



Meeting: **CEO URGENT DECISION SESSION - PLANNING**
Date: **THURSDAY, 16 APRIL 2020**
Time: **9.00 AM**
Venue: **CHIEF EXECUTIVE'S OFFICE**

Applications List

1. **Planning Applications Received (Pages 3 - 4)**
 - 1.1. **2018/1116/DOV: Warehousing Depot, Station Road, Hambleton (Pages 5 - 16)**
 - 1.2. **2019/1018/PROW: Low Street, Carlton (Pages 17 - 28)**
 - 1.3. **2020/0137/FUL: Land Adjacent To 2 Prospect Villas, Barlow Common Road (Pages 29 - 44)**

Janet Waggott

Janet Waggott, Chief Executive

Enquiries relating to this report pack please contact Victoria Foreman on 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 Public Access.

Contact

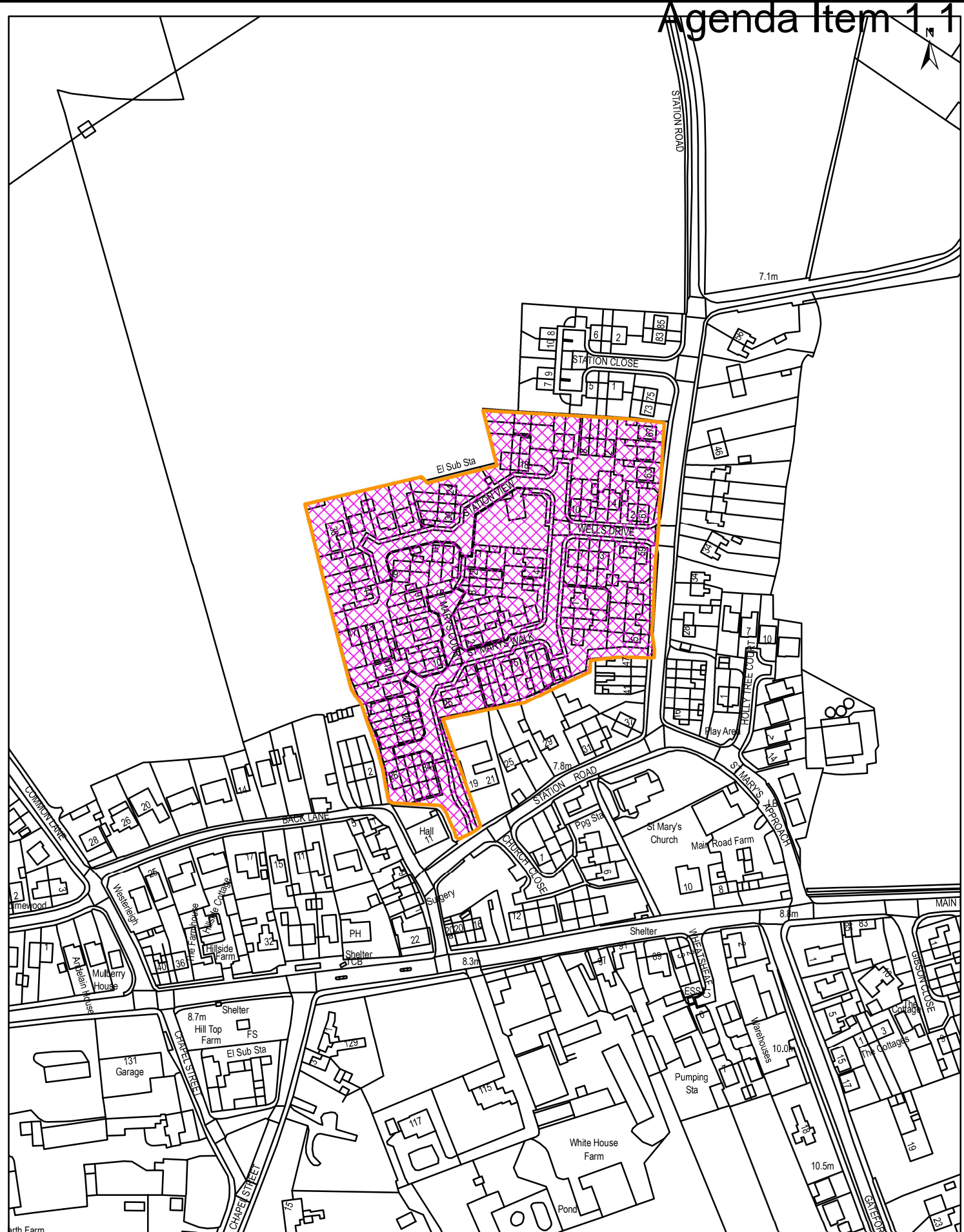
Vicky Foreman – Democratic Services Officer
Email: vforeman@selby.gov.uk
Telephone: 01757 292046

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Items for CEO Urgent Decision Session – Planning

16 April 2020

Item No.	Ref	Site Address	Description	Officer	Ward	Pages
1.1	2018/1116/DOV	Warehousing Depot, Station Road, Hambleton	Request for a Deed of Variation to a Section 106 agreement seeking the payment of a commuted sum to be used towards: (1) the provision of a children's play area and play equipment elsewhere in Hambleton; and/or (2) the enhancement of existing areas of recreational open space in Hambleton; in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL for residential development comprising of 89 (2 storey and 2 1/2 storey) dwellings and associated works on 2.3 ha of land, following demolition of existing buildings on land off Station Road	JETY	Hambleton	5 - 16
1.2	2019/1018/PROW	Low Street, Carlton	Request for a Public Path Diversion Order relating to Footpath 35.18/6/1 at Land off Low Street, Carlton	JETY	Camblesforth and Carlton	17 - 28
1.3	2020/0137/FUL	Land Adjacent to 2 Prospect Villas, Barlow Common Road	Proposed erection of a storage building on land adjacent	IRSI	Brayton	29 - 44



APPLICATION SITE

Station Road, Hambleton
2018/1116/DOV

1:2,500



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Report Reference Number: 2018/1116/DOV

To: CEO Urgent Decision Session - Planning
Date: 16 April 2020
Author: Jenny Tyreman, Senior Planning Officer
Lead Officer: Ruth Hardingham, Planning Development Manager

Request for a Deed of Variation to a Section 106 agreement seeking the payment of a commuted sum to be used towards: (1) the provision of a children's play area and play equipment elsewhere in Hambleton; and/or (2) the enhancement of existing areas of recreational open space in Hambleton; in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL for residential development comprising of 89 (2 storey and 2 1/2 storey) dwellings and associated works on 2.3 ha of land, following demolition of existing buildings on land off Station Road

This matter has been brought back to the Chief Executive Urgent Decision Session following consideration at the 7 November 2018 Planning Committee meeting, where the applicants sought a Deed of Variation to the original Section 106 agreement seeking the payment of a commuted sum to be used towards the provision of a children's play area and play equipment elsewhere in Hambleton in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL. Members resolved to approve the request for a Deed of Variation and delegate authority to Officers to complete a Deed in accordance with the application. This variation was to be time limited for a period of 3 years from the date of the decision.

The Minutes of the 7 November 2018 meeting indicate that Members had queried where the money (commuted sum) would be spent. Officers had advised that the then Ward Member and local Parish Council were supportive of the proposal and had indicated that they had another play area in mind which required enhancement and on which the commuted sum could be spent on. However, when Officers have come to complete the Deed of Variation alongside Legal Officers, it has become apparent that the committee resolution would only allow for the commuted sum to be spent on the provision of a new children's play area and play equipment on land elsewhere in Hambleton and does not provide the flexibility for this to also, or alternatively, be used for the enhancement of existing areas of recreational open space in Hambleton, which is the preferred and most realistic option. Therefore, the request for a Deed of Variation

before Members now is to provide that flexibility, by seeking the payment of a commuted sum to be used towards: (1) the provision of a children's play area and play equipment elsewhere in Hambleton; and/or (2) the enhancement of existing areas of recreational open space in Hambleton; in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL.

Since the principle of payment of a commuted sum in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL has already been agreed at the 7 November 2018 meeting, Members are now considering only what that commuted sum can be used towards. The preamble to Policy RT2 of the Selby District Local Plan sets out that a financial contribution could be used to either make alternative provision or to upgrade existing facilities, which is consistent with the proposed recommendation.

Furthermore, the previous resolution stipulated that the variation be time limited for a period of 3 years from the date of the decision. However, on further reflection, this is not considered necessary as the Deed of Variation would incorporate wording on when the commuted sum would need to be paid and once paid the commuted sum would need to utilised in accordance with the requirements Deed of Variation.

