



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY, 28 OCTOBER 2020**
Time: **2.00 PM**
Venue: **MICROSOFT TEAMS - REMOTE**
[\(Click here\)](#)
To: **Councillors J Cattanach (Chair), J Mackman (Vice-Chair),
M Topping, K Ellis, I Chilvers, R Packham, P Welch,
D Mackay and Shaw-Wright**

Agenda

- 1. Apologies for Absence**
- 2. Disclosures of Interest**

A copy of the Register of Interest for each Selby District Councillor is available for inspection at www.selby.gov.uk.

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

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

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

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

- 3. Chair's Address to the Planning Committee**
- 4. Minutes (Pages 1 - 6)**

To confirm as a correct record the minutes of the Planning Committee meeting held on 7 October 2020.

5. **Planning Applications Received (Pages 11 - 12)**
- 5.1. **2018/1214/HPA - Waterside Park, Oakwood Park, Market Weighton Road, North Duffield (Pages 13 - 28)**
 - 5.2. **2019/1216/COU - Land Off Westfield Lane, Thorganby, York (Pages 29 - 52)**
 - 5.3. **2020/0828/S73 - Quarry Drop, Westfield Lane, South Milford, Leeds (Pages 53 - 86)**
 - 5.4. **2017/0872/FUL - Land at Wharfe Bank, Tadcaster (Pages 87 - 136)**

Janet Waggott

Janet Waggott, Chief Executive

Dates of next meeting (2.00pm) Wednesday, 11 November 2020
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Enquiries relating to this agenda, please contact Victoria Foreman on 01757 292046 or vforeman@selby.gov.uk.

Live Streaming

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

Recording at Council Meetings

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

Agenda Item 4



Minutes

Planning Committee

Venue:	Microsoft Teams - Remote
Date:	Wednesday, 7 October 2020
Time:	2.00 pm
Present remotely via Teams:	Councillors J Cattanach and R Packham in the Chair Councillors J Mackman (Vice-Chair), M Topping, K Ellis, I Chilvers, P Welch and S Shaw-Wright
Officers Present remotely via Teams:	Martin Grainger – Head of Planning, Ruth Hardingham – Planning Development Manager, Glenn Sharpe – Solicitor, Fiona Ellwood – Principal Planning Officer, Rebecca Leggott – Senior Planning Officer, Chris Fairchild – Senior Planning Officer, Jac Cruickshank – Planning Officer, Bethany Harrison – Planning Officer, Victoria Foreman – Democratic Services Officer and Gina Mulderrig – Democratic Services Support Officer

31 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor D Mackay.

32 DISCLOSURES OF INTEREST

Councillors J Cattanach, J Mackman and I Chilvers declared a personal interest in agenda item 5.2 – Model Farm, Broad Lane, Cawood as they were all members of the Ouse and Derwent Internal Drainage Boards and as such would leave the meeting and not take any part in the debate for this item.

All Committee members declared a non-pecuniary interest in agenda item 5.3 – 29 Broad Lane, Cawood, Selby as they had received a number of additional representations in relation to the application.

33 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chair announced that public speaking had been reintroduced at Planning Committee and that this was the first meeting at which it would take place remotely.

The Committee noted that an Officer Update Note had been circulated and

that the business would be taken in the order as set out on the agenda.

Members noted that details of any further representations received on the applications would be given by the Officers in their presentations.

Lastly, the Chair reported that that Selby's performance in relation to successful appeal decisions was that the Council was in the top 15 out of 354 local authorities across the UK. This ranking was testament to both Officer and Member decisions.

34 MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 23 September 2020.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 23 September 2020 for signing by the Chairman.

35 PLANNING APPLICATIONS RECEIVED

The Planning Committee considered the following applications.

35.1 2019/1020/FUL - LAND ADJACENT DUDDINGS FARM, HIGH STREET, CARLTON

Application: 2019/1020/FUL

Location: Land Adjacent Duddings Farm, High Street, Carlton

Proposal: Proposed erection of a new single storey retail unit consisting of sales area approximately 280 square metres under the use class A1 and back of house area approximately 103 square metres, along with the associated hard and soft landscaping within the site boundary

The Senior Planning Officer presented the application which had been brought before Planning Committee as the proposal was contrary to the requirements of the development plan (namely S4 of the Selby District Local Plan) but it was considered that there were material considerations which would justify approval of the application.

The Committee noted that the application was for the proposed erection of a new single storey retail unit consisting of sales area approximately 280 square metres under the use class A1 and back of house area approximately 103 square metres, along with the associated hard and soft landscaping within the site

boundary.

An Officer Update Note had been circulated to the Committee which set out a number of amendments to the conditions in the report, following comments from Members and the applicant.

Matt Wilkinson, applicant, was invited remotely into the meeting and spoke in support of the application.

The Committee discussed the application and expressed their support for the scheme.

It was proposed and seconded that the application be granted subject to conditions; a vote was taken on the proposal and was carried.

RESOLVED:

To GRANT the application subject to the conditions set out at paragraph 7 of the report and the Officer Update Note.

35.2 2020/0218/FUL - MODEL FARM, BROAD LANE, CAWOOD

At this point Councillors J Cattanach (Chair), J Mackman (Vice-Chair) and I Chilvers withdrew from the meeting having all declared an interest in agenda item 5.2 – 2020/0218/FUL – Model Farm, Broad Lane Cawood, as they were Council-appointed members of the Selby Area Internal Drainage Board.

As both the Chair and Vice Chair had withdrawn for the meeting for the following item, the Democratic Services Officer asked for nominations for a temporary Chair of the meeting.

It was proposed and seconded that Councillor R Packham be appointed as Chair for agenda item 5.2 - 2020/0218/FUL – Model Farm, Broad Lane Cawood. A vote was taken on the proposal and was carried.

Councillor R Packham in the Chair.

Application: 2020/0218/FUL

Location: Model Farm, Broad Lane, Cawood

Proposal: Proposed change of use from agricultural storage to depot for the Selby Area Internal Drainage Board and siting of modular site office/changing room

The Senior Planning Officer presented the application which had been brought before Planning Committee as it did not strictly accord with Policy EMP8 (1) and (2) of the Selby District Local Plan as identified in the report below. However, since the proposal would comply with all other relevant criteria, it was considered that there were material considerations which supported the application.

The Committee noted that the application was for the proposed change of use from agricultural storage to depot for the Selby Area Internal Drainage Board and siting of modular site office/changing room.

In relation to the Officer Update Note, Members noted that a condition had been added regarding the use of the modular site office/changing room, and that there had also been two minor amendments to provide further clarity on informative (5) Consent - Discharge and (6) Ecology.

Members considered the application and expressed support for the scheme; they felt that it was a reasonable, well-presented development.

It was proposed and seconded that the application be granted subject to conditions; a vote was taken on the proposal and was carried.

RESOLVED:

To GRANT the application subject to the conditions set out at paragraph 7 of the report and the Officer Update Note.

35.3 2020/0485/HPA - 29 BROAD LANE, CAWOOD, SELBY

Councillors J Cattnach (Chair), J Mackman (Vice-Chair) and I Chilvers re-joined the meeting at this point. Councillor J Cattnach resumed the role of Chairman and thanked Councillor R Packham for being temporary Chair.

Councillor K Ellis also joined the meeting at this point.

Application: 2020/0485/HPA

Location: 29 Broad Lane, Cawood, Selby

Proposal: Alterations to roof of existing garage to provide additional living accommodation and single storey extension to rear

The Planning Officer presented the application which had

been brought before Planning Committee at the discretion of the Head of Planning as 10 letters of representation had been received which raised material planning considerations, and Officers would otherwise determine the application contrary to these representations.

The Committee noted that the application was for alterations to the roof of an existing garage to provide additional living accommodation and a single storey extension to the rear.

In response to a question from Members, the Planning Officer confirmed that any resubmission of a previous 2016 lapsed permission for a detached annex application would need to be reassessed. The Officer also confirmed that should the proposals before Members be built in two separate phases, this would constitute permitted development. In addition, Members asked questions relating to gable end elevations and the siting of windows.

An Officer Update Note had been circulated which set out further details of comments received from the Drainage Board and a number of additional representations from members of the public who had previously objected to the application. It was not felt that the additional representations raised any material planning considerations further than those considered in the Officer's report.

A letter from the applicant had also been received and circulated to Members, which made reference to the extant permission for the single storey extension and the advice received under PD/2020/0079. The letter also stated that works had started on site for the elements that could be constructed without further permission, as the footprint was the same.

Officers confirmed it was not considered that any material planning considerations had been raised as a result of these representations which would warrant the refusal of the application.

Claire Richards, agent, was invited remotely into the meeting and spoke in support of the application.

Due to technical difficulties Robina Hodgson, objector, was unable to access the remote meeting. As a result, the representation submitted by the objector was read

out in full by Democratic Services to the meeting.

The Committee considered the application and felt that the objections submitted to the application did not have substance as planning matters, and agreed that a detailed assessment of the application had been undertaken by Officers and that the proposals were acceptable.

It was proposed and seconded that the application be approved subject to conditions; a vote was taken on the proposal and was carried.

RESOLVED:

To APPROVE the application subject to the conditions set out at paragraph 7 of the report.

35.4 2020/0800/HPA - 89 DONCASTER ROAD, SELBY

Application: 2020/0800/HPA

Location: 89 Doncaster Road, Selby

Proposal: Rear single-storey extension for kitchen/family room extension

The Planning Officer presented the application which had been brought before Planning Committee as the proposal had been submitted by the partner of a Head of Service for Selby District Council.

The Committee noted that the application was for a rear single-storey extension for a kitchen/family room extension.

The Committee considered the application in full. It was proposed and seconded that the application be granted subject to conditions; a vote was taken on the proposal and was carried.

RESOLVED:

To GRANT the application subject to the conditions set out at paragraph 7 of the report.

The meeting closed at 3.53 pm.

Planning Committee – Remote Meetings

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20. Please note that the Meetings are streamed live to meet with the legal requirement to be "public" but are not being recorded as a matter of course for future viewing. In the event a meeting is being recorded the Chair will inform viewers.
21. These procedures are being regularly reviewed as we start to operate in this way.

Contact: Democratic Services

Email: democraticservices@selby.gov.uk

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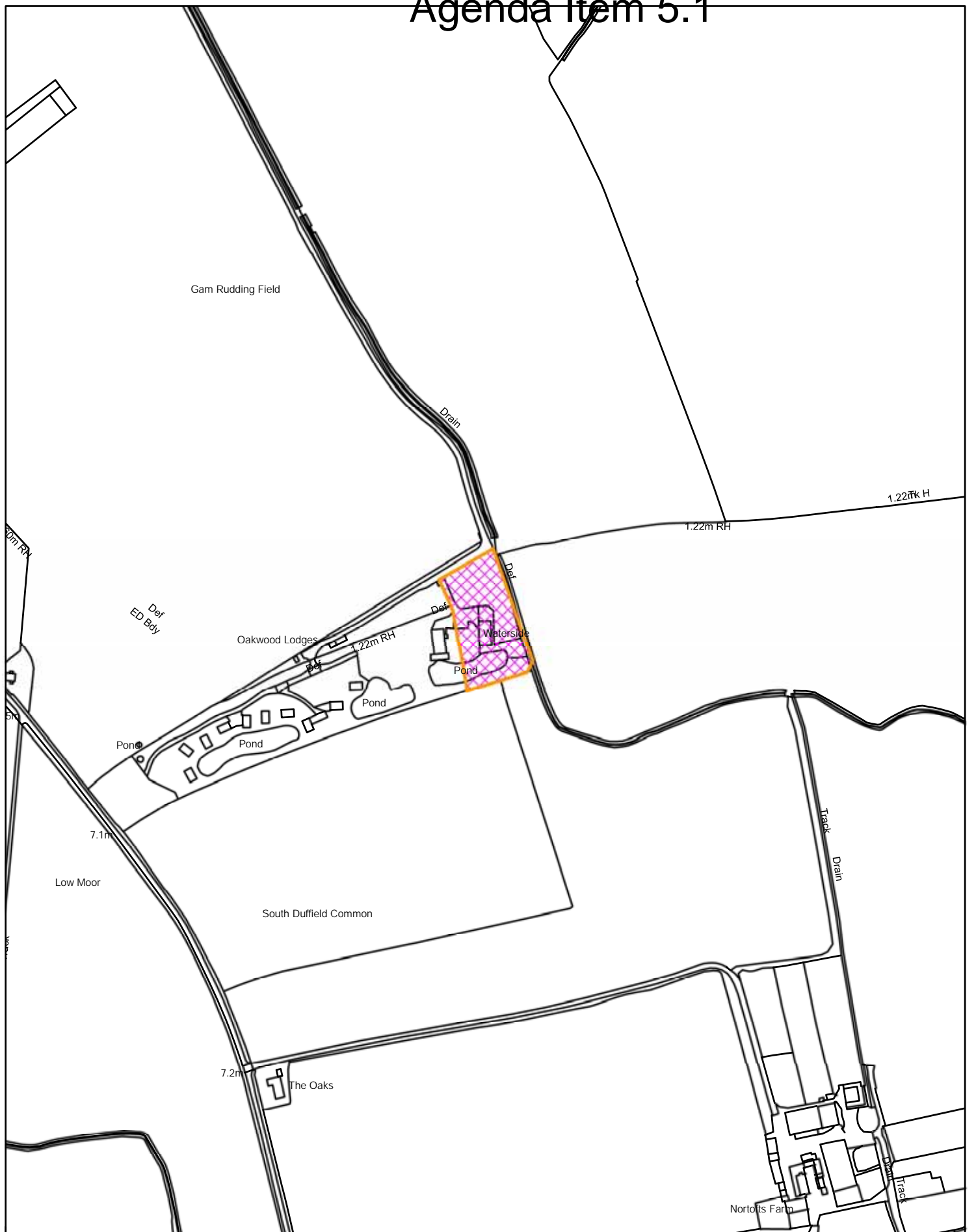
Agenda Item 5

Items for Planning Committee

28 October 2020

Item No.	Ref	Site Address	Description	Officer	Pages
5.1	2018/1214/HPA	Waterside Park, Oakwood Park, Market Weighton Road, North Duffield	Application for the erection of a detached games room, detached garage and extension to an integral "granny flat" annexe (Retrospective)	GAST	13 - 28
5.2	2019/1216/COU	Land Off Westfield Lane Thorganby York	Change of use of land to form a 12-pitch touring caravan site including the siting of shower and toilet facilities, new internal access track and associated works	RELE	29 - 52
5.3	2020/0828/S73	Quarry Drop Westfield Lane South Milford Leeds	Section 73 application to vary condition 04 (approved plans) of planning permission 2010/0507/FUL for construction of a five-bedroom, three storey detached house	JETY	53 - 86
5.4	2017/0872/FUL	Land at Wharfe Bank, Tadcaster	Proposed installation of a recreational raised seating area over the existing temporary bridge foundation	RUHA	87- 136

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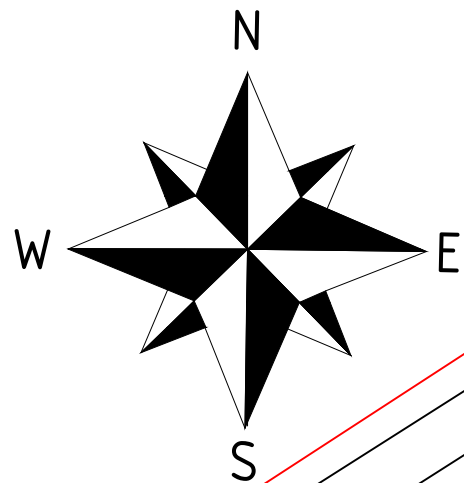
APPLICATION SITE

Waterside Park, Oakwood Park, Market Weighton Road W, North Duffield
2018/1214/HPA

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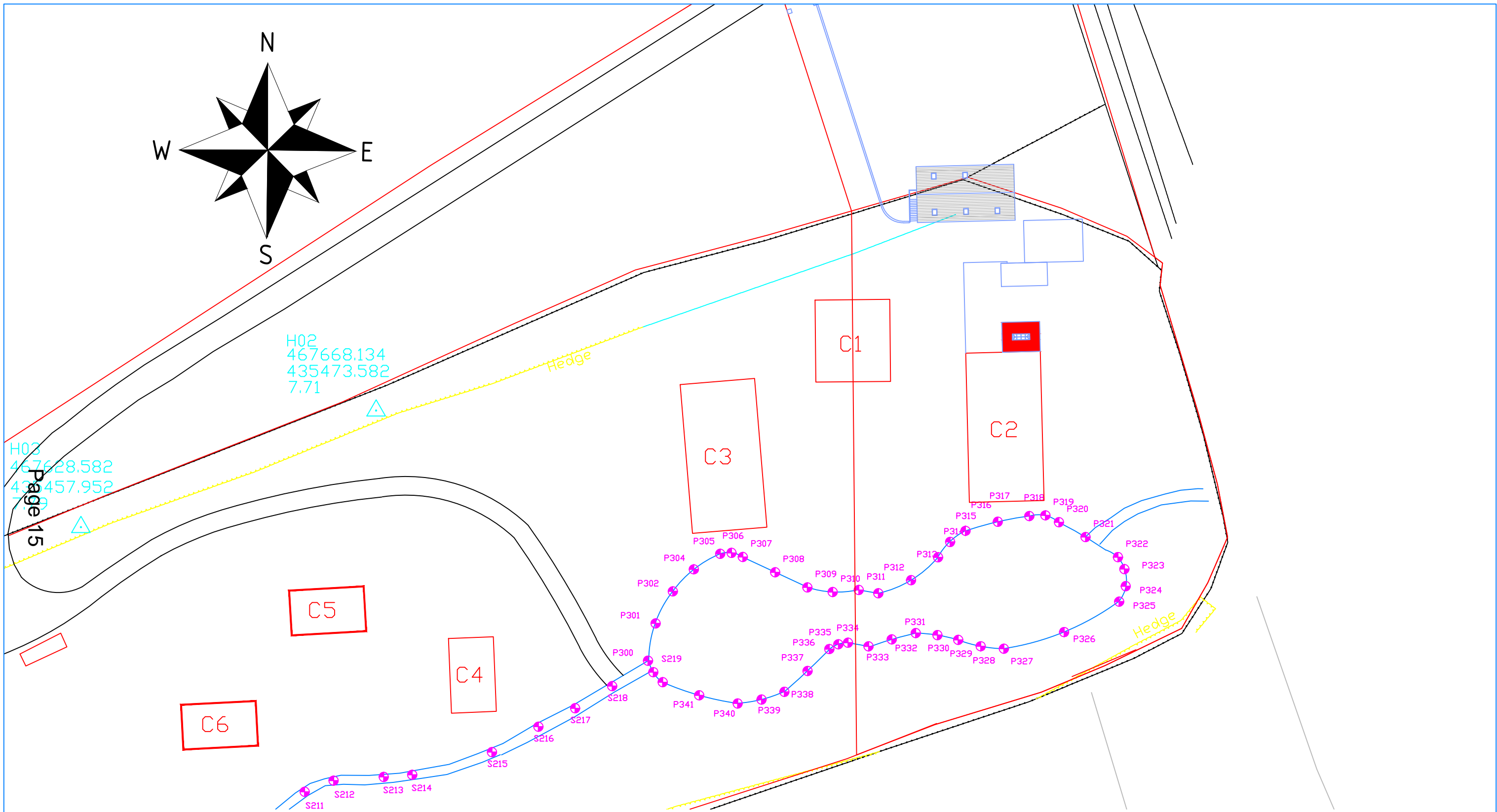
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Page 15



Project
Waterside Lodge. Oakwood Park
Market Weighton Road Selby YO8 5DD

Title
Extension To Integral Granny Annex

Drawn TD Date 18/10/2018
Scale 1.500 @ A3 Checked

TDD
THIS DRAWING IS CONFIDENTIAL AND MAY NOT BE USED, COPIED OR DISCLOSED TO ANYONE WITHOUT PERMISSION OF TDD.

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Report Reference Number: 2018/1214/HPA

To: Planning Committee
Date: 28 October 2020
Author: Gareth Stent (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/1214/HPA	PARISH:	Cliffe Parish Council
APPLICANT:	Mr Peter Beck	VALID DATE: EXPIRY DATE:	7th November 2018 2nd January 2019
PROPOSAL:	Application for the erection of a detached games room, detached garage and extension to an integral "granny flat" annexe (Retrospective)		
LOCATION:	Waterside Park Oakwood Park Market Weighton Road W North Duffield Selby North Yorkshire YO8 5DB		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as it has been requested to Committee by former Councillor J Deans in 2018 who considered Members should wish to consider whether the application was a gross overdevelopment of the site, contrary to the Development Plan, constitutes inappropriate development outside of the development limits and has a detrimental impact on the openness of the countryside.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 Waterside Lodge was originally granted in 2006 as part of a wider holiday 'cabin' complex (2006/1531/FUL), however the owner in 2018 undertook a series of domestic additions, which are now sought for retention.

- 1.2 The legitimacy of the residential use has been the subject of lengthy discussions, particularly concerning the occupancy and lack of enforceable planning conditions limiting the cabin to holiday use, however this has recently been concluded in the certificate of lawfulness issued under reference 2019/1223/CPE. The property is therefore regarded as a lawful C3 dwelling and capable of being considered for householder planning purposes.

The Original Permission

- 1.3 Waterside Lodge was originally shown as a 2 storey 10m x 20m executive cabin being 4 bedrooms positioned on the eastern side of the site. This sat alongside 'Rose Lodge' to the west. The remaining cabins on the site are much smaller being single storey and 10m x 6m in size.
- 1.4 In terms of the actual development, whether it was intentional or not, Waterside Lodge is a building (operational development) and not caravan as the size of the cabin goes beyond what could be considered a caravan and the structure is immovable.
- 1.5 The structure was built in the correct position, however it is now clear from the plans that the cabin has not been laid out internally as per the planning approval and there are a number of fenestration details which differ from the approved plans in 2006. Nevertheless, the massing is 'as approved' and the remaining elements would not be considered material divergences.
- 1.6 The original curtilage was also much smaller than it is today, with the applicant seemingly extending the curtilage north to the access road and putting in a new domestic access. The 2006 approval showed no further ancillary buildings; however two further buildings have however been added. These are a linked garage styled building, which straddles the boundary of Rose Lodge to the west, then a further detached single storey flat roof 'pod type' building to the north of the dwelling. Both of which are unauthorised, however appear to be immune by virtue of the passage of time (4 years). The garage which straddles the boundary with Rose Lodge is incorrectly shown on the site location plan that supports this submission.

