



Meeting: **CEO URGENT DECISION SESSION - PLANNING**
Date: **WEDNESDAY, 24 JUNE 2020**
Time: **9.00 AM**
Venue: **MICROSOFT TEAMS/MICROSOFT TEAMS LIVE EVENT - REMOTE**

Applications List

1. **Planning Applications Received (Pages 3 - 4)**
 - 1.1. **2017/1381/FULM - Land at Viner Station, Roe Lane, Birkin (Pages 5 - 36)**
 - 1.2. **2019/0901/FUL - Field View, Wistow Road, Selby (Pages 37 - 56)**

Janet Waggott

Janet Waggott, Chief Executive

Enquiries relating to this list, 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

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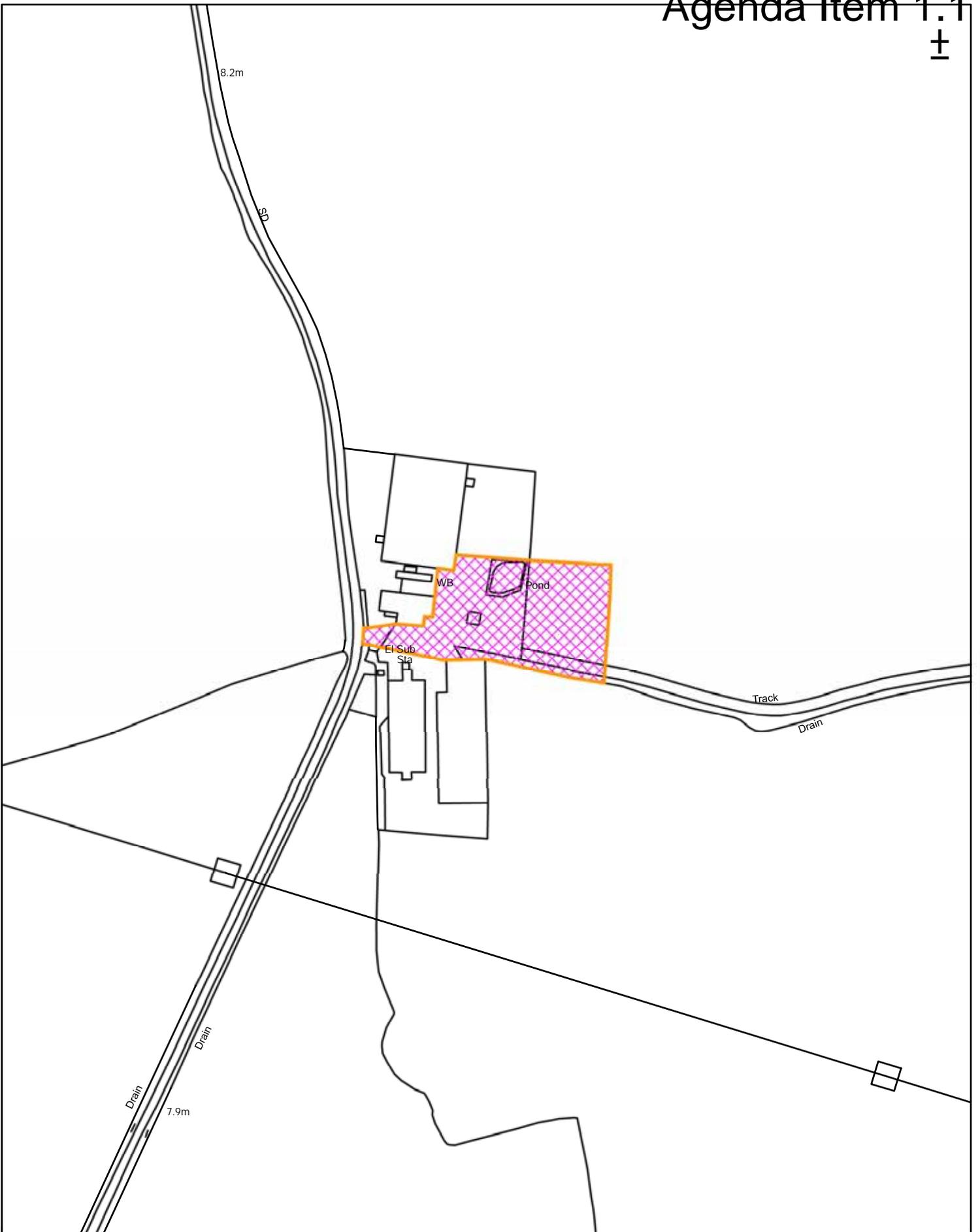
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Items for CEO Urgent Decision Session – Planning

24 June 2020

Item No.	Ref	Site Address	Description	Officer	Ward	Pages
1.1	2017/1381/FULM	Land At Viner Station Roe Lane Birkin	Proposed erection of a new grain store including a chemical store and roof mounted solar PV	FIEL	Monk Fryston	5 – 36
1.2	2019/0901/FUL	Field View Wistow Road Selby	Retrospective change of use of land to garden land, siting of a static caravan and laying of hardstanding	RELE	Selby West	37 – 56

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APPLICATION SITE

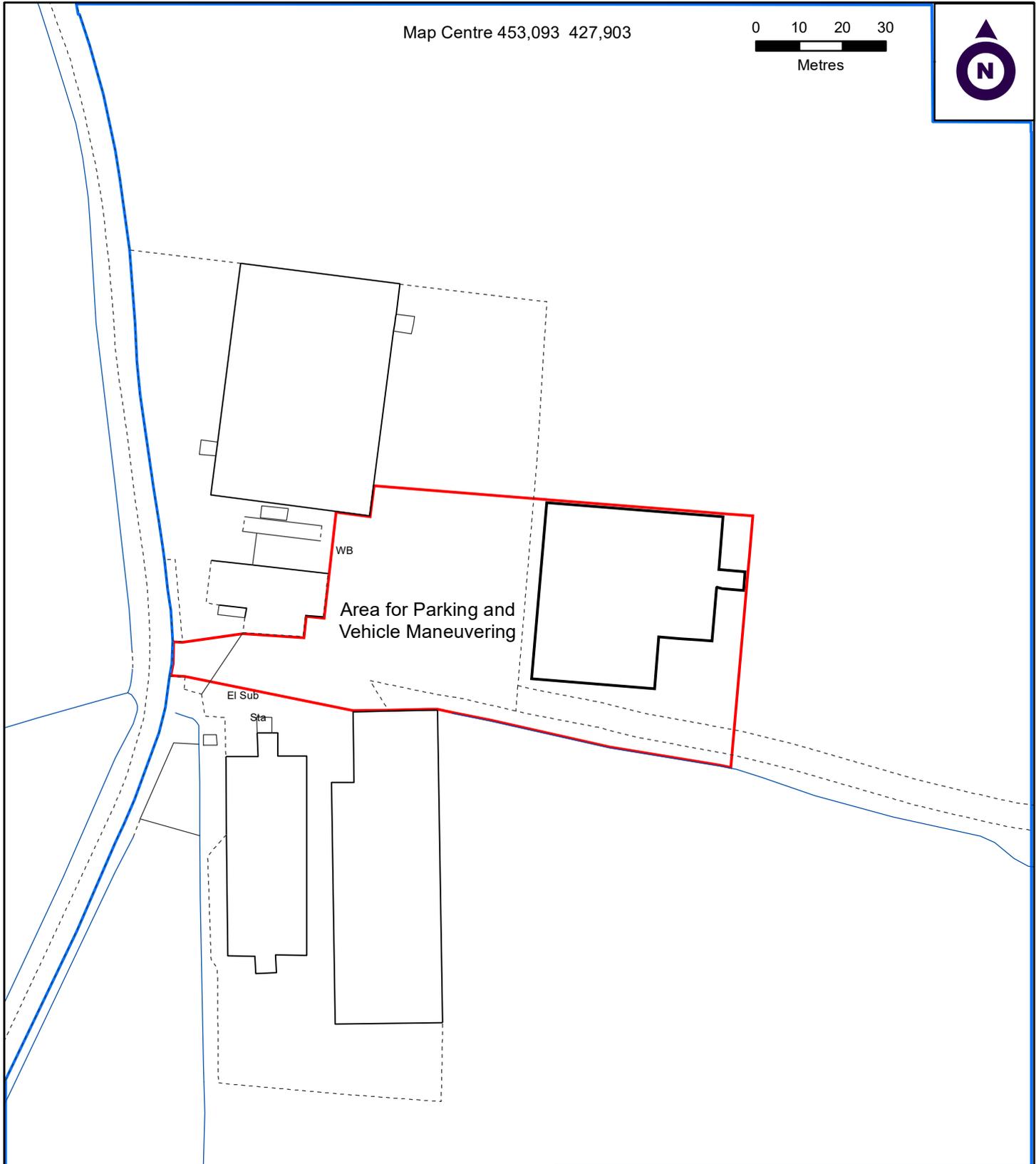
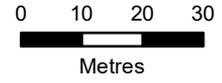
Land at Viner Station, Roe Lane, Birkin
2017/1381/FULM

1:2,500



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Map Centre 453,093 427,903



Carter Jonas

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Client: **J E Harley Limited**

Project: **Proposed New Grain Store and Chemical Store**

Title: **Site Plan**

Scale: 1:1250 @A4 Date: 04 November 2019

Drawn by: JJH

Dwg no: **J0008333-20-03**

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Report Reference Number 2017/1381/FULM (8/51/64/PA)

To: CEO Urgency Decisions Session- Planning
Date: 24 June 2020
Author: Fiona Ellwood (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/1381/FULM	PARISH:	Birkin Parish Council
APPLICANT:	JE Hartley Ltd	VALID DATE:	10th January 2018
		EXPIRY DATE:	11th April 2018
PROPOSAL:	Proposed erection of a new grain store including a chemical store and roof mounted solar PV		
LOCATION:	Land At Viner Station Roe Lane Birkin Knottingley West Yorkshire		
RECOMMENDATION:	APPROVE SUBJECT TO CONDITIONS		

NB: Location Plan attached with existing buildings numbered for identification purposes.

This application which was reported to the Planning Committee meeting of 6th June 2018 and was deferred for the following reasons which are set out in the minutes to that meeting:

“Members felt that they required more information on the application including on the unauthorised uses of some of the buildings before they could take a decision. Some members expressed a preference for a site visit; however, it was agreed that a decision on such a visit would be taken at a later date.”

Following this, a retrospective application, under reference 2018/0681/FULM for the Change of Use of the buildings and land from agricultural use to industrial B2 use (which included 5 Biomass Boilers for the drying and heating of woodchip) was reported to Planning Committee in December 2018 and subsequently refused permission on 6 February 2019. An appeal has been lodged against the refusal and will be the subject of a Hearing later this summer in August. See Relevant Planning History section of this report for the refusal reasons.