Recommendation:

That the request for a Deed of Variation be approved subject to delegation being given to Officers to complete a Deed of Variation to the original Section 106 agreement to allow the payment of a commuted sum to be used towards: (1) the provision of a children's play area and play equipment elsewhere in Hambleton; and/or (2) the enhancement of existing areas of recreational open space in Hambleton; in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL for residential development comprising of 89 (2 storey and 2 1/2 storey) dwellings and associated works on 2.3 ha of land, following demolition of existing buildings on land off Station Road.

Reason for Recommendation

To enable the development to make alternative provision for recreational open space, to that agreed by Committee in 2005, as it is now impracticable to provide a children's play area together with play equipment on the recreational open space due to the subsequent positioning of the inspection chambers.

1. Legal/Financial Controls and other Policy Matters

Legal Issues

- 1.1 Even though this is not an application under the Planning Acts this recommendation has been made in the context of the planning policies and other material considerations. If agreed, a deed of variation will be required.

Financial Issues

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

Impact Assessment

1.3 It is not anticipated that the proposed deed of variation will lead to discrimination or inequality in respect of any particular groups. Nor will it impact upon human rights.

2. Background Documents

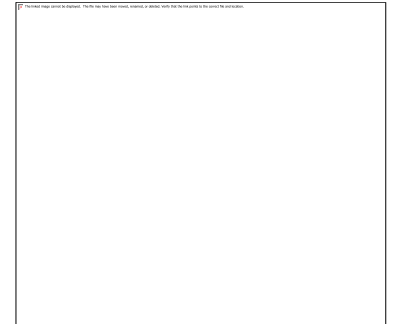
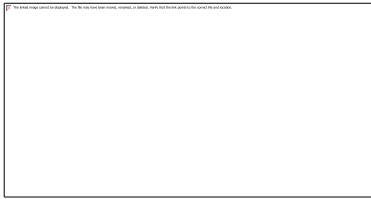
Planning Application file reference 2005/0876/FUL and associated documents.

Contact Officer: Jenny Tyreman, Senior Planning Officer
jtyreman@selby.gov.uk

Appendices:

Appendix 1 - Report to Planning Committee 7 November 2018

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Report Reference Number: 2018/1116/DOV

To: Planning Committee
Date: 7 November 2018
Author: Jenny Tyreman, Senior Planning Officer
Lead Officer: Ruth Hardingham, Planning Development Manager

Request for a Deed of Variation to Section 106 agreement seeking the payment of a commuted sum to be used towards the provision of a children's play area elsewhere in Hambleton in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL for residential development comprising of 89 (2 storey and 2 1/2 storey) dwellings and associated works on 2.3 ha of land, following demolition of existing buildings on land off Station Road

This matter has been brought to Planning Committee for consideration due to it being a proposal to amend the recreational open space provision agreed by Members in 2005.

Summary:

The applicant has developed out a scheme for residential development comprising 89 houses on land off Station Road, Hambleton, which was granted planning permission in August 2006 (under reference 2005/0876/FUL). This was subject to a Section 106 agreement which (amongst other things) secured the provision of recreational open space - meaning the open space and children's play areas together with play equipment to be provided by the owners on that part of the land in accordance with the agreement.

The children's play areas together with play equipment has not been provided on the recreational open space to date due to the siting of surface water system inspection chambers that has meant that an appropriate layout for the children's play areas together with play equipment would be difficult to achieve and would pose health and safety issues.

The applicant is therefore proposing the payment of a commuted sum to be used towards the provision of a children's play area together with play equipment elsewhere in Hambleton in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL.

Recommendations:

- i. That the request for a Deed of Variation be approved subject to delegation being given to Officers to complete a Deed of Variation to the original Section 106 agreement to allow the payment of a commuted sum to be used towards the provision of a children's play area and play equipment elsewhere in Hambleton in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL. This variation shall be time limited for a period of 3 years from the date of the decision.**

Reasons for recommendation

To enable the development to make alternative provision for recreational open space, to that agreed by Committee in 2005, as it is now impracticable to provide a children's play area together with play equipment on the recreational open space due to the subsequent positioning of the inspection chambers.

Consultation and Publicity

Parish Council – No objections. Support the commuted sum being used to provide play facilities in the Hambleton area.

Neighbour Summary – A site notice has been erected. One letter of representation has been received as a result of this publicity with concerns raised regarding the impact of any changes to the existing area of recreational open space on the development.

1. Introduction and Background

- 1.1. Planning permission for residential development of this site was granted in August 2006 (under reference 2005/0876/FUL) and was subject to a Section 106 agreement which (amongst other things) secured the provision of recreational open space - meaning the open space and children's play areas together with play equipment were to be provided on that part of the land by the owners in accordance with the agreement.
- 1.2. In May 2018 the applicant requested a deed of variation to amend the recreational open space provision agreed by Committee in 2005. The children's play areas together with play equipment have not been provided due to the installation of inspection chambers within the recreational open space. This has meant that an appropriate layout for the children's play area and play equipment would be difficult to achieve and would pose health and safety issues. The applicant is therefore proposing the payment of a commuted sum to be used towards the provision of a children's play area and play equipment elsewhere in Hambleton in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL.
- 1.3 A Deed of Variation is an agreement between the parties to a Section 106 agreement to alter its terms. There would be no right of appeal to the Secretary of State if the Council refused the applicant's request, but we should

nevertheless act reasonably and determine the proposal in the context of the planning policies and other material considerations.

2. Policy Context

2.1. Since the approval of the application reference 2005/0876/FUL, the policy context has changed. The Development Plan for the District now comprises the saved policies of the Selby District Local Plan (2005) and the policies contained within the Selby District Core Strategy Local Plan (2013). In addition, the revised National Planning Policy Framework (NPPF) was published in July 2018. Although the policy context has changed, the relevant policy is unchanged in that for schemes of 50 dwellings or more, provision within the site will normally be required.

2.2. Policy RT2 of the Selby District Local Plan specifically relates to “Open Space Requirements for New Residential Development” and sets out that proposals for new residential development comprising 5 or more dwellings will be required to provide recreational open space at the rate of 60 square metres per dwelling on the following basis (of relevance here):

(c) For schemes of 50 dwellings or more, provision within the site will normally be required unless deficiencies elsewhere in the settlement merit a combination of on-site and off-site provision.

Depending on the needs of residents and the total amount of space provided, a combination of different types of open space would be appropriate in accordance with NPFA standards.

2.3. The pre-amble to Policy RT2 of the Selby District Local Plan acknowledges that for schemes larger than 10 dwellings, provision should generally be made on-site, although there may be circumstances where this is impractical because of site characteristics or other planning requirements, or where off-site provision may be appropriately located elsewhere. In certain circumstances, a financial contribution to enable the District Council to make alternative provision or to upgrade existing facilities may be acceptable in lieu of direct provision.

2.4. Part 2, Section 2, Section 6 of The Developer Contributions Supplementary Planning Document sets out occasions when a commuted sum may be appropriate in lieu of on-site provision, including where the provision of open space on-site is impractical. The method that will be used in calculating contributions can be found in Annex A of that Section.

3. Assessment

3.1. The applicant is proposing the payment of a commuted sum to be used towards the provision of a children's play area together with play equipment elsewhere in Hambleton in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL.

- 3.2. The pre-amble to Policy RT2 of the Selby District Local Plan is set out above (para 2.3). In certain circumstances, a financial contribution to enable the District Council to make alternative provision or to upgrade existing facilities may be acceptable in lieu of direct provision.
- 3.3. In this instance, Officers consider that the on-site provision of a children's play area together with play equipment on the land would now be impractical due to the subsequent positioning of the inspection chambers. In light of this Officers consider that the payment of a commuted sum to be used towards the provision of a children's play area together with play equipment elsewhere in Hambleton in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL would be appropriate. Members will be updated regarding what the commuted sum would amount to at Planning Committee.
- 3.4. The existing area of recreational open space on the site would be subject to a recreational open space payment in respect of maintenance of the amenity open space forming part of the development on site only.

4. Legal/Financial Controls and other Policy matters

Legal Issues

- 4.1. Even though this is not an application under the Planning Acts this recommendation has been made in the context of the planning policies and other material considerations. If agreed, a Deed of variation to the S106 Agreement will be required.

Financial Issues

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

Impact Assessment

- 4.3. It is not anticipated that the proposed Deed of variation will lead to discrimination or inequality in respect of any particular groups. Nor will it impact upon human rights.

5. Conclusion

- 5.1. Officers consider that the on-site provision of a children's play area together with play equipment on the land in respect of planning approval 2005/0876/FUL, which was originally agreed by Committee in 2005, would now be impractical due to the subsequent positioning of the inspection chambers on the recreational open space.
- 5.2. It is recommended that the payment of a commuted sum to be used towards the provision of a children's play area together with play equipment elsewhere in

Hambleton in lieu of the provision of a children's play area together with play equipment on the land in respect of planning approval 2005/0876/FUL would be appropriate.