The Proposal

- 1.7 This householder application seeks to retain a 1.5 storey detached games room, detached garage and a single storey extension to the north elevation of Waterside Lodge.

Relevant Planning History

- 1.8 The following historical application is considered to be relevant to the determination of this application.
- 2006/0390/FUL - Erection of fourteen holiday cabins, community building and associated works, Address: Proposed Holiday Cabins On OS Field No 6142, Greengate Lane, South Duffield, Selby, North Yorkshire, Decision: Refused, Decision Date: 19-JUN-06
 - 2006/1531/FUL - Resubmission of refusal 8/17/37C/PA for the erection of fourteen holiday cabins, community building and associated works, Address:

Proposed Holiday Cabins On OS Field No 6142, Greengate Lane, South Duffield, Selby, North Yorkshire, Decision: Granted, Decision Date: 02-FEB-07

- 2008/0558/FUL, Description: Erection of 6 No holiday cabins with a ancillary parking and landscaping, Address: Proposed Holiday Cabins On OS Field No 6142, Greengate Lane, South Duffield, Selby, North Yorkshire, Decision: Withdrawn.
- 2017/0229/FUL, Description: Section 73 to vary/remove conditions 05 (access), 10 (access) and 17 (access) of approval 2006/1531/FUL for resubmission of refusal 8/17/37C/PA for the erection of fourteen holiday cabins, community building and associated works, Address: Oakwood Lodges, Oakwood Park, Weighton Road W, North Duffield, Selby, North Yorkshire, YO8 5DB, Decision: PER, Decision Date: 9-NOV-17.
- 2017/0233/HPA, Description: Proposed erection of 2 storey extension to include swimming pool to ground floor and bedroom with ensuite to first floor, Address: 1 Waterside Lodge, Oakwood Park, Market Weighton Road W, North Duffield, Selby, North Yorkshire, YO8 5DB, Decision: *Pending Consideration – This needs withdrawing as it involved a much larger extension to the Cabin at Waterside Lodge.*
- 2017/1270/DOC, Description: Discharge of conditions 17 (Access), 18 (Visibility Splays) and 19 (Highway Improvements) of approval 2017/0229/FUL Section 73 to vary/remove conditions 05 (access), 10 (access) and 17 (access) of approval 2006/1531/FUL for resubmission of refusal 8/17/37C/PA for the erection of fourteen holiday cabins, community building and associated works, Address: Oakwood Lodges, Oakwood Park, Market Weighton Road W, North Duffield, Selby, North Yorkshire, YO8 5DB, Decision: COND, Decision Date: 17-JAN-18
- 2018/0177/CPE, Application for a lawful development certificate for the existing use of land, for self-catering holiday lodges open all year and for use as dwellings C3 (lawful not to comply with any condition or limitation), Address: Oakwood Lodges, Oakwood Park, Market Weighton Road W, North Duffield, Selby, North Yorkshire, YO8 5DB,, Decision: Pending Consideration.
- PD/2018/0031, Description: Permitted development enquiry to establish if planning permission is required for a rear extension to form swimming pool and building, Address: Rose Lodge, Oakwood Park, Market Weighton Road W, North Duffield, Selby, North Yorkshire, YO8 5DB, Decision: PDAP, Decision Date: 25-APR-18
- 2018/0125/DOC, Description: Discharge of conditions 01 (materials), 02 (plans), 03 (site enclosure), 04 (landscaping), 05 (occupancy), 06 (occupancy), 07 (drainage), 08 (access), 09 (access), 10 (visibility splays), 11 (access, parking & manoeuvring), 12 (parking), 13 (highways), 14 (lighting), 15 (plans), 16 (access) of approval 2017/0229/FUL Section 73 to vary/remove conditions 05 (access), 10 (access) and 17 (access) of approval 2006/1531/FUL for resubmission of refusal 8/17/37C/PA for the erection of fourteen holiday cabins, community building and associated works, Address: Oakwood Lodges, Oakwood Park, Market Weighton Road W, North Duffield, Selby, North Yorkshire, YO8 5DB,, Decision: Conditions Part Discharged, Decision Date: 14-MAY-18

- 2018/0924/HPA, Description: Proposed single storey extension to form swimming pool and associated rooms, Address: Rose Lodge, Oakwood Park, Market Weighton Road W, North Duffield, Selby, North Yorkshire, YO8 5DB, Decision: Permission, Decision Date: 23-OCT-18.
- 2019/1223/CPE Certificate of lawfulness to Lawful development certificate for existing use as a dwelling.

2. CONSULTATION AND PUBLICITY

2.1 **The Ouse & Derwent Internal Drainage Board** – No objections but further detail required in respect of surface water.

2.2 **Parish Council** – No response received.

2.3 **NYCC Highways Canal Rd** – No objections.

2.4 **Ecology** - As this is an application for a retrospective development any ecological impact has already occurred and is not measurable in terms of its significance. No further comments.

2.5 **Neighbour Comments** – The application was advertised by a site notice. 3 letters of objection were received. The issues raised were as follows:

- After refusing the original application, Selby District Council granted consent for construction of a fairly modest 2 storey cabin situated on a holiday park with occupancy restricted to 11 months a year.
- The only (two) 2 storey cabins on this park were separated from the rest by a huge earth bank, the site layout was changed and a private driveway created. None of which was approved. In the hands of the original applicant, this holiday cabin has now morphed into a considerable housing complex of nearly 7000sq feet.
- The detached two storey 2500sq ft bar and games room has been built outside the boundaries of the original approved site.
- Approval is only being sought now due to it being for sale.
- This is an application for a very substantial contemporary housing complex that has already been built in open countryside without planning consent or reference to building control inspection. It is clearly out of scale with its surroundings, not in keeping with the rural environment and a gross overdevelopment of the original site. This type of development must surely be contrary to the policies of the SDC Local Plan.
- The materials are out of keeping.
- Planning regulations, conditions and procedures should be adhered to. The applicant has ignored all planning constraints

2.6 A request from (former) Councillor J Deans was also made for the application to be presented to Planning Committee. The material planning reasons were:

- 1) a gross overdevelopment of the site
- 2) is contrary to the Development Plan
- 3) constitutes inappropriate development outside of the development limits
- 4) has a detrimental impact on the openness of the countryside.

3 SITE CONSTRAINTS

Constraints

- 3.1 The site lies outside development limits and within open countryside. The site is within flood zone 1.

4 POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the 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
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

5 APPRAISAL

5.1 It is considered that the main issues for consideration in the determination of this application are as follows:

- 1) The Principle of the Development
- 2) Design and Impact on the Character and Appearance of the Area
- 3) Impact on Residential Amenity
- 4) Flood Risk

The Principle of the Development

5.2 Core Strategy Local Plan Policy SP2(c) states that "Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the reuse of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances."

5.3 The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside. The application is seeking permission for a domestic addition to the dwelling (single storey extension) and 2 further ancillary outbuildings to a lawful C3 dwelling. Policy H14 does allow for extensions to dwellings within the countryside which includes ancillary outbuildings and there is nothing in the NPPF to identify this type of development as being unsustainable or preclude in principle development of this type in this location. The key assessment is therefore the visual impact on the character and appearance of the countryside.

Design and Impact on the Character and Appearance of the Area

5.4 Policy H14 of the Selby District Local Plan specifies that extensions to dwellings in the open countryside will be permitted provided that:

- 1) the proposal would be appropriate to its setting and not visually intrusive in the landscape,
- 2) the proposal would not result in a disproportionate addition over and above the size of the original dwelling and would not dominate it visually and;

3) the design and materials of the proposed extension would be in keeping with the character and appearance of the dwelling and where appropriate other buildings in the area.

5.5 The application site comprises of a detached two-storey chalet style dwelling, granted consent in 2006. The property sits to the eastern side of the leisure complex and set back from the access track behind a mature tree belt. The original curtilage was restricted to ensure the impact on the countryside and cross field views were limited.

5.6 It is important to consider what was originally granted under the 2006 consent as the development on site today has increased significantly from its once 'open nature' as approved in 2006. The number of buildings and an appreciation of the volumes all help with understanding the site history and to assess the extent of the extensions which are proposed.

5.7 The 2006 approval gave consent for a 10 x 20 m cabin with eaves height of 4m and ridge 7.9m. This gave an approximate volume of 1190 cu m for the main dwelling. Two further buildings have since been constructed in the curtilage. These are the shared garage, which straddles the boundary with Rose Lodge and a single storey detached timber building (garden pod) to the north of the dwelling. No plans have been supplied within this submission or either of these buildings, however from the site plan these can be approximately calculated at:

Shared garage - 7.5m (L) x 6 (w) x 2.5 (h) = 112.5 cu m.

Garden Pod - 6 x 3 x 2.5 = 45 cu m

5.8 This equates to 157.5 cu m of unauthorised extension prior to the structures under this application being considered.

5.9 The applicant states the shared garage was built in 2014, "It was originally intended as a maintenance building for the lodge park but was not needed for this purpose when the applicant and his business partner decided to sell the rest of the park. The other "building" is a "garden pod" which the applicant put in for his father to use. A neighbour reported this to the Council. The applicant gave details of size, use etc. and the Council agreed this was permitted development."

5.10 Buildings sought for retention;

- Single storey annex extension – 5 x 4 x 2.7 = 54 cu m

- Garage 7.85 x 5.6 x 3 = 131 cu m

- Games room = 344 cu m

Total = 529 cu m

- Total 529 + 157 (unauthorised buildings) = 686 cu m.

5.11 In considering the above, when the original permitted volume of 1190 cu m is added to the unauthorised buildings and buildings sought for retention this equates to 57% increase in volume over and above the original approval.

- 5.12 In relation to Policy H14 (1) the proposal must be appropriate to its setting and not visually intrusive in the landscape. The proposal is for 3 separate buildings therefore taking each on in turn. The single storey extension to the dwelling referred to as the annex extension is located on the north elevation and sits behind the boundary fence and is the least imposing of all 3 structures. The modest scale and flat roof design mean it has and has no outward visual impact on the character of the countryside. The garage whilst being relatively modest in scale and flat roofed, again has limited impact on the wider countryside views and is relatively well related to the main dwelling in terms of its siting. It does, however, add yet further to the clutter of buildings within the curtilage.
- 5.13 The games room is much further north, 1.5 storey in height and is the first building visible on the approach to the leisure complex. It projects beyond the tree line, which currently screens the existing dwelling and wider leisure park and does cause some visual harm to the immediate countryside setting on account of its scale and position. This impact however is only appreciated from visitors to the site, as the whole development is approximately 1 km away from the main road (A163) and is not distinguishable from main public vantage points. In addition, its height and form are generally at odds with the location and sale of the development so close to the road. It is also sited beyond the curtilage of the original plot for Waterside, however this has since been made lawful by the granting of the certificate.
- 5.14 The curtilage as a whole would have 4 free standing buildings, which cumulatively detracts from the openness of the character of the original permission, where no curtilage buildings were shown. The more buildings created the more domestic the site becomes, in what is a very rural setting.
- 5.15 In terms of Policy H14 (2) which aims to protect the countryside from the impact of extensions to existing dwellings by ensuring that they are proportionate to the original dwelling. What constitutes a disproportionate addition/extension is not defined in policy and as such whether an extension by itself, or cumulatively with other extensions constitutes a disproportionate addition is a matter of fact and degree. On the basis of recent appeal decisions it is considered that extensions in the countryside with a cumulative volume of over 50% are normally considered disproportionate, however proposals also have to be assessed through the comparison of the proposal (and other extensions to the property) in relation to the size, scale and mass of the existing original building. In this context the existing original building refers to the building as it stood in 1947 or as it was originally built after that date i.e. 2006.
- 5.16 The existing dwelling as stated above had a cubic mass of 1190 cu m. The cubic content of all the extension that are unauthorised and seeking retention equates to 686 cu, which is a 57% increase over the size of the original massing. This is on the cusp of what is regarded as being disproportionate simply in terms of numbers.
- 5.17 It is also necessary to mention that the adjacent dwelling 'Rose Lodge' had permission granted for a single storey extension to form a swimming pool (2018/0924/HPA). This was a flat roof single storey structure with a volume of 911 m³ equating to an 82% increase in volume. This however was justified with the report stating *'having had regard to the scale of the proposal and its siting which would be to the side (West) elevation and set into the ground and proposed landscaping, it is considered that the proposals would not dominate the original dwelling visually.'*

- 5.18 Given the above, whilst the figures and percentages give consideration to volumes and massing, it is necessary to assess the impact of extensions on the countryside as opposed to basing the considerations solely on percentages or numbers. The key test is whether a proposal would result in a disproportionate addition over and above the size of the original dwelling, whether it would dominate it visually and cause harm to the character of the countryside.
- 5.19 In this case Officers consider that the amount of new buildings does litter the curtilage and reduces the sense of openness around the chalet. This is further harmed by the position scale or the games room. Whilst it is lower in scale than the original dwelling, its positioning at the front of the site is visible beyond the tree line and is an unnecessary addition to this well-planned leisure scheme that original made use of the tree belt at the entrance to the site.
- 5.20 In support of the application the agent contends that had 15 lodges been applied for then one may have been located where the games room was proposed and therefore a position which takes issue with siting and visual impact cannot be substantiated. Officers do not consider this to be the case as the development was specifically located south of the existing tree belt. The games room intersects this tree grouping and may have indeed removed some trees to facilitate the building of the structure. However, it is accepted that the games room whilst being visible is set in the context of the wider leisure park and is constructed of materials and is of a form that relates to its immediate buildings.
- 5.21 Finally, the agent contends that the annex extension is permitted development, however Officers disagree, however this doesn't need exploring further given its being applied for and Officers are prepared to support its retention.
- 5.22 In relation to Policy H14 (3), the extensions to the main dwelling, garage and games room are all constructed of materials that match Waterside Lodge. This helps with assimilation and gives some continuity over the materials used.
- 5.23 Having regard to the above, it is considered that the garage and extension are appropriate given their size, design and siting and would not have a significant impact on the character and appearance of the countryside. The games room, however, is of substantial scale, inappropriately located north of the main building and causes some harm to the immediate setting of this leisure park. It is without question that had the building been applied for prior to its construction, then a lesser scale and alternative siting would have been encouraged.
- 5.24 It is however over a kilometre away from public vantage points, set deep in the countryside with no real impact over and above what the leisure complex already creates. Therefore, the harm to the wider countryside setting cannot be substantiated. It is also necessary to consider that a refusal of the building would lead to enforcement action and the District Council would have to consider direct action for its removal if any resultant appeals failed. Officers with this in mind do not consider it sufficiently harmful to warrant its removal and thus the harm to the countryside cannot be to such a degree that it warrants a refusal of planning permission.
- 5.25 The matter has been ongoing for several years and requires to be brought to a conclusion and whilst unauthorised development is not a reason in itself to warrant approval, it is a factor that needs consideration.

- 5.26 Finally the dwelling has in recent years been sub-let at weeks for its use as a holiday destination where small groups of people hire the dwelling for celebrations. This is precisely what the original intention of the property was to be used for i.e. short term letting. Its attractiveness is the amount of facilities it hosts, one of which is the games room. Therefore, retaining the games room will maintain this attraction, and encourage customers to the district and all the spin offs associated with such a use.
- 5.27 Therefore it is acknowledged that the games room does cause some harm, however overall, the proposal sought for retention doesn't have a harmful impact on the character and appearance of the wider countryside. The proposal therefore 'on balance' accords with Policy SP19 of the Core Strategy and Policies ENV1 and H14 of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Residential Amenity

- 5.28 With respect to residential amenity, the only dwelling that could be affected by the proposals is Rose Lodge to the west. The garage and annex extension are both single storey and are positioned well away from the western boundary and cause no amenity issues.
- 5.29 The games room has an external access to the first floor on the western gable via external stairs. These stairs have the ability for views into the front garden of Rose Lodge, however the structure is set well in from the boundary an over 30m away from Rose Lodge. No representations have been received in respect of privacy or overlooking and officers do not regard the games room would not have any significant adverse impact on the amenities of the occupiers of any neighbouring residential properties. The amenities of the adjacent residents would therefore be preserved in accordance with Policy ENV1 (1) of the Selby District Local Plan.

Flood Risk & Drainage

- 5.30 The application site is located within Flood Zone 1 which has a low probability of flooding. In terms of drainage, the applicant has confirmed that the foul drainage from the games room discharges to the approved package treatment plant, which also serves Waterside Lodge and Rose Lodge and the rest of the lodge park.
- 5.31 In terms of surface water the three buildings drain into the lake within the curtilage of Waterside Lodge and from there to an adjacent ditch via a controlled outfall. The IDB noted that they do have a drain immediately adjacent to the site in the form of Nortoft Drain; this watercourse is known to be subject to high flows during storm events. The Board state that given the lack of drainage detail, they wish for surface water from the proposal to be as far as is practicable, managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development.
- 5.32 The Board recognised that despite no details of drainage being initially provided extent of the roof area is not considered to cause significant flows to the IDB's asset. On this basis and given the information supplied by the applicant no further concern exists in respect of drainage.

Conditions

- 5.33 Given the extent of the extensions to the dwelling already permitted and those sought for retention, it is possible to further restrict permitted development rights to ensure no new building occurs within the curtilage of the dwelling house. This is justified on the basis of the discussion above and will enable the Local Planning Authority to retain control over any future additions sought.

6 CONCLUSION

- 6.1 The proposal seeks to retain 3 separate forms of householder type development to a residential dwelling constructed in 2006, which was part of the Waterside holiday accommodation development. The dwelling is regarded as C3 residential dwelling and therefore capable of being extended under a householder application.
- 6.2 The proposal includes a detached garage, detached games room and a single storey annex extension to the main dwelling. The annex extension is relatively modest in scale, single storey, flat roofed and causes no significant harm to the character or appearance of the countryside. Likewise, the garage whilst adding yet further to the clutter of detached outbuildings is relatively well related to the main dwelling, single storey and modest in scale. This is despite the property already having a garage (shared with Rose Lodge).
- 6.3 The games room is far more visible at the front of the site and intersects the tree line and does cause some harm to the immediate setting of the Waterside leisure complex. It is however set deep within the countryside being over 1 km from public vantage points and represents no wider harm to the character of the countryside. In its favour the building is constructed of matching materials, is of a character that is consistent with the leisure development and provides a significant attraction to the property when in use as a short-term holiday leisure letting facility.
- 6.4 Neither of the buildings sought for retention affect the privacy of neighbouring occupiers and are acceptable in respect of drainage, highway safety and ecology. Therefore, on the balance of considerations the proposals are considered to create some harm to the countryside but not sufficient harm that warrant refusal. The proposal therefore generally accords with the spirit of Local Plan policies H14 and ENV 1 and Core Strategy Policy SP 19.

7 RECOMMENDATION

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

1. The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:
 - Location plan 001A
 - Layout Plan (extension to integral granny annex) 002
 - Garage elevations and layout 003
 - Main building floor plan and Elevations 004A (games room)
 - Extension to granny annex Elevations 005
 - Extension to integral granny Annex floor plans 005 B

Reason:

For the avoidance of doubt.

2. Notwithstanding the provisions of Class A and Class E to Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) no extensions, garages, outbuildings or other structures shall be erected, without the prior written consent of the Local Planning Authority.

Reason:

In order to retain the character of the site in the interest of visual amenity and having had regard the development that has already occurred with regards to policies ENV1 and H14 of the Local Plan.

8 Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9 Financial Issues

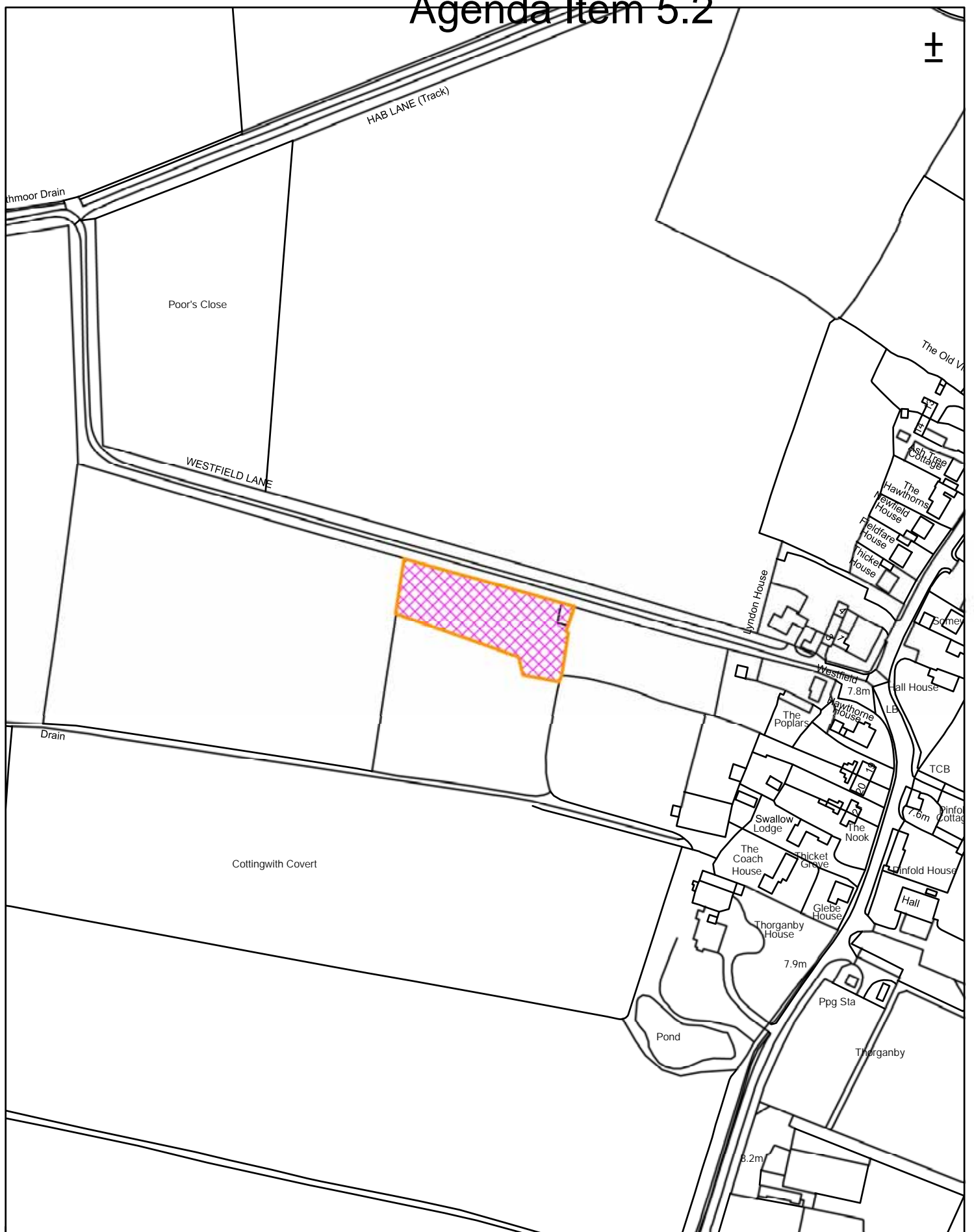
Financial issues are not material to the determination of this application.