This application relates solely to the new agricultural grain store. In view of the time period that has passed, the report is re-written, updated and addresses the queries which arose at Committee. An appraisal has been obtained by an Independent Agricultural Consultant on behalf of the Council which justifies the need for the grain store independent of the other buildings on the site. Further information has been provided on the following:

- Blue line ownership for the entire holding.
- Further details of the farm business;
- Greater justification for the agricultural need for the building and why the existing buildings are to be discounted; and
- Advice by an Agricultural Consultant on behalf of the Council.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The site is located to the east of Roe Lane approximately 0.64 north of Birkin and 1.44 miles south east of Hillam. Viner Station is a farm site comprising a series of varying sized substantial steel framed agricultural type sheds of mainly grey corrugate sheet walls and roof on concrete hard-standing. There are also smaller ancillary brick stores and an open sided steel frame barn.
- 1.2 Historically the buildings were granted permission in the 1970's for agricultural grain storage and potato storage. The buildings and the surrounding land are owned by J E Hartley Ltd. The farm is managed by the applicant who is J E Hartley's grandson. The farm operates an arable rotation of wheat, oilseed rape, barley, potatoes and peas. The farm business is 1,100 hectares of owned land mainly at East Haddlesly, Hillam/Birkin, Hambleton, Towton and Headley Hall. Additionally there is a further 200 hectares at Tadcaster farmed in a partnership agreement with Velcourt.
- 1.3 There are four main buildings at Viner Station. These comprise:

Building 1- (north) comprises four sections. The north section comprises 2 former grain stores with below ground drying. These are let to the biomass green energy company and are used for the drying and storage of woodchip and to house biomass boilers. (see relevant history section of the report).The southern section remains agricultural and has 2 below ground drying units with a total grain storage capacity of 1800 tonnes;

Building 2-(south west side). This is a concrete floor grain store with above ground drying system. It has the capacity for 1000 tonnes of grain;

Building 3-(central) Partly open sided. Used for temporary store (5 days only) of wet grain at harvest and throughout the year as a general purpose storage building; and

Building 4-(South east side). Has a concrete floor and is used as a potato and fertiliser store.

The Proposal

- 1.5 The proposal is the erection of a new grain store including a chemical store and roof mounted solar PV. The site layout plan identifies that the building would be located to the east of the existing buildings at Viner Station. The total footprint would be 1,656 square metres. It would be 30 metres wide, 42 metres long and 8.2 metres

tall (to the eaves). It would hold an estimated 2,500 to 3,000 metric tonnes of grain. The building will also include a new lean-to chemical store on the southern elevation which will be 12 metres wide, 30 metres long and 5.8 metres tall (to eaves). The existing chemical store on site has now been demolished. Heating and drying of grain is stated to be independent of the Biomass Boilers at the site. There would also be a small 6 metre by 6 metre fan house on the eastern elevation.

- 1.6 The building would be constructed of a similar design to the existing grain stores on site. It would be a steel portal framed construction with plastisol coated box profile galvanised steel sheet side wall cladding, natural grey concrete gain walling panels, a natural grey reinforced corrugated fibre cement roof and uPVC eaves guttering. It would include solar PV on its south facing roof and a rainwater harvesting system.

Relevant Planning History

- 1.7 The following historical applications are considered to be relevant to the determination of this application;
- 1.8 A retrospective application, under reference 2018/0681/FULM for the Change of Use of the buildings and land from agricultural use to industrial B2 use (which included 5 Biomass Boilers for the drying and heating of woodchip) was reported to Planning Committee in December 2018 and subsequently refused permission on 6 February 2019 for the reasons set out below. An appeal has been lodged against the refusal.

01. *Having regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, the proposal will significantly intensify the use of the site and introduce inappropriate industrial development to the open countryside. In addition the lorry movements created by this proposal are considered to be unsustainable for this open countryside location and would affect the character of this open countryside location through the intensification of the use. It is therefore considered to be contrary to policy SP13 of the Core Strategy, saved Policy EMP8 of the Local Plan and paragraphs 83 and 84 of the NPPF.*
02. *The roads leading to the application site by reason of their poor alignments/insufficient widths/poor condition and lack of footways are considered unsuitable for the traffic which would be likely to be generated by this proposal and would interfere with the free flow of traffic with consequent danger to highway users by virtue of its proximity to the public highway network. It is considered that the proposals would result in a significant detrimental impact on the existing highway network and highways safety and would therefore not accord with Policies EMP8 (6), ENV1 (2), T1 and T2 of the Selby District Local Plan, Core Strategy Policy SP19 and the NPPF.*
03. *The applicant has failed to provide sufficient information in regards to drainage and the Council therefore cannot be satisfied that the proposals are acceptable in terms of flood risk and drainage. Therefore the proposals fail to accord with Policies SP15, SP16, SP19 of the Core Strategy, and the advice contained within the NPPF.*

2018/0290/_CPP-Lawful development Certificate for replacing fossil heaters with 4 Biomass Boilers. Withdrawn 18 May 2018.

CO/1976/21480-Weighbridge and Office- Approved

CO/1975/21479-Agricultural Store-Approved

CO/1975/21478 –Re-siting of Grain Store- Approved

CO/1975/21460-New Grain Store.-Approved

2. CONSULTATION AND PUBLICITY

Consultation

2.1 North Yorkshire Bat Group

No response received.

2.2 County Ecologist

Satisfied that the outcome of the Preliminary Ecological Appraisal is sufficient to determine the application in relation to ecological matters. It is agreed that the site is of low ecological value in terms of habitats and species which are legally protected or of principal importance.

Re-consultation-The further information submitted does not change the position in relation to ecology.

2,3 Natural England

No comments to make on the original or additional information.

2,4 Environmental Health

No objections to the granting of this application.
Re-consultation -no further comments to make.

2.5 NYCC Highways

No objections.

2.6 Selby Area Internal Drainage Board

The application will increase the impermeable area to the site and the applicant will therefore need to ensure that any existing or proposed surface water system(s) have the capacity to accommodate any increase in surface water discharge from the site.

Comments/recommendations:

- If the surface water disposed via a soakaway system, advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests needed to establish if the ground conditions are suitable for soakaway drainage throughout the year.
- If surface water is to a mains sewer system no objection, 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 consent is required as described above then a condition is necessary that any surface water discharge into any watercourses in, on, under or near the site requires consent from the Drainage Board.

Regarding the additional information, we have no further comments to make.

2.7 NYCC Flood Risk Management

Further response following submission of FRA as requested.

No objection subject to conditions requiring adherence with the recommendations of the FRA. Chemical Store in particular needs to adhere to proposed finished floor levels

Detailed Drainage scheme A sustainable drainage system is recommended to mitigate the risk of site generated surface water runoff, and investigations should be undertaken as to the infiltration rate and groundwater levels prior to informing a detailed drainage design.

Soakaway testing must be conducted to BRE 365 standard. Should ground conditions not prove suitable attenuation will need to be provided and discharge off site limited to the greenfield rate to be agreed with the local drainage board. The consent of the board will be required for discharge rates and any outfall that is proposed as part of the detailed design.

Conditions recommended.

2.8 Parish Council-Hillam

- Concerns regarding reports of increased haulage traffic
- Concerns regarding other business activity on the site that has led to the new building being needed i.e. current farm buildings being leased out to a different company for another purpose - should a change of use be applied for?

2.9 Parish Council Birkin

- Proposal is a cover up for larger premises for more Bio Mass Boilers on an industrial scale. (Location plan title is misleading)
- Grain store and vinery buildings rented out and already in use by Bio Mass Company
- Pea production not mentioned in the predicted tonnage
- New grain store unjustified due to existing grain stores being used for other purposes.
- HGV's and other heavy traffic associated with the use causing problems for local traffic and damage to roads and verges.
- Increased traffic associated with the grain store and the Bio Mass company is harmful to road safety and amenity and local roads are unsuitable
- If permission is granted conditions should be placed restricting HGV movements

2.10 **Representation**

2.11 The application has been statutorily advertised by site and press notice. No neighbours adjoin the site but the nearest, Roe Lane Nursery has been notified by letter. Letter of objection from 20 individuals have been received with comments made summarized below;

- Not appropriate development in the Green Belt.
- Planning Statement refers to agricultural unit that covers 1300 ha. No blue line plan to indicate where this land is in relation to the site. The National Validation requirements stipulate that a Location Plan should indicate, edged blue, the land owned. The application is invalid. Should show the whole 1300 ha claimed to comprise the agricultural holding and would establish the planning unit.
- The agricultural holding comprises more than one planning unit. The Planning Statement refers to an additional 200 acres being farmed by Velcourt. Other elements of the applicants 1100 ha. may also be within different planning units.
- The importance of ascertaining the planning unit relates to the decisions in *Warnock v SoS for the Environment & Dover DC* (JPL 590 Sept 1980) and *Fuller v SoS for the Environment & Dover DC* (JPL 854 Dec 1987) which addresses the issue of agricultural activities falling into business use classes where they serve more than on planning unit (as distinct from an agricultural holding).
- The former Grain Store appears to be of similar size to the new store. This undermines the need for a new building. Need for building not demonstrated. Huge storage increase for a small increase in land.
- Need for the additional grain storage is driven by letting half the existing storage space to a different business (Biomass boilers which has nothing to do with the agricultural business) and is not driven by increased productivity.
- It is not clear, whether grain will be stored or dried in the former Grain Store and also whether heat from the biomass boilers now installed in the former Grain Store will provide heat for the new store.
- The use within the existing Grain Drying Store appears to be of much greater capacity than the heating equipment that it replaced.
- J E Hartley have other buildings nearby at Birkin which are suitable. The existing farming enterprise appears to have either leased its holdings to a farm management company or employed them to run the farm.
- Hard surfaces have been created and timber appears to be being stored. There may be storage of biomass wood chip within the former Grain Store. There is use of the land and building(s) for open storage and processing. This appears to be a commercial production plant for biomass wood chip which would be a business use, both unauthorised and inappropriate. Evidence of felled trees and wooden pallets being brought to site, stored and chipped. If used timber is being processed it would constitute a waste recycling activity and require licensing.
- The site is immediately adjacent to Green belt and is prominent in views to and from the Green Belt.
- A pond has been filled in recently which would prevent a survey for newts.
- It is not evident where access to the building is and how this relates to existing hard surfacing. Further hard surfacing will be required. This would need to be addressed by the flood risk assessment and that should also explain whether the former pond provided any function in the existing surface water disposal arrangements.
- Ecology survey not credible as it lacks mention of species evident in the locality.
- Roads not suitable, single track, no pavements, small bridges, flooded roads (narrow, damage to verges) for additional Heavy traffic & HGV's-danger to pedestrians, cyclists, horse riders and other road users.
- Work at Viner station is already audible from nearby Birkin village. Further expansion would impact negatively in terms of noise and disturbance.
- Traffic is 24/7 and harmful to local amenity.
- Flood zone 2 – query if alternatives been considered?
- Increased pollution.
- Industrialisation and harm to the countryside.

