2019/0134/FUL is maintained.
- 5.17 SP4 Criteria C) then states that in all cases proposals will be expected to protect local amenity, preserve and enhance the character of the local area and comply with normal planning considerations, with full regard taken of the principles contained within Design Codes (e.g. village design statements). Its states appropriate scale will be assessed in relation to the density, character and form of the local area and should be appropriate to the role and function of the settlement within the hierarchy.
- 5.18 SP4(d) states that appropriate scale will be assessed in relation to the density, character and form of the area. This is assessed further in the character section of the report.

### **Access to facilities and locational sustainability**

- 5.19 The purpose of seeking to prevent any large increase in population in secondary villages is to avoid “unacceptable amounts of housing (para 4.56 of the CS)...in smaller, less sustainable settlements”. The strategy is intended to “support development in the most sustainable locations” (para 4.55 CS). These paragraphs of the Core Strategy explain the settlement hierarchy and explain the restrictive approach taken in CS4(a).
- 5.20 In support of the application the planning statement regards the site as being in a sustainable location. It states the site “is in close proximity to a public right of way that connects this street with Hawthorn Close (in Tadcaster) linking to Stutton Road, a street that contains a significant number of local amenities (Costcutter, Newsagents + Post Office, Fish & Chip Shop, Coffee Shop and Hairdressers).” It also states “Stutton is currently served by a regular bus service, Public House, a

playgroup in the village hall and a community centre. The future viability of all these facilities are reliant on residential growth.”

5.21 The Parish council state The Public House has not been open for over 12 months. There is no playgroup or community centre within the village and also that the bus service, whilst being regular is infrequent (3 buses per day). This is accepted, however the pub does have the ability to reopen and further residential development does have the ability to support this.

5.22 The approach to matters of sustainability were considered in the appeal into application 2016/1476/OUT (APP/N2739/W/17/3169716). This was for a site directly opposite the application site for a single dwelling. This lay outside the settlement and within countryside and was considered at the time when the council didn't have a 5 year land supply.

5.23 Whilst this appeal was a matter of judgement the conclusions are relevant to the determination of this application. The Inspector did not approach this section of his decision on the basis that the appeal site was within the open countryside. A fair reading of paragraphs 10-17 show that he approached the site as if it were part of Stutton, which it does appear to be on the ground. Practically, there is no difference between future residents of land to the north or future residents of land to the south of Weelding Gate in terms of their ability to access to facilities and the likelihood of journeys being by private car rather than public transport.

5.24 In dismissing the appeal the inspector states:

*“There is nothing to suggest that Stutton would be capable of meeting the everyday needs of its occupants. It is therefore inevitable that travel outside the village would be necessary. The previous Inspector concluded that future occupants would be reliant on the car. In coming to this conclusion, he had regard to the relative proximity of Stutton to Tadcaster, the potential use of the segregated footpath that leads to the edge of Tadcaster and what level of public transport occupants would have access to. The context in which he came to this conclusion has not changed. There appears to be the same level of service provision in the area and there is no suggestion that public transport services have improved in the intervening period.”*

5.25 In terms of the path to the local services the inspector states *“I am not convinced that it represents a reasonable or realistic alternative to the car for future occupants to meet their everyday needs. For one reason, the parade does not provide sufficient services or facilities for day-to-day living.”* *“Based on the evidence before me, and my own observations, the level of service provision within a reasonable walking distance of the site is limited.”*

5.26 The inspector also states *“There is a bus stop within a short distance of the site that provides services to Tadcaster and Sherburn in Elmet every two hours. While this also weighs in favour of the development to a small degree, it cannot be considered to be a particularly regular service and is thus unlikely to provide a realistic or reasonable alternative for most everyday trips.”* *“Paragraph 55 of the Framework states that housing in rural areas should be located where it can maintain or enhance the vitality of rural communities. An example given is where development in one village can support those in another nearby. Whilst I recognise the relative*

*proximity between Stutton and Tadcaster, the benefits derived from one dwelling would be limited in nature.”*

- 5.27 The inspector concludes this point by stating “*There is also nothing before me to suggest the vitality of Tadcaster, and the small parade of shops in particular, is under threat, such that the development of a single dwelling in the countryside would be of any particular benefit. The likely reliance on the car may also serve to reduce any functional relationship between the appeal site and nearby services, thus further reducing the already limited benefits to the vitality of nearby communities. For the above reasons, I conclude that the development would not provide a suitable site for housing in terms of its access to everyday facilities and a reliance on the private car. This would conflict with paragraphs 17 and 29 of the Framework, which seek to actively manage patterns of growth to make fullest possible use of walking, cycling and public transport, and giving people real choices about how they travel. Moreover, it conflicts with the core planning principle of moving to a low carbon economy. This is consistent with the view of the previous Inspector and the evidence does not lead me to a different conclusion.*”
- 5.28 From the above the inspector in 2017 made a clear assessment of the sustainability merits of the application site and the provision of a single dwelling in the location. Officer also note that the redevelopment of the Hawthorn’s never raised concern with this aspect of the policy. On this basis conflict exists with the wider sustainability objectives within the NPPF and Policy SP 2 in that the proposal will have poor access to everyday facilities and will have a reliance on the private car. The nett addition of x2 dwellings will compound this concern.

### **Visual amenity and the impact on the character of the area.**

- 5.29 In order to assess ‘visual amenity’ it is necessary to consider the layout, form, density, design and landscaping as these factors that can impact on the character of the area. These are governed by policies by Core Strategy Policies SP 4 c) and d) SP 19. Section 12 of the NPPF also puts significant emphasis on good design. Sutton also has a village design statement which is to be considered.
- 5.30 The starting point for consideration of this application is reason for refusal No.3 of the previous decision on the site which states:
- The proposed development is considered to be a cramped form of development which would overdevelop the site detracting from the character, appearance and form of the surrounding development in the village. This would conflict with Policies SP4 c) and d) and SP19 of the Core Strategy and ENV1 of the Local Plan.*
- 5.31 The concern detailed in the officer report was that all of the dwellings located on the crossroad have large single dwellings, which have large amenity spaces that surround them which gives the corner plots a clear distinctive character. “The scheme proposes three large dwellings, which are located closely together in prominent corner location. The scheme fails to maintain the existing spacious amenity space corner plot character, and is considered to create a cramped and overdeveloped appearance. The scheme fails to retain existing parking relationship of the surrounding area as it introduces alien large uncharacteristic parking area to the frontage of plots 2 and 3 and to rear of plot1.”