10 Background Documents

Planning Application file reference 2018/1214/HPA and associated documents.

Contact Officer: Gareth Stent (Principal Planning Officer)
gstent@selby.gov.uk

Appendices: None



APPLICATION SITE

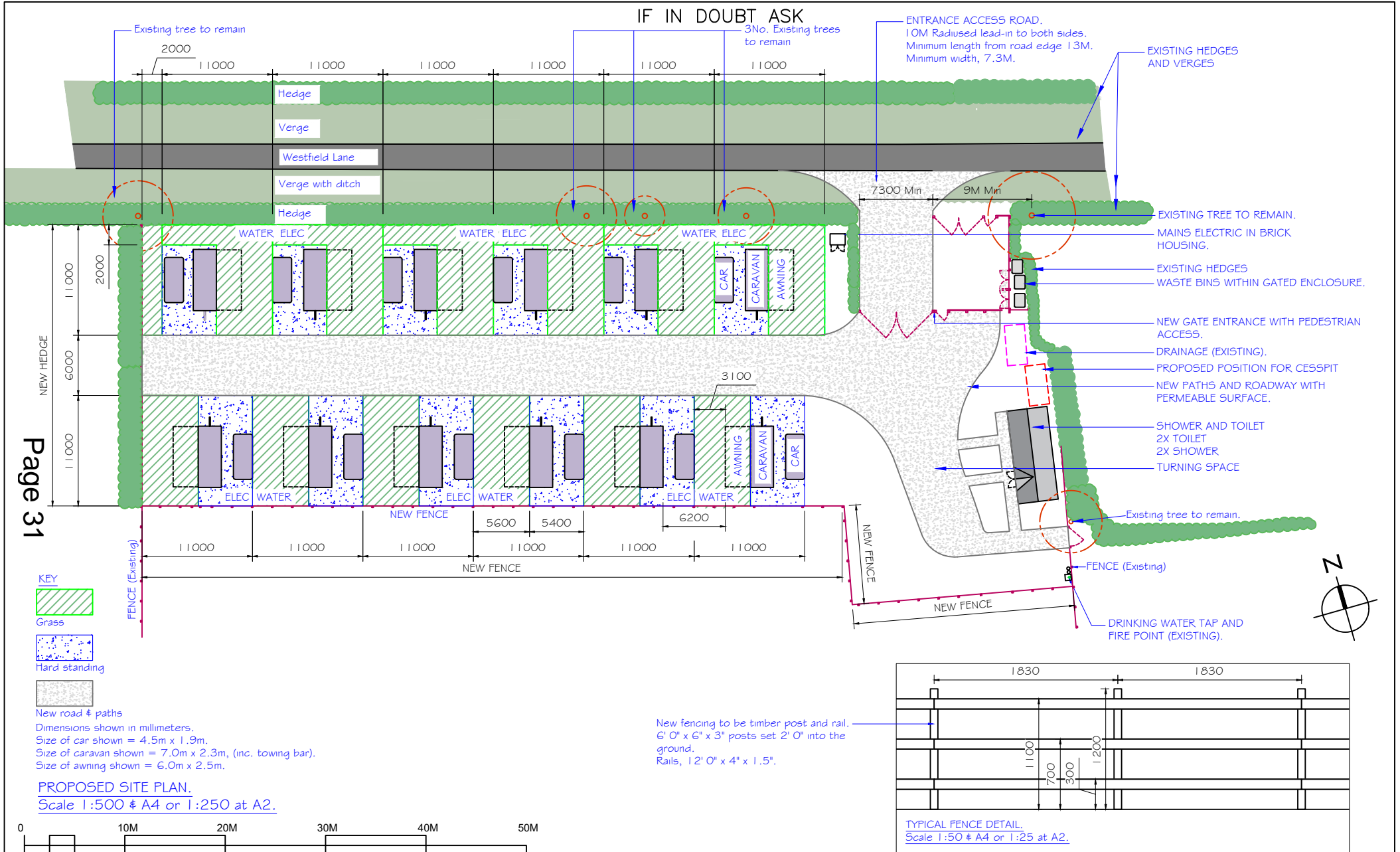
Land off Westfield Lane, Thorganby
2019/1216/COU

1:2,500



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<p>CLIENT Mr. D. Nice, Country Living Campsite.</p>	<p>DETAIL Proposed Site Plan</p>	<p>DATE 14/03/19</p>	<p>NAME J.L.H.</p>	<p>REVISION A - 06/11/19 - Cesspit added. Notes revised. B - 17/12/19 - New fence details added. C - 31/03/20 - Existing mobile toilet and shower unit to remain. D - 08/10/20 - Revisions made as advised by Selby District Council on 06/10/2020. Toilet block added back in. Entrance re-positioned.</p>	<p style="text-align: center;">DrawIT Shopfitting & Joinery Setting Out</p>
<p>PROJECT Westfield Lane, Thorganby, York, YO19 6EN.</p>		<p>Scale @ A4 1:500</p>	<p>Drawing Number DN-001 / D</p>		<p>T 01904 691404 M 07806 661919 E drawit@btinternet.com</p>

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Report Reference Number: 2019/1216/COU

To: Planning Committee
Date: 28 October 2020
Author: Rebecca Leggott (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/1216/COU	PARISH:	Thorganby Parish Council
APPLICANT:	Ms Hardcastle	VALID DATE: EXPIRY DATE:	29th April 2020 24th June 2020
PROPOSAL:	Change of use of land to form a 12-pitch touring caravan site including the siting of shower and toilet facilities, new internal access track and associated works		
LOCATION:	Land Off Westfield Lane Thorganby York		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as directed by the Head of Planning due to the sensitive consideration of the level of objection.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located to the west and just beyond the defined development limits of Thorganby, which is a Secondary Village as identified within the Core Strategy.
- 1.2 Thorganby is a historic village, which dates back to the medieval period. The village has strong links to agriculture and still maintains its relationship with the surrounding farmland.
- 1.3 The application site is within proximity to the Thorganby Conservation Area, which is approximately 75 meters to the east of the application site. Furthermore, the site is located within Flood Zone 1, with a low probability of flooding.

1.4 The application site is a grassed field and currently being used for 5 caravans under a 12-month license. A small toilet shower facility is placed on the land in association with this use. The site is accessed from the narrow single carriageway Westfield Lane, with open fields to the north, south, west and the village to the east.

The Proposal

1.5 Proposals are for the change of use of land to allow an extension to an existing touring caravan site, together with 12 all-weather caravan pitches, replacement shower and toilet facilities, new internal access track and associated works.

1.6 It is noted that the proposals would create an additional 7 pitches, on top of the existing 5 currently existing on site under the permitted 12-month license.

Relevant Planning History

1.7 There are no historical applications which are relevant to the determination of this application.

2. CONSULTATION AND PUBLICITY

2.1. **Land Use Planning Yorkshire Water Services Ltd** – No response received.

2.2. **NYCC Highways Canal Rd** – NYCC have raised no objections to the proposed development subject to the following conditions: (1) New and altered Private Access or Verge Crossing at Westfield Lane, Thorganby (2) Visibility Splays at Westfield Lane, (3) Delivery of off-site highway Works and (4) Provision of Approved Access, Turning and Parking Areas. The aforementioned conditions would address any concerns over the proposal which will see it double in size. Westfield Lane is a single carriageway road approximately 3.17 metres in width. This is not of sufficient dimensions to allow for simultaneous passage of 2 cars let alone 2 cars pulling caravans. Further to this, an informative has been advised relating to a separate license required for works in the highway.

On the 13th August 2020 amended comments were received from NYCC Highways, following a request to investigate the issue of passing places. The applicant has been in discussion with the Highways Officer and have met on site and it was determined that there is insufficient land to accommodate a passing place. However, during the site meeting it was felt that the widening of the access and the setting back of the gates, would allow a car and caravan to pull off the highway or wait in the access before proceeding along Westfield Lane should another vehicle be travelling in the opposite direction. The applicant advised that all caravans have to vacate their pitches in the morning and those arriving cannot have access to the site until the afternoon. Therefore, helping prevent simultaneous passage of caravans.

Therefore, NYCC Highways have recommended that only the following conditions be attached should permission be granted: (1) New and altered Private Access or Verge Crossing at Westfield Lane, Thorganby (2) Visibility Splays at Westfield Lane, (3) Provision of Approved Access, Turning and Parking Areas.

2.3. **Environmental Health** – The Environmental Health Officer has raised no objections to the proposed development. However, has advised that the site will require a license under the Caravan Sites and Control of Development Act 1960.

2.4. Parish Council - Thorganby Parish Council strongly object to the proposed development. The Parish Council have raised concerns for the following:

- The site is located within the open countryside and therefore outside of development limits.
- The site is located within very close proximity to the boundary of the Thorganby Conservation Area. Which is a designated heritage asset, and consideration should therefore be given to the provisions of the Assets Conservation, Section 72 (1) Planning (Listed Buildings and Conservation Areas) Act, 1972 (Chapter 9) and paragraph 193 of the National Planning Policy Framework of February 2019.
- There are no public benefits which would arise from the development which would outweigh any harm to the Thorganby Conservation Area.
- There are concerns that as a result of the expenses associated with the works required by the LHA and IDB that the applicant will need to further extend the caravan site to make the proposals viable. Further applications to extend the site would exacerbate the issues raised.
- Increased traffic movements through the village and the use of a single-track road are a cause for concern. The single-track road is not considered suitable for caravans. Further to this, there are a number of highway safety concerns through the use of some of the existing roads such as the junction at Westfield Lane and Main Street being dangerous for slow moving vehicles so close to a blind spot.
- Concerns for noise impacts the increase from 4 to 12 caravans would have.
- The expansion of the existing site would lead to an increase in dog fouling
- Thorganby has very limited local amenities.

2.5. The Ouse & Derwent Internal Drainage Board – The IDB have raised no objections subject to a condition requiring drainage works to be agreed and a number of standard informatives relating to, (1) Riparian maintenance responsibility, and (2) Consent discharge.

2.6. Conservation Officer – The Conservation Officer initially raised concerns due to insufficient information as there had been no consideration for any of the surrounding heritage assets within proximity of the site. This includes the Thorganby Conservation Area and surrounding Listed Buildings.

The Conservation Officer also raised initial concerns that the prefabricated shower block should be simplified in design to remove the gable section from the roof and the glazing bars and raised issues in terms of the visual impact of up to 12 caravans on site would be viewed in the context with the Conservation Area and surrounding Listed Buildings.

Following the receipt of additional information by way of a Heritage Statement, further comments were provided by the Conservation Officer on the 26th August 2020. In summary these state that the additional information does not constitute a 'Heritage Statement' and does not adequately provided an assessment of impact.

However, the Conservation Officer does acknowledge that there appears to be a good degree of screening from the Conservation Area. Though it is still considered that there would be views on the approach to the Conservation Area down Westfield Lane unless hedgerow trees are still present, when in leaf this may partially screen the site.

The comments also states that, it appears that the existing use as a caravan/ campsite has limited impact as the field remains as such and the introduction of the vehicles and tents comprise the greatest change (which is temporary). The proposal would formalise the use and introduce permanent features including changes to the access to the site.

The Conservation Officer, concludes that whilst there would likely be a degree of harm to the setting of the Conservation Area from the change of use of the field in the manner proposed, this would be very low level of impact when considering the significance of the Conservation Area as a whole.

2.7. Landscape Architect – The Landscape Architect has recommended that the scheme be amended to take into account the following:

- Existing boundary hedgerows and trees; should be protected and retained. These should be accurately located on the plans together with root protection area (to BS5837). Existing and proposed screening hedgerows should be maintained to a minimum target height of 3m, which could be conditioned.
- Proposed new hedgerows; should be located along the site west boundary, to maintain screening of the site. Hedgerows should be 75% Hawthorne + other locally occurring native species. The plan to specify planting species, quantity, size together with notes for maintenance establishment.
- Pitch hardstanding's; set at least 2m away from boundary hedgerows (particularly along Westfield Land) to allow the hedgerow to grow and maintain screening of the site.
- Proposed access; to protect the corner Oak tree root protection area. Plans also to show highway visibility splay requirements. Would recommend permeable stone for drainage and to protect rural setting character.
- Proposed services; drainage outfalls through hedgerow to the ditch minimised to protect existing hedgerow (e.g. drain runs combined on site side). Show electricity supply and other service runs, to protect trees and hedgerow.

2.8. Neighbour Summary – All immediate neighbours were informed by letter and a site notice was erected. Resulting in 3 letters of support and 6 letters of objection.

In summary the letters of support state:

- The proposals would support the villages amenities including the public house and the bus service.
- In this current climate extra trade for local businesses is essential as long as no environmental impact.
- This is a small extension of a further 6 caravans to an existing site.
- Since the local pub, The Jefferson Arms reopened the support from people using the existing caravan site has been phenomenal. On average amounting to at least 30% of the weekend trade.
- The caravans are not considered to contribute to speeding vehicles through the village
- No noise issues experienced from the caravan site.

In summary the letters of objection raise concerns for the following:

Highways

- Highway safety and the junction at Westfield Lane and Main Street.
- Increased traffic along Westfield Lane will make it more difficult for residents to access their driveways.
- Westfield Lane is not suitable for larger vehicles.
- The use of Westfield Lane would cause issues with cyclists, joggers, horse riders and people who walk their pets along this road.
- Increased pollution.
- The village has no shop meaning campers would need to use their vehicles for come and go more frequently.
- Objections to the suggested highways conditions for putting passing places along Westfield Lane. This is as this would alter the character of the road.
- A runoff area should be provided so that vehicles are not left on Westfield Lane.

Conservation

- Noise pollution would disturb the amenity of surrounding wildlife, walkers and residents.
- The development would not be in keeping with the Thorganby Conservation Area. The shower block specifically would be inappropriate in the Conservation Area and would negatively impact on the rural nature of the area.

Sewerage system

- It would be inappropriate to connect the site to the existing inadequate sewerage system.

Other

- Trespassing on to neighbour's land.
- The access should be moved away from the ancient Oak trees.
- Lack of supervision on site, someone should visit the occupants each night at curfew and enforce the rules.

3. SITE CONSTRAINTS

Constraints

3.1. The site is located outside development limits within the open countryside.

4. POLICY CONSIDERATIONS

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

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

4.3. On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.

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

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

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

Selby District Core Strategy Local Plan

4.6. The relevant Core Strategy Policies are:

- SP1 - Presumption in Favour of Sustainable Development
- SP2 - Spatial Development Strategy
- SP13 - Scale and Distribution of Economic Growth
- SP15 - Sustainable Development and Climate Change
- SP18 - Protecting and Enhancing the Environment
- SP19 - Design Quality

Selby District Local Plan

4.7. The relevant Selby District Local Plan Policies are:

- ENV1 - Control of Development
- ENV25 - Development in Conservation Areas
- EMP2 - Location of Economic Development
- RT12 – Touring Caravan and Camping Facilities
- T1 - Development in Relation to the Highway Network

5. APPRAISAL

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

- The Principle of Development
- Impact on the Surrounding Heritage Assets
- Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety

- Flood Risk and Drainage

The Principle of the Development

- 5.2. The proposals are for the change of use of land to form 12 all-weather caravan pitches, the siting of a shower and toilet facility, new internal access track and associated works. The site lies within open countryside and its former use was an agricultural field. However, is currently being used in part, as a caravan site under the Caravan License exemption for 5 touring caravans.
- 5.3. Policy SP1 of the Core Strategy outlines that *"when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework"* and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF.
- 5.4. The application site is located outside any defined development limits and is therefore located within the open countryside.
- 5.5. 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"*. Further to this, the Policy SP2A (b) states, development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13.
- 5.6. Policy SP13 of the Core Strategy states that in rural areas, sustainable development which brings about sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported, including (amongst other things) the re-use of existing building and infrastructure and the development of well-designed new buildings, the redevelopment of existing and former employment sites, the diversification of agriculture and other land based rural businesses, rural tourism and leisure development, small scale rural development. In all cases development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.
- 5.7. Policy RT12 states that, proposals for touring caravan and camping facilities will be permitted provided:
- 1) *The proposal would not have a significant adverse effect on the character and open appearance of the countryside, or harm acknowledged nature conservation interests;*
 - 2) *Any proposal for development within the locally important landscape areas, as defined on the proposals map, would conserve and enhance the landscape quality of the area in terms of scale, siting, layout, design, materials and landscaping;*

- 3) *The proposal would not be visually intrusive and would be well screened by existing vegetation, or would incorporate a substantial amount of landscaping within and around the site;*
- 4) *The site would have good access to the primary road network;*
- 5) *The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity;*
- 6) *Any new ancillary buildings or structures are essential to providing basic services on the site; and*
- 7) *The number of pitches in anyone would be in proportion to the size of the locally resident population so as not to disrupt community life.*

5.8. The proposal is for the change of use of land to form a 12-pitch touring caravan site. The operational development includes a new internal access track and the siting of a new well- designed pre-fabricated amenity block of an appropriate scale, which would not appear uncommon within the rural landscape. The proposals are considered to contribute towards and improve Thorganby's local economy and will maintain the vitality of rural community though attracting tourism to the village and encouraging use of existing facilities. Therefore, the proposals would be acceptable in principle in terms of Policy SP2A (c). However, proposals that are acceptable in principle are still required to meet the policy tests set out within this policy. This includes whether the proposed development would contribute towards or maintain the vitality of rural communities, in accordance with policy SP13.

5.9. Where the proposed scheme may be acceptable in principle it would be required to meet the policy tests set out in Local Plan Policy RT12 (1), (2), (3), (5), (6) and (7) and all other relevant local and national policy tests.

5.10. The impact on acknowledged interests against the above policy tests is considered in the following parts of the report.

Impact on the Surrounding Heritage Assets

5.11. The application site is within proximity to the Thorganby Conservation Area, being 75m to the east. It is also noted that there are a number of Grade II Listed Buildings within the village of Thorganby. The closest Listed Building being Thorganby House, which would be over 100 meters away.

5.12. When considering proposals which affect Conservation Areas regard should be made to S72 (1) of the Planning (Listed Building and Conservation Area Act) and S66 (1) of the Town and Country Planning Act 1990, which states that with respect to any buildings or other land in a Conservation Area, of any powers, under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

5.13. It is noted that Section 66 of the Act states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 5.14. Relevant policies in respect to the impact of development on the Thorganby Conservation Area and the character and form of the area include Policy ENV1 (1), (4) and (5) and ENV25 of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy.
- 5.15. Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF. However, less weight should be given to policy ENV25 as it does not accord with the approach taken within the NPPF in relation to the emphasis on significance and on weighing harm to significance against other considerations, depending on whether there is substantial harm or less than substantial harm.
- 5.16. Relevant policies within the NPPF, which relate to development within a Conservation Area and the significance of the setting of the adjoining listed building, include paragraphs 189, 190, 191, 192 193 and 194.
- 5.17. Comments have been received from the Conservation Officer, who initially objected to the application due to insufficient information being provided. It is noted that concerns have been raised in respect of the changes of materials on site from grass to hardcore, the appearance of the amenity block and also the overall impact of 12 caravans.
- 5.18. Officers requested additional information from the planning agent and the applicant has subsequently submitted additional information labelled 'Heritage Statement'.
- 5.19. Further comments have been provided from the Conservation Officer, in summary these comments state that the additional information does not constitute a 'Heritage Statement' and does not adequately provided an assessment of impact. However, the Conservation Officer, concludes that while there will likely be a degree of harm to the setting of the Conservation Area from the change of use of the field in the manner proposed, but that this would be very low level of impact when considering the significance of the Conservation Area as a whole.
- 5.20. Having carried out a site visit and noted the boundary treatments around the site including hedging and tall trees, it is not considered that the application site would be visible from public vantage points within the Conservation Area. It is however noted that, at present there may be some limited views from the rear gardens of some of the nearby properties within the Conservation Area and minimal views on the approach to the Conservation Area along Westfield Lane. Furthermore, the site is not visible from any of the nearby Listed Buildings. The woodland to the south of the site would block views from the closest Listed Building Thorganby House.
- 5.21. In respect of any impacts on surrounding Listed Buildings, given there would be no views from these buildings to the site. There would be no harm to the Listed Buildings and their settings.
- 5.22. In respect of any impacts on the Thorganby Conservation Area given the limited views of the site. There would be less than substantial harm. Whilst it is noted that the harm is less than substantial this is still harm. At para 196 the NPPF states that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposals.' Therefore, Officers are required to weigh this against the public benefits.

- 5.23. The proposal would provide some public benefits in contributing to local services. This includes the use of the local pub and also local bus services, ensuring the vitality of Thorganby village and its rural economy. This is also as noted within the neighbour support letters submitted. Therefore, officers consider that the less than substantial harm is outweighed by the public benefits associated with the proposed use.
- 5.24. Therefore, having had regard to Policies ENV1(1), (4) and (5) and ENV25 of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy and the NPPF it is considered that the proposals are acceptable.