- Concerns over future industrial use of the new building.
- Should be at Kellingley using rail facilities.
- Houses being damaged by the shudder of HGV's on small roads.
- Drainage not addressed.
- FRA does not take account of new impermeable concrete hardstanding.
- No details provided of the internal structure of the building, entrances etc.
- New concrete hardstanding and bund have been constructed but are not within the red line area identified on the plans.
- Processing/storage of crops from another farm means the process is industrial rather than agricultural.
- Suggest condition limiting the use solely for the purpose of drying and storage of grain produced from the farms shown edges blue on Plan No. J0008333-18-02 DATED 02.05.2018

3 SITE CONSTRAINTS

Constraints

- 3.1 The site lies in open countryside but is **not** in the Green Belt, The land to the west of Roe Lane falls within the Green Belt, whereas Viner Station is on the east side of Roe Lane. The whole site is within Flood Zone 2 and therefore has medium risk of flooding. 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.

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 (CS)

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 (LP)

4.7 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
EMP9 – Expansion of existing employment uses in the countryside.
EMP13 - Control of Agricultural Development
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:

- Principle of the development in the open countryside
- Impact on the character and form of the open countryside
- Impact on residential amenity
- Highway Safety
- Biodiversity and Ecology
- Flood Risk and Drainage
- Other Matters

Principle of the development in the open countryside

5.2 Policy EMP13 1) of the Selby District Local Plan (LP) allows agricultural development provided that the proposal is necessary for agricultural purposes. Other criteria of this policy in relation to design, highways, and impact on the character of the area are considered under subsequent sections of this report. In order to determine whether the proposal is acceptable in principle and whether it

complies with this policy it is necessary to consider firstly if the proposal is agricultural development and if so whether the building is necessary for agricultural purposes.

- 5.3 The information from the applicants states that the farm business, originally JE Hartley, diversified in the 1970's into arable crops and peas. The Viner Station was established for podding the peas by machine but has for many years been used for agricultural grain storage and a potato store. The farm has a standard crop rotation of 1,100 hectares with wheat as the main combinable crop. The agricultural business includes several parcels of land which are geographically dispersed. A plan providing details of the land owned and its locations has been provided. Historically grain from all these parcels of land (with the exception of the recently added Velcourt land at Headley Hall) has been stored at Viner Station.
- 5.4 The applicant provides information indicating that, following a review, the farm business expanded into a partnership with Velcourt which brought a further 200 hectares to the agricultural business as well as spreading of labour and machinery. The plan has been to expand the production of wheat, barley and oil seed rape within the existing and additional land. This will require drying and storage for approximately 6,000 metric tonnes. Currently the farm (at the Viner Station unit) has 1,800 tonnes of storage available in a purpose built grain store and a further 1,000 in a four bay store with no underground ducting.
- 5.5 The applicant states that the need for more grain storage for this business arises due to both an increase grain production across the acreage and the intention to store it for much longer. Traditionally in farming the grain was stored for only a short period after harvest time then sold. The construction of proposed building will provide expanded and improved modern facilities which would be used to store grain from harvest time for a longer period until the following May. At least half of the grain would be sold on a 'cash & carry' basis. As a result the farm needs increased storage for a further 2500 to 3000 metric tonnes.
- 5.6 In addition to the proposed grain store, the proposal also includes for a new chemical lean-to store (attached to the grain store) to replace the existing chemical lean-to store at the Viner Station. Integrated Farm Management and Integrated Pest Management are stated by the applicants to be key drivers in decision making regarding the use of natural resources and pesticides. The construction of a new dedicated chemical lean-to, storage and filling area at the Viner station is stated to bring a multitude of benefits to the business, site and local environment. The new build will not only take advantage of some of the latest forms of technology regarding the handling of sprayer tank washings and waste pesticide handling methods, but will also aim to reduce surface run-off into nearby streams and rivers by including rain water harvesting equipment as an integral part of the design.

Key Benefits of the new chemical store are stated to be;

- Fully insulated to ensure high value pesticides are properly stored and protected from external varying climatic conditions and tampering from trespassers.
- Indoor adjoining storage / filling areas to promote staff well-being and improved health and safety by employing the use of trollies and pallet trucks to transport chemical containers between sites, reducing manual handling of containers and worker fatigue.
- Any spillages will be fully contained within the storage area, draining into a central gulley and pumped directly into the bio-bed filtering system.

- To promote an open and tidy working area, allowing suppliers and forklifts to efficiently and safely unload and deliver pesticides.
- 5.7 The grain store is stated to be for the purposes of storing grain produced by the agricultural business. It is not intended to be used for further biomass boilers and energy production which was a concern of objectors. Moreover, the applicants have confirmed it is not intended to be used to store grain from other agricultural businesses.
- 5.8 Objectors refer to the importance of ascertaining the planning unit and refer to the decisions in *Warnock v SoS for the Environment & Dover DC* ([1980] J.P.L. 690) and *Fuller v SoS for the Environment* ((1988) 56 P. & C.R. 84) which address the issue of agricultural activities falling into business use classes where they serve more than one planning unit (as distinct from an agricultural holding). An objector considers that this building would serve at least 5 planning units and therefore the use must be industrial not agricultural. The *Warnock* case relates to the holding and storage and onward transport of livestock held commercial lairage found not to be agricultural use.
- 5.9 In the *Fuller* case, it was concluded that there is no reason why the 'agricultural unit' should define the 'planning unit' where the unit is broken up geographically. The Court held that the planning unit remains a question of fact and judgement for the decision-maker and the planning unit is not necessarily the same as the agricultural unit. On the basis of this judgment the objector concludes this agricultural unit comprises several planning units. There have been a number of cases where the courts have considered a decision-maker's approach to whether separate parcels of agricultural land form the same or different planning units. The consistent finding is that the issue is one of fact and degree for the Council/Inspector; another important case on planning units is *Burdle v SoS for environment 1972* which recognised that the planning unit is normally regarded as the unit of occupation unless some smaller area, both physically and functionally separate, can be defined.
- 5.10 The degree of separation is an important consideration in determining the planning unit. The plans provided by the applicant show the geographical spread of multiple parcels of land. A planning unit is normally regarded as the unit of occupation and implies a mainly single contiguous area, however, an agricultural holding may comprise widely scattered areas of land and cover a very large area, but which nevertheless constitute a single agricultural business; the agricultural business of J E Harley is clearly extensive and comprises several geographically dispersed parcels of land. These are as follows;
1. Land at Headley Hall –contains no farm buildings
 2. Towton- contains buildings -(none suitable for grain storage)
 3. Monk Fryston (Siddle farm)- contains no farm buildings
 4. Hillam/Birkin -including Viner station (buildings described above) and Birkin House Farm (farm buildings but unsuitable for grain storage)
 5. East Haddersley- contains no farm buildings
- 5.11 The above parcels of land are physically separated and geographically widely dispersed. The majority of farm buildings for the agricultural business are located at Viner Station. These buildings serve the agricultural unit as a whole and the crop production from the various parcels of land is all produced and stored for the one agricultural unit. The use taking place across all the parcels of land is primarily agricultural. Although functionally linked, the parcels of land (described in 1-5

above) are all considered to be separate planning units. The group of buildings and surrounding land at Viner Station is considered to constitute one planning unit.

- 5.12 An objector considers this proposal to unacceptable on the basis that it is a commercial use. However, commercial grain stores usually exist to serve several agricultural businesses and are owned and operated independent of farms with the space being rented out on a commercial basis to any farmer requiring additional grain storage. The grain stores at Viner Station are not operated on this basis. The new store is intended to serve only this one agricultural business (J E Hartley) albeit from several separate planning units. Only the grain produced by this agricultural business as a whole will be stored in the new building. It is not intended to be let commercially to store grain from other agricultural businesses or to be used for any reciprocal arrangements with other farms outside the agricultural business. Therefore even though the existing grain stores and the proposed new grain store would serve multiple planning units, the use is still considered to be agricultural not commercial. As such the grain store is essentially intended for rural farming purposes and is not intended to serve other farm businesses or for warehousing for other products or other commercial uses. A planning condition could be imposed to limit the use of the building to grain storage only.
- 5.13 Although there are secondary activities within the unit, namely the Biomass business, planning permission for this has not been granted. It is important therefore to note that at the present time the current lawful use of all the land and buildings at Viner Station is considered to be solely agricultural. Should the Biomass Business be granted permission on appeal then Viner Station site would become a mixed commercial and agricultural use site.
- 5.14 It is therefore concluded that even though there are multiple planning units, these are part of just one agricultural business. This is common and typical of most large farming businesses today. The proposed development is considered to be agricultural in use and therefore in accordance with EMP13 (1) it is can be permitted provided it is necessary for agricultural purposes.
- 5.15 Turning to the question of whether the scale and size of this proposed large new building is necessary for grain storage for this agricultural holding, it may not be appropriate to grant permission if capacity still exists within the existing range of buildings at Viner station. Given that a large portion of the buildings are currently occupied by an unauthorised change of use, this scheme could only be supported if the new grain store is justified over and above the capacity of the existing buildings which have been taken up by the Biomass Boilers which are not associated with the agricultural use of the site.
- 5.16 There are 5 Biomass boilers. One of which is providing heating to the existing grain store. Four boilers are operating separately to the farming business by Woodyfuel Ltd and are being used to create woodchip fuel for the Biomass boiler business off site.
- 5.17 Advice has been sought by Selby District Council from an independent Agricultural Consultant on firstly whether the size of the proposed grain store is justified on the basis of the crop production of the Agricultural unit and secondly on whether, if the unauthorised biomass green energy production business were to cease and the buildings were again available for grain storage, whether the size and scale of the new storage building would still be justified.