5.32 Since the refusal the applicants have met with officers which included the design officer in order to overcome these concerns. Whilst the number of dwellings still remains the same, there has been some design changes made to the scheme in order that lessen the scheme's impact and ensure support can now be given. These include

- Realignment of Plot 1 (the corner property) so that it follows the orientation of the boundary line and Weedling Gate.
- A larger projecting two storey element to the north flank wall (to accommodate a lobby and a bathroom) providing more visual interest to Weedling Gate.
- Plots 1 and 2 are now a pair of semi-detached dwellings with an almost 'L' shape to them to reference 'farmhouse' aesthetic associated with other houses in the area/this part of the District.
- A reduction in height to the ridges of plots 2 and 3 by 265mm.
- Continuous single piece stone lintels rather than centrally jointed lintels, where space allows, Stone pillars to define the entrances to all plots with dwarf walls behind.
- Both driveways to be surfaced with block pavements, The planting of a new tree.
- Increased width between Plots 2 and 3 from 1.5m to 2m

### Density

5.33 The proposal to demolish the existing single dwelling will naturally result in a more intensive development than currently exists. The site is 0.13 hectares and currently has a density of 8 dwellings per hectare and an open spacious character. The proposed three dwellings would represent a density of 23 dwellings per hectare so clearly this increases the density and amount of built form on the site. This density is similar to the more modern properties to the south of the site (late 20<sup>th</sup> Century estates within the VDS) i.e. No.35 onwards, where the dwellings occupy just about all the frontages on narrower plots. The proposal is however denser than the properties which front Weedling Gate and Church Lane which sit more comfortably within larger plots. These larger plots are defined within the Village Design Statement character assessment being - individual villa styled properties.

### Design

5.34 The new dwellings pick up some of the character and form of the modern dwellings to the south of the site, having similar roof heights, traditional pitched roofs, projecting gables albeit with plot 3 having a narrower plot width. The proposal maintains the building line of the dwellings on Church Crescent being set back 4.3m from the kerb edge.

5.35 The new dwellings propose more modern materials with the use of grey upvc windows, grey composite entrance doors, grey Wienerberger roof tiles, artstone headers, cills and copings and the main massing is to be constructed from 2 differing stone types. The frontages to Church Crescent will all have the same



stone type and the projecting gable of plot 1 that faces Weedling Gate will have a contrasting stone, to create some visual interest. Whilst the western side of Church Crescent is mainly all red brick, the eastern side is constructed from Stone and this is what the proposals to some extent seeks to reflect, albeit with a more modern design influence. The use of stone is consistent with the guidance in the Village Design Statement.

- 5.36 From Weedling Gate the proposal has been designed to have a dual aspect with the main frontage facing north onto the roadside. This gives the design some presence albeit the scheme, undoubtedly increases the volume and massing on this corner plot. The extent of the scheme is lessened when viewed from Weedling Gate as space still exist either side of the dwellings. Plot 1 does project closer to the road than the current property. This accentuates its presence within the streetscene, however it does follow the form of the road and the dwelling has been angled to help lessen its prominence.

#### Form

- 5.37 Plot 3 in its detached form reflects the character of Church Crescent. Plots 1-2 are then joined to enable the floor space within the dwellings to be achieved as the massing wraps around the corner of the site. From Church Crescent the most significant impact is the scale and massing of two storey structures. The development of a two storey dwelling will in effect sandwich Red Roofs to the south between a pair of 2 storey detached dwellings i.e. Plot 3 and No.35. This does have some material impact on the character of the streetscene. In addition the massing does project into the streetscene and bring the development closer to the road. This has some conflict with the Village Design Statement, which emphasises maintaining the consistent set back and building lines.

#### Layout

- 5.38 In terms of layout the previous reason for refusal raised issue with the parking i.e. reason 4 –

*“The scheme fails to retain the existing parking relationship of the surrounding area as it introduces large uncharacteristic parking areas to the frontage of plots 2 and 3 and to rear of plot 1.”*

- 5.39 This hasn't changed in the resubmission as no other alternative can be configured without reduction the number of units and having parking alongside the dwellings. However subtle design changes have been made to lessen the impact of the parking i.e. the introduction of a new frontage hedge to screen the parking area and the entrance given some definition by stone entrance pillars being introduced.
- 5.40 Also traditional roll on roll of parking does exist to dwellings to the south, where cars are parked on frontages and this is common place on new residential estates. Upon reflection this shared parking area isn't sufficiently harmful to warrant the reason for refusal being retained, particularly given the subtle design changes.

- 5.41 Finally the urban designer was consulted on the application having worked with the applicant to overcome the design issues. The officer provided a detailed assessment of the issue and noted that the redesign took on most of the comments previously made. The officer states “the proposal appears much more in keeping with the traditional character of the village, in particular the buildings at the bottom end of the road where the village runs out along Green Lane.”
- 5.42 Therefore whilst the design of the dwellings has improved, as has the screening of the parking area, the increase in density and built form on the site is still at odds with the areas general character which is spacious dwellings set in large plot sizes with individually styled dwellings. The proposal relates better to the more modern dwellings to the south. The proposal will still over develop the plot and fails to preserve and enhance the character of the local area contrary to Policies ENV1 (1) and (4), and ENV15 of the Selby District Local Plan, Policy SP 4 c) and d) and SP19 of Core Strategy, national policy contained within the NPPF and the Sutton Village Design Statement (Feb 2012).