- 5.3 This variation shall be time limited for a period of 3 years from the date of the decision.

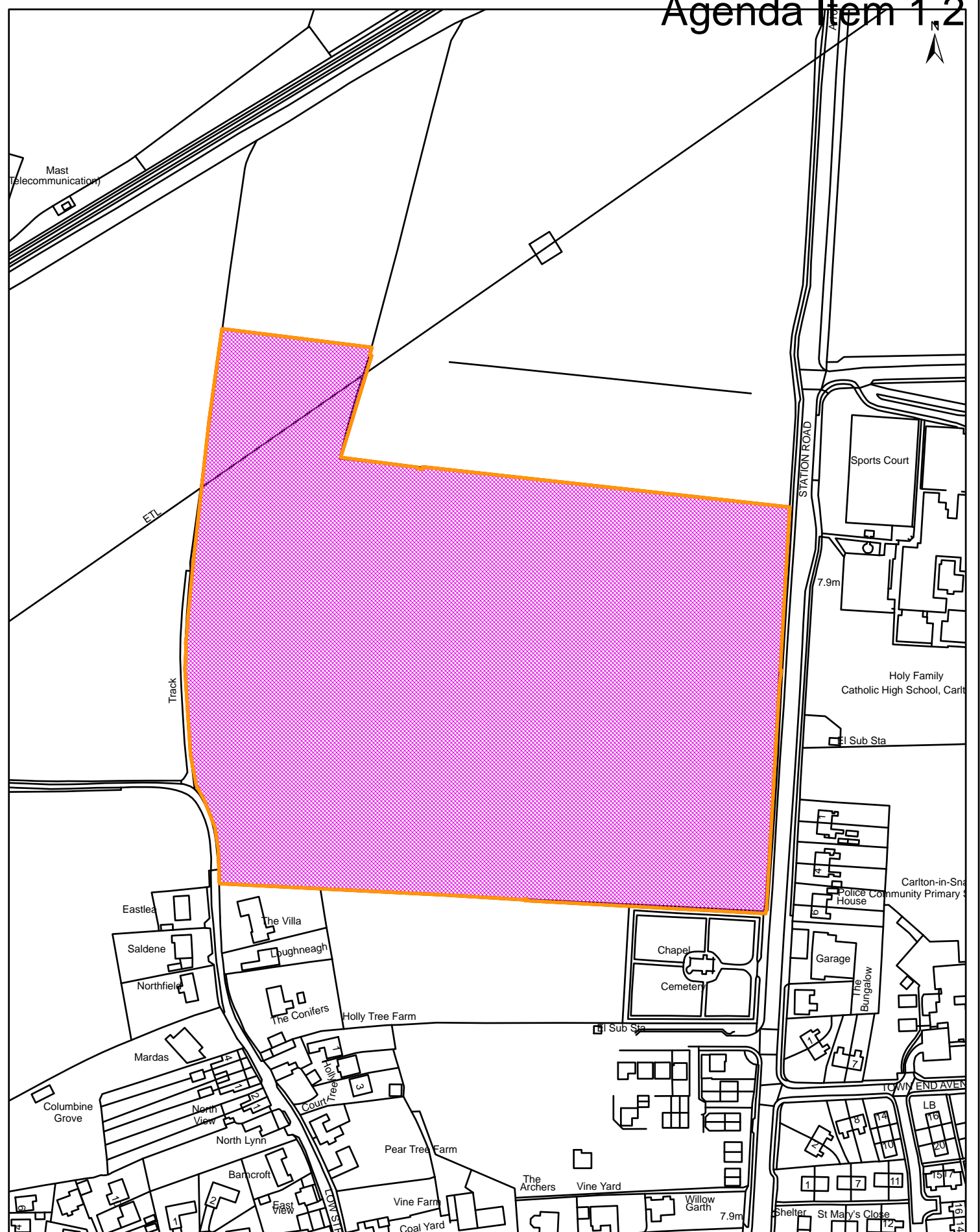
6. Background Documents

Planning Application file reference 2005/0876/FUL and associated documents.

Contact Officer: Jenny Tyreman, Senior Planning Officer
jtyreman@selby.gov.uk

Appendices: None

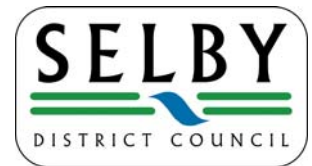
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APPLICATION SITE

Low Street, Carlton
2019/1018/PROW

1:2,500



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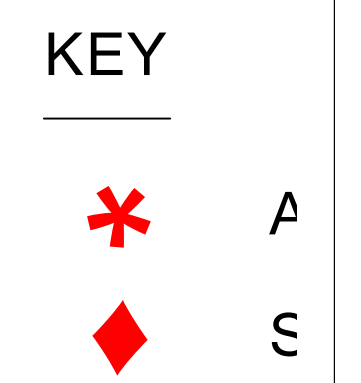


ACCOMMODATION SCHEDULE:

BA	BAMBURGH	2st	3bed	6no	
AD	ALBERTON	2st	3bed	6no	
BB	BAYBRIDGE	2st	4bed	8no	
BW	BIRKWITH	2st	4bed	6no	
ND	NIDDERDALE	2st	4bed	11no	
WD	WINDSOR	2st	4bed	16no	
KN	KINNERSELEY	2st	3st	4bed	6no
SEV0	SETTLE V0	2st	4bed	6no	
SEV1	SETTLE V1	2st	4bed	15no	
TO	TONBRIDGE	2st	4bed	12no	
IN	INGLETON	2st	4bed	12no	
SAV0	SALCOMBE V0	2st	4bed	5no	
SAV1	SALCOMBE V1	2st	4bed	10no	
WW	WARKWORTH	2st	4bed	14no	
				TOTAL	133 no units

ACCOMMODATION SCHEDULE:

BA	BAMBURGH	2st	3bed	692sq'	6no
AD	ALBERTON	2st	3bed	667sq'	6no
BB	BAYBRIDGE	2st	4bed	1048sq'	8no
BW	BIRKWITH	2st	4bed	1102sq'	6no
ND	NIDDERDALE	2st	4bed	1162sq'	11no
WD	WINDSOR	2st	4bed	1207sq'	16no
KN	KINNERSELEY	2st	4bed	1325sq'	6no
SEV0	SETTLE V0	2st	4bed	1310sq'	6no
SEV1	SETTLE V1	2st	4bed	1315sq'	15no
TO	TONBRIDGE	2st	4bed	1310sq'	12no
IN	INGLETON	2st	4bed	1455sq'	12no
SAV0	SALCOMBE V0	2st	4bed	1513sq'	5no
SAV1	SALCOMBE V1	2st	4bed	1513sq'	10no
WW	WARKWORTH	2st	4bed	1517sq'	14no
				TOTAL	173,984sq' 133 no units



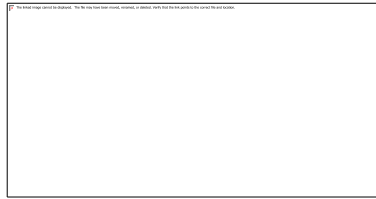
- KEY
- 1800mm BRICK WALL
 - 1800mm TIMBER FENCE
 - PIER & PANEL FENCING
 - 600mm HIGH TIMBER DIAMOND RAIL FENCE
 - 1200mm TIMBER POST & RAIL FENCE
 - GATE
 - BIN COLLECTION POINT
 - BIN STORE
 - AFFORDABLE
 - BLOCK PAVING
 - TARMAC SHARED PRIVATE DRIVE
 - TREES - PROTECTED TREES
 - RAMP
 - VISITOR PARKING BAY
 - INDICATIVE BANKING
 - SLOPE
 - EXISTING FENCING
 - PROPOSED PERMANENT FENCING FROM OVERSEEN FOLLOWING CURRENT ROUTE OF WALKED FOOTPATH
 - EXISTING EASEMENT
 - VISIBILITY SPLAYS
 - ELECTRIC EASEMENT
 - EXISTING HEDGEROW TO BE RETAINED
 - ADAPTABLE SOAK AWAY REFER TO ENGINEERS DRAWING AND TO 19-001 FOR MORE INFORMATION
 - YORKSHIRE WATER PROPOSED WATER MAIN OVERSEEN
 - EASEMENT
 - VISIBILITY SPLAY