Impact on the Character and Appearance of the Area

- 5.25. The application site is located outside the defined development limits of Thorganby, as defined within the Core Strategy. The proposal involves change of use of land to create a 12-pitch touring caravan site together with, new shower and toilet facilities, new internal access track and associated works.
- 5.26. Taking each criterion within Policy RT12 in turn.
- 5.27. Criterion 1 relates to, *whether the proposal would have a significant adverse effect on the character and open appearance of the countryside, or harm acknowledged nature conservation interests.*
- 5.28. The application site is an existing field surrounded by mostly open fields and some residential gardens and dwellings further to the east. To the north of the application site would be the highway, Westfield Lane. To the east of the application site would be an open field outside of the applicant's ownership. To the south of the application site would be a field within the applicant's ownership. To the west of the application site would be an open agricultural field.
- 5.29. The third-party comments received raise concerns over the insufficient boundary treatment. These comments are noted, and it is therefore considered reasonable to secure a detailed scheme of landscaping by way of condition. This is to ensure that there is adequate screening and boundary treatments along the eastern boundary along common boundaries with neighboring properties.
- 5.30. In respect of the touring caravans these would not have a permanent presence on site. Touring caravan sites are generally more actively used in spring and summer months so the site will remain vacant and open for longer periods, particularly the winter months. Furthermore, the caravan pitches are only likely to be occupied when the weather permits, meaning the site will be still relatively open for periods throughout the year specifically the winter months.
- 5.31. In respect of the proposed amenity block on site, consisting of shower and toilet facilities. This would have a permanent on-site presence. The new well-designed pre-fabricated amenity block, would be sited to the south east corner of the site. In considering the scale, siting, and design of this block. It is considered proportionate to the proposals and would not create any significant adverse impacts on the open countryside.
- 5.32. In respect of the proposed internal access track. This would be of porous materials and is considered to be proportionate and necessary to what is being proposed. The track is not considered to cause any undue harm to the open countryside.

- 5.33. In respect of the cesspit, this would be located underground and would therefore have no impacts on the open countryside.
- 5.34. Overall, the change of use of land to form a 12-pitch touring caravan site including the siting of shower and toilet facilities, new internal access track and associated works, would have some impacts on the character and appearance of the open countryside by way of the changes to the application site, the enlarged access to the site and vehicle movements along Westfield Lane. However, from an inspection of the site Officers note that the application site is surrounded by a variety of existing boundary treatments, including fencing, hedges and mature trees. These existing boundary treatments provide screening to the site, particularly when viewed from Westfield Lane. Furthermore, given the density of the hedging and trees it is considered that this would still provide some screening in winter also, this is addressed further against criterion 3.
- 5.35. Given the location of the application site and the existing boundary treatments it is not considered that the proposed caravan site would have a significant adverse effect on the character and open appearance of the countryside.
- 5.36. Criterion 2 relates to, *whether the proposal is located within a locally important landscape area.*
- 5.37. The application site is not located within a locally important landscape area and therefore criterion 2 is not applicable.
- 5.38. Criterion 3 relates to, *whether the proposal would not be visually intrusive and would be well screened by existing vegetation, or would incorporate a substantial amount of landscaping within and around the site.*
- 5.39. The application site is currently bound by tall hedging, trees and the highway, Westfield Lane to the north, hedging and residential development to the far east, post and rail fencing and woodland to the far south and a newly planted Hornbeam (*Carpinus betulus*) hedgerow with Dog Rose (*Rosa canina*) to the west as shown on the submitted plans and drawings.
- 5.40. Officers also note that a Tree Protection Order is being considered for one of the Oak trees to the east of the entrance to the site. The tree in question is located on the neighbour's land though this tree would have a root protection zone of approximately 9 meters. Therefore, some of the roots for the tree would be located on the applicant's land.
- 5.41. In considering this comment have been sought from the Landscape Architect who has advised the following:
- Existing boundary hedgerows and trees accurately plotted and showing as maintained to a minimum target height of 3m.
 - Root protection areas to be provided (to BS5837).
 - A new hedgerow along the western boundary of the site.
 - Specified plant species, quantity, size together with notes for maintenance establishment.
 - Pitch hardstanding's set at least 2m away from boundary hedgerows.
 - Visibility splay requirements to ensure the protection of the corner oak tree.

- Permeable stone for drainage.
- Drainage outfalls through hedgerow to the ditch minimised to protect existing hedgerow. Show electricity supply and other service runs, to protect trees and hedgerow.

5.42. Following discussions with the applicant the proposals have been amended to move the access west and away from the root protection zone of the tree. Therefore, no root protection or further details are required in respect of this specific oak tree. The gap in the hedge created by the existing access will be replanted. Furthermore, the boundary treatments for the site have been accurately plotted on the site layout plan. The amendments to the proposals address all of the points raised by the landscape architect, which includes limiting the hard standing near the hedge adjacent to Westfield Lane.

5.43. In considering seasonal changes, given the density of the hedging along with the likelihood that there will be less activity on site in the winter, it is not considered that seasonal change is of concern.

5.44. Overall, it is considered acceptable to secure the boundary treatments via condition as well as condition the height the hedging along the northern boundary of the site to 3 meters.

5.45. Given all the above, the proposals are not considered to be visually intrusive and are well screened by existing boundary treatments including, fencing, hedges and mature trees. It is also noted that a furthermore detailed scheme of landscaping is to be required and secured by way of condition.

5.46. Criterion 5 and 5 relate to highway matter and are to be addressed within the '*Impacts on Highway Safety*' section of the report.

5.47. Criterion 6 relates to, *whether any new ancillary buildings or structures are essential to providing basic services on the site.*

5.48. The proposed scheme is for the change of use of land and includes the provision of a free-standing amenity block. This includes toilet and washing facilities and is considered reasonably necessary for a functioning caravan site. Furthermore, the new pre-fabricated amenity block is considered to be of a limited size and scale and overall could therefore be considered essential to providing basic services on the site.

5.49. Criterion 7 relates to, *whether the number of pitches would be in proportion to the size of the locally resident population so as not to disrupt community life.*

5.50. It is noted that the application site is located outside the defined development limits of Thorganby. However, the site is within close proximity to the village of Thorganby and it is therefore considered reasonable to weigh up the proportion of pitches proposed on site to the population of Cliffe.

5.51. The proposal is for 12 pitches; however it is acknowledged that it realistically 7 additional pitches to the existing 5 that operate under the Caravan License currently. In total the site would have the ability to accommodate 12 groups at once. While Thorganby is a Secondary Village as defined within the Core Strategy, it is considered that the caravan pitches cumulatively would be proportionate to the population of Thorganby.

5.52. Therefore, in considering the above it is considered that the proposal is acceptable and would not have a significant or detrimental impact on the character and appearance of the area. Therefore, having had regard to Policies ENV1(1), (4) and (5) and RT12 of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy and paragraphs 124, 127, 128, 130 and 131 of the NPPF.

Impact on Residential Amenity

5.53. Relevant policies in respect to impact on residential amenity include Policies ENV1 (1) and (4) and EMP9 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy. In respect of the NPPF it is noted that one of the Core Principles of the framework is to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

5.54. Any such leisure use has the potential to cause noise and disturbance through increased comings and goings and from occupants of the leisure site. Occupants of such facilities are more likely to spend time outside enjoying their leisure time and this often brings with it noise and nuisance if not properly controlled by the owner/site license.

5.55. Given this is essentially a rural location with residential development to the far east. It is the most significant material consideration within this application. In this case the site could accommodate a maximum of 12 families at any one time and is therefore regarded as small scale.

5.56. The comments of the occupiers of the surrounding properties and the Thorganby Parish Council in relation to concerns for noise impacts are noted. However, given the existing use of the site for 5 caravans a scheme of this scale is not considered to significantly harm the amenity of neighbouring properties.

5.57. The submitted Design and Access Statement, states that, as the applicants live close by and there is CCTV in place therefore the site is closely managed. The site is also described as an adults only site, so as to ensure limited impacts of noise. The applicants ownership and adults only restriction cannot be controlled by condition, however providing the situation remains this way these measures are therefore considered to reduce any impacts on the amenity of occupiers of any of the residential properties within proximity of the site. Though it is noted that the closest residential dwelling would be approximately 80 meters away.

5.58. Also, from a review of the website the applicants appear to have a number of rules for the site as follows:

- *All prices above are for the 2 registered people, 1 caravan.*
- *The maximum age for a caravan being used as a seasonal pitch is 10 years old.*
- *a maximum of 2 dogs are allowed providing they are well controlled, kept on a lead and any fouling left by them is cleared up immediately.*
- *Day visitors are allowed on request but please consider your neighbouring caravans.*
- *No clothes line are permitted.*
- *There will be a noise policy in place and guests will be asked to keep noise to a minimum between 11pm and 8am.*
- *No commercial vehicles allowed on the park at any time.*

- *Nothing is permitted to be stored underneath the caravan: the area must be kept clear.*
- Gas bottles are not to be left outside your caravan.
- Awnings are allowed without groundsheets.

5.59. The scheme looks to small adult groups and not to cause any unnecessary pollution regarding, noise or environmental impact on the neighbourhood.

5.60. Whilst the above measures cannot be considered as planning conditions, they will ensure the facility is small scale and run in such a way that the amenities of the adjoining neighbours are not affected. The running of the site is also regulated by the need for a site license which the Local Authority control and monitor.

5.61. In respect of overlooking the site would be located some distance away from the surrounding residential properties. Furthermore, it is not considered that the change of use would pose any additional impacts of overlooking to the existing use, in terms of views from the land in question.

5.62. In respect of overshadowing the proposed amenity block would be set some distance away from residential properties. Therefore, there are not considered to be any impacts of over shadowing.

5.63. Further to this, in considering any impacts in terms of noise and impacts on the surrounding neighbouring properties. Environmental Health have been consulted on the application. In summary the Environmental Health Officer has raised no objections to the proposed development.

5.64. Overall given the siting of the proposed scheme, the position of the access and distances from surrounding residential properties, it is considered that the proposal would not result in any adverse effects on the amenities of the occupiers of any neighbouring properties.

5.65. Subject to the aforementioned condition, it is considered that the proposal is acceptable in terms of its impact on residential amenity in accordance with Policies ENV1 (1) and (4) and EMP9 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained with the NPPF.

Impact on Highway Safety

5.66. Relevant policies in respect to highway safety include Policies ENV1, T1 and T2 of the Selby District Local Plan and requirement (c) set out in Policy SP19 of the Core Strategy. These policies should be afforded substantial weight as they are broadly consistent with the aims of the NPPF.

5.67. The proposal would involve the closing of the existing access and the construction of a new access.

5.68. NYCC Highways have been consulted on the application. It is noted that NYCC Highways originally requested a condition requiring passing places to be constructed along Westfield Lane. However, following a site meeting with the applicant and NYCC Highways. It was concluded that, such a condition could not be met and would therefore be unreasonable.

- 5.69. NYCC Highways latest comments raise no objections to the proposals subject to the following standard conditions: (1) New and altered Private Access or Verge Crossing at Westfield Lane, Thorganby (2) Visibility Splays at Westfield Lane, (3) Provision of Approved Access, Turning and Parking Areas. The highway improvement details have been detailed on the updated site layout plan and therefore this can be secured by way of condition
- 5.70. From a site visit it is not considered that the proposed development would create conditions which would be of a detriment to highway safety subject to these improvements. It is also noted that the site is currently being used as a caravan site for up to 5 caravans. Officers consider that the site would have a good access to the primary road network and would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity.
- 5.71. Overall, the proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity. Given all of the above the proposals are considered acceptable in respect of highway safety.
- 5.72. Overall, in respect of Policy RT12 of the Selby District Local Plan on balance the proposed development would be comply to criteria (4) and (5) of the policy and would be acceptable in respect of Local Plan Policy SP19 of the Core Strategy and policies contained within the NPPF.

Flood Risk and Drainage

- 5.73. Firstly, in addressing the issues of flood risk, the application site is within Flood Zone 1 and therefore at low risk of flooding. Therefore, despite being a more vulnerable use, no sequential or exceptions test are required.
- 5.74. In terms of drainage, the submitted application form sets out that the foul water will be disposed of via cesspit and surface water will be disposed of via an existing water course.
- 5.75. In respect of surface water discharge, it is noted that the IDB have raised no objections to the proposed development. However, the IDB have advised that soakaways should be considered on site rather than directly discharging into existing water courses. Therefore, the IDB have suggested a condition requiring drainage details to be submitted and agreed. Having discussed this condition with the planning agent this condition is agreed. Therefore, it is considered reasonable to secure drainage details by way of condition. Further to this a number of standard informatives have been suggested as follows: (1) consent required from IDB, (2) consent outfall and (3) consent discharge.
- 5.76. In respect of foul water discharge it is proposed to use a cesspit. This would require an Environmental Permit from the Environment Agency, which would need to be obtained beyond the planning process.
- 5.77. It is noted that Yorkshire Water have not provided a response within the statutory consultation period. However, the foul and surface water drainage would not be discharged via any of the Yorkshire Water assets. Therefore, no response is required.
- 5.78. It is noted that, limited information has been provided in terms of the scheme for drainage. However, it is considered that an acceptable scheme of drainage can be

achieved. Therefore, notwithstanding the information submitted further information can be requested and subsequent measures secured by way of condition.

6. CONCLUSION

- 6.1. Having had regard to the development plan, all other relevant local and national policy consultation responses and all other material planning considerations, it is considered that the proposed development is acceptable in principle providing a leisure use within the open countryside which will help sustain local village facilities and attract tourism the area. The proposal would not have a detrimental effect on the character and appearance of the area, residential amenity of the occupants of neighbouring properties, highway safety or drainage and flooding. In terms of the adjacent heritage assets the proposal is considered to cause less than substantial harm and this is outweighed by the public benefits associated with the proposed use.
- 6.2. The application is therefore in accordance with Policies, SP1, SP2, SP13, SP18 and SP19 of the Core Strategy and Policies ENV1, ENV 25, RT12 and T1 of the Local Plan.

7. RECOMMENDATION

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

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

Reason:

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

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

Location Plan – LOC 01

Proposed Site Plan - DN-001 / D

Amenity Block Floor Plan - DN-003

Amenity Block Elevations - DN-004

New Road and Pitch Construction – received 14th January 2020

Reason:

For the avoidance of doubt.

3. The development must not be brought into use until the existing access to the site at Westfield Lane, Thorganby has been closed and the new access as shown on plan reference, DN-001 / D has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements:

The existing access must be improved by installing 10 metres radius kerbs, to give a minimum carriageway width of 7.3 metres, and that part of the access road extending 13 metres into the site must be constructed in accordance with Standard Detail number A1 or E2 (E2 specification will not require the radius kerbs) and the following requirements.

a) Any gates or barriers must be erected a minimum distance of 13 metres back from the edge of the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.

b) Measures to enable vehicles to enter and leave the site in a forward gear.

c) Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.

All works must accord with the approved details.

Reason:

In accordance with policy T1 of the Selby District Local Plan and to ensure appropriate a satisfactory means of access to the site from the public highway in the interests of highway safety.

4. There must be no access or egress by any vehicles between the highway and the application site at Westfield Lane until splays are provided giving clear visibility of 45 metres measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

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

5. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

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

6. No development approved by this permission shall be commenced until the Local Planning Authority has approved a Scheme for the provision of foul and surface water drainage works. The following criteria should be considered:

- The suitability of soakaways, as a means of surface water disposal, should first be ascertained in accordance with BRE Digest 365 or other approved methodology.
- If soakaways are not feasible, then the Board may consider a proposal to discharge surface water to a watercourse (directly or indirectly).
- Discharge from "greenfield sites" taken as 1.4 lit/sec/ha (1:1yr storm).
- Storage volume should accommodate a 1:30 yr event with no surface flooding and no overland discharge off the site in a 1:100yr event.
- A 30% allowance for climate change should be included in all calculations.

- A range of durations should be used to establish the worst-case scenario.

Any such Scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

Reason:

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

7. The development hereby permitted shall be carried out in accordance with landscaping as identified on plan reference, DN-001 / D. The boundary hedges and trees shall be maintained to a minimum height of 3 meters along the north and east boundaries and 2 meters along the west boundary.

All trees, shrubs and bushes should be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses should be made good as and when necessary.

Reason:

In order to ensure that the proposals are in keeping with the character and appearance of the area, to prevent any adverse overlooking of neighbouring properties and to comply with Policy ENV1 of the Selby District Local Plan.

8. Notwithstanding plan reference, DN-001 / D within the first available planting season a hedge of a native species shall be planted in line with the existing hedge row along the northern boundary along location of the existing access to be close to a length of 7 meters and maintained to a height of 3 meters.

All trees, shrubs and bushes should be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses should be made good as and when necessary.

Reason:

In order to ensure that the proposals are in keeping with the character and appearance of the area, to prevent any adverse overlooking of neighbouring properties and to comply with Policy ENV1 of the Selby District Local Plan.

9. The site shall only be occupied by touring caravans, tents or motor homes and the number of pitches on the site at any one time shall not exceed 12.

Reason:

In order to ensure that the scale of the proposed use accords with its location, adjacent to residential properties and to ensure compliance with Policy RT12 of the Selby Local Plan.

10. The site shall be occupied for holiday purposes only and no caravan, tent or motor home, shall be occupied on a permanent basis.

Reason:

This condition is imposed in the interests of restricting the use of the accommodation to a temporary holiday use only. The Council acknowledges that these sites fulfil an important social function by providing holiday accommodation. It also acknowledges that tourism has an important part to play in the economy of the area and that these sites are important in this respect. However, these considerations must be set against

policies SP2 of the Core Strategy which seek to restrict residential development in the open countryside.

11. All service points, refuse collection points and the chemical toilet area shall be as those specified on submitted drawing Proposed Site Plan - DN-001 / B and no facilities shall be sited in other areas of the site without the prior written approval of the Local Planning Authority.

Reason:

In order to ensure that the proposals are in keeping with the character and appearance of the area, and to comply with Policy ENV1 of the Selby District Local Plan.

12. The pitches shall be limited to those areas specified on submitted drawing Proposed Site Plan - DN-001 / D and no caravan, tents or motor home shall be sited in other areas of the site.

Reason:

In order to ensure that the scale of the proposed use accords with its location, adjacent to residential properties and to ensure compliance with Policy RT12 of the Selby Local Plan.

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

Reason;

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

INFORMATIVE(S):

1. HIGHWAYS:

You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in this condition.

Notwithstanding any valid planning permission for works to amend the existing highway, there must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and North Yorkshire County Council as the Local Highway Authority. To carry out works within the highway without a formal Agreement in place is an offence.

2. IDB:

Any watercourse adjacent to this development is not maintained by the Board. The responsibility for the continued maintenance of the watercourse and its banks rests ultimately with the riparian owners.

Under the Board's Byelaws the written consent of the Board is required prior to any discharge (directly or indirectly) into any watercourse within the Board's District.

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

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

10. Background Documents

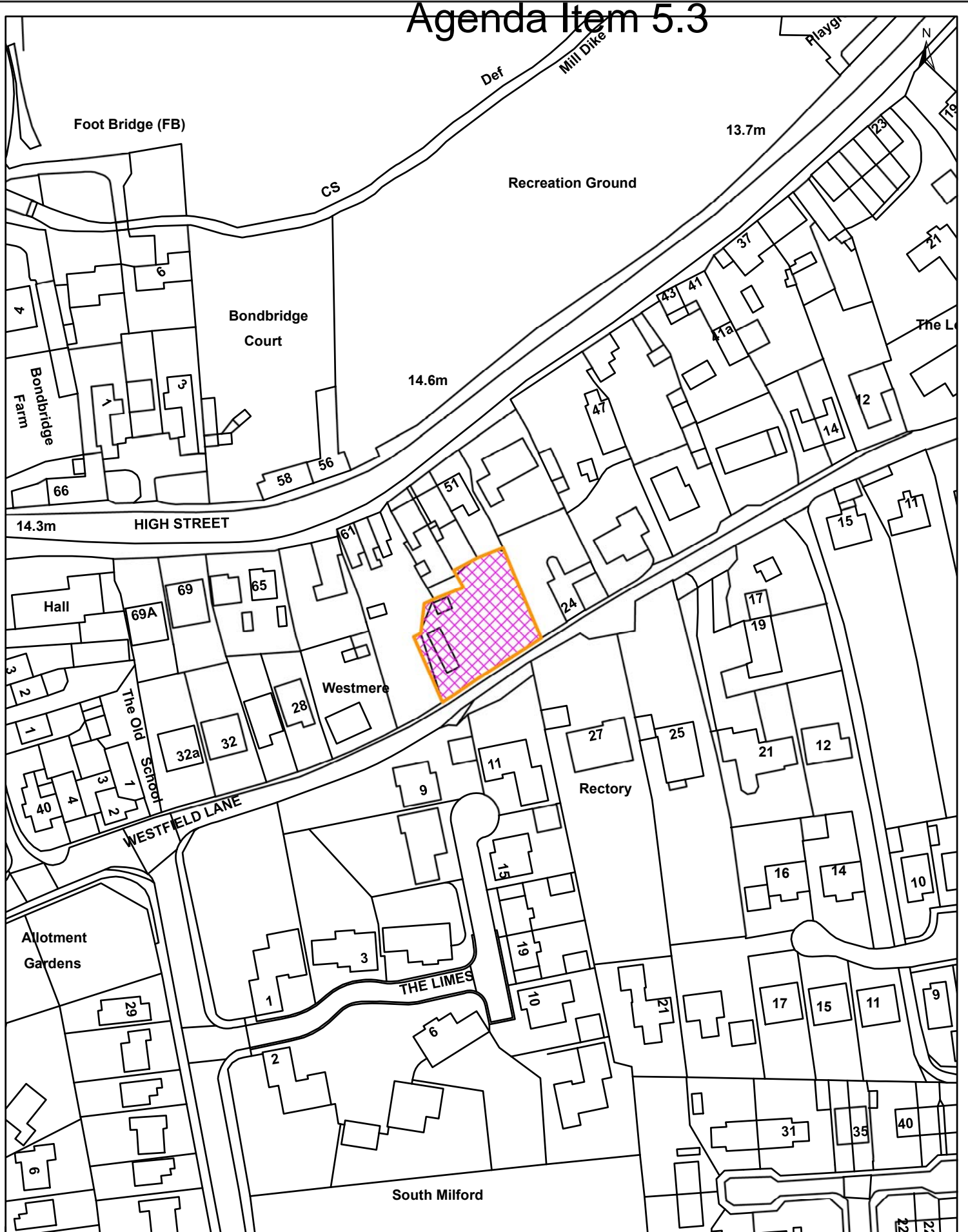
10.1. Planning Application file reference 2019/1216/COU and associated documents.