- 5.18 The Agricultural Consultant concluded that the central section of Building 1 should not be included in the grain storage calculation but reserved for storage of fertiliser, seed corn and machinery. The fact that these had been stored at various times in Building 3 (partly open sided) but had been water damaged in heavy rains was also highlighted. The appraisal concludes that;
- With the central section of Building 1 excluded from the calculations, then, with the new building erected there would be a grain storage capacity of 8,905 cubic metres and the storage requirement would be 8,679 cubic metres. The capacity assumes every section of every store is full to capacity. With 7 different crop types, it's unrealistic to assume all the storage areas would be filled to capacity and therefore it can be concluded that the grain storage provided by the existing and the proposed building would be appropriate to the farming enterprise concerned.
 - It makes complete sense to continue to rent out the potato store to a local farmer. This is the most appropriate and lucrative use of Building 4.
 - The chemical store proposed is appropriate for purpose as there is no modern storage for the farm sprayer or chemicals.
 - If the business is to invest in a new grain store which the Agricultural Consultant concluded to be justified, then it would be appropriate for it to satisfy the requirements without the central section of Building 1.
 - The proposed grain store and chemical store is completely appropriate development for a farming business of this size and type, even with the assumption that the boilers and woodchip business are completely removed from the site.
- 5.19 On the basis of the above appraisal the size and scale of the proposed new building is considered to necessary for the purposes of this agricultural business even with the assumption that the biomass boilers are removed together with the woodchip drying business. As such the proposed development is considered to necessary for this agricultural business.
- 5.20 It is therefore concluded that the proposed development is agricultural development which is necessary for the agricultural unit and therefore it complies with Policy EMP 13(1) of the LP.
- 5.21 In addition to Policy EMP13 of the LP, Policies SP1, SP2 and SP13 of the Core Strategy and EMP9 of the LP are of some relevance. Policy SP1 of the CS Policy sets out the positive approach when considering development proposals that reflects the presumption in favour of sustainable development contained in the NPPF. SP2 of the CS sets out the locational strategy for the district and limits development in the open countryside 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 to 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 other special circumstances. EMP9 sets out that proposals for the expansion and/or redevelopment of existing industrial and business uses outside development limits will be permitted provided it meets a number of criteria in relation to the impacts of the development (highways, character and appearance of the area, design) which are discussed in the following sections of this report.
- 5.22 Policy SP13 of the CS aims to give support to developing and revitalising the local economy. In relation to the rural economy, SP13 seeks to support sustainable

development which brings sustainable economic growth through local employment opportunities or expansion of businesses and enterprise including, well-designed new buildings and the diversification of agriculture and other land based rural businesses. This is consistent with the advice in paragraph 83 of the NPPF which supports this approach. This states that;

“Planning policies and decisions should enable;

- a) the sustainable growth and expansion of all types of business in rural areas, through conversion of existing buildings and well-designed new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses.

Policy SP13 of the CS requires that in all cases the development is sustainable and is appropriate in scale and type to its location and does not harm the character of the area and seeks a good standard of amenity.

- 5.23 In view of the above conclusions that the proposal is an agricultural use, then the application should be judged against Policies EMP13 of the Local Plan. However, even if the view of the objector were to be taken that the buildings at Viner Station are a mixed use of commercial and agricultural due to the multiple planning units, then it is clear that this is an established rural business which requires a rural location. EMP9 sets out that proposals for the expansion and/or redevelopment of existing industrial and business uses outside development limits will be permitted provided it meets a number of criteria in relation to the impacts of the development (highways, character and appearance of the area, design) which are discussed in the following sections of this report. Paragraph 84 of the NPPF also states that “planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport)”.
- 5.24 Historically, the farm business at Viner Station has for many years served as an agricultural grain storage facility for the various parcels of land which make up this agricultural business. As such a proportion of grain stored here comes from the Viner Station planning unit itself and a larger proportion already come from the remainder of the agricultural business (the other planning units). There are three key changes which have resulted in the need for the additional grain store. Firstly, grain production is to be increased across the entire holding and secondly a further 200 hectares of land (in crop production) have been added to the size of the holding. Thirdly it is intended to store the grain for longer. For these reasons there is a need for an increase in the capacity grain storage at Viner Station.
- 5.25 The proportion of the total amount of grain arriving for storage from outside of the Viner Station Planning unit will increase due to the additional 200 hectares added to the agricultural business. However, some of the increase is also be due to increased grain production across the whole holding including at the Viner station unit. As such, the introduction of a further grain store at the Viner Station site to serve the entire agricultural holding would not materially change the existing use of the Viner Station site itself but would be an expansion of its existing facilities which already store grain for the entire holding. Although exact figures of the amounts of

grain coming from the various parcels have not been provided, the overall change is not considered to result in a material change of use at Viner Station given its historic use serving the entire holding.

- 5.26 Objectors refer to the use being 'inappropriate' development for this location and mention that it is Green Belt. They argue that the proposal is a mixed commercial and agricultural use would not fall within the exceptions set out in paragraph 145 of the NPPF. However, the site is not within the Green Belt. The erection of new buildings in this open countryside location that is not Green Belt is not subject to the same higher tests. Moreover, it is officers opinion that the use is agricultural not commercial which would be appropriate in the Green Belt.
- 5.27 The proposed scheme is considered to contribute towards and improve the local economy and allows for continuation, expansion and improvement of an existing established agricultural business. The continued central storage of grain for the farm business makes sense rather than transporting it all further afield to an industrial site. The proposed scheme is considered to be appropriate development in this countryside location and is agricultural development.
- 5.28 Overall it is concluded that the proposed development complies with Policies EMP13 of the LP. Subject to the consideration of the criteria below, the proposal also complies with Policies SP1, SP2 and SP13 of the CS and with EMP9 of the LP. These policies even though they were adopted before the publication of the framework are still consistent with the advice within paragraphs 83 & 84 of the NPPF and can therefore be afforded considerable weight.

Impact on the character and form of the open countryside

- 5.29 The LP aims to support the modernisation and expansion of the agricultural industry subject to ensuring it does not threaten the character of the landscape amongst other things. EMP13(2), (4) and (5) as well as EMP9 and SP13D seek to achieve this aim.
- 5.30 The proposed grain store would be located within the field adjacent to the existing farmyard.
- 5.31 The proposed building would be constructed of a similar design to the existing grain stores on site. It would be a steel portal framed construction with plastisol coated box profile galvanised steel sheet side wall cladding, natural grey concrete gain walling panels, a natural grey reinforced corrugated fibre cement roof and uPVC eaves guttering. It would include solar PV to its southern facing roof and a rainwater harvesting system.
- 5.32 The design of the proposed building is commensurate to its stated intended use as an agricultural building. The proposal due to its design, size, height and siting is considered to be in keeping with the character and form of the other agricultural buildings on the site. Moreover, it would be located adjacent to and would be seen against the backdrop of the existing buildings at the Viner Station and would therefore be in keeping with its surroundings. It is therefore considered that the proposed development would not have an adverse impact upon the visual amenity of the open countryside. However, given the scale of the new building on the edge of the farmstead it is considered that it would benefit from a landscaping scheme around the north, east and southern sides which would in the longer term provide

screening, soften its impact and contribute to biodiversity. Policy EMP13 criterion 5 requires agricultural development to be adequately screened and landscaped. A condition can be imposed requiring full details to be submitted and agreed should consent be granted. The applicants have agreed to this approach.

- 5.33 The development will also include solar panels covering almost the entire southern side of the roof slope. Given the utilitarian design of the building and its materials it is not considered that the solar panels will harm the character and appearance of the building or the area. Moreover, they will contribute to a more sustainable form of development in this location.
- 5.34 Objectors have raised concerns that an embankment and hardstanding created without planning permission. These are within the blue line area of this application but form part of the refused scheme to change the use of buildings to a biomass energy production business. These will be a matter for consideration on the refused scheme currently at Appeal.
- 5.35 The proposal is therefore considered to be acceptable with respect to the impact on the character of the area and the visual amenity of the open countryside. The proposed scheme, subject to the attached landscaping condition to secure compliance with EMP 13(5), therefore accords with Policies ENV1 and EMP13 of the Selby District Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Impact on Residential Amenity

- 5.36 The concerns of local residents about noise associated with the use are noted. However, the majority of objections and concerns related to the Biomass wood-chipping use. Due to the combination of the orientation of the site, the size, scale and siting of the proposed scheme and distance away from the neighbouring properties, the proposal is considered not to cause any significant adverse effects on the amenity of the adjacent residents. Regarding the fan house, queries were raised about whether a condition is required to limit noise at the boundary. The Council's Environmental Health Officer has been consulted and considers a condition is unnecessary. This is because the site is some distance from any independent residential properties being over 1km with a direct line of site. The nearest receptor is to the south east so not directly in line with the entrance doors. The fan house is enclosed not like on other sites which have louvered side walls or are open. Moreover, the other fans on the site have not led to complaints and a noise assessment was carried out which showed noise levels not sufficient to cause sleep disturbance and well below daytime noise levels in the area. The EH officer raised no objections to the proposal and it is considered that there are no compelling reasons to depart from the guidance of the Council's specialist officer. The proposed scheme therefore accords with Policies ENV1 and EMP13 of the Selby District Local Plan, Policy SP19 of the Core Strategy.

Highway Safety

- 5.37 Policy EMP13 criterion (3) requires that proposals should not create conditions prejudicial to highway safety. Similarly Policy EMP9 Criterion (1) has the same requirement. The NPPF at paragraph 109 sets out that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The proposed scheme would utilise the existing access and access tracks

surrounding the farm complex. The submitted Design and Access Statement states that, the associated traffic in harvest year 2018 in the form of articulated lorries accessing via Roe Lane for the out loading of harvested primary produce as 'harvest moved' with the current storage capacity of 2800 mt would result in a total of 148.3 outloads conducted between the period of mid-July to mid-September.

- 5.38 The Design and Access Statement then goes on to advise of the potential reduction in outloads for harvest 2018 that a new grain store facility at the Viner station could provide in that the proposed grain store facility has the potential to reduce the number of outloads during the period of July 15th – Sept 15th (approximately) by 91.4 outloads. Storing grain for a longer period on site will result in the grain movements from the site being spread across the year. It is advised that this would significantly reduce on farm traffic improving health and safety amongst workers. The applicant considers that it would also help to reduce traffic and congestion levels on key surrounding link roads, allowing the workload of out-loading to be spread throughout the remaining and following year. Taking account of the above, the applicant considers that vehicle movements associated with the proposal would have a limited effect on residential areas or nearby roads.
- 5.39 Objections have been made in regard to the increased traffic generation from HGV's and farm vehicles and the adverse impact on road safety conditions locally for pedestrians, cyclists, horse riders and vehicles. The deterioration caused to roads and verges has also been a source of concern. However, the majority of these concerns relate mainly to traffic that has been generated by the Biomass boilers.
- 5.40 The Highway Authority have been re-consulted recently in relation to this application solely for the grain store. They comment that "*From the information available on this application, I note that the potential grain store would instead of creating potentially 15 HGV movements a week over approximately 10 weeks, the proposal would spread the HGV movements over the year. Therefore, resulting in approximately 3 HGV movements a week. With this in mind I would standby the previous recommendation of no objections*". In summary, the Highway Authority raises no objections on highway grounds to this proposal.
- 5.41 It is considered reasonable to rely on the advice of the specialist consultee in relation to technical highways issues and it is therefore considered that this proposal would not result in a significant detrimental impact on the existing highway network and would accord with Policies ENV1 (2), EMP9 (1), EMP13 (3), T1 and T2 of the Selby District Local Plan, Core Strategy Policy SP19 and the NPPF.