- 1 28/05/2019 Accommodation schedule corrected to comply with 04 no. of house types
- 2 13/05/2019 All parking with adjacent pathwork moved to incorporate 2 meters between buildings
- 3 06/05/2019 Boundary amended, fence line corrected to WCOF continue to correct position
- 4 01/05/2019 Visibility splays added
- 5 02/04/2019 Five E1 & E2 road kerbs, steel amended to comply with design
- 6 28/03/2019 Turning head address to private drive near plot 102 and minor material made
- 7 06/03/2019 Road kerb joins to and E2 kerb to be in following line, removal of kerb leading from E1 - duplicate
- 8 06/03/2019 Turning head outside plot 85 corrected to suit vehicle turning
- 9 01/03/2019 Further amendments made following receipt of road width
- 10 11/02/2019 Some main road kerb increased due to kerb width
- 11 30/01/2019 Visibility splays added
- 12 30/01/2019 Amendments to plot 14, driveway to be updated
- 13 30/01/2019 Amendments to plot 14, driveway to be updated
- 14 21/01/2019 Actual kerb line added with 2m easement. 10m division amended to comply with town element. Local removal of easement from 10 to 20m. 10m removed from 8th access. 6m access added to main road, visibility splays added
- 15 29/10/2018 Updated to planning submission
- 16 11/08/2018 Accommodation Schedule updated
- 17 04/07/2018 Updated for planning submission
- 18 28/05/2018 Plot 120-121 repositioned to accommodate inclusion
- 19 28/05/2018 Drawing updated further to comments from management



Job no: 470
 date: 18/06/2018
 scale: @ A0:1:500
 checked: JFE
 drawn: JFE
 project: CARLTON
 site: SITE LAYOUT PLAN
 status: PLANNING
 HARRON HOMES Limited
 Carlton House
 Temple Point
 Boulevard Lane
 Leeds
 LS15 9XL
 Tel: 0113 204 4670
 Fax: 0113 204 4677
 Web: www.harronhomes.co.uk

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Report Reference Number: 2019/1018/PROW

To: CEO Urgent Decision Session – Planning
Date: 16 April 2020
Author: Jenny Tyreman, Senior Planning Officer
Lead Officer: Ruth Hardingham, Planning Development Manager

Request for a Public Path Diversion Order relating to Footpath 35.18/6/1 at Land off Low Street, Carlton

This matter has been brought before the CEO Urgent Decision Session – Planning for consideration due to it being a proposal to divert a public highway affected by development.

Planning permission has been granted under Part 3 of the Town and Country Planning Act 1990 (as amended) for a residential development of 66No. dwellings and associated infrastructure and open space provision at Land at Station Road, Carlton (Local Planning Authority references 2014/1129/OUT and 2018/0871/REMM). In order for this development to be fully implemented, it is necessary to divert public footpath reference 35.18/6/1.

The Local Planning Authority have discretionary powers under Section 257 of the Town and Country Planning Act 1990 to make Public Path Orders for the diversion or stopping-up of footpaths, bridleways or restricted byways. This type of application can only be made where the Local Planning Authority are satisfied that the diversion/stopping-up is necessary to enable development to be carried out in accordance with a planning permission, as is the case here.

The applicant, Harron Homes, have requested that the Local Planning Authority exercises its powers to make a Public Path Order to divert public right of way reference 35.18/6/1. The request has been accompanied by: a good quality large scale plan showing the existing right of way and the proposed right of way; details of the proposed public right of way width; the location and width of any gates and/or fences proposed along the proposed route; and the surfacing of the proposed route.

The Local Planning Authority have undertaken a site visit with the NYCC Public Rights of Way Officer and are content with the details of the proposed diversion. Accordingly, a Public Path Diversion Order has been drafted (see Appendix A).

This report seeks approval for the making of the Public Path Diversion Order, which will then be subject to the required consultation - notice of sealing is to be advertised for 28 days via site notice, press notice, and letter to Auto-Cycle Union; British Horse Society; Byways and Bridleways Trust; Open Spaces Society; Ramblers Association; Cyclists Touring Club; NYCC Highways; NYCC Public Rights of Way Officer; Parish Council, and all immediate neighbours.

If any objections are received within 28 days, the applicant will have the opportunity to address these in order to determine if they can be withdrawn. If no objections are received within 28 days, or objections that are received through the consultation period are subsequently withdrawn, the Local Planning Authority can then confirm the (unopposed) Public Path Diversion Order. Notice of confirmation of the Order is to be advertised for 42 days via site notice, press notice, and letter to Auto-Cycle Union; British Horse Society; Byways and Bridleways Trust; Open Spaces Society; Ramblers Association; Cyclists Touring Club; NYCC Highways; NYCC Public Rights of Way Officer; Parish Council, and all immediate neighbours.

If objections are received to the Public Path Diversion Order within the specified time limit and are not subsequently withdrawn within two months after the expiration of the objection period, the Local Planning Authority must refer the Public Path Diversion Order to the Secretary of State. The Secretary of State will then decide the matter either by holding a Public Inquiry or by appointing a person to hear the representations of the objectors. The Secretary of State then decides on the basis of the reports submitted at the Inquiry or by hearing representations whether to confirm the Public Path Diversion Order with or without modification.

Once the diversion works have been carried out on site, the Local Planning Authority and the NYCC Public Rights of Way Officer will inspect the works to ensure they comply with the Public Path Diversion Order. If the works have been completed satisfactorily the Public Path Diversion Order can be certified.

Recommendations:

- i) That approval is granted for the making of the Public Path Diversion Order, which will then be subject to the required consultation.**
- ii) That delegation is given to Officers to confirm the Public Path Diversion Order following the expiry of a 28 day consultation period, subject to no objections being received or objections that are received through the consultation period being subsequently withdrawn within two months after the expiration of the objection period. Where objections are received within the specified time limit and are not subsequently withdrawn within two months after the expiration of the objection period, that delegation is given to Officers to refer the Public Path Diversion Order to the Secretary of State.**
- iii) That delegation is given to Officers to certify the Public Path Diversion Order following the completion of the diversion works in accordance**

with the Order (where the Public Path Diversion Order has been confirmed in ii. above).

Reasons for Recommendation

To allow the diversion of public footpath reference 35.18/6/1 to enable development granted planning permission under Local Planning Authority references 2014/1129/OUT and 2018/0871/REMM to be fully implemented.

1. Legal Issues

1.1 Planning Acts

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

1.2 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.

1.3 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.

2. Financial Issues

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

3. Background Documents

Planning Application file references 2014/1129/OUT, 2018/0871/REMM and 2019/1018/PROW and associated documents.

Contact Officer: Jenny Tyreman, Senior Planning Officer
jtyreman@selby.gov.uk

Appendices:

Appendix (in 2 parts): Draft Version of Footpath 35.18/6/1 Land off Low Street, Carlton Diversion Order 2020

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SELBY DISTRICT COUNCIL

PUBLIC PATH DIVERSION ORDER

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257

FOOTPATH 35.18/6/1 LAND OFF LOW STREET, CARLTON DIVERSION ORDER 2020

This order is made by Selby District Council under section 257 of the Town and Country Planning Act 1990 because it is satisfied that it is necessary to divert the footpath to which this order relates in order to enable development to be carried out in accordance with planning permission granted under Part 3 of the Town and Country Planning Act 1990 (as amended) namely: residential development of 66No. dwellings and associated infrastructure and open space provision at Station Road, Carlton, pursuant to planning permission granted under Local Planning Authority references 2014/1129/OUT and 2018/0871/REMM.

BY THIS ORDER:

1. The footpath over the land shown by a bold black line on the attached map and described in Part 1 of the Schedule to this Order (“the Schedule”) shall be diverted as provided below.
2. There shall be created to the reasonable satisfaction of Selby District Council an alternative highway for use as a replacement for the said footpath as provided in Part 2 of the Schedule and shown by bold black dashes on the attached map.
3. The diversion of the footpath shall have effect on the date on which Selby District Council certify that the terms of Article 2 above have been complied with.
4. The following works shall be carried out in relation to the highway described in Part 2 of the Schedule: a Hoggin surface of 2 (two) metres in width to be applied along the entire length of the diverted route and 0.6 metre high timber diamond rail fence to be provided to the north/north east or east side of the footpath.
5. Harron Homes is hereby required to pay for the cost of carrying out the said works.
6. Where immediately before the date on which the footpath is diverted there is apparatus under, in, on, over along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.

THE COMMON SEAL of)
 SELBY DISTRICT COUNCIL)
 was hereunto affixed this)
 INSERT DATE)
 in the presence of:-)

SCHEDULE

PART 1

Description of site of existing path or way to be stopped up

Footpath No. 35.18/6/1	Length (metres)	Width (metres)	Position & description of Footpath
Shown on the map by a bold black line as A-B	100	0.9	The existing section of footpath commences at Point A (Grid Reference 46459, 42453) and proceeds in a generally north westerly direction for approximately 100 metres to Point B (Grid Reference 46451, 42458).