Contact Officer: Rebecca Leggott (Senior Planning Officer)

rleggott@selby.gov.uk

Appendices: None

Agenda Item 5.3



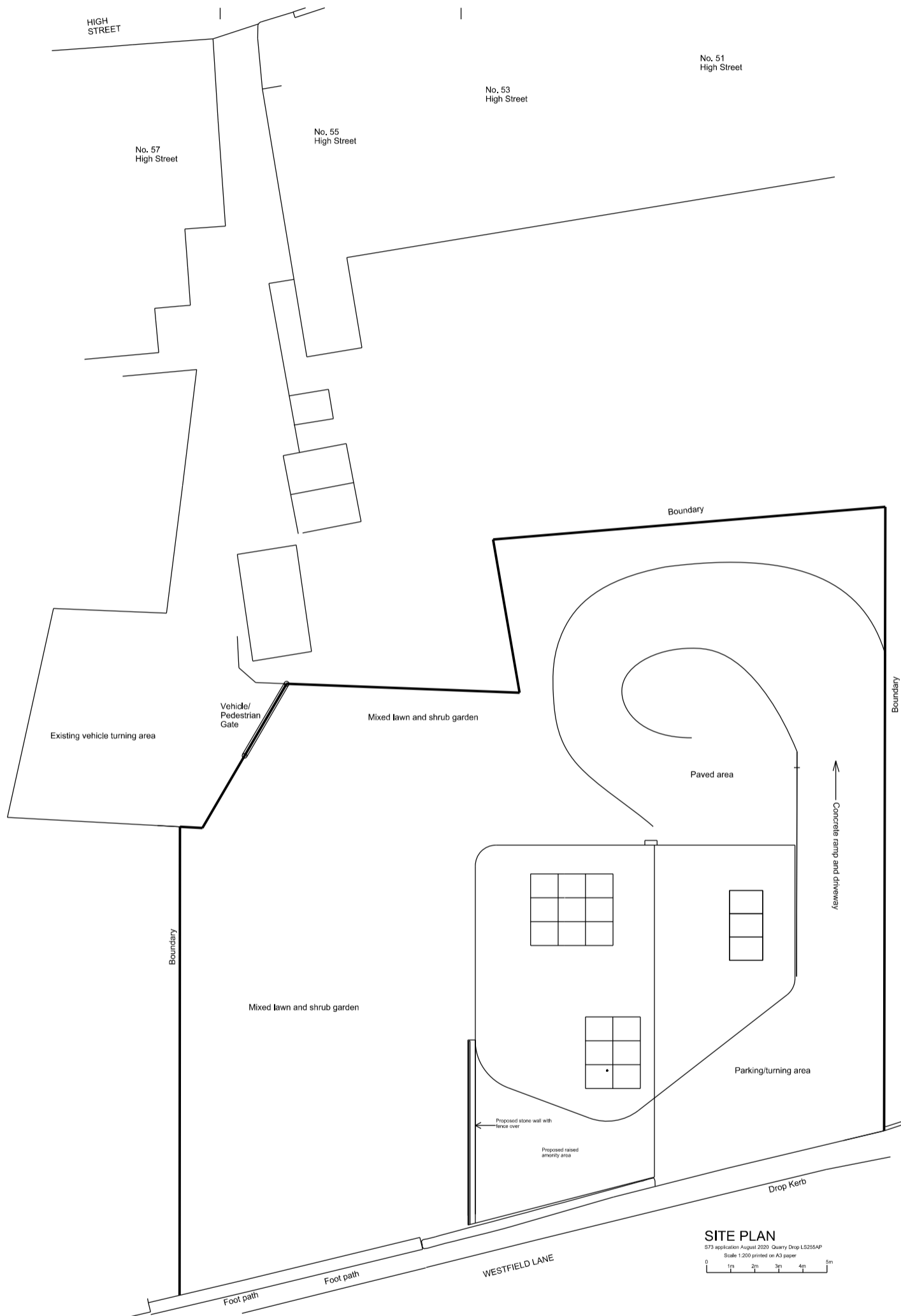
APPLICATION SITE

Quarry Drop, Westfield Lane, South Milford
2020/0828/S73

1:1,250



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SITE PLAN
 S73 application August 2023 Query Drop L52554P
 Scale 1:200 printed on A3 paper

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Report Reference Number: 2020/0828/S73

To: Planning Committee
Date: 28 October 2020
Author: Jenny Tyreman (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0828/S73	PARISH:	South Milford Parish Council
APPLICANT:	Mr Ian Lindsay	VALID DATE: EXPIRY DATE:	5th August 2020 30th September 2020
PROPOSAL:	Section 73 application to vary condition 04 (approved plans) of planning permission 2010/0507/FUL for construction of a five-bedroom, three storey detached house		
LOCATION:	Quarry Drop Westfield Lane South Milford Leeds West Yorkshire LS25 5AP		
RECOMMENDATION:	GRANT		

This application has been brought back before Planning Committee following consideration at the 23 September 2020 Planning Committee where Members resolved the following:

“To DEFER consideration of the application in order for Officers to gather further visual information, and that this information be presented to the Committee again at a subsequent meeting.”

Since the 23 September 2020 Planning Committee, the applicant has submitted the following further visual information for consideration by Members:

- Street scene looking north from Westfield Lane (scale 1:250)
- Scaffold comparison drawing to previously granted and proposed dwelling (scale 1:100).

- Comparison drawings of 2020 planning permission (reference: 2020/0016/S73) to current proposed dwelling (scale 1:100) including ground floor plan, first floor plan, second floor plan, north elevation, south elevation, west elevation, east elevation.
- Floor plan and elevation drawings for 2010 planning permission (reference 2010/0507/FUL) (scale 1:100)
- Photomontage 1 – Westfield Lane looking east, showing the proposed dwelling
- Photomontage 2 – Westfield Lane looking west, showing the proposed dwelling
- Photomontage 3 – View from High Street, showing the proposed dwelling
- Photomontage 4 – View outside 57 High Street, proposed dwelling not visible

Furthermore, Members have had the opportunity to visit the site on an individual basis.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located within the defined development limits of South Milford, which is a Designated Service Village as identified in the Core Strategy.
- 1.2 The application site comprises part of a former magnesium limestone quarry. The quarry face is to the south side of the application site adjacent to Westfield Lane, and as such there is an approximate 6.4 metre difference in the ground level between the application site and Westfield Lane.
- 1.3 The application site fronts Westfield Lane to the south and is bound by residential development to the north, south, east and west.

The Proposal

- 1.4 The application has been made under Section 73 of the Town and Country Planning Act 1990 and the proposal seeks to vary Condition 4 (Drawings) of planning permission reference 2010/0507/FUL for the construction of a five bedroom, three storey detached house at Quarry Drop, Westfield Lane, South Milford. The changes proposed under this Section 73 application are: (1) the creation of a raised amenity area between the south elevation and Westfield Lane; (2) the alteration to the footprint of the dwelling at ground, first floor and second floor; (3) alterations to fenestration in all elevations of the building and the eastern and western roof slopes; (4) the addition of more photovoltaics to the roof slopes of the dwelling; (5) the increase in the maximum height of the dwelling by approximately 3.8 metres; (6) the increase in the eaves height of the dwelling by 0.4 metres to the west and 0.8 metres to the east; and (7) the inclusion of materials to be used in the external construction of the dwelling shown on the submitted plans.
- 1.5 It should be noted that a number of these amendments have already been accepted under a previous Section 73 application earlier this year, reference 2020/0016/S73. The main differences between the amendments shown under the current Section 73 application and the previously approved Section 73 application, and therefore the main areas for consideration under this application are: (1) the increase in the

maximum height of the dwelling by a further 3 metres (previously an increase in the maximum height of the dwelling by 0.8 metres was approved); (2) the increase in the eaves height of the dwelling by 0.4 metres to the west and 0.8 metres to the east; and (3) alterations to fenestration and addition of more photovoltaics in the western roof slope, as a result of the changes to the eave and ridge height. These amendments are to facilitate a mezzanine floor.

Relevant Planning History

- 1.6 The following historical applications are considered to be relevant to the determination of this application.
- 1.7 An application (reference: 2010/0507/FUL) for the construction of a five bedroom, three storey detached house was permitted on 02.08.2010.
- 1.8 A part retrospective application (reference: 2016/0850/FUL) for the erection of a detached three storey dwelling and the erection of temporary building for residential use during the construction period was permitted on 15.09.2016.
- 1.9 An application (reference: 2016/1190/FUL) to remove condition 9 (hours of work) of planning permission 2016/0850/FUL Part retrospective application for the erection of a detached three storey dwelling and the erection of temporary building for residential use during the construction period was refused on 02.12.2016. A subsequent appeal (reference: APP/N2739/W/17/3168058) was dismissed on 04.07.2017.
- 1.10 An application (reference: 2017/0757/PPP) for a certificate of lawful development for the proposed continuation of a development to build a 3 storey 5 bedroom house in accordance with 2010/0507/FUL was refused on 09.10.2017. A subsequent appeal (reference: APP/N2739/X/17/3186468) was allowed on 06.07.2018.
- 1.11 A Section 73 application (reference: 2018/0800/FUL) to vary condition 04 (drawings) of planning permission reference 2010/0507/FUL for the construction of a five bedroom, three storey detached house was appealed for non-determination. The appeal (reference: APP/N2739/W/18/3212548) was allowed on 02.05.2019.
- 1.12 A Section 73 application (reference: 2020/0016/FUL) to vary condition 04 (drawings) of planning permission reference 2010/0507/FUL for the construction of a five bedroom, three storey detached house was permitted on 07.05.2020.

2. CONSULTATION AND PUBLICITY

- 2.1 **Parish Council** – The Parish Council consider the plans presented by the applicant are unclear as to what has changed with this variation. The plans have been reviewed carefully and it is estimated that there is an approximate increase in height of 4m. It is unclear how this compares to neighbouring properties and impact on neighbouring properties so we cannot formulate recommendations to SDC.
- 2.2 **NYCC Highways** – No objections, subject to a condition requiring the provision of the approved access, turning and parking areas.
- 2.3 **Environmental Health** – No objections.
- 2.4 **Contaminated Land Consultants** – No objections.

- 2.5 **Yorkshire Water Services Ltd** – No response within statutory consultation period.
- 2.6 **Selby Area Internal Drainage Board** – No response within statutory consultation period.
- 2.7 **Ward Councillor** – No response within statutory consultation period.
- 2.8 **Neighbour Summary** – All immediate neighbours were informed by neighbour notification letter and two site notices were erected (one on Westfield Lane and one on High Street). Twenty-six letters of representation have been received as a result of this advertisement of the application.

Ten of these object to the application (all from residents of South Milford) with concerns raised in respect of:

- (1) the length of time the build has been ongoing and will continue to be ongoing;
- (2) non-compliance with a working hours conditions attached to previous planning permissions at the site and queries/requests regarding whether a working hours condition would be attached to the current application should it be approved;
- (3) queries/requests regarding whether a completion date condition would be attached to the current application;
- (4) queries regarding whether the proposed development falls to be considered under a Section 73 application and whether instead a full application should have been submitted for consideration;
- (5) the submission of a further application for amendments, which follows a number of other applications for amendments;
- (6) the reasoning for the proposed amendment, as the site is located within Flood Zone 1 and has not flooded before;
- (7) limited information provided on the submitted plans to be able to understand the proposals and determine the application;
- (8) the height, size and design of the proposed development, which would be out of keeping with neighbouring properties and would have an adverse impact on the character and appearance of the area;
- (9) the existing wall and fence to the Westfield Lane boundary which causes a highway safety issue;
- (10) loss of amenity to neighbouring residential properties, due to noise, disturbance, overlooking, loss of privacy, overshadowing and loss of sunlight;
- (11) vehicles blocking the highway and vehicle being parked on High Street causing highway safety issues;
- (12) the practicality of using the driveway, which is very steep;
- (13) whether the development meets building regulations; and

(14) the loss of house value of neighbouring properties as a result of the development.

Sixteen of these support the application (fourteen from residents of South Milford, one from a resident of Sherburn in Elmet and one from people of unknown addresses) and make the following points:

- (1) the application have no adverse impact on the residential amenities of the neighbouring properties beyond the original permission;
- (2) the resultant dwelling would have an acceptable design and appearance, in keeping with the local area, which would result in no adverse impact on the character and appearance of the area beyond the original permission;
- (3) the rationale for the amendments (flood risk) is sound; and
- (4) the family are working hard to build the dwelling under difficult circumstances.

3 SITE CONSTRAINTS

Constraints

- 3.1 The application site is located within the defined development limits of South Milford, which is a Designated Service Village as identified in the Core Strategy.
- 3.2 The application site is located within Flood Zone 1, which has a low probability of flooding.

4 POLICY CONSIDERATIONS

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

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

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

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

Selby District Core Strategy Local Plan

4.6 The relevant Core Strategy Policies are:

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

Selby District Local Plan

4.7 The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- ENV2 – Environmental Pollution and Contaminated Land
- T1 – Development in Relation to the Highway Network

5 APPRAISAL

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

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Other Issues

The Principle of the Development

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

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

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

- 5.3 As such the only consideration of this application is in relation to the conditions of the approval and the impact the proposed variation would have. Therefore key to the determination of this application is whether a new planning consent for the development with the proposed variation to Condition 4 (Drawings) of planning permission 2010/0507/FUL would be contrary to the provisions within the development plan or whether there are reasonable grounds for refusal if these conditions were not retained in their present form.
- 5.4 The previous planning permission for the construction of a five bedroom, three storey detached house at Quarry Drop, Westfield Lane, South Milford was considered acceptable under planning approval reference 2010/0507/FUL, subject to conditions and according with relevant policies in place at that time.
- 5.5 A recent appeal decision dated 6 July 2018 (appeal reference: APP/N2739/X/17/3186468) has confirmed that planning permission reference 2010/0507/FUL remains extant and the works permitted by it can be lawfully continued. The Inspector therefore issued a certificate of lawfulness in respect of the construction of a three storey, five bedroomed detached dwelling in accordance with drawings listed under Condition 4 of 2010/0507/FUL. As the permission remains extant, an application can be lawfully made under Section 73 of the Town and Country Planning Act 1990, to vary Condition 4 (Drawings).
- 5.6 Since the approval of planning permission reference 2010/0507/FUL the Selby District Core Strategy Local Plan was formally adopted by the Council at the Extraordinary meeting of the Full Council on 22 October 2013. The policies within the Selby District Core Strategy Local Plan (2013) replace a number of Selby District Local Plan (2005) policies. In addition, the revised National Planning Policy Framework (NPPF) was published in July 2018, and subsequently revised again such that the most up-to-date version was published in February 2019. Although the policy context has changed since the decision for planning approval reference 2010/0507/FUL was made, with the adoption of the Selby District Core Strategy Local Plan (2013) and the publication of the NPPF (2019), the policy position remains the same. Had the proposal been assessed against the adopted Selby District Core Strategy Local Plan (2013) and NPPF (2019), the proposal would still have been considered acceptable in principle.
- 5.7 The proposed variation of Condition 4 (Drawings) of planning permission 2010/0507/FUL incorporates the following amendments: (1) the creation of a raised amenity area between the south elevation and Westfield Lane; (2) the alteration to the footprint of the dwelling at ground, first floor and second floor; (3) alterations to fenestration in all elevations of the building and the eastern and western roof slopes; (4) the addition of more photovoltaics to the roof slopes of the dwelling; (5) the increase in the maximum height of the dwelling by approximately 3.8 metres; (6) the increase in the eaves height of the dwelling by 0.4 metres to the west and 0.8

metres to the east; and (7) the inclusion of materials to be used in the external construction of the dwelling shown on the submitted plans.

- 5.8 The impacts arising from these amendments are considered in the following sections of this report. It should be noted, however, that a number of these amendments have already been accepted under a previous Section 73 application earlier this year, reference 2020/0016/S73. The main differences between the amendments shown under the current Section 73 application and the previously approved Section 73 application, and are therefore the main areas for consideration under this application are: (1) the increase in the maximum height of the dwelling by a further 3 metres (previously an increase in the maximum height of the dwelling by 0.8 metres was approved); (2) the increase in the eaves height of the dwelling by 0.4 metres to the west and 0.8 metres to the east; and (3) alterations to fenestration and addition of more photovoltaics in the western roof slope, as a result of the changes to the eave and ridge height. These amendments are to facilitate a mezzanine floor.

Design and Impact on the Character and Appearance of the Area

- 5.9 The original planning permission (reference: 2010/0507/FUL) assessed the proposals in respect of their design and impact on the character and appearance of the area and established that the proposals were acceptable with respect to the layout, scale, appearance and landscaping, subject to a condition relating to the approval of materials.
- 5.10 The proposed amendments would alter the footprint of the dwelling at ground, first floor and second floor level so the north west corner and south west corner would be rounded rather than square. In addition, the curved element projecting out from the northern elevation has been removed at ground, first floor and second floor level and the south east corner of the dwelling has been amended to give a slightly different shape. These amendments have previously been accepted as resulting in an acceptable design for the dwelling, which would not have any adverse impact on the character and appearance of the area, under planning permission reference 2020/016/S73, and this remains the case. Furthermore, the associated alterations to fenestration in all elevations of the building and the eastern and western roof slopes are not considered to have any significant adverse impact on the character and appearance of the area beyond the original permission.
- 5.11 The increase in the maximum height of the dwelling by approximately 3.8 meters and the the increase in the eaves height of the dwelling by 0.4 metres to the west and 0.8 metres to the east are to facilitate a mezzanine floor. There are properties of various styles and designs within the locality and it is considered that the increase in the maximum height of the ridge and the increase in the height of the eaves would result in an acceptable design for the dwelling, which would not have any adverse impact on the character and appearance of the area.
- 5.12 The submitted plans demonstrate the materials to be used in the external construction of the proposed dwelling would be white (limestone) render for the walls with dark grey metal windows and steel fall pipes; and blue/grey slates for the roof with metal verges, fascia and gutters. These materials have previously been accepted as resulting in an acceptable design for the dwelling, which would not have any adverse impact on the character and appearance of the area, under planning permission reference 2020/016/S73, and this remains the case. A condition was attached to the original planning permission requiring details of the

external materials to be submitted to and approved in writing by the Local Planning Authority. This condition would no longer be required, as the amended approved plans condition would secure the materials to be used in the external construction of the dwelling. Additional photovoltaics are shown on the roof slopes of the dwelling, which are considered to be acceptable in respect of the character and appearance of the area.

- 5.13 The creation of a raised amenity area between the south elevation of the dwelling and Westfield Lane would not be a prominent feature within the locality and would be facilitated by the construction of a 1.8 metre high wall with fence atop to the western side, adjacent to the quarry drop. This amendment has previously been accepted as being acceptable having regard to its design and impact on the character and appearance of the area, under planning permission reference 2020/016/S73, and this remains the case.
- 5.14 The proposed amendments taken as a whole, given their nature and design, are not considered to have any significant adverse impact on the character and appearance of the area beyond the original permission and are therefore considered to be acceptable in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of the Core Strategy Policy SP19 and national policy contained within the NPPF.

Impact on Residential Amenity

- 5.15 The original planning permission (reference: 2010/0507/FUL) assessed the proposals in respect of their impact on the residential amenity of neighboring properties in terms of whether they would result in any adverse impacts in terms of overlooking, overshadowing or oppression and established that the proposals were acceptable with respect to the layout, scale and appearance (including fenestration details).
- 5.16 The alterations to fenestration in all elevations of the building and the eastern and western roof slope, given their position, orientation and separation distance to neighboring residential properties would not result in any significant adverse effects of overlooking or loss of privacy beyond the original permission. The increase in the maximum height of the dwelling and the increase in the height of the eaves, given the nature of the changes and the position, orientation and separation distance of the proposed dwelling to neighboring properties, is not considered to result in any significant adverse effects of overshadowing, loss of sunlight or oppression so as to adversely affect the amenities of the neighboring properties beyond the original permission. Furthermore, the proposed raised amenity area, given its siting and separation distance from neighboring residential properties would not result in any significant adverse effects of overlooking beyond the original permission, as accepted under planning permission reference 2020/0016/S73.
- 5.17 The remainder of the proposed amendments, given their nature and design, are not considered to have any significant adverse impact on the residential amenity of neighbouring properties beyond the original permission. Overall, the proposed amendments are therefore considered to be acceptable in accordance with Policy ENV1 (1) of the Selby District Local Plan and national policy contained within the NPPF.
- 5.18 A number of letters of representation have been received which raise concerns regarding the length of time that the development has been ongoing and noise and

disturbance resulting from construction works impacting on the residential amenity of neighbouring properties. Policy ENV1 (1) and ENV2A of the Selby District Local Plan seek to ensure a good amenity for residential occupiers, which is consistent with national policy contained within the NPPF and the PPG in relation to noise and disturbance.

- 5.19 There are a history of permissions at the site, which have been summarised in the “Planning History” section of this report. Planning permission 2010/0507/FUL did not include any conditions restricting the hours and days that construction works could take place. However, under a subsequent planning permission, reference 2016/0850/FUL, the Local Planning Authority attached a condition restricting construction hours in the interest of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan. The applicants sought to remove this condition under application reference 2016/1190/FUL, which was refused by the Local Planning Authority on 02 December 2016 and subsequently dismissed at appeal (reference: APP/N2739/W/17/3168058) on 04 July 2017. The Inspector considered the removal of the condition restricting the hours and days that construction works could take place would harm the living conditions of nearby residents in relation to noise and disturbance in conflict with Policy ENV1 of the Selby District Local Plan. Under the non-determination appeal relating to planning permission reference 2018/0800/FUL to vary condition 04 (drawings) of planning permission reference 2010/0507/FUL, an Inspector concluded that it was reasonable and necessary to attach a condition restricting working hours in the interests of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan.
- 5.20 In determining a Section 73 application, the Local Planning Authority can impose additional conditions beyond those proposed in the application, provided that:
- (a) The conditions imposed are ones which could have been imposed on the original grant of permission; and
 - (b) The conditions do not permit amendments which would amount to a “fundamental alteration” of the development proposed by the original application.
- 5.21 The construction of the five bedroom, three storey detached house at Quarry Drop, Westfield Lane, South Milford has been ongoing for 9-10years. Representations from adjacent properties submitted with application references 2018/0850/FUL, 2016/1190/FUL, 2017/0757/CP, 2018/0800/FUL, 2020/0016/S73 and the current application, along with planning enforcement complaints have highlighted potential harm to the occupiers of neighbouring dwellings through noise and disturbance resulting from construction works, although it should be noted that no formal enforcement action has ever been taken as a result of planning enforcement complaints to date. The application site is tightly bound by residential properties, with those fronting High Street located a minimum of 10 metres away from the site boundary; No. 24 Westfield Lane to the east, located a minimum of 7 metres from the site boundary at a higher elevation; and Westmere to the west, located 18 metres from the site boundary and at a higher level. Given the location of the site, surrounded by residential properties to all sides, the evidence of the length of time the development has been ongoing, the representations from neighbouring properties regarding the potential harm to living conditions through noise and disturbance resulting from construction works, and two Planning Inspectorate decisions which set out that the residential amenity of the neighbouring properties must be protected during construction works by way of a condition restricting

construction hours, it is considered reasonable and necessary to attach a condition restricting construction hours to any approval of planning permission under the current Section 73 application.