### **Impact on Residential Amenity**

- 5.43 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed in accordance with Local Plan Policy ENV 1.
- 5.44 The main properties to be affected by the scheme are Red Roofs to the immediate south and Station House to the west. The previous reasons for refusal never identified any harm to the living conditions of neighbouring dwellings given the separation distances and careful window arrangement.
- 5.45 In terms of Red Roofs to the south, the closest dwelling is plot 3. Plot 3 has been staggered from the boundary and inset to allow views from Red Roofs not to be compromised. This is demonstrated by the 45 degree line of sight is annotated on the layout plan, which is a useful guide to assessing outlook.
- 5.46 In terms of privacy, plot 3 has two side windows on the southern elevation i.e. a first floor obscure glazed ensuite window and a ground floor dining room, which is screened by the existing boundary treatment. The proposal is also due north so will not cause any loss of sunlight. No third party representations were received from this occupier and it is considered the proposed scheme will maintain the living conditions of Red Roofs.
- 5.47 To the west of the site is Station House. Concern was raised in the objection that 8 first floor windows would over look Station House. Station House is situated on elevated ground and it has its main elevation facing east looking directly into the application site. The proposed scheme in particular plots 2-3 has all of its first floor windows looking west facing Station House, however the distances between the dwellings are 29m at the closest point, which is regarded well in excess of modern separation distances (21m) to maintain privacy.

- 5.48 Finally whilst Station House is due west, a combination of the elevated land levels and separation distances means that the new development will not cause any overshadowing or be visually dominant in terms of the outlook from Station House.
- 5.49 The frontage windows of the proposed plots all face towards the roadside and are not considered to compromise the privacy of dwellings opposite the site. Boundary screening between the 3 dwellings is also shown on the submitted layout plan. Conditions are recommended that remove permitted development rights for any further windows at first floor level on the side elevations and that those windows are fitted with obscure glazing where shown on plan.
- 5.50 Having considered the above the proposed scheme would not result in any significant detrimental impacts on the residential amenities of the occupiers of the existing or proposed dwellings in accordance with Policy ENV1(1) of the Selby District Local Plan and the advice contained within the NPPF.

### **Impact on the Highway**

- 5.51 The plans shows plots 2-3 accessed off Church Crescent with plot 1 being accessed from Weedling Gate. Plots 2-3 have a shared access with a bound resin surface finished turning area with x4 off street parking spaces. Plots 2-3 also have integral garage spaces. A 1m access pillar defines the access and a 1m hedge row wraps around the site to recreate the enclosure formed by the existing hedgerow. The current access of Church Crescent is to be blocked up and a new access slightly further north is created onto Church Crescent. The public footpath is to be widened to 2.0 m along the whole boundary of the site.
- 5.52 A new 4.1m access is to be created to serve Plot 1 at the western edge of the site. This has a small turning area, detached single garage and x2 off street parking spaces. The hedgerow once again wraps around the site and has been set back from the footway and grass verge to ensure visibility is achieved. A pedestrian access is created onto Weedling Gate for Plot 1.
- 5.53 Concerns were raised in the objection over on street parking and visibility concerns, however NYCC Highways have been consulted on the proposal and have advised that they have no objections in principle, however required the swept path analysis be undertaken for plots 2 and 3 to ensure vehicles can turn within the site. This was undertaken and the plans provided showing how vehicles can access the site in a forward gear. The site has sufficient off street parking and visibility splays were adequate and maintained by condition (plot 1). NYCC Highways have recommended that a number of conditions be added to the permission controlling the need to hard surface the turning area, protection of the garages from being lost as a vehicle space, access details and the provision of a footway on the site frontage.
- 5.54 Therefore subject to the aforementioned conditions, it is considered that the development is acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and the advice contained within the NPPF.

### **Affordable Housing Assessment**

- 5.55 Core Strategy Policy SP9 and the accompanying Affordable Housing 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. The Policy notes that the target contribution will be equivalent to the provision of up to 10% affordable units. The calculation of the extent of this contribution is set out within the Affordable Housing Supplementary Planning Document which was adopted on 25 February 2014.
- 5.56 However, in the context of the West Berkshire decision it is considered that there is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. Officers therefore recommend that, having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

### **Impact on Nature Conservation and Protected Species**

- 5.57 Protected Species include those protected under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration. Relevant policies relating to nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 of the Core Strategy.
- 5.58 The lack of an ecological assessment of the site previously formed reason for refusal No.5 of 2019/0134/FUL. The applicants addressed this issue within this resubmission by the submission extended phase1 habitat survey and preliminary ecological appraisal dated April 2019. The NYCC ecologist was satisfied that this will allow the authority to determine the application in relation to ecology.
- 5.59 The Extended Phase 1 Habitat Survey and Preliminary Ecological Appraisal report (April 2019) recommended bat surveys to be undertaken of the bungalow, which have since been carried out. The report identified the need for an informative to ensure any vegetation removal/maintenance is undertaken outside of the bird nesting season as the site was found to provide good habitat for garden birds. There was no evidence that the site supports other protected or notable species including badger, great crested newt or reptiles, as such no further survey work was proposed. The report provides a number of general recommendations to minimise impacts on site biodiversity and to provide enhancements where possible. A condition was recommended by the county ecologist that requires works to be undertaken in accordance with recommendations set out in section 8 and 9 of the report.
- 5.51 The Bat Survey report (June 2019) is based on bat surveys undertaken at the correct time of year, to the current standards. A single bat day roost was located within the property and as this would be lost as part of the development a method statement has been prepared to deal with the demolition and creation of new roosting habitat in accordance with current legislation and guidance. This would include use of the Natural England Low Impact Class Licence and has been designed to ensure that the favourable conservation status of the species can be maintained in this location in accordance with the provisions of the Conservation of Habitats and Species Regulations 2017. Again a condition is recommended to secure the requirements contained within section 7 of the Bat Survey Report.
- 5.52 On this basis, it is considered that the proposal would not harm any known nature conservation interests or protected species and would therefore meet the relevant

requirements of Policy SP18 of the Core Strategy, Policy ENV1 of the Local Plan and Section 11 of the NPPF in this regard.