Biodiversity and Ecology

- 5.42 Policy EMP 13 (6) of the Local Plan requires that agricultural development does not harm nature conservation interests. Policy SP13 of the Core Strategy supports developing the local economy but in all cases development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity. A Preliminary Ecological Appraisal has been submitted in support of the application which advises that based on the nature of the proposed development; the distance between the site and protected sites and the nature of the protected sites, that the proposed development is not predicted to result in any significant effects on protected sites. No Habitats of Principal

Importance are present at the site. None of the habitats at the site are assessed as being of value at greater than the site level. In addition to this the submitted report advises that based on the habitats present and the site location, the site is not considered likely to support a notable breeding bird assemblage although Species of Principal Importance such as skylark could potentially breed on the site in small numbers.

- 5.43 The submitted report states that no waterbodies potentially suitable for breeding great crested newts have been identified within 500 metres of the site. It is therefore considered very unlikely that great crested newts would occur at the site and no further surveys or mitigation measures for bats are considered necessary. In addition to this it states that no evidence of badger or other notable fauna was observed at the site. Brown hare, a Species of Principal Importance in England, could potentially occur within the site on an occasional transitory basis. No further surveys or mitigation measures for other fauna are considered necessary.
- 5.44 Objectors have raised concerns that a pond has been filled at the site. A preliminary Ecology appraisal was submitted with the application in March 2018. This stated that *“No waterbodies potentially suitable for breeding great crested newts were identified within 500 metres of the site. It is therefore considered very unlikely that great crested newts will occur at the site. A pond is shown on the Ordnance Survey 1:1250 map of the site; however, at the time of the survey this area comprised bare ground”*. The applicants confirmed that there was an open hole of water on the site devoid of life that was filled in for health and safety reasons.
- 5.45 The County Ecologist has been consulted on the application and is satisfied that the outcome of the PEA is sufficient to determine the application in relation to ecological matters. The County Ecologist confirms that they agree with the findings of the PEA - notably, that the site is of low ecological value in terms of habitats and species which are legally protected or of principal importance.
- 5.46 Paragraph 170 of the NPPF advises that planning decisions should contribute to and enhance the local environment through a number of means. Paragraph 175 d) of the NPPF advises that opportunities to encourage biodiversity improvements in and around developments should be encouraged especially where this can secure measurable net gains for biodiversity. The applicant has been asked to provide a landscaping scheme which could soften and in time screen the proposed large-scale building. This could also encourage local wildlife and contribute positively to biodiversity and ecologically enhance the area. Such a scheme could be secured by means of a planning condition requiring full details of the size, position and species to be planted.
- 5.47 As such it is considered that the proposed development would not harm any acknowledged nature conservation interests or protected species and the proposed scheme therefore accord Policies EMP9 (4), EMP13(6) & (7) and ENV1(5) of the Selby District Local Plan and Policy SP18 of the Core Strategy and the NPPF

Flood Risk and Drainage

- 5.48 Paragraphs 5.37 – 5.41 of the Planning Statement provide details in relation to the site’s location within a flood risk area and the implications for the proposal. The proposed development is classified as Less Vulnerable development in accordance with Table 2 of the Flood Risk and Coastal Change Planning Practice Guidance (PPG). The site is part of an existing agricultural holding and the proposal is for a

building linked to this use. The nearest tidal river is the River Aire which is 1.47km south of the site. Between the site and the River Aire is Birkin village which benefits from flood defences. Therefore the risk of the site and the access becoming flooded before being able to leave the site is very minimal.

- 5.49 The application site is located within Flood Zone 2 and a Flood Risk Assessment (FRA) has been submitted. Paragraph 158 of the NPPF states “The aim of the Sequential Test is to steer new development to areas with the lowest probability 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 probability of flooding”. The strategic approach should be used in areas known to be at risk now or in the future from any form of flooding.
- 5.50 A sequential assessment has been submitted which has narrowed down the area of search to the agricultural holding of the farm within the immediate area of the application site. The submitted sequential test undertaken by the applicant’s agent provides for a justification not to locate the grain store in relation to parcels of land which are located in flood zone 1, to support the proposed grain store which is located in flood zone 2.
- 5.51 The submitted sequential test acknowledges that the farm business has an overall cropping area of 1,300 hectares. This cropping area is located across the Selby District within Birkin, Haddlesey, Temple Hirst, Siddle, Towton and Hillam which includes owned, rented and contracted farmed land. The justification for narrowing to the area of search for the Sequential Test states that that Viner Station is centrally located within the landholding. It is also the location for the other existing grain stores used by the farming business. There are only two farmsteads within the landholding, Viner Station and Birkin House Farm. The rest of the land farmed by the business is remote and does not have a suitable grid connection for electricity.
- 5.52 It is noted that the applicant owns which is at less risk of flooding. It is also noted that a large amount of the applicants land is within Flood Zone 3. Planning Practice Guidance on applying the sequential test states that “ a pragmatic approach should be take on the availability of alternatives”. In this case it would not be practical to position this grain store on remote land, away from an electricity supply or separate to the existing grain stores. Moreover, this could result in increased vehicle movements and a greater impact on the character and appearance of the rural areas by constructing a new building away from existing farm buildings. As such it is considered that there are pragmatic reasons to justify the location and officers agree with the conclusions of the submitted sequential test as there is nowhere else practically available within a lower flood risk zone.
- 5.53 Where it is not possible for development to be located in zones with a lower risk of flooding 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. Land and buildings used for agriculture are within the ‘less vulnerable’ classification and therefore it is considered that the exception test does not need to be applied and the development is appropriate in flood risk zone 2.
- 5.54 Objectors have raised concerns regarding that the pond would attenuate run off and this should also be taken into account when assessing run off from the site. The submitted FRA makes recommendations regarding finished floor levels and for infiltration rates to be testes and a sustainable drainage design to be submitted for

approval. Conditions can be imposed requiring these and are attached in the recommendation.

- 5.55 The Local Lead Flood Authority have advised that they have no objections to the proposed development should it proceed in line with the recommendations of the submitted flood risk assessment and recommended conditions. These are set out in the recommendation. The proposed scheme is therefore in accordance with the advice contained within the NPPF in relation to prevention of flood risk.
- 5.56 Yorkshire Water have been consulted on the application; however, no response has been received. Selby Area Internal Drainage Board has also been consulted on the application and have raised no objections subject to the imposition of a surface water drainage condition.
- 5.57 On the basis of the above the proposed scheme subject to the proposed conditions which would ensure finished floor levels would make the development safe and for the drainage and infiltration rate details to be agreed to ensure flood risk is not increased elsewhere, it is considered the proposed development would be acceptable in terms of flood risk and drainage and therefore accords with Policies SP15, SP16, SP19 of the Core Strategy, and the advice contained within the NPPF.

Other Matters

- 5.58 One objector raised an issue in relation to the blue line plan received and validation requirements. The relevant validation requirements are that the application site should be edged clearly with a red line. It should include all land necessary to carry out the proposed development – for example, land required for access to the site from a public highway, visibility splays, landscaping, car parking and open areas around buildings. A blue line should be drawn around any other land owned by the applicant, close to or adjoining the application site. As such, even though not all the land owned was identified in the application details, the applicant met the standard requirements identifying the land owned immediately around the application site.
- 5.59 A request for further information can be made under section 62(3) TCPA 1990 if meets the tests in section 62(4A). In this case, further details of the extent of land owned was requested by the Council (and provided) in order to assist with establishing what is the planning unit and to assess whether the development is agricultural or commercial. Officers consider that sufficient information was received from the applicant in order to fully assess the application.

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, the proposed development would be acceptable in principle in this location taking into account the presumption in favour of sustainable development, flood risk, reducing carbon emissions and the effect of climate, the impact on economic development, impact on the character and form of the open countryside, impact on residential amenity, highway safety and biodiversity. The application is therefore considered to be in accordance with Policy T1, T2, ENV1 and EMP13 of the Selby District Local Plan, Policies SP1, SP2, SP15, SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

7 RECOMMENDATION

7.1 This application is recommended to be **Granted** subject to the following conditions

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

Reason: To ensure compliance with Section 91 of the Town and Country Planning Act 1990 as amended. standard 3 years

2. The development hereby permitted shall be carried out in accordance with the following approved and dated plans and documents:

(To be inserted into the Decision Notice)

Reason: For the avoidance of doubt.

3. The materials to be used in the construction of the external surfaces of the building hereby permitted shall be those stated below:

- Concrete wall panels - Marley Eternit Profile 6 panels in Natural Grey (standard finish)
- Composite wall sheets - Plastisol sheets, Olive Green (RAL 6003)
- Composite roof sheets - Plastisol sheets, Goosewing Grey (BS10A05)
- Emmerson Doors Limited single skin non-insulated electrically operated chieftain type steel roller shutter doors. Galvanised shutter curtain with primed steelwork (red oxide, black and grey).

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

4. No development shall commence above slab level until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall provide bunding and a belt of planting around the north, east and southern sides of the grain store hereby approved and shall provide a planting scheme which will enhance biodiversity. The details shall include;

- Details of the species, location, planting density and stock size on planting of all trees and shrub planting
- Details of how the above can secure measurable net gains for biodiversity.
- Details of the measures for the management and maintenance of the approved landscaping.

The approved details shall be implemented fully and comply with condition 5 and 6 below.

Reason: In the interests of visual amenity and to enhance the biodiversity of the site and in order to comply with Plan Policy ENV1.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first bringing into use of the buildings or the substantial completion of the development, whichever is the sooner.

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

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

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

7. No development of the drainage systems approved by this permission shall be commenced until the Local Planning Authority has approved a scheme for the provision of surface water drainage works. Any such scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use. The following criteria should be considered.

- If the surface water disposed via a soakaway system, advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests needed to establish if the ground conditions are suitable for soakaway drainage throughout the year.
- If surface water is to a mains sewer system no objection, 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.

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

8. The development shall be carried out with strict adherence to the recommendations of JOC Consultants Ltd "Development at Viner Station, Birkin, Selby - Flood Risk Assessment" dated 9th April 2018. In addition the finished floor levels for the chemical store will be 300mm above the level of the part of the site which appears to be above the 0.1% AEP flood level, i.e. 8.30m AOD.

Reason: In the interests of flood risk mitigation and pollution prevention.

9. The development shall not commence until details of finished floor levels of the development hereby approved have been submitted and approved in writing by the Local Planning Authority. Finished Floor Levels should be set above the 1 in 1000 year plus climate change defended flood level with an additional 300mm

freeboard above the flood level. The development shall be carried out in accordance with the approved scheme satisfying this condition.

Reason: In the interest of amenity of the occupiers of the adjoining properties and flood risk mitigation

10. Before the development commences details shall be submitted for the written approval of the local planning authority to provide for the following. Soakaway Testing Percolation testing to determine soil infiltration rate are to be carried out in accordance with BRE 365 Soakaway Design (2003) and CIRIA Report 156 Infiltration drainage - manual of good practice (1996). Method of test must be relevant to proposed SuDS. Testing must be carried out at or as near as possible to the proposed soakaway location (No greater than 25m from proposed soakaway for uniform subsoil conditions. For non-uniform subsoil conditions testing must be carried out at the location of the soakaway). Testing must be carried out at the appropriate depth for proposed SuDS (e.g. invert level, base level of soakaway etc.) relative to existing ground levels. Three percolation tests are to be performed at each trial pit location to determine the infiltration rate, where possible. Where slower infiltration rates are experienced, testing must be carried out over a minimum period of 24 hours (longer if 25% effective depth is not reached). 25% effective depth must be reached. Extrapolated test data will not be accepted.