PART 2

Description of site of alternative highway to be created

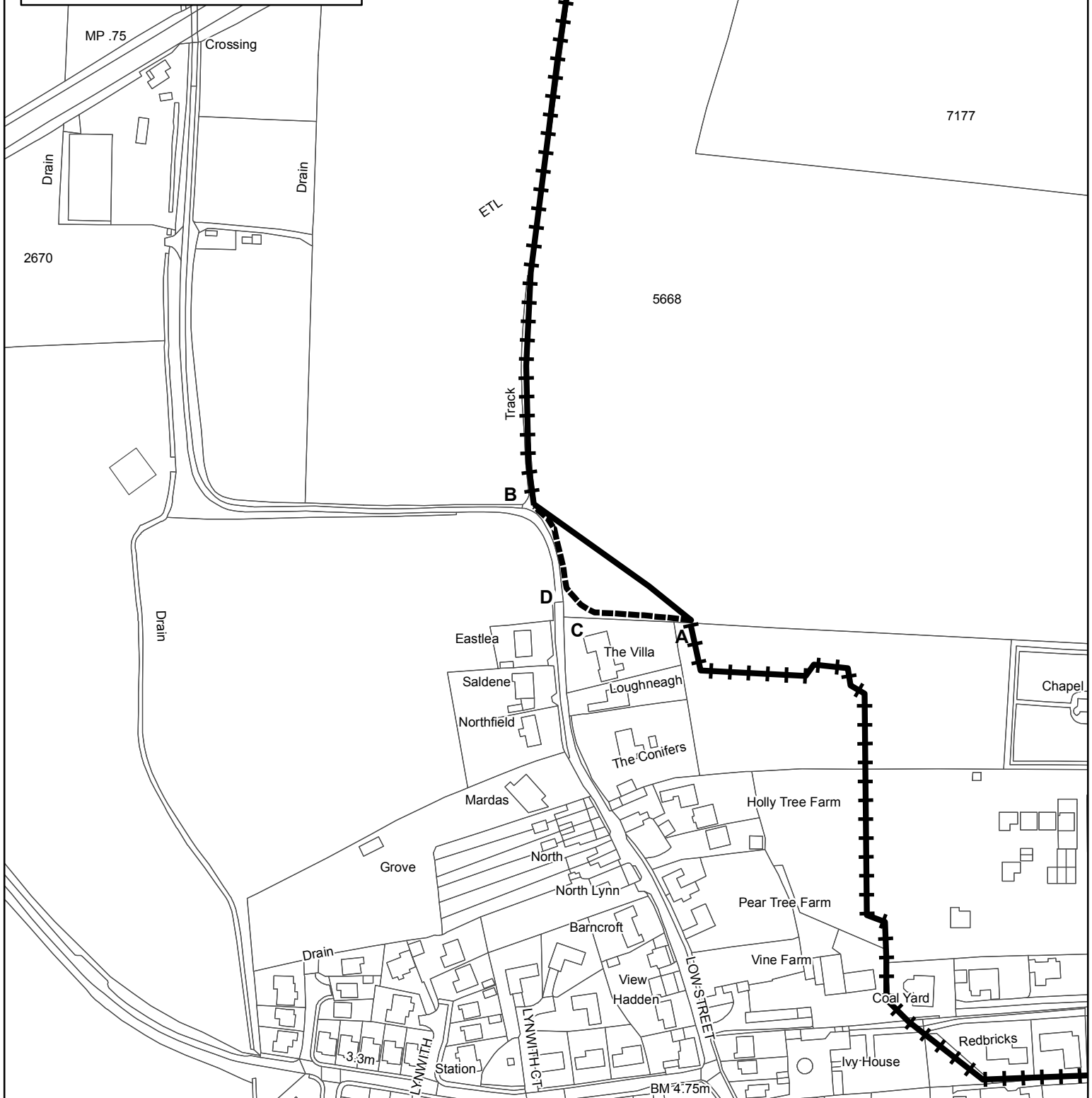
Footpath No. 35.18/6/1	Length (metres)	Width (metres)	Position & description of Footpath
Shown on the map by bold black dashes as A-C-D-B	114	2	<p>The new footpath will commence at Point A (Grid Reference 46459, 42453), progressing in a westerly direction for approximately 51 metres to Point C (Grid Reference 46453, 42454) parallel the northern boundary of the site known as The Villa to the south. From Point C (Grid Reference 46453, 42454), the footpath continues in a generally north westerly direction for approximately 10 metres to Point D (Grid Reference 46453, 42455). From Point D (Grid Reference 46453, 42455) the footpath continues in a generally north direction for approximately 53 metres to Point B (Grid Reference 46451, 42458).</p> <p>The full extent of the diverted path have a Hoggin surface and will have a 0.6 metre high timber diamond rail fence to the north/north east and east side of the footpath.</p>

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257
 FOOTPATH 35.18/6/1 LAND OFF LOW STREET, CARLTON DIVERSION ORDER 2020

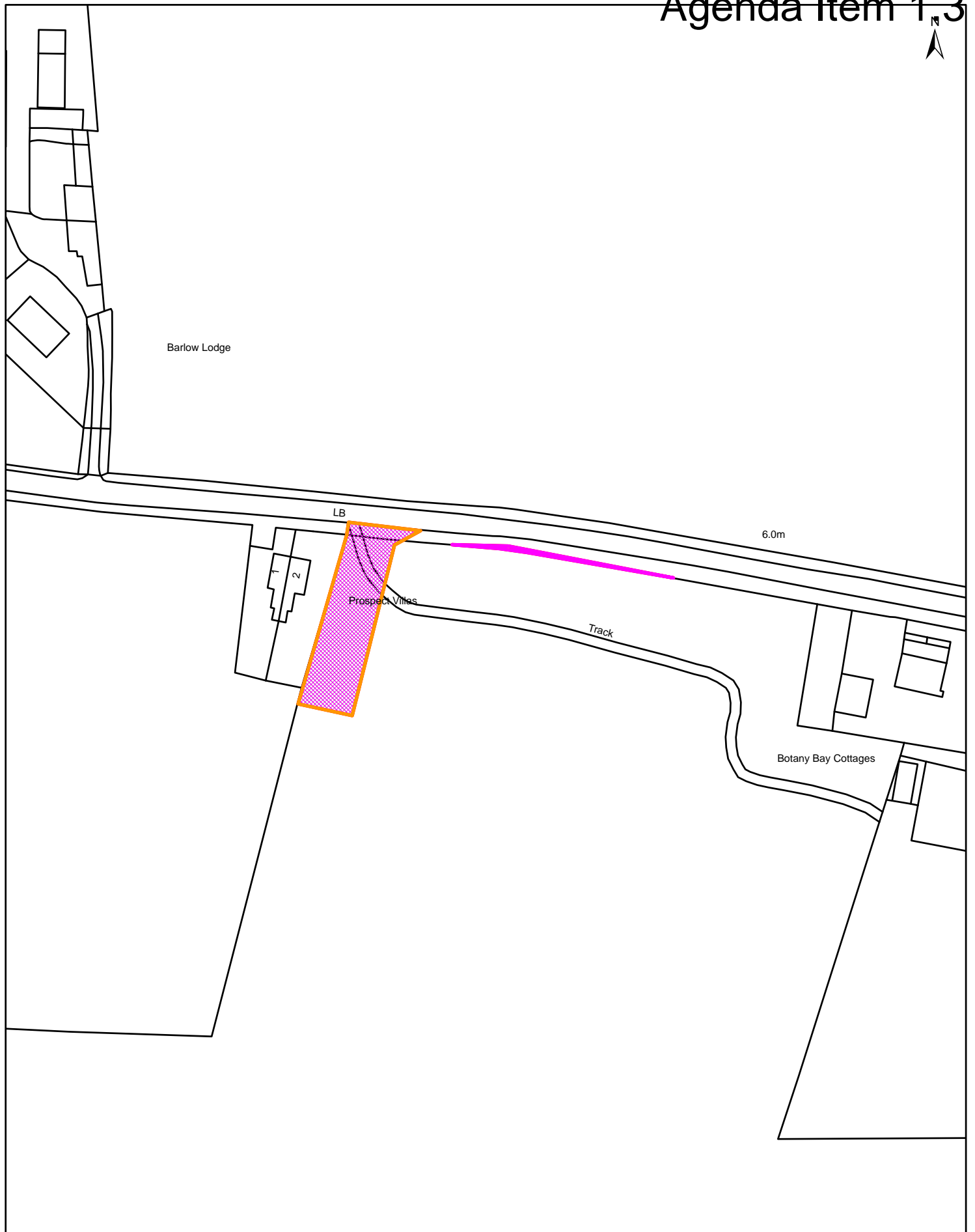


Point A (Grid Reference 46459 42453)
 Point B (Grid Reference 46451 42459)
 Point C (Grid Reference 46453 42454)
 Point D (Grid Reference 46452 42455)