### **Flooding, Drainage, Climate Change and Energy Efficiency**

- 5.53 The application site is located within Flood Zone 1. Flood Zone 1 is assessed as having a less than 1 in 1,000 annual probability of flooding. Given the application site is located within Flood Zone 1, an area at the lowest risk of flooding no Flood Risk Assessment would be required and no sequential test or exception test is necessary.
- 5.54 In terms of drainage, the submitted application form sets out that surface water will be disposed of by soakaways and foul sewage will be disposed of by main sewers. A condition is imposed covering the need to provide full details of the soakaways. Yorkshire Water and the Internal Drainage Board have been consulted on the drainage proposals, with no objections being received subject to conditions. The IDB's conditions suggested were more detailed however these are covered in the recommended drainage conditions, which requires full details of the surface water and on site water storage.
- 5.55 As such, subject to appropriate conditions, the proposal would be acceptable in terms of flooding, drainage and climate change in accordance with Policy ENV1 (3) of the Local Plan, Policies SP15 and SP19 or the Core Strategy and the advice contained within the NPPF.

### **Land Contamination**

- 5.56 The application is accompanied by a Phase 1 Desk Study Report which concluded that scheme is acceptable in terms of land contamination. Conditions are recommended regarding unexpected contamination should it be found when the site is developed. Given above the proposals are therefore acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

### **Other Material considerations**

- 5.57 In support of the proposal the applicants have supplied information as to Sutton's relationship with Tadcaster, the recent levels of new dwelling completions in the area, the overall lack of supply and the implications of what x3 new dwellings would bring to the village. Extracts of the submissions are below :

#### Stutton's relationship with Tadcaster

- 5.58 "Whilst in planning terms Stutton is regarded as a secondary village, the reality is that Tadcaster town and the village of Stutton are only divided by the A64 and a small stretch of open fields. Furthermore, Stutton is the closest village to Tadcaster. They are also extremely well linked by both footpaths and roads and Stutton enjoys the equivalent and in some instances, better and quicker access to neighbourhood amenities than other residential streets in the west of Tadcaster town, such as Garnet Lane (LS24 9LS). For example, to the small parade on Stutton Road which consists of a hairdresser, convenience store, post office/newsagents, café and fish and chip shop."

- 5.59 For this reason, when it comes to looking at housing provision for the area, we believe Stutton and Tadcaster could easily be regarded as virtually part of the same area, notwithstanding it's planning classification."

Recent levels of new housing completions in Tadcaster (including Stutton)

- 5.60 "New housing built in recent years in the town has been incredibly low. Unparalleled in the District and we would suggest much further afield. In the last five years evidence shows that just 15 new dwellings have been completed in Tadcaster (and Stutton), 2 of which were houses for social rent and 3 of which were flats. Equating to 10 new houses being built for sale on the open market in the last five years. A distressingly low figure for the long-term sustainability of the town;
- 5.61 "Looking back a further five years, the situation was no better; In the previous five to ten years a mere 14 new dwellings were completed, consisting of just 2 houses and 12 flats."

Levels of outstanding planning permissions for new housing in Tadcaster (including Stutton) – Selby District Council 5 year Housing Land Supply

- 5.62 "This huge shortfall in the provision of new housing stock in Tadcaster is not set to improve either." The applicants suggest "research shows there are just 8 outstanding planning permissions for new dwellings (5 houses and 3 flats) which may be implemented within 5 years and are identified within the Council's 5 year land supply. It is noted there is an extant planning permission for 156 dwellings on land at Mill Lane in Tadcaster. However, the planning permission was granted over 26 years ago and, therefore, one would assume is no longer viable or deliverable proposition.

New housing completions & planning permissions Vs Adopted Core Strategy Target

- 5.63 "From the number of completions and planning permissions noted in paragraphs b) and c) above it is obvious that Tadcaster is falling a long way short of the target number for the provision of new dwellings within the Council's Adopted Core Strategy and the reality is it is too late to catch up. The figures behind this are astonishing. The Adopted Core Strategy targeted 500 new dwellings for Tadcaster over the course of the Plan period (2011 to 2027). We are over half way through the Plan period and just 29 new dwellings have been completed, with only 8 outstanding planning permissions. Therefore, a total under provision of 463 new dwellings against the Core Strategy Target of 500."
- 5.64 "This shortcoming does not account for the extant permission of 156 dwellings at Mill Lane, but we believe it is more than reasonable to assume development of this land will not be forthcoming in the Plan period in any case and therefore it is a safe assumption to make. Even if the Mill Lane site were to be included in our calculation, the under provision still stands at an overwhelming 307 dwellings."

The wider effects of the lack of new housing provision

- 5.65 "For a settlement the size of Tadcaster (population 6,003 (2011 census)) it's new housing provision in the last ten years has been virtually non-existent, with much of the demand on new housing (especially family homes) having to be unfairly soaked up by other surrounding settlements in the District or other Local Authority areas. This puts a disproportionate demand and pressure on land and facilities in those

affected locations. Tadcaster should not be isolated from sharing the 'national' requirement for new housing as the population continues to grow. Furthermore, the combination of an ageing population and lack of available housing stock will have a cumulative impact on the long-term sustainability of the town's local amenities, facilities and businesses. It would seem a logical statement to make that generally people spend less as they get older. Their earning potential decreases but their need to save for their pension in retirement increases. It is therefore safe to assume that this results in a reduction in the amount they spend in their local area/community."

- 5.66 "As the average age of existing households goes up and their spending goes down, the only way for this reduction in spend to be replaced is by younger households (e.g. families) with the need and ability to spend money and invest in their local area. This works if there is a steady stream of new housing stock in the locality but in Tadcaster this is absent and local direct spend from residents will continue to decline and ultimately may lead to the closure of facilities through lack of investment and use. The town centre is already littered with vacant redundant commercial premises. New housing needs to be built for the medium to longer-term well-being of the town and its residents."
- 5.67 As touched upon above, an important factor is to offer the 'right' type and choice of new housing, for example, provision of flats is an important part of the housing mix, but clearly one / two bed flats do not create the same level of available spend. Over the last 10 years there have been near enough the same number of flats and houses completed – a total of just 29 dwellings – with the majority of the 15 flats being conversions of dated premises. This disproportionate number of flats compared to houses does nothing to improve the available spend in the town and its' future prospects.