Reason: to ensure viability of infiltration and to inform the detailed drainage design

11. Storage Requirements and Maintenance - Greenfield Site Development shall not commence until a scheme restricting the rate of development flow runoff from the site has been submitted to and approved in writing by the Local Planning Authority. The flowrate from the site shall be restricted to a maximum flowrate of 1.4 litres per second for up to the 1 in 100 year event. An allowance shall be included for climate change effects. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility. No part of the development shall be brought into use until the development flow restriction works comprising the approved scheme has been completed. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.

Reason: To mitigate additional flood impact from the development proposals and ensure that flood risk is not increased elsewhere.

12. No development shall commence on the drainage for the site until a scheme for the drainage of surface water has been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall be undertaken as approved in accordance with the timescales indicated within the approved scheme.

Reason: To ensure viability of infiltration and to inform the detailed drainage design having regard to Part 10 of the NPPF.

13. The agricultural grain store hereby approved shall be used solely for the purpose of storing and drying grain produced from the land within the blue line area of the agricultural business as indicated in the application details on plan

reference J005800-18-17 Dated 13 July 2018 and shall not be used for the storage and drying of grain from other land or farms.

Reason

To prevent the commercial use of the grain store beyond the applicants farm business.

INFORMATIVES

A suitably worded informative which ensures that removal of any features with potential to support nesting birds is undertaken outside of the bird breeding season, generally taken to be 1st March to 31st August inclusive. This is to ensure compliance with the Wildlife and Countryside Act 1981 (as amended). If any works need to take place during this time then the habitats must first be checked by a suitably qualified ecologist and if birds are found to be nesting then works will have to be delayed until chicks have fledged.

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 2017/1381/FULM and associated documents.

Contact Officer: Fiona Ellwood (Principal Planning Officer)

Appendices:

Appendix 1 - Site Images, 2017/1381/FULM

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Appendix 1- Viner Station Site Images

APPLICATION NUMBER:	2017/1381/FULM	PARISH:	Birkin Parish Council
APPLICANT:	JE Hartley Ltd	VALID DATE: EXPIRY DATE:	10th January 2018 11th April 2018
PROPOSAL:	Proposed erection of a new grain store including a chemical store and roof mounted solar PV		
LOCATION:	Land At Viner Station Roe Lane Birkin Knottingley West Yorkshire		



Aerial view of the site



View along Roe Lane looking North towards Viner Station on the left



Above and below-View along Roe Lane looking south. Viner station forecourt on the left





View within the farm site looking south



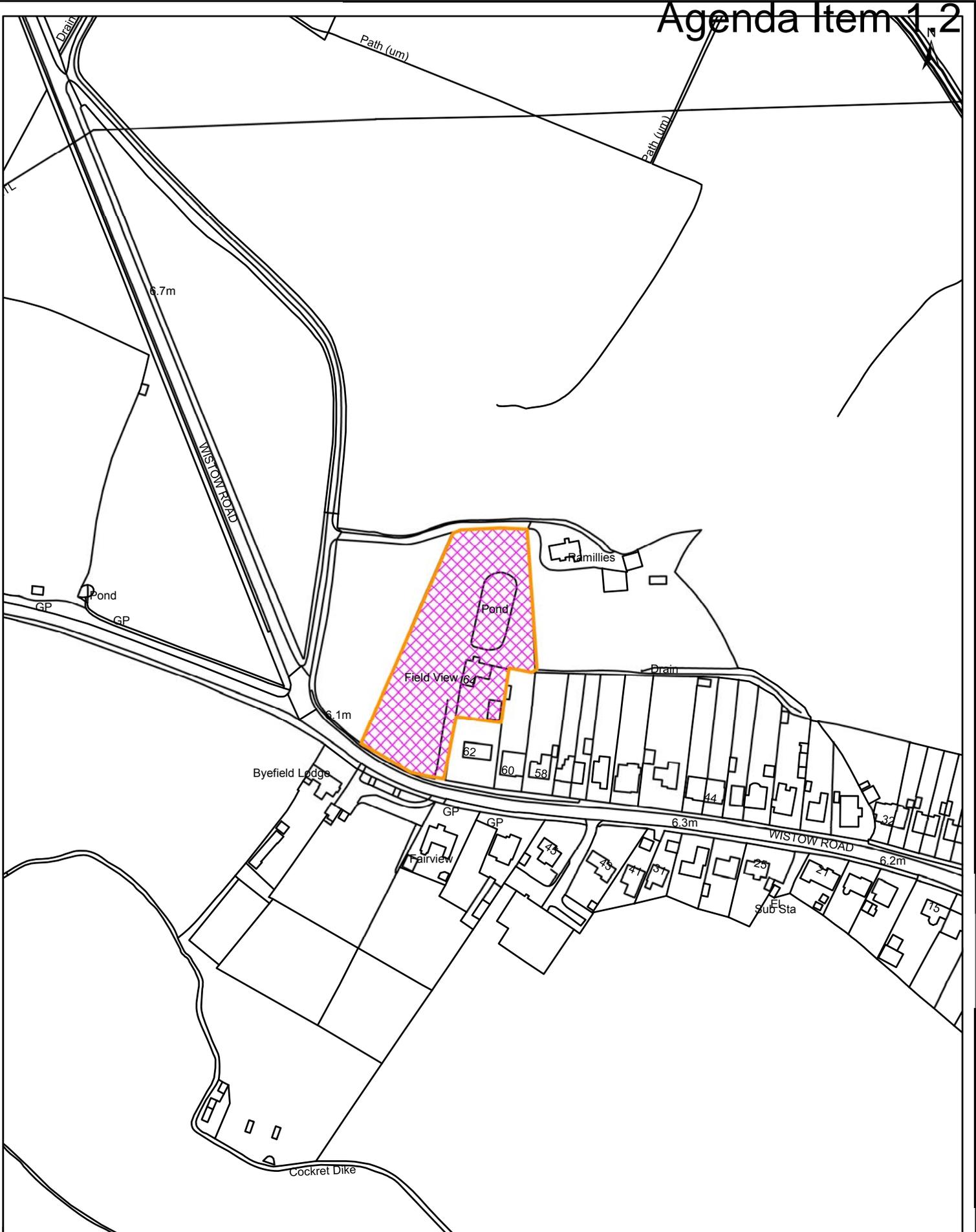
View from the east of Viner station looking west back towards the buildings



View from the east of Viner station looking west back towards the buildings



View from the east looking towards the south east elevation of the potato store



APPLICATION SITE

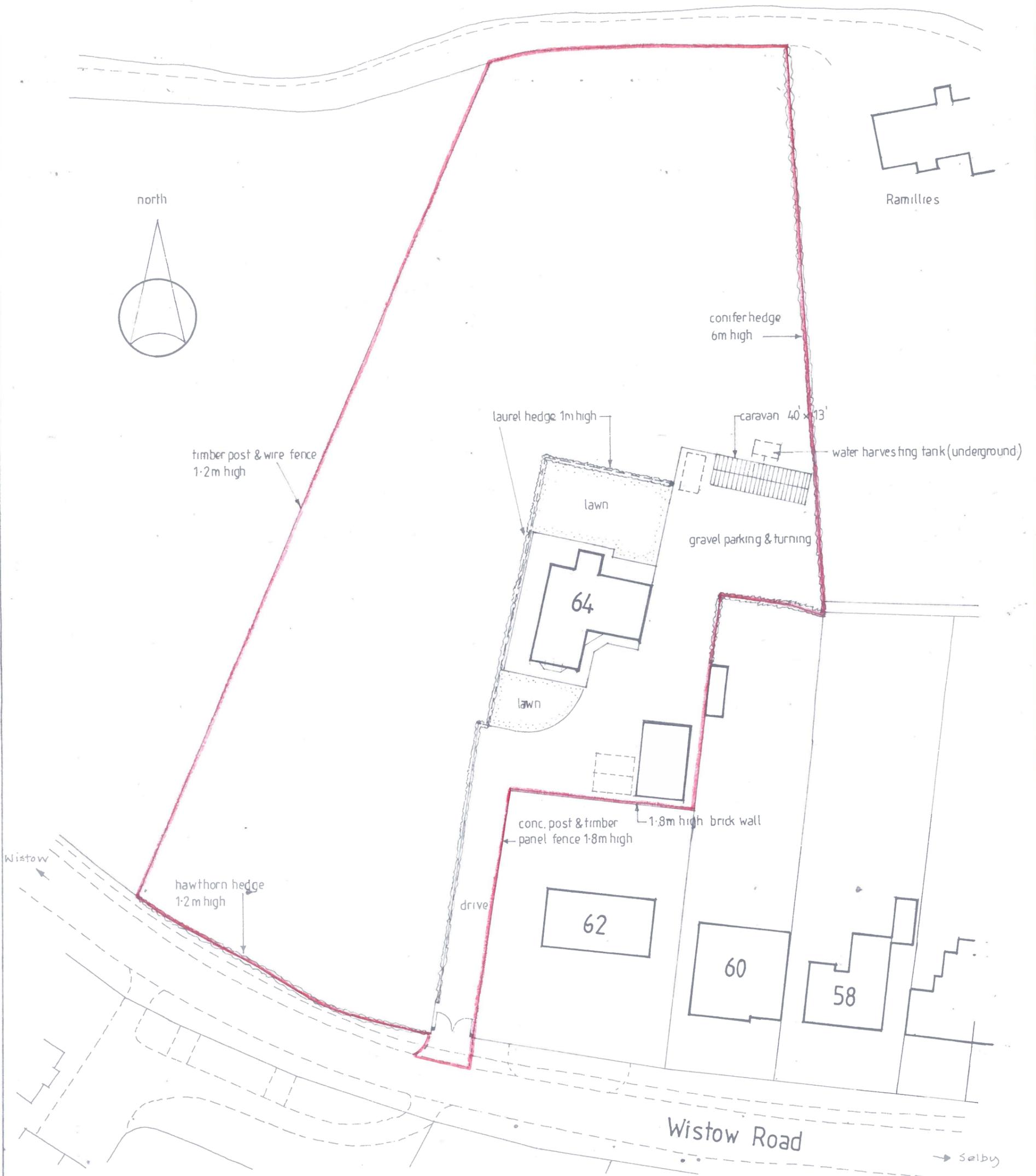
Field View, Wistow Road, Selby
2019/0901/FUL

1:2,500



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Site Layout Plan for the retention of the existing caravan, enlargement of existing domestic curtilage, installation of water harvesting tank and re-alignment of access to Wistow Road at Field View · 64 Wistow Road · Selby · North Yorks · YO8 BLY:

Scale 1:500

Dwg. 191021-1

December 2019

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Report Reference Number 2019/0901/FUL

To: CEO Urgency Decision Session – Planning
Date: 24th June 2020
Author: Rebecca Leggott (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0901/FUL	PARISH:	Selby Town Council
APPLICANT:	Mr John Wilson	VALID DATE:	7th February 2020
		EXPIRY DATE:	3rd April 2020
PROPOSAL:	Retrospective change of use of land to garden land, siting of a static caravan and laying of hardstanding		
LOCATION:	Field View Wistow Road Selby YO8 3LY		
RECOMMENDATION:	REFUSE		

This application has been brought before the CEO Urgency Decision Session as directed by the Head of Planning due to the level of objection. It is also noted that Ward Cllr J. Shaw- Wright has called the application in should officers be minded to approve the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1. The application site lies to the north west of Selby Town centre and part within the development limits and part within open countryside as identified within the Core Strategy.
- 1.2. The application site is formed by the large red line boundary, which wraps around the rear of No 62 and No.60 then extends north and into the field to the west of the newly formed dwelling known as No.64. The village development limits are easily identifiable with the northern boundary running parallel with the rear gardens of all the dwellings which front Wistow Road. No.64 splits and encroaches north, beyond this development limit and extends the built form to the north.