- Footpath to be removed
- Footpath to be retained
- Footpath to be created

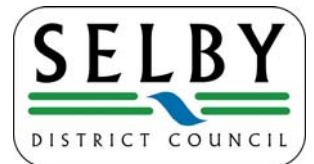


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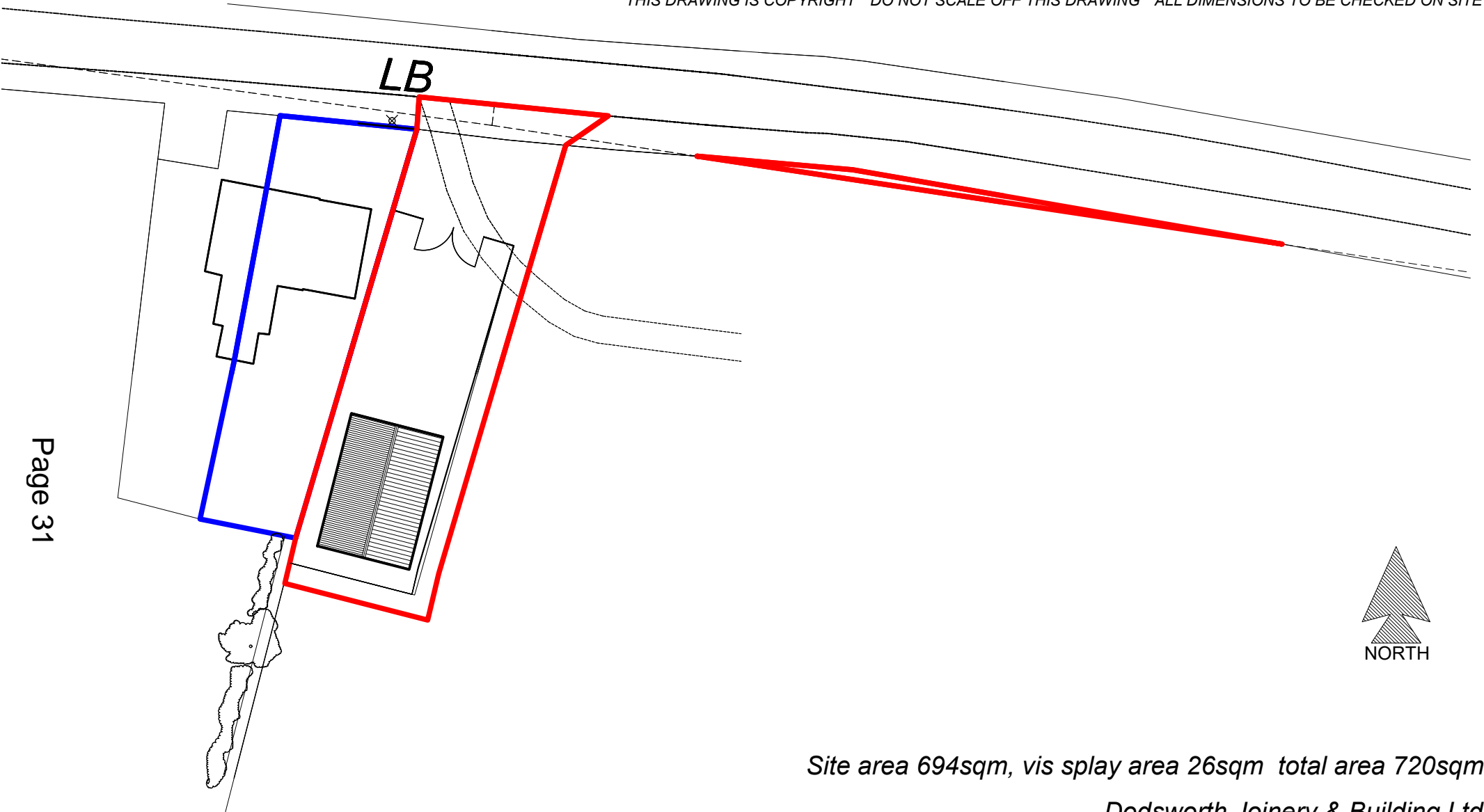


APPLICATION SITE

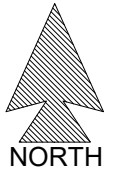
Land adjacent to 2 Prospect Villas, Barlow Common Road, Barlow, 2020/0137/FUL



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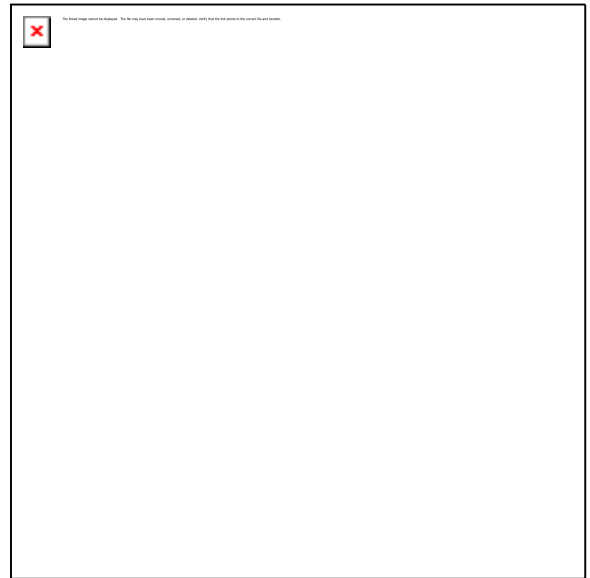
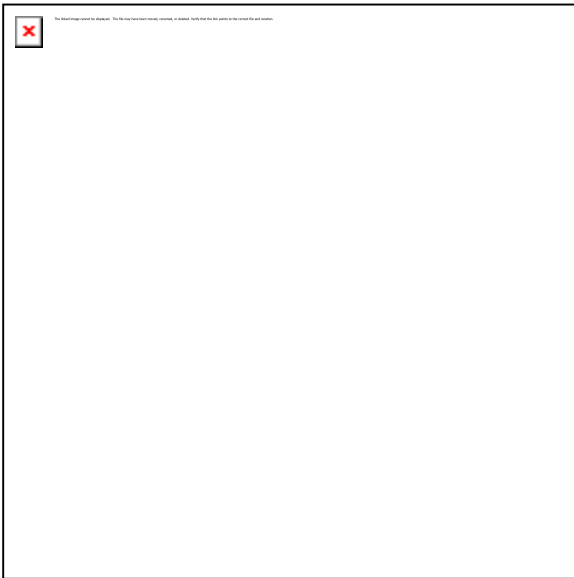
Site area 694sqm, vis splay area 26sqm total area 720sqm

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

Chris Finn Architect

BOWLING GREEN HOUSE
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TEL: 01757 268650

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Report Reference Number: 2020/0137/FUL

To: CEO Urgency Decisions Session – Planning
Date: 16 April 2019
Author: Irma Sinkeviciene (Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

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

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

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site, which is broadly rectangular in shape and amounts to 764 square metres of unused paddock land, is located outside the defined development limits of Barlow. It is located immediately to the east of a pair of semi-detached properties, namely Prospect Villas, and falls within the ownership of No 2 Prospect Villas which is adjacent to the site. The site is separated from No 1 Prospect Villas

by approximately 9 metres, and over 60 metres from Barlow Lodge to the north west and cottages to the east. Access is shown as utilising and widening of the existing field access track.

- 1.2 The land is generally flat, and the eastern and southern boundaries are marked by a low post and rail timber fence whilst the western boundary is marked by a hedge and other vegetation. The northern boundary is where the access to the site is located from Barlow Common Road and consists of a combination of row of vegetation, a low post and rail timber fence and a timber gate.