#### Effects of new housing on a more local level in Stutton

- 5.66 We acknowledge that three more houses in Stutton isn't going to fix this profound localised problem but it is widely acknowledged in both 'real life' and Planning terms, that such small 'windfall' developments contribute on a more immediate local level – to coin a phrase "every little helps"! We are aware that the once much loved and hugely popular Hare & Hounds public house in Stutton has now been closed since September 2018, and the long running Stutton Playgroup, which had been going for 40 years, regrettably moved from the Village Hall in August 2017 to the nearby Scout Hut off Stutton Road in Tadcaster, but unfortunately closed in August 2019."
- 5.67 It is not to say that such amenities will suddenly re-open with the building of three new family homes, but it is worthy to acknowledge that it would contribute to the prospect of such valuable local facilities re-opening and their longevity.

#### **Planning Balance**

- 5.68 Having considered all of the above it is clear that the proposal should be seen as being in conflict with SP4(a). The development is unacceptable in principle and is not regarded as suitable infill. Conflict also exists with the wider sustainability objectives of the NPPF in that its location will be reliant on the private car and the settlement is regarded as being unsustainable. This approach is in line with the inspectors decision for the site opposite and officers have no reason to depart from this advice. Harm is also identified in terms of the development's over intensive

nature and harm to the character of the village as detailed in the character section. The above are given significant weight.

- 5.69 It is therefore necessary to see if this conflict be outweighed by other matters. The council recognise that a similar development was permitted in the approach taken in 2017/0442/OUT Hawthorn's on the issue of infill. This decision was made prior to counsel advice being sought on the issue of infill and compliance with SP 4.
- 5.70 Officers also recognise the tension between ensuring the vitality of rural settlements and the encouragement to locate development where it is or can be made to be sustainable with reference to sustainable travel patterns. Plainly, development in smaller settlements without services meets the first aim but conflicts with the second. This is an inevitable tension in relation to rural housing applications such as this.
- 5.71 The case in support made by the applicants clearly shows a restricted amount of new development in the north of the borough and this is given moderate weight. This will also be under review in the preparation of the new Local Plan.
- 5.72 Overall in terms of the planning balance there is clear conflict with the context of the Core Strategy which seeks to restrict development in secondary villages save for in narrowly defined circumstances. The development causes harm to the areas character and is unsustainable. The weight of considerations lead officers to reiterate the recommendation of refusal as the other material considerations listed do not clearly outweigh the conflict identified above.

## **6 CONCLUSION**

- 6.1 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the revised proposal is unacceptable in principle, contrary to Core Strategy SP2 and SP4.
- 6.2 The number of dwellings remains the same as previously refused, however the subtle changes to the layout, massing and design of the scheme have improved the scheme however the development still increases the density and overall massing which fails to enhance the character of the local area.
- 6.3 In addition, the proposal will cause no significant harm to the living conditions of neighbouring occupiers. Furthermore, the proposals are considered to be acceptable in respect of flood risk, drainage, nature conservation and protected species and land contamination. The proposal is therefore recommended for refusal.

## **7 RECOMMENDATION**

This application is recommended to be Refused for the following reasons;

1. The proposed redevelopment for 3 dwellings would not provide a sustainable site for further housing in terms of its access to everyday facilities and a reliance on the



private car. The proposal is therefore contrary to Policies SP 1 and SP 2 of the Core Strategy and would conflict with paragraphs 11 and 102 of the NPPF.

2. The proposal to demolish an existing dwelling and replace it with 3 dwellings does not fall within any of the listed acceptable in principle forms of development in secondary villages, which are identified in Policy SP4 a) and therefore the proposal fails to accord with Policy SP4 of the Core Strategy.
3. The proposed development fails to preserve and enhance the character of the local area on account of the increased built form and increased density. The proposal is regarded as an over development of the site and contrary to Policy ENV1 (1) and (4), of the Selby District Local Plan, Policy SP 4 c) and d) and SP19 of Core Strategy, national policy contained within the NPPF and the Sutton Village Design Statement (Feb 2012).

## **8 Legal Issues**

### **8.1 Planning Acts**

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

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

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

### **8.3 Equality Act 2010**

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

## **9 Financial Issues**

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

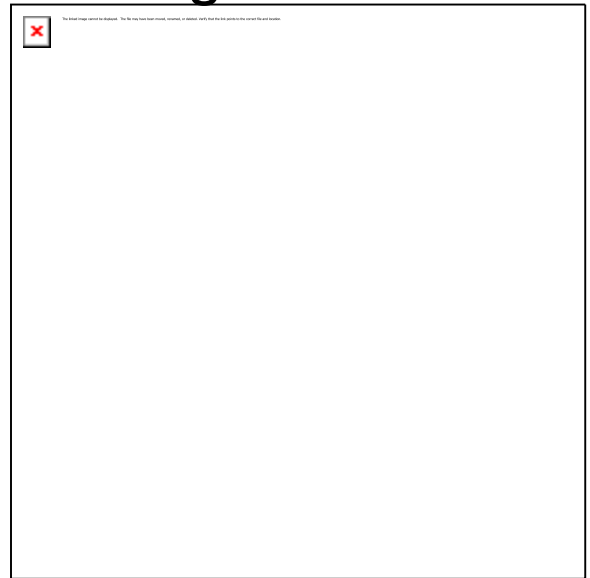
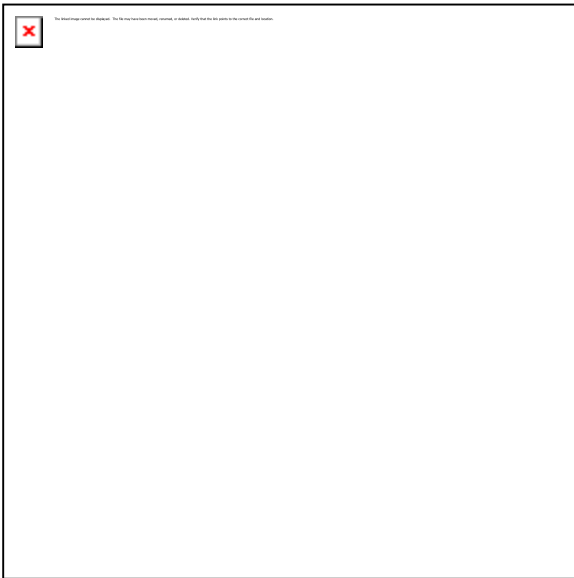
## **10 Background Documents**

Planning Application file reference **2019/0883/FUL** and associated documents.