The Proposal

1.3 The proposals consist of a number of components these include:

- The change of use of land to residential garden;
- The siting of a static caravan; and
- The laying of hardstanding.

1.4 It is noted that the application form includes a proposal for the installation of a water harvesting tank. However, no information has been provided in respect of this despite being requested and officers have been unable to assess this element of the application. Therefore, the proposals for the installation of a water harvesting tank have been removed from the proposals.

1.5 It is noted that the main consent granted in 2003 (CO/2003/0520) for a detached dormer bungalow and this was later amended in 2017 (2017/0160/FUL). It is acknowledged that the development was commenced through the construction of the detached garage within the relevant time scales. Therefore, the 2003 application and subsequent amendments through the 2017 permission are extant.

1.6 In terms of the use of the land as garden, this is shown on the submitted red line plan and shows a 0.64hec area of land that exceeds that shown on the 2003 permission. This extends to the north and to the west and is predominantly laid to grass with hedgerows.

1.7 The static caravan is 12.26m x 3.9m and is located to the north east of the main dwelling and is said to be occupied by members of the applicant's family, however no further details have been provided. The agent states that the static caravan is ancillary to the main dwelling and not an independent unit of accommodation.

1.8 Finally, the proposals seek to retain the realignment of the access to Wistow Road which has moved further west, than the access as approved by application reference, 2006/0840/FUL. Additional hard standing has also been created to the rear around the retrospective static caravan.

Relevant Planning History

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

- 2018/0908/COU, Proposed change of use of land to create small touring caravan park for 21 pitches, Address: Land Adjacent to Number 64, Wistow Road, Selby, Decision: WDN, Decision Date: 20-DEC-18
- 2017/0160/FUL, Section 73 application to vary condition 04 (plans & specifications) to change the layout of property and garage of approval CO/2003/0520 for erection of detached dormer bungalow and detached garage to rear, 62 Wistow Road, Selby, Decision: PER, Decision Date: 03-MAY-17
- 2013/0091/DPC, Discharge of conditions 2 (materials) and 8 (landscaping) of approval 8/19/1474/PA (CO/2003/0520) for the erection of detached dormer

bungalow and detached garage to the rear of, 62 Wistow Road, Selby, YO8 3LY, Decision: COND, Decision Date: 28-MAR-13

- 2006/0840/FUL, Erection of a detached garage in the garden and re-alignment of access drive to the approved dwelling to the rear, 62 Wistow Road, Selby, Decision: PER, Decision Date: 29-AUG-06
- CO/2003/0520, Erection of detached dormer bungalow and detached garage to the rear of, 62 Wistow Road, Selby, Decision: PER, Decision Date: 05-SEP-03

2. CONSULTATION AND PUBLICITY

2.1. **NYCC Highways Canal Rd** - There are no local highway authority objections to the proposed development.

2.2. **Yorkshire Water**– Yorkshire Water have raised no objections to the proposals subject to no digging below a depth of 1.5 metres and Yorkshire Water having 24/7 access to their assets on site.

2.3. **Selby Area Internal Drainage Board** - The IDB have raised no objections subject to a number of standard conditions to be attached to any planning consent granted.

2.4. **Environmental Health** – The EHO has raised no objections to the proposed development.

2.5. **North Yorkshire Bat Group** - No response within the statutory time period.

2.6. **Yorkshire Wildlife Trust** – No response within the statutory time period.

2.7. **County Ecologist** – The Ecologist has raised not objection to the proposed development.

2.8. **Parish Council** - Selby Town Council objects to this retrospective application. Applicants should have submitted a planning application prior to work commencing. Any objections from neighbouring properties to be taken into consideration Any considerations from Environment Agency, Environmental Health department and Highways Agency to be taken into account.

2.9. **Neighbour Summary** - All immediate neighbours were informed by letter and a site notice was erected. Resulting in 18 letters of objection being received raising concerns for:

- The garage is not listed in the application, so why have the drawings been provided?
- Extended residential curtilage outside development limits.
- Concerns the water harvesting tank is in fact a septic tank.
- If this application is approved this will encourage further applications for caravans.
- Concerns planning permission is being granted on this site which others in the area are being refused.
- The proposals are contrary to the development plan and there are no special circumstances.

- Residential garden:
 - Impact of the domestic appearance of the cut grass as opposed to agriculture.
 - Removed pd on this land would not reduce the impact.

- Highway Safety:
 - Pick up trucks and trailers accessing the site on a daily basis.
 - Gates not set far enough back from the highway for vehicles to pull off the highway causing traffic to back up on the highway, Wistow Road.
 - Access being located on a sharp bend.

- Drainage:
 - Miss use of the address 62 Wistow Road on the Flood Risk Assessment.
 - The application states that the caravan is connected to mains sewers. However, this is not the case.
 - Concerns for the additional drainage problems the caravan will present.
 - Why are soakaways needed when there is a water harvesting tank being proposed?
 - If the water harvesting tank is a septic tank and discharges directly into the nearby water course this will be a pollution threat.

- Static Caravan:
 - The application states that the building work was completed however work is ongoing to the caravan such as the balcony.
 - Concerns for the use of the static caravan as a separate residential unit and is located outside the defined development limits.
 - Concerns that the static caravan can be clearly seen day and night due to lights around it.
 - The static caravan is out of character with the surroundings and unsightly.

3. SITE CONSTRAINTS

3.1. The site is located part within and part outside the defined development limits of Selby.

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
- H14 – Extensions to Dwellings in the Countryside
- H15 – Extension of Curtilages in the Countryside

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 Safety
- Flood Risk and Drainage
- Nature Conservation and Protected Species

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 mostly located outside the defined development limits of Selby, which is a Principle Town as identified within the Core Strategy. It should be noted that all proposals within this application are located outside the defined development limits as set out on the location and layout plan. The site lies within Flood Zone 1.
- 5.4. Policy SP2A (a) of the Core Strategy states *“The majority of new development will be directed to the towns and more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints”*.
- 5.5. 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 communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances”*.
- 5.6. Policy SP2B of the Core Strategy states that, *“Land will be allocated for development in Selby ... through a Site Allocations Local Plan with preference to land of least environmental or amenity value based on the following ‘sequential approach’: 1. Previously developed land and buildings within the settlement; 2. Suitable greenfield land within the settlement; 3. Extensions to settlements on previously developed land; 4. Extensions to settlements on greenfield land.”*
- 5.7. Policy SP4(a) of the Core Strategy states that *“in order to ensure that development on non-allocated sites contributes to sustainable development and the continued evolution of viable communities, the following types of residential development will be acceptable in principle within Development Limits”. Further to this, “In Selby, Sherburn in Elmet, Tadcaster and Designated Service Villages – conversions, replacement dwellings, redevelopment of previously developed land, and appropriate scale development on greenfield land (including garden land and conversion/ redevelopment of farmsteads)”*
- 5.8. Policy SP4(c) of the Core Strategy states that *“...proposals will be expected to protect local amenity, to preserve and enhance the character of the local area, and to comply with normal planning considerations, with full regard taken of the principles contained in Design Codes (e.g. Village Design Statements), where available.”* Policy SP4(d) of the Core Strategy states that *“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”*.
- 5.9. Policy H15 of the Local Plan states that, *“Proposals to extend the curtilage of properties outside defined Development Limits will only be permitted if there is no significant adverse effect on the character and appearance of the surrounding countryside, and the proposed means of enclosure would be appropriate to the adjoining countryside. Any permission granted may be made conditional upon the removal of permitted development rights in relation to that part of the curtilage outside Development Limits.”*
- 5.10. The application seeks full planning permission for the following:
- The change of use of land to residential garden;
 - The siting of a static caravan; and

- The laying of hardstanding.

- 5.11. In considering the scheme, the proposals would be located outside the defined development limits. The proposals cause encroachment into the countryside and would significantly change the character of the entrance to the settlement and openness of the countryside.
- 5.12. The proposal does not meet any of the acceptable uses within Policy SP2A(c) of the Core Strategy, as it is not for rural affordable housing need and there are no further special circumstances demonstrated.
- 5.13. In respect of the static caravan, notwithstanding the applicant's submissions that this is an ancillary function to the main dwelling, its location lies within the open countryside and extends the development beyond the settlement boundary. The Planning Statement provided states that, this "is occupied by members of the applicant's family." The mobile home has two bedrooms, a bathroom, kitchen, living area and hallway and are designed for self-contained living. The planning statement argues that this is ancillary to the main dwelling as it is only occupied by members of the applicant's family. No further detail has been given in terms of what reliance the occupants have on the main dwelling. This therefore raises the issue of whether it is being lived in independently, particularly given its position, form, parking and general self-contained nature. The application, however, should properly be assessed on the basis of the application submission i.e. as ancillary to the main dwelling, and it is clear that even in this claimed ancillary form, it remains inappropriate development.
- 5.14. In respect of the extension of the residential curtilage, this requires consideration of Policy H15. Which requires an assessment of the impact on the character and appearance of the area. This will be assessed in the following sections of the report.
- 5.15. In considering all of the above, the proposals on a whole would be unacceptable in principle and are not in accordance with Policy's SP2 and SP4 and all other relevant local and national policy tests.