- 5.22 A condition restricting construction hours would be necessary, would be relevant to planning and relevant to the development permitted in relation to the site context, evidence of complaints about working hours and there is a clear planning purpose to protect amenity in relation to local planning policy. A condition relating to working hours would be enforceable because it would be possible to detect a contravention and remedy any such breach by not working outside the specified hours. Furthermore, the Inspector on appeal reference APP/N2739/W/17/3168058 considered the working hours condition, subject of that appeal, was sufficiently precise so as to have sensible meaning when read as a whole and was not uncertain. A similarly worded condition could be attached to the current application, thus the same would apply in terms of enforceability and preciseness.
- 5.23 Indeed, under appeal reference APP/N2739/W/18/3212548 relating to a similar Section 73 application to amend the approved plans condition of planning permission reference 2010/0507/FUL in 2018, an Inspector concluded that it was reasonable and necessary to attach a condition restricting working hours in the interests of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan. Furthermore, such a condition was attached to planning permission reference 2020/0016/S73 earlier this year.
- 5.24 Having regard to the above factors, the Local Planning Authority consider it prudent to attach a condition restricting construction hours to any approval of planning permission in the interests of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan. The condition is one which could have been imposed on the original grant of permission; and the condition does not permit amendments which would amount to a “fundamental alteration” of the development proposed by the original application.

Impact on Highway Safety

- 5.25 The original planning permission (reference: 2010/0507/FUL) assessed the proposals in respect of their impact on highway safety and established that the proposals were acceptable with respect to the access and layout, subject to a condition requiring the accesses to the site to be laid out and constructed in accordance with certain requirements detailed within the condition.
- 5.26 The proposed amendments do not alter the access, parking and turning areas within the application site. North Yorkshire County Council Highways have been consulted on the application and have advised that there are no local highway authority objections to the proposals, subject to a condition requiring the provision of the approved access, turning and parking areas. Such a condition has not been attached to any previous planning permissions at the site as it was not considered necessary. Officers consider that situation remains unchanged. The submitted plans, which would be conditioned as part of any planning permission granted, show the provision of an integral garage and sufficient space within the curtilage for the parking of vehicles.
- 5.27 As the access has now been laid out and constructed, it is not necessary to attach a condition to any approval of planning permission relating to the construction of the access, as with the 2010 permission.

- 5.28 Having regard to the above, it is considered that the proposals are acceptable in respect of highway safety in accordance with Policy ENV1 (2) of the Selby District Local Plan, Policy T1 of the Core Strategy and national policy contained within the NPPF.

Other Issues

- 5.29 Concerns have been raised as to whether the proposed development falls to be considered under a Section 73 application and whether instead a full application should have been submitted for consideration. An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied. In this case the applicant is seeking to amend the approved plans condition of the 2010 permission (which the Planning Inspectorate have deemed is lawful). The Planning Practice Guidance sets out that planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made. Further, section 73 cannot be used to change the description of the development. Aside from that, there is no statutory definition of a 'minor material amendment' and it is a matter of planning judgement whether the amendment falls to be considered under section 73 or not. In this case, it is considered that the proposed amendment can be considered under a section 73 application given the scale and nature of the development by comparison to the original application.
- 5.30 Concerns have been raised regarding the length of time the build has been ongoing and whether a completion date condition could be attached to any planning permission granted. Paragraph 55 of the NPPF makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests: (1) necessary; (2) relevant to planning; (3) relevant to the development to be permitted; (4) enforceable; (5) precise; and (6) reasonable in all other respects. These are referred to as 'the 6 tests', and each of them need to be satisfied for each condition which an authority intends to apply. A condition requiring a development to be carried out in its entirety within a specified timeframe would not meet all of 'the 6 tests', as it would not be reasonable or enforceable. This has been confirmed by an Inspector under the appeal relating to planning permission reference 2018/0800/FUL.
- 5.31 Concerns have been raised regarding non-compliance with working hours conditions attached to planning permission references 2016/0850/FUL and 2018/0800/FUL and queries/requests have been raised regarding whether a working hours condition would be attached to the current application should it be approved. Complaints regarding non-compliance with working hours conditions are investigated by the Council's Planning Enforcement Team. As set out earlier in this report a condition relating to the hours of construction works would be attached to any planning permission granted.
- 5.32 Concerns have been raised regarding construction vehicles blocking the road. Such complaints should be directed towards North Yorkshire County Council Highways for further investigation.
- 5.33 Concerns have been raised regarding the boundary treatment along Westfield Lane. The Local Planning Authority consider the lawful boundary treatment along

Westfield Lane is a 1.2 metre high wall (i.e. removing the 0.6 metre high fence atop) and this matter is being investigated by the Council's Planning Enforcement Team. A 1.2 metre high boundary treatment along the Westfield Lane boundary would provide sufficient visibility at the site access to Westfield Lane to satisfy NYCC Highways.

- 5.34 Concerns have been raised as to whether the development meets building regulations. This is a matter for Building Control to consider rather than Planning.
- 5.35 Concerns have been raised that the ongoing development is resulting in the loss of the value of neighbouring properties. This is not a material consideration to be taken into account in the determination of this application.

6 CONCLUSION

- 6.1 The application has been made under Section 73 of the Town and Country Planning Act 1990 and the proposal seeks to vary Condition 4 (drawings) of planning permission reference 2010/0507/FUL for the construction of a five bedroom, three storey detached house at Quarry Drop, Westfield Lane, South Milford. The changes proposed under this Section 73 application are: (1) the creation of a raised amenity area between the south elevation and Westfield Lane; (2) the alteration to the footprint of the dwelling at ground, first floor and second floor; (3) alterations to fenestration in all elevations of the building and the eastern and western roof slopes; (4) the addition of more photovoltaics to the roof slopes of the dwelling; (5) the increase in the maximum height of the dwelling by approximately 3.8 metres; (6) the increase in the eaves height of the dwelling by 0.4 metres to the west and 0.8 metres to the east; and (7) the inclusion of materials to be used in the external construction of the dwelling shown on the submitted plans.
- 6.2 The proposed amendments are not considered to have any significant adverse impact on the character and appearance of the area, the residential amenity of neighbouring properties or highway safety beyond the original permission and are therefore considered to be acceptable in accordance with Policies ENV1 and T1 of the Selby District Local Plan, Policy SP19 of the Core Strategy and national policy contained within the NPPF.
- 6.3 Given the location of the site, surrounded by residential properties to all sides, the evidence of the length of time the development has been ongoing, and the representations from neighbouring properties regarding the potential harm to living conditions through noise and disturbance resulting from construction works, it is considered reasonable and necessary to attach a condition restricting construction hours in the interests of the amenities of the adjacent properties and having regard to Policy ENV1 of the Selby District Local Plan.

7 RECOMMENDATION

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

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

LOC 01 – Location Plan
01 – Site Plan

- 02 – Basement and First Floor Plans
- 03 – Second and Mezzanine Floor Plans
- 04 – Roof Plan
- 05 – East and North Elevations
- 06 – South and West Elevations
- 07 – Section Looking North
- 08 – Section Looking East

Reason:

For the avoidance of doubt.

02. No construction works shall take place on site outside the hours of 8am-6pm Monday to Friday, 9am to 1pm Saturday, or at all on Sundays and Bank Holidays.

Reason:

In interests of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan.

INFORMATIVE:

The purpose of Condition 2 is to restrict construction works associated with the development hereby granted outside the stated hours in the interests of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan. For the purposes of Condition 2 the phrase 'construction works' means the carrying out of any building, civil engineering or engineering work associated with the construction of the dwelling hereby permitted, which would generate levels of noise audible at the site boundary that would cause a loss of amenity to neighbours. In assessing compliance with Condition 2, the Local Planning Authority would work alongside the Council's Environmental Health Officers, who have a separate duty to deal with statutory nuisances under the Environmental Protection Act 1990. The applicant is advised to keep an up-to-date written log detailing what works associated with the planning permission granted are being undertaken, which can be made available to the Local Planning Authority upon their request, in the event that any alleged breaches of Condition 2 are reported to the Local Planning Authority requiring subsequent investigation.

8 Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9 Financial Issues

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

10 Background Documents

Planning Application file reference 2020/0828/S73 and associated documents.

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

Appendices:

Appendix 1 - Officer Report to 23 September 2020 Planning Committee

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Report Reference Number: 2020/0828/S73

To: Planning Committee
Date: 23 September 2020
Author: Jenny Tyreman (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0828/S73	PARISH:	South Milford Parish Council
APPLICANT:	Mr Ian Lindsay	VALID DATE: EXPIRY DATE:	5th August 2020 30th September 2020
PROPOSAL:	Section 73 application to vary condition 04 (approved plans) of planning permission 2010/0507/FUL for construction of a five-bedroom, three storey detached house		
LOCATION:	Quarry Drop Westfield Lane South Milford Leeds West Yorkshire LS25 5AP		
RECOMMENDATION:	GRANT		

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

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located within the defined development limits of South Milford, which is a Designated Service Village as identified in the Core Strategy.
- 1.2 The application site comprises part of a former magnesium limestone quarry. The quarry face is to the south side of the application site adjacent to Westfield Lane,

and as such there is an approximate 6.4 metre difference in the ground level between the application site and Westfield Lane.

- 1.3 The application site fronts Westfield Lane to the south and is bound by residential development to the north, south, east and west.

The Proposal

- 1.4 The application has been made under Section 73 of the Town and Country Planning Act 1990 and the proposal seeks to vary Condition 4 (Drawings) of planning permission reference 2010/0507/FUL for the construction of a five bedroom, three storey detached house at Quarry Drop, Westfield Lane, South Milford. The changes proposed under this Section 73 application are: (1) the creation of a raised amenity area between the south elevation and Westfield Lane; (2) the alteration to the footprint of the dwelling at ground, first floor and second floor; (3) alterations to fenestration in all elevations of the building and the eastern and western roof slopes; (4) the addition of more photovoltaics to the roof slopes of the dwelling; (5) the increase in the maximum height of the dwelling by approximately 3.8 metres; (6) the increase in the eaves height of the dwelling by 0.4 metres to the west and 0.8 metres to the east; and (7) the inclusion of materials to be used in the external construction of the dwelling shown on the submitted plans.
- 1.5 It should be noted that a number of these amendments have already been accepted under a previous Section 73 application earlier this year, reference 2020/0016/S73. The main differences between the amendments shown under the current Section 73 application and the previously approved Section 73 application, and therefore the main areas for consideration under this application are: (1) the increase in the maximum height of the dwelling by a further 3 metres (previously an increase in the maximum height of the dwelling by 0.8 metres was approved); (2) the increase in the eaves height of the dwelling by 0.4 metres to the west and 0.8 metres to the east; and (3) alterations to fenestration and addition of more photovoltaics in the western roof slope, as a result of the changes to the eave and ridge height. These amendments are to facilitate a mezzanine floor.

Relevant Planning History

- 1.6 The following historical applications are considered to be relevant to the determination of this application.
- 1.7 An application (reference: 2010/0507/FUL) for the construction of a five bedroom, three storey detached house was permitted on 02.08.2010.
- 1.8 A part retrospective application (reference: 2016/0850/FUL) for the erection of a detached three storey dwelling and the erection of temporary building for residential use during the construction period was permitted on 15.09.2016.
- 1.9 An application (reference: 2016/1190/FUL) to remove condition 9 (hours of work) of planning permission 2016/0850/FUL Part retrospective application for the erection of a detached three storey dwelling and the erection of temporary building for residential use during the construction period was refused on 02.12.2016. A subsequent appeal (reference: APP/N2739/W/17/3168058) was dismissed on 04.07.2017.

- 1.10 An application (reference: 2017/0757/PPP) for a certificate of lawful development for the proposed continuation of a development to build a 3 storey 5 bedroom house in accordance with 2010/0507/FUL was refused on 09.10.2017. A subsequent appeal (reference: APP/N2739/X/17/3186468) was allowed on 06.07.2018.
- 1.11 A Section 73 application (reference: 2018/0800/FUL) to vary condition 04 (drawings) of planning permission reference 2010/0507/FUL for the construction of a five bedroom, three storey detached house was appealed for non-determination. The appeal (reference: APP/N2739/W/18/3212548) was allowed on 02.05.2019.
- 1.12 A Section 73 application (reference: 2020/0016/FUL) to vary condition 04 (drawings) of planning permission reference 2010/0507/FUL for the construction of a five bedroom, three storey detached house was permitted on 07.05.2020.

2. CONSULTATION AND PUBLICITY

- 2.1 **Parish Council** – The Parish Council consider the plans presented by the applicant are unclear as to what has changed with this variation. The plans have been reviewed carefully and it is estimated that there is an approximate increase in height of 4m. It is unclear how this compares to neighbouring properties and impact on neighbouring properties so we cannot formulate recommendations to SDC.
- 2.2 **NYCC Highways** – No objections, subject to a condition requiring the provision of the approved access, turning and parking areas.
- 2.3 **Environmental Health** – No objections.
- 2.4 **Contaminated Land Consultants** – No objections.
- 2.5 **Yorkshire Water Services Ltd** – No response within statutory consultation period.
- 2.6 **Selby Area Internal Drainage Board** – No response within statutory consultation period.
- 2.7 **Ward Councillor** – No response within statutory consultation period.
- 2.8 **Neighbour Summary** – All immediate neighbours were informed by neighbour notification letter and two site notices were erected (one on Westfield Lane and one on High Street).

Ten letters of representation have been received as a result of this advertisement of the application, all objecting to the application with concerns raised in respect of:

- (1) the length of time the build has been ongoing and will continue to be ongoing;
- (2) non-compliance with a working hours conditions attached to previous planning permissions at the site and queries/requests regarding whether a working hours condition would be attached to the current application should it be approved;
- (3) queries/requests regarding whether a completion date condition would be attached to the current application;
- (4) queries regarding whether the proposed development falls to be considered under a Section 73 application and whether instead a full application should have been submitted for consideration;
- (5) the submission of a further application for amendments, which follows a number of other applications for amendments;

- (6) the reasoning for the proposed amendment, as the site is located within Flood Zone 1 and has not flooded before;
- (7) limited information provided on the submitted plans to be able to understand the proposals and determine the application;
- (8) the height, size and design of the proposed development, which would be out of keeping with neighbouring properties and would have an adverse impact on the character and appearance of the area;
- (9) the existing wall and fence to the Westfield Lane boundary which causes a highway safety issue;
- (10) loss of amenity to neighbouring residential properties, due to noise, disturbance, overlooking, loss of privacy, overshadowing and loss of sunlight;
- (11) vehicles blocking the highway and vehicle being parked on High Street causing highway safety issues;
- (12) the practicality of using the driveway, which is very steep;
- (13) whether the development meets building regulations; and
- (14) the loss of house value of neighbouring properties as a result of the development.

3 SITE CONSTRAINTS

Constraints

- 3.1 The application site is located within the defined development limits of South Milford, which is a Designated Service Village as identified in the Core Strategy.
- 3.2 The application site is located within Flood Zone 1, which has a low probability of flooding.

4 POLICY CONSIDERATIONS

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

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

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

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

Selby District Core Strategy Local Plan

4.6 The relevant Core Strategy Policies are:

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

Selby District Local Plan

4.7 The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- ENV2 – Environmental Pollution and Contaminated Land
- T1 – Development in Relation to the Highway Network

5 APPRAISAL

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

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Other Issues

The Principle of the Development

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

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

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

- 5.3 As such the only consideration of this application is in relation to the conditions of the approval and the impact the proposed variation would have. Therefore key to the determination of this application is whether a new planning consent for the development with the proposed variation to Condition 4 (Drawings) of planning permission 2010/0507/FUL would be contrary to the provisions within the development plan or whether there are reasonable grounds for refusal if these conditions were not retained in their present form.
- 5.4 The previous planning permission for the construction of a five bedroom, three storey detached house at Quarry Drop, Westfield Lane, South Milford was considered acceptable under planning approval reference 2010/0507/FUL, subject to conditions and according with relevant policies in place at that time.
- 5.5 A recent appeal decision dated 6 July 2018 (appeal reference: APP/N2739/X/17/3186468) has confirmed that planning permission reference 2010/0507/FUL remains extant and the works permitted by it can be lawfully continued. The Inspector therefore issued a certificate of lawfulness in respect of the construction of a three storey, five bedroomed detached dwelling in accordance with drawings listed under Condition 4 of 2010/0507/FUL. As the permission remains extant, an application can be lawfully made under Section 73 of the Town and Country Planning Act 1990, to vary Condition 4 (Drawings).
- 5.6 Since the approval of planning permission reference 2010/0507/FUL the Selby District Core Strategy Local Plan was formally adopted by the Council at the Extraordinary meeting of the Full Council on 22 October 2013. The policies within the Selby District Core Strategy Local Plan (2013) replace a number of Selby District Local Plan (2005) policies. In addition, the revised National Planning Policy Framework (NPPF) was published in July 2018, and subsequently revised again such that the most up-to-date version was published in February 2019. Although the policy context has changed since the decision for planning approval reference 2010/0507/FUL was made, with the adoption of the Selby District Core Strategy Local Plan (2013) and the publication of the NPPF (2019), the policy position remains the same. Had the proposal been assessed against the adopted Selby District Core Strategy Local Plan (2013) and NPPF (2019), the proposal would still have been considered acceptable in principle.
- 5.7 The proposed variation of Condition 4 (Drawings) of planning permission 2010/0507/FUL incorporates the following amendments: (1) the creation of a raised amenity area between the south elevation and Westfield Lane; (2) the alteration to the footprint of the dwelling at ground, first floor and second floor; (3) alterations to fenestration in all elevations of the building and the eastern and western roof slopes; (4) the addition of more photovoltaics to the roof slopes of the dwelling; (5) the increase in the maximum height of the dwelling by approximately 3.8 metres; (6) the increase in the eaves height of the dwelling by 0.4 metres to the west and 0.8

metres to the east; and (7) the inclusion of materials to be used in the external construction of the dwelling shown on the submitted plans.

- 5.8 The impacts arising from these amendments are considered in the following sections of this report. It should be noted, however, that a number of these amendments have already been accepted under a previous Section 73 application earlier this year, reference 2020/0016/S73. The main differences between the amendments shown under the current Section 73 application and the previously approved Section 73 application, and are therefore the main areas for consideration under this application are: (1) the increase in the maximum height of the dwelling by a further 3 metres (previously an increase in the maximum height of the dwelling by 0.8 metres was approved); (2) the increase in the eaves height of the dwelling by 0.4 metres to the west and 0.8 metres to the east; and (3) alterations to fenestration and addition of more photovoltaics in the western roof slope, as a result of the changes to the eave and ridge height. These amendments are to facilitate a mezzanine floor.

Design and Impact on the Character and Appearance of the Area

- 5.9 The original planning permission (reference: 2010/0507/FUL) assessed the proposals in respect of their design and impact on the character and appearance of the area and established that the proposals were acceptable with respect to the layout, scale, appearance and landscaping, subject to a condition relating to the approval of materials.
- 5.10 The proposed amendments would alter the footprint of the dwelling at ground, first floor and second floor level so the north west corner and south west corner would be rounded rather than square. In addition, the curved element projecting out from the northern elevation has been removed at ground, first floor and second floor level and the south east corner of the dwelling has been amended to give a slightly different shape. These amendments have previously been accepted as resulting in an acceptable design for the dwelling, which would not have any adverse impact on the character and appearance of the area, under planning permission reference 2020/016/S73, and this remains the case. Furthermore, the associated alterations to fenestration in all elevations of the building and the eastern and western roof slopes are not considered to have any significant adverse impact on the character and appearance of the area beyond the original permission.
- 5.11 The increase in the maximum height of the dwelling by approximately 3.8 meters and the the increase in the eaves height of the dwelling by 0.4 metres to the west and 0.8 metres to the east are to facilitate a mezzanine floor. There are properties of various styles and designs within the locality and it is considered that the increase in the maximum height of the ridge and the increase in the height of the eaves would result in an acceptable design for the dwelling, which would not have any adverse impact on the character and appearance of the area.
- 5.12 The submitted plans demonstrate the materials to be used in the external construction of the proposed dwelling would be white (limestone) render for the walls with dark grey metal windows and steel fall pipes; and blue/grey slates for the roof with metal verges, fascia and gutters. These materials have previously been accepted as resulting in an acceptable design for the dwelling, which would not have any adverse impact on the character and appearance of the area, under planning permission reference 2020/016/S73, and this remains the case. A condition was attached to the original planning permission requiring details of the

external materials to be submitted to and approved in writing by the Local Planning Authority. This condition would no longer be required, as the amended approved plans condition would secure the materials to be used in the external construction of the dwelling. Additional photovoltaics are shown on the roof slopes of the dwelling, which are considered to be acceptable in respect of the character and appearance of the area.

- 5.13 The creation of a raised amenity area between the south elevation of the dwelling and Westfield Lane would not be a prominent feature within the locality and would be facilitated by the construction of a 1.8 metre high wall with fence atop to the western side, adjacent to the quarry drop. This amendment has previously been accepted as being acceptable having regard to its design and impact on the character and appearance of the area, under planning permission reference 2020/016/S73, and this remains the case.
- 5.14 The proposed amendments taken as a whole, given their nature and design, are not considered to have any significant adverse impact on the character and appearance of the area beyond the original permission and are therefore considered to be acceptable in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of the Core Strategy Policy SP19 and national policy contained within the NPPF.

Impact on Residential Amenity

- 5.15 The original planning permission (reference: 2010/0507/FUL) assessed the proposals in respect of their impact on the residential amenity of neighboring properties in terms of whether they would result in any adverse impacts in terms of overlooking, overshadowing or oppression and established that the proposals were acceptable with respect to the layout, scale and appearance (including fenestration details).
- 5.16 The alterations to fenestration in all elevations of the building and the eastern and western roof slope, given their position, orientation and separation distance to neighboring residential properties would not result in any significant adverse effects of overlooking or loss of privacy beyond the original permission. The increase in the maximum height of the dwelling and the increase in the height of the eaves, given the nature of the changes and the position, orientation and separation distance of the proposed dwelling to neighboring properties, is not considered to result in any significant adverse effects of overshadowing, loss of sunlight or oppression so as to adversely affect the amenities of the neighboring properties beyond the original permission. Furthermore, the proposed raised amenity area, given its siting and separation distance from neighboring residential properties would not result in any significant adverse effects of overlooking beyond the original permission, as accepted under planning permission reference 2020/0016/S73.
- 5.17 The remainder of the proposed amendments, given their nature and design, are not considered to have any significant adverse impact on the residential amenity of neighbouring properties beyond the original permission. Overall, the proposed amendments are therefore considered to be acceptable in accordance with Policy ENV1 (1) of the Selby District Local Plan and national policy contained within the NPPF.
- 5.18 A number of letters of representation have been received which raise concerns regarding the length of time that the development has been ongoing and noise and

disturbance resulting from construction works impacting on the residential amenity of neighbouring properties. Policy ENV1 (1) and ENV2A of the Selby District Local Plan seek to ensure a good amenity for residential occupiers, which is consistent with national policy contained within the NPPF and the PPG in relation to noise and disturbance.