**Contact Officer: Gareth Stent (Principal Planning Officer)**

**Appendices: None**

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**Report Reference Number:** 2019/1214/FUL

**To:** Planning Committee  
**Date:** 1<sup>st</sup> April 2020  
**Author:** Irma Sinkeviciene (Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/1214/FUL	PARISH:	Selby Town Council
APPLICANT:	Selby Town Council	VALID DATE: EXPIRY DATE:	23rd December 2019 17th February 2020 (extension of time agreed until 3 <sup>rd</sup> April 2020)
PROPOSAL:	Proposed erection of a bee apiary		
LOCATION:	Cemetery Long Mann Hills Road Selby		
RECOMMENDATION:	MINDED TO APPROVE SUBJECT TO EXPIRY OF CONSULTATION PERIOD AND NO NEW MATERIAL CONSIDERATIONS BEING RAISED		

This application is to be determined by the Planning Committee since it does not accord with Policy ENV29 of the Selby District Local Plan. This policy states that proposals for the development of local amenity space will not be permitted. Since the proposal would comply with all other relevant criteria and it is considered that there are material considerations which support the application and the recommendation is for approval subject to the expiry of the consultation period on the Press Notice and no new material considerations being raised.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site is located within the defined development limits of Selby within the local amenity space as defined on the Proposals Map of the Selby District Local Plan (2005), namely Selby Cemetery.
- 1.2 The application site consists of a grassed parcel of land within the north east part of the old part of Selby Cemetery with some mature trees. There is an area with the headstones and two chapels beyond them to the west of the site, a grassed area with a group of mature trees and a pathway beyond them to the south, a mature hedge separating the residential area and the cemetery to the east and mature hedge with a highway, namely Westfield Road, and residential area beyond it to the north.

### **The Proposal**

- 1.3 The application seeks planning permission for the erection of a bee apiary to provide a community facility for the learning of beekeeping and education of local primary school children.
- 1.4 The proposal would consist of a timber framed building identified as a “Bee Free Zone” in the submitted Planning Statement and an enclosure surrounding the building within which hives would be located.
- 1.5 The timber framed building would measure approximately 2.4 metres in width by 7 metres in depth, and would have a height of approximately 3 metres, and would have four clear viewing windows. The enclosure would measure approximately 8 metres in depth by 10 metres in width and would have a height of approximately 2.4 metres.
- 1.6 The enclosure would be erected using timber posts positioned into metal fence post spikes, and the green garden netting would be used between the posts.
- 1.7 The objective of the proposal as stated in the Planning Statement is to be for the training of new beekeepers at weekends, for the educational visits for primary school’s student during the weekdays, and would be open for public viewing on certain days and offered an opportunity to participate in the inspection of colonies of bees.

### **Relevant Planning History**

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

## **2. CONSULTATION AND PUBLICITY**

### **2.1 NYCC Highways – No objections**

- 2.2 **Environmental Health** – Noted in the first response that it is proposed that the apiary would accommodate parties for educational visits during the weekdays and advised that this would introduce a new source of noise to the area. Whilst did not object to the proposals, it was recommended that a restriction is considered regarding the number of party visits and asked for clarification from the applicant on how often these will take place.

- 2.3 **Environment Agency** – Advised that the proposed development does not fall within the ‘householder and minor extensions’ category and is located in Flood Zone 2, and as such a FRA should be submitted and a sequential test should be carried out. Advised that both should be proportionate to the risk, so can be short and concise, but they are required.
- 2.4 **Neighbour Summary** - All immediate neighbours were informed by letter and a site notice was erected on 10 January 2020.

The application has been re-advertised as departure from the development plan by posting a new site notice on 6 March 2020 (expires 27 March 2020) and in press on 5 March 2020 (expires 2 April 2020). Members will be updated on Planning Committee on this issue.

Although no representations have been received as a result of consultation at the time of the collation of the Officers Report, the applicant has provided 3 letters from 3 primary schools located in Selby supporting the proposals.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The application site is located within the defined development limits of Selby and is located within the local amenity space.
- 3.2 The site is located within Flood Zone 2, which has a medium probability of flooding.

### **4 POLICY CONSIDERATIONS**

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

considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.

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

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

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

4.6 The relevant Core Strategy Policies are:

- SP1 - Presumption in Favour of Sustainable Development
- SP2 - Spatial Development Strategy
- SP15 - Sustainable Development and Climate Change
- 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.
- ENV29 – Protection of Local Amenity Space

## **5 APPRAISAL**

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

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

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

5.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework", to secure development that improves the economic, social and environmental conditions in the area, and sets out how this will be undertaken.

5.3 Policy SP2A(c) of the Core Strategy states that "The majority of new development will be directed to the towns and more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints" and that "Selby as the Principal Town will be the focus for new housing, employment, retail, commercial, and leisure facilities".