The Proposal

- 1.3 The application seeks full planning permission for a storage building which would be associated with Dodsworth Joinery and Building Ltd (suppliers and fitters of joinery products) whose office is registered at the dwelling located at No 2 Prospect Villas which is adjacent to the site on the west. The Design and Access Statement accompanying the application describes the proposal as consolidation of the business at this one site for improvement of both security and operational efficiency.
- 1.4 The proposal is for the erection of a steel framed storage building. The building would be 13 metres in depth and 9 metres in width. It would have roller shutter doors to the front elevation. To the ridge of its pitched roof it would measure approximately 4.5 metres. The building would have concrete block panels to the elevations with green profiled steel sheet cladding to the upper portion of the sides and the roof. The building would sit to the rear of a compound measuring approximately 35 metres by 12 metres and bound by 2 metre high green thermoplastic coated galvanised steel weld-mesh fencing panels with steel posts at 1.8 metres. There would be 2m high steel gates with similar to welded mesh fence design. The front boundary of the compound would line up with the front elevation of 2, Prospect Villas. A hawthorn hedge would be planted in a 2m buffer zone to provide some screening which would be set back from the front boundary of the site by approximately 5 metres and would be distanced from the highway by approximately 18 metres.
- 1.5 The objective of the proposal is stated to be the operational efficiency and security of the Dodsworth Joinery and Building Company Ltd. Presently, whilst this business is registered at 2, Prospect Villas much of its equipment is stored off site at rented accommodation. It is the applicant's intention to make the building and compound secure and to install CCTV. The building would be used to store business tools, plant, trailers, and business materials along with the applicant's motor home. All the machinery would be portable with none fixed to the floor. It is stated there would thus be no use of the machinery within the building. Mr Dodsworth would expect to use the building personally for his business, loading and unloading materials according to the specific job he was involved with at the time.

Relevant Planning History

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

- 1.6 Application (reference CO/2002/0113) for the erection of a two-storey extension to form garage with bedroom over on the side elevation of 2 Prospect Villas, Barlow Common Road, Barlow was approved in July 2002

- 1.7 Application (reference 2018/0772/FUL) for the proposed erection of a storage building/workshop in association with joinery business at land adjacent to 2 Prospect Villas, Barlow Common Road, Barlow was withdrawn in September 2019
- 1.8 Application (reference 2019/0539/FUL) for the proposed erection of building to be used for storage/workshop facility on land adjacent to 2 Prospect Villas, Barlow Common Road, Barlow was refused in October 2019 at the 9th October Planning Committee meeting for the following reasons:
01. The application site is located outside development limits and is therefore within the open countryside. The proposal would not constitute any of the types of development acceptable in principle in the countryside nor would it improve or contribute to the local rural economy, it would therefore fail to comply with the aims of Policies SP1, SP2 and SP13 of the Core Strategy and with Policy EMP2 of the Selby District Local Plan and with the NPPF. The proposal is therefore contrary to the above policies and hence the overall Spatial Development Strategy for the District.
 02. The proposal would introduce an intrusive prominent development of an industrial character uncharacteristic and harmful to the open rural character of this part of the countryside due to its size, scale, siting, boundary treatment and use of an open industrial compound contrary to the aims of Policy ENV1 (1) and (4) of the Selby District Local Plan, Policies SP13, SP18 and SP19 of Core Strategy and the NPPF.
 03. The proposal is likely to generate unacceptable levels of noise and disturbance to the residents of the neighbouring properties due to the proposed use of the site and the building for the purposes of storage and workshop for the joinery and building business together with the comings and goings of vehicles associated with the use. Given the nature and scale of the proposal combined with the likely low existing background sound levels in this rural area, it is considered that the proposal would adversely affect the amenities of the neighbouring properties and as such would be contrary to Policy ENV1 of the Selby District Local Plan.
 04. The application site is located within Flood Zone 2 and the NPPF states that all proposals located in Flood Zone 2 and 3a require a Sequential Test to determine whether there are any reasonably available sites at less risk of flooding that could accommodate the development. For development located within the open countryside, the Sequential Test should be undertaken at a District wide level. The applicant has failed to submit information to demonstrate that the Sequential test can be met. The proposed development is therefore considered to be unacceptable in terms of flood risk and contrary to the NPPF.
 05. The application site is located within Flood Zone 2 and the NPPF states that all proposals located in Flood Zone 2 and 3a require a Site Specific Flood Risk Assessment. The submitted Flood Risk Assessment does not comply with the requirements set out in national policy and guidance and therefore the submitted Flood Risk Assessment does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. The proposed development is therefore considered to be unacceptable in terms of flood risk and contrary to the NPPF.

2. CONSULTATION AND PUBLICITY

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

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

- 5 were submitted online stating that they support the application without further comments;
- 9 stated that “this proposal will encourage employment within the area and proposes an appropriate building which will fit in visually and look no different than farm buildings in the area”; and
- 1 comment made by the next-door neighbour stated that there are no objections but commented that off road hard standing for visiting cars/vans/lorries etc., should be considered when making final plans.

3. SITE CONSTRAINTS

Constraints

- 3.1 The site is located outside the defined development limits of Barlow and is therefore defined as open countryside. The site does not contain any protected trees and there are no statutory or local landscape designations. Similarly, there is no Conservation Area designation or local listed buildings that are affected. The site is situated within Flood Zones 1 & 2.

4. POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in

paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.

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

Selby District Local Plan

- 4.7 The relevant Selby District Local Plan Policies are:
- ENV1 – Control of Development
 - EMP2 – Location of Economic Development
 - T1 – Development in Relation to the Highway
 - T2 – Access to Roads

5 APPRAISAL

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

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

The Principle of Development

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

5.3 Policy SP2A (c) of the Selby District Core Strategy provides 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 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, or special circumstances.

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

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

5.6 Paragraph 83 of the NPPF outlines that planning decisions should enable the sustainable growth and expansion of all types of businesses in rural areas, both through conversion of existing buildings and well-designed new buildings.

5.7 It is noted that 9 of 15 letters of support have the same contents stating that they “believe the proposal will encourage employment within the area and proposes an appropriate building which will fit in visually and look no different than farm buildings in the area” and that one of the letters have not been signed. Another 5 supporting members of public did not provide any further comments, and the next-door neighbour raised no objections subject to off road hardstanding being provided.

5.8 The proposal is for a construction of a new storage building which would be used for a joinery and building business. Although the business is registered at 2 Prospect Villas, the use of the building is residential. As such, it is not considered that the proposed development would constitute either growth or expansion of the existing business neither it is considered it would be well-designed as discussed in the next section of this report. Furthermore, there is no evidence to suggest it would support the rural economy, and although the information provided in the Design &

Access Statement is noted, the proposal does not include creation of employment opportunities as stated in the application form and is not an expansion of business. As such and given the nature of the business proposed and its open countryside location, it is considered that the proposed scheme would be unsustainable development which would not bring sustainable economic growth. In addition to the above, the site is not identified in development plans as new employment development site and due to the nature of the business it is not considered that it would support rural economy.

- 5.9 According to the information submitted, the proposed building would also be used for a storage of the applicants motorhome and the proposed building would also partially be used as a large domestic garage sited outside the curtilage of the dwelling which also be contrary to Development Plan policies given its countryside location.
- 5.10 In this context, it is considered that the proposed development fails to comply with Policies SP1, SP2 and SP13 of the Core Strategy, Policy EMP2 of the Selby District Local Plan, and the NPPF.

Design and Impact on the Character and Appearance of the Area

- 5.11 Relevant policies in respect to the impact of development on character and appearance of the area are Policy ENV1 of the Selby District Local Plan, Policies SP13 (D), SP18 and SP19 of the Core Strategy and advice contained within the NPPF. Local Plan Policy ENV1 is broadly consistent with the aims of the NPPF and should therefore be given significant weight.
- 5.12 The Design and Access Statement supplied with the application assesses the context of the site, states that setting the building back will result in it only being seen at a distance when viewed from the A1041 to the west and will make building unobtrusive when viewed from Barlow Common Road. It also refers to an Additional Design Statement produced by Chris Finn which concludes that the local character is mixed with a range of industrial sites clearly visible from the site and provides examples of similar types of developments approved within Selby District over recent years. Furthermore, the Design Statement states that although largely in agricultural use, the examples shown are constructed to a similar pattern to the proposal. It also concludes that the impact of the proposed building would be no more or less than the examples shown in the addition Design & Access Statement, that the submitted drawings illustrate proposed improvements to the site's screening which will help to integrate the use within this rural landscape, that it will not have a significant impact on the character of the local landscape, and that its scale would be appropriate for its location and to neighbouring buildings.
- 5.13 The application site is a parcel of undeveloped land adjacent to the eastern boundary of the residential property located at Nr 2 Prospect Villas, and the proposal is for construction of a new storage building on the southern part of the site and a 2 metre high steel fence and gates close to the north, east and south of it.
- 5.14 The immediate area is characterised by a predominantly open landscape with some remote residential properties located close to a highway and partially screened from it by predominantly high hedges, timber fences and some trees. The lower hedge also runs alongside the Barlow Common Road. There are examples of agricultural buildings within the surrounding area, however, those are of a smaller size and

scale located to the rear of residential properties and well-screened from public views such the one to the south of Botany Bay Cottages located to the east of the site, or are located within the larger group of farm buildings such as a group to the rear of Barlow Lodge. Moreover, the erection of agricultural buildings in the countryside is accepted as being justified on locational grounds. The presence of genuine agricultural buildings in the surrounding countryside does not justify the erection of an industrial building designed to look like an agricultural building. Given this context, the proposed development would stand out as an over-dominant feature in otherwise open area and would therefore be intrusive in the landscape.