- 5.19 There are a history of permissions at the site, which have been summarised in the “Planning History” section of this report. Planning permission 2010/0507/FUL did not include any conditions restricting the hours and days that construction works could take place. However, under a subsequent planning permission, reference 2016/0850/FUL, the Local Planning Authority attached a condition restricting construction hours in the interest of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan. The applicants sought to remove this condition under application reference 2016/1190/FUL, which was refused by the Local Planning Authority on 02 December 2016 and subsequently dismissed at appeal (reference: APP/N2739/W/17/3168058) on 04 July 2017. The Inspector considered the removal of the condition restricting the hours and days that construction works could take place would harm the living conditions of nearby residents in relation to noise and disturbance in conflict with Policy ENV1 of the Selby District Local Plan. Under the non-determination appeal relating to planning permission reference 2018/0800/FUL to vary condition 04 (drawings) of planning permission reference 2010/0507/FUL, an Inspector concluded that it was reasonable and necessary to attach a condition restricting working hours in the interests of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan.
- 5.20 In determining a Section 73 application, the Local Planning Authority can impose additional conditions beyond those proposed in the application, provided that:
- (a) The conditions imposed are ones which could have been imposed on the original grant of permission; and
 - (b) The conditions do not permit amendments which would amount to a “fundamental alteration” of the development proposed by the original application.
- 5.21 The construction of the five bedroom, three storey detached house at Quarry Drop, Westfield Lane, South Milford has been ongoing for 9-10years. Representations from adjacent properties submitted with application references 2018/0850/FUL, 2016/1190/FUL, 2017/0757/CP, 2018/0800/FUL, 2020/0016/S73 and the current application, along with planning enforcement complaints have highlighted potential harm to the occupiers of neighbouring dwellings through noise and disturbance resulting from construction works, although it should be noted that no formal enforcement action has ever been taken as a result of planning enforcement complaints to date. The application site is tightly bound by residential properties, with those fronting High Street located a minimum of 10 metres away from the site boundary; No. 24 Westfield Lane to the east, located a minimum of 7 metres from the site boundary at a higher elevation; and Westmere to the west, located 18 metres from the site boundary and at a higher level. Given the location of the site, surrounded by residential properties to all sides, the evidence of the length of time the development has been ongoing, the representations from neighbouring properties regarding the potential harm to living conditions through noise and disturbance resulting from construction works, and two Planning Inspectorate decisions which set out that the residential amenity of the neighbouring properties must be protected during construction works by way of a condition restricting

construction hours, it is considered reasonable and necessary to attach a condition restricting construction hours to any approval of planning permission under the current Section 73 application.

- 5.22 A condition restricting construction hours would be necessary, would be relevant to planning and relevant to the development permitted in relation to the site context, evidence of complaints about working hours and there is a clear planning purpose to protect amenity in relation to local planning policy. A condition relating to working hours would be enforceable because it would be possible to detect a contravention and remedy any such breach by not working outside the specified hours. Furthermore, the Inspector on appeal reference APP/N2739/W/17/3168058 considered the working hours condition, subject of that appeal, was sufficiently precise so as to have sensible meaning when read as a whole and was not uncertain. A similarly worded condition could be attached to the current application, thus the same would apply in terms of enforceability and preciseness.
- 5.23 Indeed, under appeal reference APP/N2739/W/18/3212548 relating to a similar Section 73 application to amend the approved plans condition of planning permission reference 2010/0507/FUL in 2018, an Inspector concluded that it was reasonable and necessary to attach a condition restricting working hours in the interests of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan. Furthermore, such a condition was attached to planning permission reference 2020/0016/S73 earlier this year.
- 5.24 Having regard to the above factors, the Local Planning Authority consider it prudent to attach a condition restricting construction hours to any approval of planning permission in the interests of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan. The condition is one which could have been imposed on the original grant of permission; and the condition does not permit amendments which would amount to a “fundamental alteration” of the development proposed by the original application.

Impact on Highway Safety

- 5.25 The original planning permission (reference: 2010/0507/FUL) assessed the proposals in respect of their impact on highway safety and established that the proposals were acceptable with respect to the access and layout, subject to a condition requiring the accesses to the site to be laid out and constructed in accordance with certain requirements detailed within the condition.
- 5.26 The proposed amendments do not alter the access, parking and turning areas within the application site. North Yorkshire County Council Highways have been consulted on the application and have advised that there are no local highway authority objections to the proposals, subject to a condition requiring the provision of the approved access, turning and parking areas. Such a condition has not been attached to any previous planning permissions at the site as it was not considered necessary. Officers consider that situation remains unchanged. The submitted plans, which would be conditioned as part of any planning permission granted, show the provision of an integral garage and sufficient space within the curtilage for the parking of vehicles.
- 5.27 As the access has now been laid out and constructed, it is not necessary to attach a condition to any approval of planning permission relating to the construction of the access, as with the 2010 permission.

- 5.28 Having regard to the above, it is considered that the proposals are acceptable in respect of highway safety in accordance with Policy ENV1 (2) of the Selby District Local Plan, Policy T1 of the Core Strategy and national policy contained within the NPPF.

Other Issues

- 5.29 Concerns have been raised as to whether the proposed development falls to be considered under a Section 73 application and whether instead a full application should have been submitted for consideration. An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied. In this case the applicant is seeking to amend the approved plans condition of the 2010 permission (which the Planning Inspectorate have deemed is lawful). The Planning Practice Guidance sets out that planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made. Further, section 73 cannot be used to change the description of the development. Aside from that, there is no statutory definition of a 'minor material amendment' and it is a matter of planning judgement whether the amendment falls to be considered under section 73 or not. In this case, it is considered that the proposed amendment can be considered under a section 73 application given the scale and nature of the development by comparison to the original application.
- 5.30 Concerns have been raised regarding the length of time the build has been ongoing and whether a completion date condition could be attached to any planning permission granted. Paragraph 55 of the NPPF makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests: (1) necessary; (2) relevant to planning; (3) relevant to the development to be permitted; (4) enforceable; (5) precise; and (6) reasonable in all other respects. These are referred to as 'the 6 tests', and each of them need to be satisfied for each condition which an authority intends to apply. A condition requiring a development to be carried out in its entirety within a specified timeframe would not meet all of 'the 6 tests', as it would not be reasonable or enforceable. This has been confirmed by an Inspector under the appeal relating to planning permission reference 2018/0800/FUL.
- 5.31 Concerns have been raised regarding non-compliance with working hours conditions attached to planning permission references 2016/0850/FUL and 2018/0800/FUL and queries/requests have been raised regarding whether a working hours condition would be attached to the current application should it be approved. Complaints regarding non-compliance with working hours conditions are investigated by the Council's Planning Enforcement Team. As set out earlier in this report a condition relating to the hours of construction works would be attached to any planning permission granted.
- 5.32 Concerns have been raised regarding construction vehicles blocking the road. Such complaints should be directed towards North Yorkshire County Council Highways for further investigation.
- 5.33 Concerns have been raised regarding the boundary treatment along Westfield Lane. The Local Planning Authority consider the lawful boundary treatment along

Westfield Lane is a 1.2 metre high wall (i.e. removing the 0.6 metre high fence atop) and this matter is being investigated by the Council's Planning Enforcement Team. A 1.2 metre high boundary treatment along the Westfield Lane boundary would provide sufficient visibility at the site access to Westfield Lane to satisfy NYCC Highways.

- 5.34 Concerns have been raised as to whether the development meets building regulations. This is a matter for Building Control to consider rather than Planning.
- 5.35 Concerns have been raised that the ongoing development is resulting in the loss of the value of neighbouring properties. This is not a material consideration to be taken into account in the determination of this application.

6 CONCLUSION

- 6.1 The application has been made under Section 73 of the Town and Country Planning Act 1990 and the proposal seeks to vary Condition 4 (drawings) of planning permission reference 2010/0507/FUL for the construction of a five bedroom, three storey detached house at Quarry Drop, Westfield Lane, South Milford. The changes proposed under this Section 73 application are: (1) the creation of a raised amenity area between the south elevation and Westfield Lane; (2) the alteration to the footprint of the dwelling at ground, first floor and second floor; (3) alterations to fenestration in all elevations of the building and the eastern and western roof slopes; (4) the addition of more photovoltaics to the roof slopes of the dwelling; (5) the increase in the maximum height of the dwelling by approximately 3.8 metres; (6) the increase in the eaves height of the dwelling by 0.4 metres to the west and 0.8 metres to the east; and (7) the inclusion of materials to be used in the external construction of the dwelling shown on the submitted plans.
- 6.2 The proposed amendments are not considered to have any significant adverse impact on the character and appearance of the area, the residential amenity of neighbouring properties or highway safety beyond the original permission and are therefore considered to be acceptable in accordance with Policies ENV1 and T1 of the Selby District Local Plan, Policy SP19 of the Core Strategy and national policy contained within the NPPF.
- 6.3 Given the location of the site, surrounded by residential properties to all sides, the evidence of the length of time the development has been ongoing, and the representations from neighbouring properties regarding the potential harm to living conditions through noise and disturbance resulting from construction works, it is considered reasonable and necessary to attach a condition restricting construction hours in the interests of the amenities of the adjacent properties and having regard to Policy ENV1 of the Selby District Local Plan.

7 RECOMMENDATION

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

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

LOC 01 – Location Plan
01 – Site Plan

- 02 – Basement and First Floor Plans
- 03 – Second and Mezzanine Floor Plans
- 04 – Roof Plan
- 05 – East and North Elevations
- 06 – South and West Elevations
- 07 – Section Looking North
- 08 – Section Looking East

Reason:

For the avoidance of doubt.

02. No construction works shall take place on site outside the hours of 8am-6pm Monday to Friday, 9am to 1pm Saturday, or at all on Sundays and Bank Holidays.

Reason:

In interests of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan.

INFORMATIVE:

The purpose of Condition 2 is to restrict construction works associated with the development hereby granted outside the stated hours in the interests of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan. For the purposes of Condition 2 the phrase 'construction works' means the carrying out of any building, civil engineering or engineering work associated with the construction of the dwelling hereby permitted, which would generate levels of noise audible at the site boundary that would cause a loss of amenity to neighbours. In assessing compliance with Condition 2, the Local Planning Authority would work alongside the Council's Environmental Health Officers, who have a separate duty to deal with statutory nuisances under the Environmental Protection Act 1990. The applicant is advised to keep an up-to-date written log detailing what works associated with the planning permission granted are being undertaken, which can be made available to the Local Planning Authority upon their request, in the event that any alleged breaches of Condition 2 are reported to the Local Planning Authority requiring subsequent investigation.

8 Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9 Financial Issues

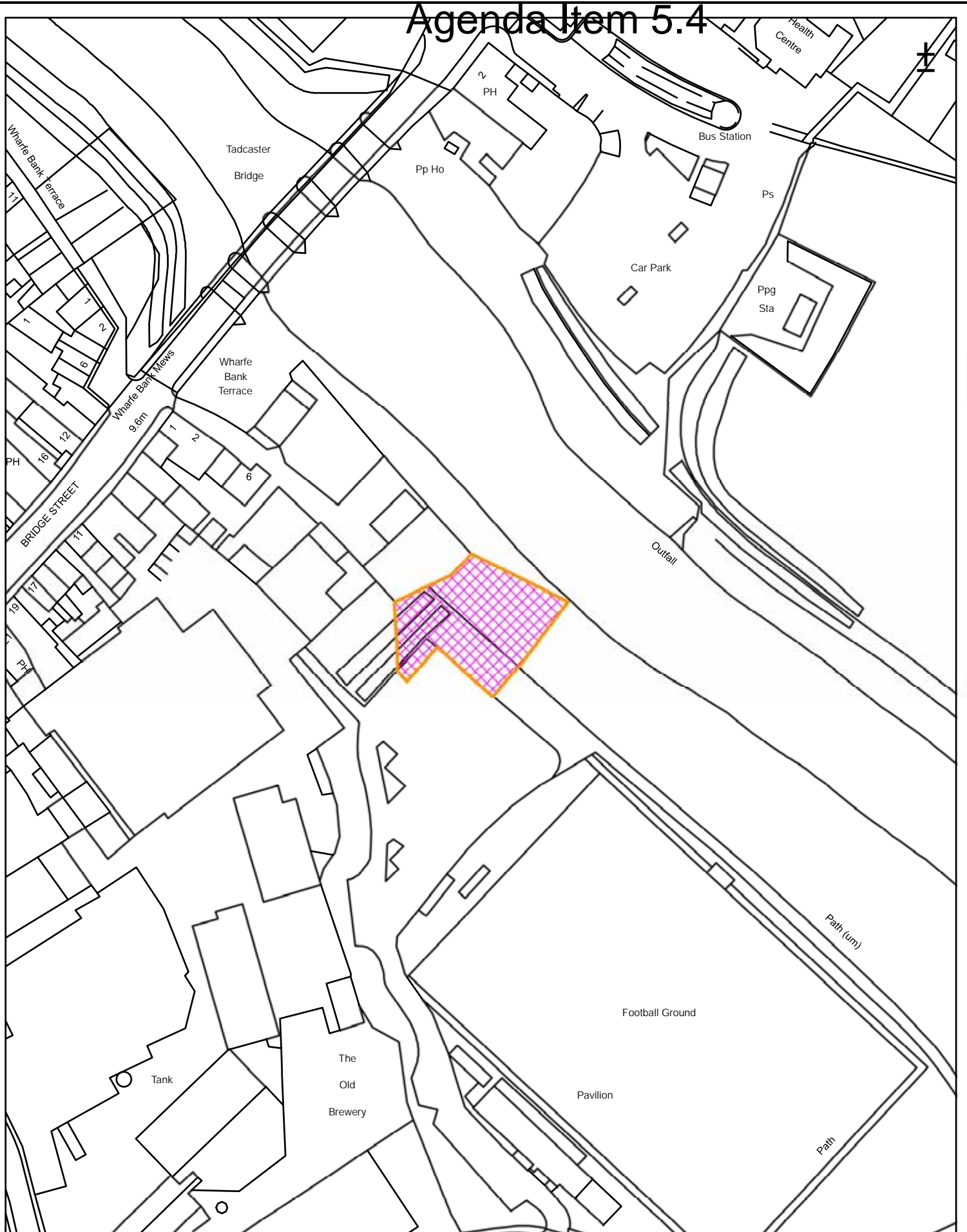
Financial issues are not material to the determination of this application.

10 Background Documents

Planning Application file reference 2020/0828/S73 and associated documents.

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

Appendices: None



APPLICATION SITE

Land at Wharfe Bank, Tadcaster
2017/0872/FUL

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Report Reference Number: 2017/0872/FUL

To: Planning Committee
Date: 28 October 2020
Author: Ruth Hardingham (Planning Development Manager)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/0872/FUL	PARISH:	Tadcaster Town Council
APPLICANT:	North Yorkshire County Council	VALID DATE: EXPIRY DATE:	29 th August 2017 24 th October 2017
PROPOSAL:	Proposed installation of a recreational raised seating area over the existing temporary bridge foundation to be retained		
LOCATION:	Land At Wharfe Bank Tadcaster		
RECOMMENDATION:	REFUSE		

Members previously determined this scheme on the 16th January 2019, which was then subjected to a Judicial Review challenge by Samuel Smith Old Brewery. The decision was then quashed by Court Order. Therefore, this matter needs to be re-considered by Members of the Planning Committee in the context of any changed circumstances or new material considerations since the original consent was issued and a new decision issued by the Authority accordingly on the application.

1.0 INTRODUCTION AND BACKGROUND

1.1 This application was initially considered at Planning Committee on the 16th January 2019 and was recommended for approval, subject to conditions. The Officers' report to that meeting and associated Update Note are attached as Appendix A.

1.2 This decision was then subject to a Judicial Review (JR) by Samuel Smith Old Brewery, who objected to the planning permission on the following grounds:

- Ground 1: Misleading, unlawful and irrational treatment of the baseline and/or deficient reasoning.

- Ground 2: Double counting of heritage benefits.
- Ground 3: Misdirection on Policy ENV29.

- 1.3 Following discussions between the Council's Solicitor and the Solicitor acting for the Claimant, a Consent Order was issued on the 23rd April 2019 by the Court, which quashed the Decision to grant planning permission.
- 1.4 The application has been re-assessed by Officers taking into account the further information and amended plans submitted by the applicant and also considering the proposed grounds put forward by the Brewery.
- 1.5 This report seeks Committee's agreement accordingly to the recommendation as set out of section 7.

Site and Context

- 1.6 The application site is located within the defined development limits of Tadcaster, which is a Local Service Centre as identified in the Core Strategy, and on an existing area of Local Amenity Space.
- 1.7 The application site comprises an existing temporary bridge foundation located on a grassed riverbank on the south side of the River Wharfe, to the south east of the Grade II listed Wharfe Bridge. Members should note that the temporary bridge foundation is an unlawful structure, and the site should have been returned to its original form as a grassed riverbank following the removal of the temporary footbridge in February 2017. However, North Yorkshire County Council have instead submitted an application to retain the temporary bridge foundation and repurpose it by installing a recreational raised seating area. The installation of the temporary bridge foundation in January/February 2016 was to enable the provision of a temporary footbridge over the River Wharfe following the collapse of the Grade II listed Wharfe Bridge in the December 2015 flood event.
- 1.8 To the north of the application site is the River Wharfe; to the south east and north west of the application site is the grassed riverbank on the south side of the River Wharfe; and to the south west of the application site is a car park associated with the Football Ground.

The Proposal

- 1.9 The application proposes the retention of an existing temporary bridge foundation and the installation of a recreational raised seating area over it. The proposed seating area would measure maximum of 6.1 metres by 7.4 metres and would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The sides of the proposed recreational raised seating area would be clad in twice weathered ashlar magnesium limestone with twice weathered magnesium limestone coping to match Wharfe Bridge; atop the magnesium limestone copings would be black painted galvanised steel railings to be 1.1 metre high and socket fixed to coping; and the floor surface of the recreational raised seating area would be Marshalls Conservation Paving in Silver Grey. Sited on the recreational raised seating area would be an ashlar magnesium limestone plinth with an information board, along

with 2No. Woodscape Standard Picnic Sets. Leading to the recreational raised seating area to the west would be a ramp with a Resin Bonded Surface in Silver Granite set with Marshalls Conservation Kerb in Silver Grey, and 1.1-metre-high post and rail fence. To the immediate south and east of the recreational raised seating area is an area of hedge planting to soften the appearance of the development, while further to the south 3No. standard size Lime trees would be planted in positions to match the existing avenue, in lieu of the TPO Lime trees which have been removed previously.

Relevant Planning History

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

2. CONSULTATION AND PUBLICITY

All immediate neighbours have been informed by neighbour notification letter, a site notice has been erected, an advert placed in the local press and statutory consultees notified.

- 2.1 **Parish Council** – Initial Response 27.09.2017: No objections.

Further Response 09.05.2018: No objections. Members fully and strongly support this application. The plans are good for tourism, would be a great asset to the community, would greatly improve the area, increase footfall and attract more visitors to the town.

Further Response 23.10.2019: Members fully support the application and welcome the development.

- 2.2 **Conservation Officer** – Initial Response 28.09.2017: As the site can be viewed from the conservation area and from listed buildings, the development here would impact upon the setting the heritage assets, in particular the Grade II listed Wharfe Bridge. The ideal scenario would be for this site to be returned to its original form as a grassed riverbank. However, the creation of a seating/viewing area could also improve the appearance of this site if it is designed well and uses high quality natural materials. It is advised that the proposals are re-designed to improve their appearance.

Further Response 16.05.2018: The principle of the development is supported; however, there will need to be further amendments to the proposals before they are considered to be acceptable for this location:

- Reduce size to reflect the existing concrete base and not to increase its size.
- Use bespoke railings and furniture
- Flat topped railings, simple appearance and a traditional style found within Tadcaster
- Use of natural materials for the paving slabs and not concrete
- Reclaimed stone for cladding the walls to blend in with surroundings
- Amend path details

Further Response 29.10.2018: The principle of the development is supported; however, there are still elements of the proposal which are considered to have an

adverse impact upon the significance of the listed bridge through development within its setting:

- Reduce size to reflect the existing concrete base and not to increase its size.
- Use of natural materials for the paving slabs and kerbs and not concrete.

Further Response 08.04.2020: Reverting the embankment back to a natural slope would be the ideal situation as the existing concrete base, tarmac path, aggregate and timber fence is not a sympathetic addition within the setting of the listed bridge or the Tadcaster Conservation Area. The access to this area is also untidy and requires improvement works. However, there is also potential for the concrete base to be improved in appearance to create a public space to view the river and the bridge. In order to achieve this, the development must be very high quality, appropriate for the site and to use traditional natural materials found in the area.

The current development has been viewed as causing harm to designated heritage assets, therefore there must be improvements to the scheme to reduce the harm caused. Ways to reduce the harm and improve the scheme are as follows:

- Reduce size of seating area to cover the existing concrete base only.
- Use reclaimed local natural stone throughout the development so that it can blend in with the surroundings. New stone will be bright and draw the eye and has the potential to have an adverse impact upon the character and appearance of the conservation area and setting of listed bridge. My previous comments stated: Reclaimed stone with a pitched face that reflects the stone on Tadcaster Bridge in terms of type, texture, stone size, and colour. Sample stone required.
- Simplify the railings around the edge of the seating area and ensure that they have a very traditional detail and profile, such as estate railings. A modern and contemporary approach is not particularly sympathetic in this location. My previous comments advised simple flat topped with the vertical elements being attached directly to stone and not a floating rail. Detailed drawings at a scale of 1:20 supported by photographs of the style.
- Improvements to the path to maintain the natural setting of this embankment. Make the path more informal and remove timber fencing as well as tarmac.

2.3 **Historic England** – Advised no consultation with Historic England necessary.

2.4 **HER Officer** – No objections.

2.5 **Communities and Partnerships** – No response received.