- 5.4 Policy ENV29 of the Selby District Local Plan states that “Proposals for the development of local amenity space, as defined on the proposals map, will not be permitted”.
- 5.5 The application site is located within the grounds of public amenity space within the defined development limits of Selby Town which is a Principal Town as identified in the Core Strategy. The site is located within the local amenity area as identified in Selby Local Plan proposals map.
- 5.6 The proposal seeks to provide a community facility by the provision of a bee apiary for the learning of bee keeping and the education of local primary school children on a part of the grassland located within Selby Cemetery where the headstones have been removed and relocated. Paragraph 180 of the NPPF advises that (amongst other things), decisions should take account of the sensitivity of the site and in doing so they should identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value. Although the proposed use will bring more people into the area, is considered to be a quiet form of educational activity consistent with the tranquil rural character of the site.
- 5.7 Although Policy ENV29 does not allow the development of local amenity areas, Paragraph 12 of the NPPF states that ‘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’.
- 5.8 The new structure would be built on the grassland within the cemetery grounds, the proposal is for a lightweight structure which would allow beekeeping, training of new beekeepers, educational visits for primary school students and would be open to public for viewing. As such, it is therefore considered that given that the proposed building would be for a community use and would provide opportunities for informal recreational activities, it is also considered to be compatible with and positively contribute to the existing use of a local amenity space which is therefore considered to be a material consideration.
- 5.9 In addition to the above, the proposed development would be located in Selby, which is a Principal Town as identified in Core Strategy and the most sustainable settlement of the District. Indeed the proposed apiary would be located within walking distance from a number of primary schools located in Selby and Brayton and would be easily accessible due to its location, the applicant has submitted 3 letters from different primary schools supporting the proposal which outlined the benefits of the proposed development to education of primary school students being as follows:
- Opportunity for children to learn first-hand about the valuable contribution bees make to people’s lives and environment
  - Learning about safety and experience what it is like to be a beekeeper
  - Educate young people on the important job of the bee and allows the children a closer encounter with the natural world
  - There would be many links to the science natural curriculum
  - Educating children on contributions which can be made to halt the decline of bee population by using this interesting and positive action

- 5.10 Furthermore, the development would contribute to helping to improve biodiversity given its nature and would therefore contribute to protecting and enhancing the natural environment. Paragraph 175 (d) states that development whose primary objective is to conserve or enhance biodiversity should be supported.
- 5.11 In this context and having considered all the available evidence, it is therefore considered that the proposed development would provide sustainability benefits which are material planning considerations and would comply with Policies SP1 and SP2 of the Core Strategy and the NPF.

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

- 5.12 The application site is located within the north east part of Selby Cemetery which is located within southern part of Selby Town and is surrounded by predominantly residential properties.
- 5.13 An indicative layout plan has been submitted with the application, which demonstrates the approximate location of the proposed apiary. The supporting statement includes a 3D image showing an example of how the proposed apiary could look like within the context of the surrounding area. Furthermore, an elevations drawing has been submitted with the application, which demonstrates the scale of the apiary, and a Construction Notes sheet which describes how the proposed apiary would be constructed and states that the proposed structure will be lightweight to minimise ground disturbance.
- 5.14 In terms of appearance, the construction notes, supporting statement and elevations drawing set out that the largest proportion of the structure would be green garden netting held by timber posts which would enclose the bee hives and would surround the proposed viewing area building. The building itself would be of timber construction with a ply sheeting roof covered by waterproof felt. It is considered that the proposed green fencing would not appear overly dominant or prominent within the site or the surrounding area due to the translucent nature of the material and due to its colour. Furthermore, the proposed building would be built of natural materials, would be of a modest size and scale and would be mostly enclosed by the proposed green netting which would reduce the prominence of the structure within the area and would partially shield it from view.
- 5.15 Given the built form of the surrounding area, the size, scale, nature and design of the proposed structure, it is considered that the proposal would not be visually prominent or discordant within the landscape given its backdrop against existing vegetation and residential development. The scheme is for small scale structure and, on balance, it is considered that the proposals would not result in a harmful effect on the character of the surrounding area.
- 5.16 It is noted that there are no trees present within the area the apiary would be sited however, there are trees present within the wider application site which positively contribute to the character and appearance of the surrounding area. As such, it is considered necessary and appropriate to impose a condition requiring the existing trees located within the application site to be retained and protected during construction.
- 5.17 Having regard to the above, it is considered that the proposed development would not result in any significant detrimental impacts on the character and appearance of



the area in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF.

### **Impact on Residential Amenity**

- 5.18 The proposed structure would be of a modest size and scale and would be significantly distanced from any of the residential properties. As such, it is considered that no significant adverse effects of overlooking, overshadowing or oppression would be caused to the existing dwellings located close to the application site.
- 5.19 The Environmental Health Officer has been consulted and raised concerns regarding introduction of a new source of noise to the area and suggested to restrict the number of party visits. However, the suggested restriction is not considered to meet the six tests for the imposition of planning conditions as identified in the Paragraph 55 of the NPPF which are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects
- 5.20 It has been suggested to the applicant to reduce the hours of operation which has been proposed by the applicant to be as follows via an email exchange:
- a. 09.00 hours to 20.00 hours Monday – Friday
  - b. 09.00 hours to 18.00 hours on Saturdays
  - c. 10.00 hours to 16.00 hours on Sundays and Bank and Public Holidays

It is noted that the apiary proposed would operate until 20.00 on weekdays which is outside daylight hours during winter season. However, it is also noted from a submitted Planning Statement that training of new beekeepers would take place predominantly on weekends during months between May and September, and that the apiary would not be actively used through Autumn and Winter, and would be available for viewing only during these periods. As such and given the nature and scale of the proposed development, the proposed operating hours are considered acceptable.

- 5.21 On balance having considered both the comments of the Environmental Health Officer, the hours proposed by the Applicants, the nature and scale of the proposed development, the current use of the land it is not considered that this type of development would cause a significant effect of noise and disturbance to the area and the proposal is therefore considered acceptable subject to a condition securing the above operational hours.
- 5.22 Having had regard to the above, it is considered that the proposed scheme would not result in any significant detrimental impacts on the residential amenities of the occupiers of the neighbouring properties in accordance with Policy ENV1(1) of the Selby District Local Plan and the advice contained within the NPPF.