- 5.15 The proposed building would measure approximately 13 metres in depth, 9 metres in width, and approximately 4.5 metres above ground level to the ridge. The building proposed would be built of concrete block panel and green coloured profiled steel sheet cladding to roof and walls, and same type of cladding for the roof, and would have a green roller shutter door. It is also proposed to add a 2 metre high green steel fence and gates which would surround the site. Due to the design and materials proposed to be used, the building and the fence proposed would further exacerbate the industrial character of the proposed building which is not characteristic to the open countryside.
- 5.16 The site is currently a part of a larger undeveloped open field. The proposal will introduce a new industrial building with an industrial compound within which vehicles or further storage of materials and equipment would occur. The industrial style fencing, the building and the compound will harmfully change the character of this part of the countryside.
- 5.17 Although the proposed building would be significantly set back from a highway and would have a new hawthorn hedge planted to the south and east elevation of it, it would be seen within the context of the open fields and a pair of isolated small-scale semi-detached properties, and would be highly visible due to its prominent location within the open countryside. It is therefore not considered that the proposed development would be of an appropriate scale to its location.
- 5.18 Taking into consideration all of the above and having considered the size, scale, siting, location and design of the proposed development, the fencing and the compound, it is considered that it would be unacceptable to its surroundings and would have a detrimental impact on the otherwise open countryside. The proposal therefore fails to comply with Policy ENV1 of the Selby District Local Plan, Policies SP13 (D), SP18 and SP19 of the Core Strategy and the NPPF.

Impact on Residential Amenity

- 5.19 Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1 (1) of the Selby District Local Plan. Significant weight should be attached to this Policy as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved.
- 5.20 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the sheer size, scale and massing of the development proposed.
- 5.21 Given the separation distance from the nearest residential properties, and due to the size, scale and design of the proposed development, it is not considered that it

would result in adverse effects of overlooking, overshadowing or overbearing of neighbouring properties.

- 5.22 The Design and Access Statement supplied with the application states that the building would largely be used for storage and that no machinery will be permanently located within the building. However, the proposal is for storage and there is no planning control over the machinery related to this trade they could potentially use there in the case the application is approved.
- 5.23 It is also noted that the applicant requested a condition linking occupancy of the dwelling owned by the applicant, namely No 2, with the use of the proposed development. However, although imposition of such a condition would prevent future loss of amenity to occupants of 2 Prospect Villas from living next to an unrelated business use, it is also noted that there is another residential property within the vicinity of the site, the adjoining semi-detached dwelling namely No 1 Prospect Villas, the amenity of which could potentially be affected by the proposal due to proximity to the site and the scale and nature of the proposal. However, it is also noted that the occupiers of No 1 Prospect Villas did not object to the proposals.
- 5.24 The Environmental Health Officer (EHO) has been consulted on the scheme and noted that the proposed building is to be used purely for storage (falling within B8 use class) and that it proposed to be linked to the current occupation of the adjoining residential property. Under these circumstances and with a restriction on the hours of use to prevent access and egress during the night-time period, EHO does not object to this application subject to conditions relating to a) use only be limited to storage and distribution, b) linking occupation to No 2 Prospect Villas, and c) restriction of hours of use.
- 5.25 Although it is considered that the proposal would increase the type and number of traffic movements within the area which could potentially have a harmful impact on the amenities of neighbouring occupiers, taking into account the location of the site, comments made by the EHO and occupants of the neighbouring property, that the proposed scheme would only be used for storage and distribution, and subject to aforementioned conditions, it is on balance considered that harm caused to the amenities of adjoining occupiers would not be so detrimental as to warrant refusal.
- 5.26 Given all of the above, it is on balance considered that the proposal would not cause significant adverse impact on the residential amenity of the neighbouring properties and as such would not be contrary to Policy ENV1 of the Selby District Local Plan.

Highway Issues

- 5.27 Relevant policies in respect to highway safety include Policies ENV1, T1 and T2 of the Selby District Local Plan and requirement (c) set out in Policy SP19 of the Core Strategy. These policies should be afforded substantial weight as they are broadly consistent with the aims of the NPPF.
- 5.28 NYCC Highways have been consulted and raised no objections subject to a number of conditions requiring construction of access to the site in accordance with the published Specification of the Highway Authority and additional requirements outlined in the recommended condition, provision of visibility splays and provision of approved access, turning and parking areas. They have also recommended adding informatives relating to a separate licence being required from the Highway

Authority and relating to liability for a range of offences under the relevant acts for any activity on the development site that results in the deposit of soil, mud or other debris onto the highway.

- 5.30 Notwithstanding the fact that the proposal is unacceptable in principle and that it would have a harmful impact on the open countryside, taking into consideration all of the above and the size, scale and nature of the proposed development, the scheme is considered acceptable in terms of its impact on a highway safety and is therefore in accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and requirement (c) set out in Policy SP19 of the Core Strategy, and the NPPF.

Flood Risk and Drainage

- 5.31 Relevant policies in respect to flood risk include Policies SP15, SP19 of the Core Strategy, and paragraphs 149,150,155,156, 157, 158, 163 of the NPPF
- 5.32 The application site is part located within Flood Zone 1 which has a low probability of flooding and part located within the Flood Zone 2 which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.
- 5.33 Paragraph 163 of the NPPF states that *“When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood risk assessment⁵⁰. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that: a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; b) the development is appropriately flood resistant and resilient; c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan”*.
- 5.34 Footnote 50 states *“In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.”*
- 5.35 Although a small part the application site is located within Flood Zone 2, the proposed storage building, compound and access would be located within Flood zone 1 and there is no evidence to suggest that the land subject to this proposal falls into any of the criteria as described in Footnote 50. As such, FRA is not required to be submitted.
- 5.39 In terms of surface and foul water drainage, the application form states that there will be no foul drainage connection as there is no need for it, and that the surface water would be disposed of via the existing water course.

- 5.40 Internal Drainage Board and Yorkshire Water Services have been consulted on this application. Yorkshire Water Services have not commented on this application and it is therefore assumed that they do not object to the proposals on the basis of the information submitted. Internal Drainage Board raised no objections in principle providing that if surface water is to be discharged into any watercourse within the drainage district, consent from the IDB would be required and would be restricted to 1.4 litres per second per hectare on greenfield runoff. As such and given the information relating to drainage provided, the proposal is considered to be appropriate in terms of its impact on drainage.
- 5.41 Having regard to the above, the proposed development is considered to be acceptable in terms of flood risk and in terms of drainage, taking into account national policy contained within the NPPF.

6 CONCLUSION

- 6.1 The application seeks full planning permission for the erection of building to be used for storage facility on land adjacent to 2 Prospect Villas, Barlow Common Road, Barlow to consolidate the business at this site.
- 6.2 The application site is located outside the defined development limits of Barlow which is a Secondary Village as identified within the Core Strategy and is therefore located within the open countryside. The proposal would not constitute any of the types of development of that area acceptable in principle under Policies SP2 and SP13 of the Core Strategy and Policy EMP2 of the Selby District Local Plan. The proposal is therefore contrary to the above policies and hence the overall Spatial Development Strategy for the District.
- 6.3 In terms of the impact on the open countryside and character of the area, the proposal would stand out as an over-dominant feature of an industrial character with the uncharacteristic to the open countryside boundary treatment and be inappropriate in scale to its location. As such and due to its size, scale, siting, fencing and outside compound and location, it would be prominent within the open countryside and would be intrusive in the landscape. It is therefore considered the proposal would cause harm to the character and appearance of the area and an open countryside and would be contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policies SP13, SP18 and SP19 of Core Strategy and the NPPF.

7 RECOMMENDATION

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

01. The application site is located outside development limits and is therefore within the open countryside. The proposal would not constitute any of the types of development acceptable in principle in the countryside nor would it improve or contribute to the local rural economy, it would therefore fail to comply with the aims of Policies SP1, SP2 and SP13 of the Core Strategy and with Policy EMP2 of the Selby District Local Plan and with the NPPF. The proposal is therefore contrary to the above policies and hence the overall Spatial Development Strategy for the District.
02. The proposal would introduce an intrusive prominent development of an industrial character uncharacteristic and harmful to the open rural character of this part of the countryside due to its size, scale, siting,

boundary treatment and use of an open industrial compound contrary to the aims of Policy ENV1 (1) and (4) of the Selby District Local Plan, Policies SP13, SP18 and SP19 of Core Strategy and the NPPF.

8 Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9 Financial Issues

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

10 Background Documents

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

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Appendices: None

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.