Design and Impact on the Character and Appearance of the Area

- 5.16. Relevant policies in respect to the impact of development on the character and appearance of the area include Policy ENV1 (1), (4) and (5) and H15 of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy. Further to this, relevant policies within the NPPF, include paragraphs 124, 127, 128, 130, 131.
- 5.17. The all the proposed development within this application is located outside the defined development limits and therefore located within the open countryside.
- 5.18. Prior to the development of the site, the land in question was an open grassed field, which provided a clear demarcation of the settlement boundary and open countryside. The 2003 approval sought to locate this development within the settlement boundary and limited the curtilage so as to not encroach into the countryside.
- 5.19. Overall, the proposals seek to retain a significant 0.64ha of land to the north and west of No.64 as its residential curtilage, as well as other development. This current proposal domesticates and 'opens up' the land, removing its once rural character, all of which is harmful to the character of the countryside.

- 5.20. Taking each element of the proposals in turn, in respect of the change of use of land to residential garden. In considering the impacts on the character and appearance of the surrounding countryside, the proposed means of enclosure would be appropriate to the adjoining countryside. The area of land in question has high boundary hedges and trees along the north and north west boundaries of the site. However, although it is noted there are some boundary hedges to the south and south west of the site, these consist of post and rail wooden fencing and low hedges. Therefore, the site is visible from public footpath and from the highway. Further boundary treatments cannot be conditioned for these boundary's due to implications this would have on visibility splays. Therefore, this element of the proposals is considered to have an unacceptable impact on the character and appearance of the area.
- 5.21. In considering the siting of the static caravan, although it is noted that this is set back from the highway, there are still a number of views of the static from the south west of the site, when entering the settlement. The static caravan, by virtue of its scale, design and appearance would be harmful to the countryside setting and be out of keeping with the rest of the surrounding area.
- 5.22. The applicant makes the claim that the caravan would have be permitted development had it have been within the residential curtilage. However, it should be noted that permitted development rights were removed for the lawful site by way of Class E and Class A to Schedule 2, Part 1. Therefore, even if stationed within a residential curtilage and used ancillary to the main dwelling, this could not be permitted development. Further to this permitted development rights were specifically removed from all previous applications for the site in in order to protect the character and appearance of the area. It was certainly not the intention of any of the applications for the whole of red line to be opened up as residential curtilage.
- 5.23. In considering the laying of hardstanding, this relates to the re alignment of the driveway further west than the approved drawings for application reference 2017/0160/FUL. It is also noted that application reference 2006/0840/FUL also included proposals to realign the access and only slightly different to what is on site and being applied for now. Officers at the time determined that, although the proposed realignment would be beyond the defined developments that this would not impact on the character and appearance of the area and open countryside and overall considered this to be acceptable. From a review of all relevant information and a site visit the same conclusion can be reached by officers with this application.
- 5.24. Overall, the proposal is not considered to be acceptable as it would have a significant detrimental impact on the character and appearance of the open countryside. Accordingly, having had regard to Policies ENV1(1), (4) and (5) and H15 of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy and paragraph 127 of the NPPF, it is considered that the proposal is unacceptable.

Impact on Residential Amenity

- 5.25. Relevant policies in respect of the impact of the proposal on residential amenity include Policy ENV1 (1) of the Selby District Local Plan.
- 5.26. 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.

- 5.27. 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.
- 5.28. In respect of the change of use of the land to residential garden, it is not considered that this would pose any significant adverse impacts on overlooking or noise.
- 5.29. In respect of the sitting of the static caravan, given the separation distances, orientation of the static caravan and the scale of this all at ground floor level. It is not considered that this would pose any significant adverse impacts on overlooking, overshadowing or oppression.
- 5.30. In respect of the laying of hardstanding, it is not considered that this would pose any additional significant adverse impacts on overlooking or noise.
- 5.31. Overall, the proposals on a whole are considered acceptable in terms of residential amenity in accordance with Policy ENV1 (1) of the Selby District Local Plan and the advice contained within the NPPF.

Highway Safety

- 5.32. Policy in respect of highway safety is provided by Policies ENV1 (2), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF. The policies of the Local Plan referred to above should be afforded significant weight as they do not conflict with the NPPF.
- 5.33. The proposed scheme benefits from an existing access which from a review of google earth was in situ on 5th July 2007. Furthermore, it is considered that there is sufficient space available on site for parking two cars on site.
- 5.34. Having consulted with NYCC Highways, they have raised no objections to the proposed development specifically in respect of the laying of hardstanding and have suggested no conditions.
- 5.35. It is therefore considered that the proposal is acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Local Plan and the advice contained within the NPPF.

Flood Risk and Drainage

- 5.36. Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design.
- 5.37. It is noted that in complying with the 2013 Building Regulations standards, the development will achieve compliance with criteria (a) to (b) of Policy SP15(B) and criterion (c) of Policy SP16 of the Core Strategy. It is also considered that, taking into account the size, scale and nature of the proposal, it would be not necessary or appropriate for the proposal to meet the other requirements of these policies.
- 5.38. Paragraph 155 of the NPPF states that "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Local Plans should be supported by Strategic Flood Risk Assessment and

develop policies to manage flood risk from all sources, taking account of advice from the Environment Agency and other relevant flood risk management bodies, such as lead local flood authorities and internal drainage boards. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change.”

- 5.39. The submitted Flood Risk Assessment (FRA) identifies that the application site is located within flood zone 3 and is confirmed to be located within flood zone 3 on the Environment Agency's flood zone maps. Land in Flood Zone 3a is regarded as having a 1 in 100 or greater annual probability of river flooding; or Land having a 1 in 200 or greater annual probability of sea flooding. Buildings used as dwellings are considered to be "more vulnerable" in terms of flood risk. "More vulnerable" uses in flood Zone 3a are normally required to meet the Sequential and Exceptions tests. However, the static caravan is being applied for as ancillary to the main dwelling house and therefore the sequential and exceptions test does not apply in this instance.
- 5.40. In respect to the disposal of foul and surface water it is noted that in the submitted flood risk assessment states that, “There does not appear to be any formalised drainage supporting the site. It is considered that the site currently drains by infiltration and evaporation.”
- 5.41. Further to this, the proposals present the rainwater harvesting tank as a method of dealing with surface water from the roof of the mobile home and the use of permeable materials as a way of dealing with the driveway. However, insufficient information has been provided in respect of this water harvesting tank and was subsequently removed from the application description.
- 5.42. In terms of disposing foul water the arrangements are to be as existing, as stated within the application form. Therefore, there are no changes to the disposal of foul water via the existing network to the mains sewers.
- 5.43. In considering this, Yorkshire Water and IDB have been consulted and have not raised objections subject to the attachment of a number of conditions.
- 5.44. Notwithstanding the insufficient information provided in respect of the water harvesting tank. Given there are alternative methods of surface water drainage available and no objections being raised by Yorkshire Water and the IDB. Officers could reasonably condition details of foul and surface water drainage to be provided. It should be noted that this would not include proposals such as a water harvesting tank as this type of development would require full planning permission
- 5.45. On the basis of the above, notwithstanding the water harvesting tank and subject to conditions the proposals would be considered to be acceptable in terms of drainage and flood risk and therefore the proposals accord with Policies SP15, SP16, SP19 of the Core Strategy, and paragraphs 158, 159 and 160 of the NPPF.

Nature Conservation and Protected Species

- 5.46. Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 170, 172 and 175 of the NPPF.
- 5.47. In respect to impacts of development proposals on protected species planning policy and guidance is provided by the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2017 (as amended) and the NPPF. The presence of a protected species is a material planning consideration. In addition, Policy ENV1(5) require proposals not to harm acknowledged nature conservation interests.
- 5.48. The application site is no located within close proximity of any sites protected for nature conservation. Furthermore, comments have been sought from NYCC Ecology who have raised no objections to the proposed development.
- 5.49. Having had regard to all of the above, it is concluded that the proposal is acceptable in respect of nature conservation and protected species and is in accordance with Policy SP18 of the Core Strategy and ENV1(5) of the Local Plan and paragraphs 170, 172 and 175 the NPPF.

CONCLUSION

- 5.50. The proposals are for the change of use of land to residential garden, the siting of a static caravan, and the laying of hardstanding.
- 5.51. The laying out of hardstanding is considered acceptable in all aspects. However, the change of use of land to residential garden and static caravan outside development limits is unacceptable in principle and also in respect of the design and impact on the character and appearance of the area.
- 5.52. In considering the proposed scheme on a whole. Whilst the proposed development is not considered to have a detrimental effect on, residential amenity, highway safety, flood risk, drainage, or ecology, the proposed scheme would not be acceptable in terms of the character and appearance of the open countryside.
- 5.53. Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, the proposals are considered as being unacceptable in principle, due to conflict with Core Strategy Policy SP2. The proposals are also unacceptable in respect of the impacts on the character and appearance of the countryside, due to the appearance of the static caravan and the openness of the land proposed for residential garden.
- 5.54. The application is therefore considered to be contrary to Policies ENV1, ENV2 and H15 of the Selby District Local Plan, Policies SP1, SP2, SP4, SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

6. RECOMMENDATION

6.1. This application is recommended to be refused for the following reasons: -

1. The proposed development significantly encroaches into open countryside, where in accordance with the overall Spatial Development Strategy for the District, development will be restricted 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 communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances. The proposal does not comprise any of the types of development that are acceptable in principle under Policy SP2A (c) of the Core Strategy and therefore the proposal is unacceptable in principle and contrary to Policy SP2A (c) of the Selby District Core Strategy and hence the overall Spatial Development Strategy for the District.

2. The application site provides the entrance to the settlement where the countryside meets the residential urban form. The proposed change of use to domestic garden land and the siting of a static caravan in this location, would be harmful to this character, particularly due to the open nature of the site and views from Wistow Road. The caravan would create an incongruous feature in the landscape by virtue of its sitting, scale and appearance and the proposal would visibly encroach the residential character into the countryside and relate poorly to the remainder of the residential character along Wistow Road. The proposal would have a significant detrimental impact on the character and appearance of the area and fails to comply with Policies ENV1 (1), (4) and (5) of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy and paragraph 127 - 130 of the NPPF as the proposal would not add to the overall quality of the area or be sympathetic to local character.

7. LEGAL ISSUES

7.1. Planning Acts

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

7.2. 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.

7.3. 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.

8. FINANCIAL ISSUES

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

9. BACKGROUND DOCUMENTS

- 9.1. Planning Application file reference 2019/0901/FUL and associated documents.

Contact Officer: Rebecca Leggott (Senior Planning Officer)

Appendices:

Appendix 1 - Site Images, 2019/0901/FUL

Appendix 1 - Site Images

APPLICATION NUMBER:	2019/0901/FUL	PARISH:	Selby Town Council
APPLICANT:	Mr John Wilson	VALID DATE: EXPIRY DATE:	7th February 2020 3rd April 2020
PROPOSAL:	Retrospective change of use of land to garden land, siting of a static caravan, installation of a water harvesting tank and laying of hardstanding		
LOCATION:	Field View Wistow Road Selby YO8 3LY		



Site context



Aerial view of the site



View east along the access



View west along the access



View of the site looking east



View of the access looking east



View of the static caravan looking east

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.