### **Impact on Highway Safety**

- 5.23 The application form states that there is no new or altered vehicular access and no new or altered pedestrian route proposed. It also states that there is no on-site parking proposed. It is noted that there is a number of schools are within the walking distance of the application site. Furthermore, although it is noted that there would be training sessions organised for the new beekeepers, it is considered that due to the size, scale and nature of the proposed development, the number of visitors is unlikely to drastically increase as to create detrimental impact on highways.
- 5.24 NYCC Highways have been consulted on the proposals and have advised that they have no objections.
- 5.25 It is noted that the red line of the application site does not adjoin the adopted highway. However, it is also noted that the land which has a pathway, parking and access to the site is within the ownership of the applicant. A revised application site plan is being sought from the applicant, but as they own the intervening land there is no requirement for a revised Certificate on the application. Members will be shown the updated Site Location Plan as part of the Officers Update at committee.
- 5.26 Having considered the above and the scale and nature of the proposed development, it is considered that the proposal is acceptable in terms of highway safety in accordance with Policies ENV1 (2) of the Selby District Local Plan and the advice contained within the NPPF.

### **Flood Risk and Climate Change**

- 5.27 The application site is part located within Flood Zone 2 which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.
- 5.28 The Environment Agency has been consulted and advised although they note the nature and scale of the development, both FRA and a Sequential Test are required.
- 5.29 The Council has produced a guidance note on the application of the sequential test within Selby District – “Selby District Council Flood Risk Sequential Test Developer Guidance Note” dated October 2019. The sequential test is required to steer new development to areas with the lowest risk of flooding. Having regard to the national policy contained within the NPPF and the advice contained within the Guidance Note, the sequential test would be required for the erection of the propose apiary. In terms of the application to the sequential test to the proposed development, given the nature of the proposed development, it would be considered reasonable to narrow down the geographical coverage area for the sequential test to the land within the applicant’s ownership.
- 5.30 There was no sequential test submitted with the application. Notwithstanding this, Officers have undertaken the sequential test on the proposed development in accordance with the national policy contained within the NPPF and the advice contained within the Council’s Guidance Note, using the geographical coverage area of the land within the applicant’s ownership. Most of the land within the applicant’s ownership is located within Flood Zone 2, aside from some areas to the west and south west of the application site, which are currently occupied by chapels, access and parking areas and some of burial grounds which are in use and would therefore not be of a sufficient size to accommodate the proposed

development. As such, the proposal is considered to be acceptable in terms of passing the sequential test. Having reviewed the proposal against vulnerability classification, the proposed development is classified as 'less vulnerable' and the exception test is not required in this instance.

- 5.31 It is noted that a completed Flood Risk Assessment form for Householder and other minor extensions was submitted with the application. However, the proposed development does not fall within the 'householder and minor extensions' category and is in Flood Zone 2. As such and for the proposal to be in accordance with national policy when considering flood risk, namely Paragraph 163 and footnotes 50 and 51 of the NPPF, a site-specific Flood Risk Assessment proportionate to the risk is required to be submitted. Although the EA is not required to be consulted in this instance due to the scale and nature of the proposal, the Local Planning Authority need to follow the Standing Advice. The Standing Advice relates to surface water management, access and evacuation and floor levels. Officers are seeking further information from the applicant relating to flood risk assessment. Members will be updated on this issue at Planning Committee.

## **6 CONCLUSION**

- 6.1 The application seeks full planning permission for the erection of a bee apiary.
- 6.2 The proposed development is contrary to Policy ENV29 of the Selby District Local Plan but in accordance with Policies SP1 and SP2 of the Core Strategy and Policy ENV1 of the Selby District Local Plan. Having considered all the available evidence and having taken a balanced planning view as outlined within this report, it is therefore considered that the proposed development would provide sustainability benefits which are material planning considerations in this particular case, such as positive contribution to the existing use of a local amenity space, provision of opportunities for informal recreational activities, benefits to the education of primary school students and would contribute to helping to improve biodiversity.
- 6.3 Furthermore, having assessed the proposals against the relevant policies, it is considered that the proposal is acceptable in respect of the design and impact on the character and appearance of the area, impact on residential amenity, and impact on highway safety.
- 6.4 With regards to flood risk, Officers are seeking further information from the applicant to confirm that the proposal complies with the EA Standing Advice Note. Members will be updated on this issue at Planning Committee.

## **7 RECOMMENDATION**

This application is recommended to be minded to GRANT subject to confirmation that the proposals comply with the Environment Agency's Standing Advice Note, and subject to expiry of consultation period and no new material considerations being raised, and the following conditions:

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

Reason:

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

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

- LOC01 –Layout Plan
- 02 – Location Plan
- 03 – Proposed Elevations
- 04 - Proposed Floor Plans

Reason:

For the avoidance of doubt.

03. The materials to be used in the construction of the external surfaces of the apiary hereby permitted shall be as stated in the Construction Notes received by the Local Planning Authority 19 November 2019.

Reason:

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

04. The use hereby permitted shall not take place outside the following times:

09.00 am to 20.00 - Monday to Friday

09.00 am to 18.00 - Saturday

10.00 am to 16.00 pm - Sundays and Bank/Public Holidays

Reason:

This condition is imposed in accordance with policy ENV1 of the Selby District Local Plan and in the interests of the amenities of the area.

05. The trees located within the application site shall be retained and no development shall take place until a scheme for tree protection measures (both above and below ground) to be implemented during the construction period has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- (i) Details of a construction exclusion zone (including protective fencing of a height and design which accords with the requirements BS 5837: 2012) to be formed around the root protection areas of those trees within and/or overhanging the site to be retained.
- (ii) Details of any excavation to take place within the root protection areas of those trees within and/or overhanging the site to be retained.
- (iii) Details of the foundations of any building, hardstandings and/or boundary treatments to be constructed within the root protection areas of those trees within and/or overhanging the site to be retained.

The development shall thereafter be carried out in strict accordance with the tree protection measures contained in the duly approved scheme throughout the entirety of the construction period.

Reason: To ensure that adequate measures are put in place to protect existing trees during construction

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

**9 Financial Issues**

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

**10 Background Documents**

Planning Application file reference 2019/1214/FUL and associated documents.

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

**Appendices:** None

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## 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.