2.6 **Public Rights of Way Officer** – No objections, subject to an informative in respect of public rights of way.

2.7 **The Environment Agency (Liaison Officer)** – Initial Response 08.05.2018: In the absence of an acceptable Flood Risk Assessment (FRA) we object to the grant of planning permission.

Further Response 15.05.2018: No objections following the submission of a revised FRA.

Further Response 22.10.2019: No objections.

- 2.8 **Ainsty (2008) Internal Drainage Board** – No comments.
- 2.9 **Yorkshire Water Services Ltd** – No response within statutory consultation period.
- 2.10 **Canal And River Trust** – Advised no consultation with Canal and River Trust necessary.
- 2.11 **Council's Tree Consultant** – No objections, subject to a condition on the method of working in close proximity to trees. In terms of the possible removal of trees covered by tree preservation order, it is considered likely that some trees have been removed at some point in the past. Whether this occurred as result of construction of the temporary footbridge or whether it occurred previously is not possible to determine on site. Google Earth Pro shows trees as historic data and appears to suggest that there were two trees lying to the north west of T8 and one north west of T9 as recently as 2015. This would suggest that three specimens were removed around the time of constructing the temporary bridge.
- 2.12 **Designing Out Crime Officer** – An analysis of crime and anti-social behaviour for an area within a 100m radius of the site has been carried out for a 12 month period and there were no incidents recorded by North Yorkshire Police. We have liaised with the local Neighbourhood Policing Team supervision who state that although the proposal does have the potential to suffer from anti-social behaviour, they have no evidence to prove that it will. As there are no dwellings nearby there is no potential natural surveillance of the proposal by residents. However, there is potential passive surveillance by persons using the bridge over the river. It is therefore important that any sight lines are not obstructed by any trees and there should be a management and maintenance policy in place to ensure that this does not occur. Persons wishing to act in a criminal or anti-social manner do not wish to be seen and therefore this area should be provided with lighting. It is understood that the temporary bridge was illuminated and therefore this should not be an issue. Any lighting should be attached to a lamp column and bollard lighting should not be used as it does not project sufficient light at the right height and distorts the available light due to the 'up-lighting' effect; making it difficult to recognise facial features and as a result causes an increase in the fear of crime. It is also susceptible to being damaged. The provision of lighting on a lamp column would also provide the potential for a mobile CCTV camera to be installed, should it be felt that one is required. There should be a litter bin provided that is constructed of a fire-resistant material. The design of any seating should prevent people from being able to lay across them, the provision of arm rests can be one solution. It is understood that the proposed materials for the seating and tables may be amended to consist of iron frames and wooden lats. These should be secured in place and again there should be a Management & Maintenance Policy in place that provides details of how any damage, including graffiti, will be dealt with in a timely manner.
- 2.13 **Neighbour Summary** – All immediate neighbours have been informed by letter, a site notice has been erected and an advert placed in the local press. Ten letters of representation have been received as a result of this advertisement from three person(s). These object to the application and raise concerns in respect of: (1) the retention of the temporary bridge foundation, which should be removed and the

area reinstated to its previous condition; (2) removal of protected trees without consent to facilitate the provision of the temporary bridge foundation; (3) insufficient information submitted in support of the application in respect of various main issues; (4) insufficient consultations carried out by the Local Planning Authority; (5) the impact of the proposal on designated heritage assets, including the Grade II listed Wharfe Bridge and the Tadcaster Conservation Area; (5) incorrect assessment of the application in respect of designated heritage assets; (6) the impact of the proposal on the historic avenue of Lime Trees adjacent to the application site which are protected by Tree Preservation Order; (7) the impact of the proposal on local amenity space; (8) access to the proposed seating area for members of the public who are non-ambulant; (9) impact of the proposed seating area on the residential amenities of surrounding properties in terms of noise and disturbance; (10) the impact of any proposed lighting on the designated heritage assets, character and appearance of the area and residential amenities of neighbouring properties; (11) the existing temporary bridge foundation being subject to anti-social behaviour, which would continue and potentially increase if the proposal were allowed; (12) the increase in the size of the seating area and lack of justification for the increase in the size of the seating area; (13) the materials and furniture proposed for the seating area; (14) the location of the replacement TPO trees outside the application site boundary; (15) the incorrect application fee being paid; (16) lack of details regarding the maintenance of the development once completed; and (17) the impact of the proposed development on wildlife.

3. SITE CONSTRAINTS

Constraints

- 3.1 The application site is located within the defined development limits of Tadcaster, which is a Local Service Centre as identified in the Core Strategy, and on an existing area of Local Amenity Space.
- 3.2 The application site is located in close proximity to a number of designated and non-designated heritage assets and within an archaeology consultation zone.
- 3.3 The application site includes part of and is located adjacent to an avenue of Lime trees which are covered by a group Tree Preservation Order (TPO) (reference: 2/1987).
- 3.4 The application site is located within Flood Zone 3a which has been assessed as having between a 1 in 100 or greater annual probability of river flooding (>1%) or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any one year.

4. POLICY CONSIDERATIONS

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

- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

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

Selby District Core Strategy Local Plan

- 4.6 The relevant Core Strategy Policies are:
- SP1 – Presumption in Favour of Sustainable Development
 - SP2 – Spatial Development Strategy
 - SP15 – Sustainable Development and Climate Change
 - SP18 – Protecting and Enhancing the Environment
 - SP19 – Design Quality

Selby District Local Plan

- 4.7 The relevant Selby District Local Plan Policies are:
- ENV1 – Control of Development
 - ENV2 – Environmental Pollution and Contaminated Land
 - ENV25 – Control of Development in Conservation Areas
 - ENV27 – Scheduled Monuments and Important Archaeological Sites
 - ENV28 – Other Archaeological Remains
 - ENV29 – Protection of Local Amenity Space

5. APPRAISAL

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

- The Principle of the Development
- Impact on Heritage Assets
- Impact on Archaeology
- Design and Impact on the Character and Appearance of the Area
- Impact on Trees
- Impact on Residential Amenity
- Flood Risk
- Other Issues

The Principle of the Development

- 5.2 Policy SP1 of the Core Strategy provides that *"When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework"* and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.
- 5.3 The application site is located within the defined development limits of Tadcaster, which is a Local Service Centre as identified in the Core Strategy. Policy SP2 of the Core Strategy states that *"The majority of new development will be directed to the towns and more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints. Sherburn in Elmet and Tadcaster are designated as Local Service Centres where further housing, employment, retail, commercial and leisure growth will take place appropriate to the size and role of each settlement"*.
- 5.4 The application site is located on an existing area of Local Amenity Space. Policy ENV29 of the Selby District Local Plan states that *"Proposals for the development of local amenity space, as defined on the proposals map, will not be permitted"*. The supporting text to Policy ENV29 at paragraph 4.172 states that *"The built framework of settlements necessarily includes areas of open space, both public and private. This open space fulfils a number of important roles, for example, providing the setting for buildings or groups of buildings, or contributing to the character and townscape of settlements. In many instances such areas also provide opportunities for informal recreation. Village greens are particularly important having historical, townscape and local amenity value"*. The overall aim of the policy is to protect Local Amenity Space from infill development to support housing and employment growth within settlements. Existing areas of Local Amenity Space within built up areas which provide an important local amenity are therefore protected from such forms of development through Policy ENV29 of the Selby District Local Plan.
- 5.5 The application proposes the installation of a recreational raised seating area over an existing temporary bridge foundation to be retained as part of the proposals. Whilst Policy ENV29 purports to prevent any form of development of Local Amenity Space; when the policy is read in context and with the written justification set out in paragraphs 4.172-4.174 of the Selby District Local Plan, it is clear that the policy is seeking to prevent the loss of such Local Amenity Space to other forms of

development that would exclude use or enjoyment of such Local Amenity Space. This proposal would provide opportunities for informal recreation which would complement the designation of the site as Local Amenity Space and would not undermine the policy objectives set out in SP2 of the Core Strategy or ENV29 of the Selby District Local Plan. There is nothing in the Development Plan or the NPPF to identify this type of development as being unsustainable or preclude in principle development of this type in this location. The proposal is therefore considered to be acceptable in principle and accords with Policies SP1 and SP2 of the Core Strategy and Policy ENV29 of the Selby District Local Plan.

Impact on Heritage Assets

- 5.6 The comments of representees are noted regarding the impact of the proposals on heritage assets. It should be noted that additional and/or updated information in respect of the impact of the proposals on heritage assets has been provided throughout the course of the application. The following assessment of the application in respect of the impact on heritage assets is based on all of the current/up-to-date information as submitted at the time of writing this report in September 2020.
- 5.7 The application site is located within close proximity to a number of designated heritage assets, including the Grade II listed Wharfe Bridge and the Tadcaster Conservation Area.
- 5.8 Relevant policies in respect of the effect upon the setting of heritage assets include Policies SP18 and SP19 of the Core Strategy. Policy SP18 requires, amongst other things, the high quality and local distinctiveness of the natural and man-made environment be sustained by safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledge importance. Policy SP19 requires, amongst other things, that proposals positively contribute to an area's identity and heritage in terms of scale, density and layout.
- 5.9 Relevant policies within the NPPF which relate to development affecting the setting of heritage assets include paragraphs 189 to 198.
- 5.10 Paragraph 189 of the NPPF states that *"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation"*.
- 5.11 Paragraph 192 of the NPPF states that *"In determining applications, local planning authorities should take account of:*

- a) *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) *the desirability of new development making a positive contribution to local character and distinctiveness”.*

- 5.12 Paragraph 193 of the NPPF states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”.*
- 5.13 Paragraph 196 of the NPPF states that *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”.*
- 5.14 Paragraph 196 of the NPPF should be read in conjunction with paragraph 193 of the NPPF which provides that when considering the impact of a proposal on the significance of a designated heritage asset, “great weight” should be given to the asset’s conservation. This wording reflects the statutory duty in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990.
- 5.15 Whilst considering proposals for development which affects a Listed Building or its setting, regard is to be made to Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 which requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'. Section 72 of the above Act contains similar requirements with respect to buildings or land in a Conservation Area.
- 5.16 In the case of *Barnwell Manor Wind Energy Ltd v E.Northants DC, English Heritage, National Trust & SSCLG [2014] EWCA Civ 137*, it was held that in enacting Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990, Parliament intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise. In *The Forge Field Society and Others, Regina (on The Application of) v Sevenoaks District Council [2014] EWHC 1895 (Admin)* Lindblom J confirmed that the desirability of preserving the settings of listed buildings should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise.
- 5.17 The application proposes the installation of a recreational raised seating area over an existing temporary bridge foundation to be retained as part of the proposals. The proposed seating area would measure maximum of 6.1 metres by 7.4 metres and would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The sides of the proposed

recreational raised seating area would be clad in twice weathered ashlar magnesium limestone with twice weathered magnesium limestone coping to match Wharfe Bridge; atop the magnesium limestone copings would be black painted galvanised steel railings to be 1.1 metre high and socket fixed to coping; and the floor surface of the recreational raised seating area would be Marshalls Conservation Paving in Silver Grey. Sited on the recreational raised seating area would be an ashlar magnesium limestone plinth with an information board, along with 2No. Woodscape Standard Picnic Sets. Leading to the recreational raised seating area to the west would be a ramp with a Resin Bonded Surface in Silver Granite set with Marshalls Conservation Kerb in Silver Grey, and 1.1-metre-high post and rail fence. To the immediate south and east of the recreational raised seating area is an area of hedge planting to soften the appearance of the development, while further to the south 3No. standard size Lime trees would be planted in positions to match the existing avenue, in lieu of the TPO Lime trees which have been removed previously.

The Applicant's Assessment of the Impact of the Proposals on Heritage Assets

- 4.18 The application has been supported by an updated Heritage Impact Assessment (version 3.1), undertaken by Solstice Heritage LLP dated August 2019. The executive summary states that: *"This assessment finds that the proposed development will, in creating a designated viewing area and introducing an interpretation panel, better reveal the significance of the Grade II-listed Wharfe Bridge. This, combined with the use of sympathetic materials which will allow the proposed development to blend in with the surrounding area, will result in an overall minor to moderate positive impact upon the setting and significance of the designated bridge. In terms of potential wider impacts, the proposed development is situated c. 50 m south of the Tadcaster Conservation Area. In spite of this close proximity, however, there are no meaningful views between the proposed development site and the historic town centre, in particular the linear development along Bridge Street and the numerous listed buildings along it. As such, the proposed development will result in a neutral impact upon the significance of the Tadcaster Conservation Area. Finally, given the distance and lack of intervisibility to and from the proposed development site due to intervening development, it is considered that the proposed development will result in a neutral impact to the significance of the scheduled Tadcaster motte and bailey castle."*
- 5.19 The Heritage Impact Assessment acknowledges that the application site is located within close proximity to a number of designated heritage assets and that the proposal has the potential to affect the setting of those designated heritage assets. The assessment identifies one Conservation Area, one Scheduled Ancient Monument, three Grade II* listed buildings and 43 Grade II listed buildings within 500 metres of the application site. The application site is located approximately 50 metres south east of the Tadcaster Conservation Area, approximately 300 metres south east of the scheduled Tadcaster motte and bailey castle and approximately 75 metres south east of the Grade II listed Wharfe Bridge. An assessment of the significance of each of these designated heritage assets is provided within the Heritage Statement. In addition to designated heritage assets, the Heritage Statement acknowledges that the application site is located within close proximity to a number of non-designated heritage assets and that the proposal has the potential to affect the setting of those non-designated heritage assets. The assessment identifies up to 56 non-designated heritage sites within 500 metres of the

application site and provides details of the significance of those non-designated heritage assets.

- 5.20 The Heritage Impact Assessment sets out that the application site currently comprises a large modern concrete platform with railings, left behind after the removal of a temporary footbridge across the River Wharfe. The Statement notes that the assessment will be based on the sites previous use as a grassed riverbank, given the unlawfulness of the temporary bridge foundation. However the Statement goes onto sets out that the current unattractive concrete platform situated within the proposed development site, visible from the Grade II listed Wharfe Bridge looking south, detracts from its setting, and as a result, its significance. On the other hand, the Statement sets out that views of the bridge from the proposed development site are extensive and allow for appreciating and understanding the structure. Therefore, these views and the ability to experience them make a contribution to the setting of the asset. Finally, the site itself is set back from the main road and due to intervening development, is substantially screened from the historic centre of the town providing no contribution to views looking east and west along Bridge Street whether entering or exiting the conservation area.
- 5.21 In terms of an impact assessment, the Statement again sets out that the assessment of impact will be considered against the site's former situation as a grassed riverbank, as opposed to the current concrete platform which was constructed without planning permission. The Statement asserts *"The creation of this area will allow for extensive views of the bridge which, as previously identified, make a positive contribution to the setting of the designated heritage asset. Furthermore, the use of sympathetic materials in keeping with those of the local area will allow the proposed development to better blend in with the bridge and surrounding area. The ability to experience this view and therefore, better appreciate and understand the structure, will result in an overall positive impact upon its setting and therefore, its significance."*
- 5.22 The Heritage Impact Assessment focuses the assessment on the impact of the proposed development on the three key designated heritage assets which have the potential to be affected by the proposals: the Tadcaster Conservation Area, the scheduled Tadcaster motte and bailey castle; and the Grade II listed Wharfe Bridge. In terms of the impact of the proposed development on the Tadcaster Conservation Area, the Heritage Impact Assessment concludes that the conservation area derives much of its primary character from the line of historic development along Bridge Street. There is no intervisibility between the proposed development site and the main street, due to intervening development. Furthermore, views looking southward over the bridge on arrival into Tadcaster, where the proposed development is visible, would be marginally improved. Given there is no intervisibility between the proposed development site and the main street, the Heritage Impact Assessment concludes that the development is considered to have an overall neutral impact on the setting of the Tadcaster Conservation Area. In terms of the impact of the proposed development on the scheduled Tadcaster motte and bailey castle, the Heritage Impact Assessment concludes that given the distance and lack of intervisibility to and from the proposed development site, the proposed development would result in a neutral impact to the significance of the Tadcaster motte and bailey castle scheduled monument. In terms of the impact of the proposed development on the Grade II listed Wharfe Bridge, the Heritage Impact Assessment concludes that the proposed development, in creating an

additional designated viewing area as well as introducing an interpretation panel, would better reveal the significance of the bridge through creating improved views to and from it, and providing information on its history. As such, the Heritage Statement concludes that the proposed development would have a moderate positive impact on this element of the setting of the historic bridge.

- 5.23 The applicant's agent has submitted additional information on the impact of the proposals on heritage assets during the application process. In terms of justifying the size of the proposed recreational raised seating area, the applicant's agent has advised that the recreational raised seating area would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The proposed size of the seating area utilises land which was altered as part of the provision of the temporary bridge foundation and is a size required to provide a meaningful space for the proposed seating and viewing area and to allow access to and from the proposed seating and viewing area.

The Local Planning Authority's Assessment of the Impact of the Proposals on Heritage Assets

- 5.24 The application has been assessed by the Council's Conservation Officer, the comments of whom are noted and have been fully considered as part of the assessment of this application. In initial comments, the Council's Conservation Officer advised that the ideal scenario would be for this site to be returned to its original form as a grassed riverbank. However, the Council's Conservation Officer also advised that the creation of a seating/viewing area could improve the appearance of this site, by comparison to its lawful use as a grassed riverbank, if it is designed well and uses high quality natural materials. Accordingly, it is clear from the initial comments of the Conservation Officer that the starting point for the assessment of the application in respect of the impact of the proposals on heritage assets is the lawful use of the site as a grassed riverbank. However, the initial view from the Conservation Officer was that the creation of a seating/viewing area at the site could be acceptable in respect of the impact of the proposals on heritage assets, although the design and materials to be used would need to be improved from those then proposed.
- 5.25 In the most up-to-date comments, the Council's Conservation Officer states *"Reverting the embankment back to a natural slope would be the ideal situation as the existing concrete base, tarmac path, aggregate and timber fence is not a sympathetic addition within the setting of the listed bridge or the Tadcaster Conservation Area. The access to this area is also untidy and requires improvement works. However, there is also potential for the concrete base to be improved in appearance to create a public space to view the river and the bridge. In order to achieve this, the development must be very high quality, appropriate for the site and to use traditional natural materials found in the area. The current development has been viewed as causing harm to designated heritage assets, therefore there must be improvements to the scheme to reduce the harm caused."* The Council's Conservation Officer considers that further amendments would be required in order for the proposals to be considered acceptable including a reduction in the size of the recreational raised seating area to reflect the existing concrete base and not to increase its size, the use of natural materials, improvements to the railings and improvements to the path to maintain the natural setting of the embankment. The

comments of the Conservation Officer in terms of the proposed amendments to the scheme are addressed below in the Officers assessment of the impact of the proposals on heritage assets.

- 5.26 Officers have fully considered the information submitted by the applicant in respect of the impact of the proposals on heritage assets, the comments of representees in respect of the impact of the proposals on heritage assets and the consultation response from the Council's Conservation Officer in respect of the impact of the proposals on heritage assets.
- 5.27 The application site currently comprises an existing temporary bridge foundation and an area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. This was installed in January/February 2016 to enable the provision of a temporary footbridge over the River Wharfe following the collapse of the Grade II listed Wharfe Bridge in the December 2015 flood event. The temporary footbridge remained in situ for approximately 12 months while works were undertaken to repair the Grade II listed Wharfe Bridge, after which it was removed. The temporary bridge foundation to the north side of the riverbank was removed and returned to a grassed riverbank at that time; however, the temporary bridge foundation to the south side of the riverbank remains in situ. It is noted that the temporary bridge foundation to the south side of the riverbank is an unlawful structure and the site should have been returned to be returned to its original form as a grassed riverbank following the removal of the temporary footbridge in February 2017. However, North Yorkshire County Council have submitted an application to retain the temporary bridge foundation and repurpose it by installing a recreational raised seating area. Given the temporary bridge foundation is an unlawful structure; the starting point for the assessment of the application in respect of the impact of the proposal on heritage assets is from the lawful use of the site as a grassed riverbank. In this respect the application seeks planning permission for the retention of the unlawful temporary bridge foundation and the installation of a recreational raised seating area.
- 5.28 The submitted Heritage Statement concludes that the retention of the temporary bridge foundation and installation of a recreational raised seating area over it would better reveal the significance of the Grade II listed Wharfe Bridge though creating improved views to and from it and providing information on its history through the introduction of an interpretation panel on the recreational raised seating area. While the Council's Conservation Officer does not raise any objections to the principle of the development, concerns have been raised by the Council's Conservation Officer that the proposal goes beyond the re-use of the existing temporary bridge foundation and the Council's Conservation Officer recommends that the size of the proposed seating area is reduced to reflect the existing concrete base , to be retained as part of the proposals, and not to increase its size, otherwise the proposal has the potential to result in less than substantial harm to the setting of the Grade II listed Wharfe Bridge. The rationale behind this is that the larger the size of the proposed recreational raised seating area, the more prominent it would be on the riverbank and the greater the potential for a harmful impact on heritage assets, specifically the Tadcaster Conservation Area and the Grade II listed Wharfe Bridge.
- 5.29 The existing temporary bridge foundation itself causes harm to the significance of designated heritage assets, namely, the Tadcaster Conservation Area and the Grade II listed Wharfe Bridge. In terms of the size of the proposed recreational

raised seating area, the applicant's agent has advised that the recreational raised seating area would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The proposed size of the seating area utilises land which was altered as part of the provision of the temporary bridge foundation and is a size required to provide a meaningful space for the proposed seating and viewing area and to allow access to and from the proposed seating and viewing area. Members should note that the size of the recreational raised seating area has been reduced since the application previously came to Planning Committee, however, it still covers an area larger than the existing temporary bridge foundation. The concerns of representees and the Council's Conservation Officer are noted regarding the size of the recreational raised seating area, however, it is also noted that the proposal would utilise raised land on which works have already taken place (albeit without the benefit of planning permission) in relation to the provision of the temporary footbridge over the River Wharfe and are all tied into the repurposing of this area of land. On this point, therefore, it is concluded that the existing temporary bridge foundation and the size of the proposed recreational raised seating area which would be sited on top of it would lead to less than substantial harm to the setting of the Conservation Area and the setting of the Grade II listed Wharfe Bridge but no harm to the setting of any other designated or non-designated heritage assets.

5.30 In terms of the proposed materials, the Council's Conservation Officer raises concerns regarding the use of non-natural materials setting out that the proposals must use high quality natural materials in order for them not to have any adverse impact on the setting of heritage assets. However, the proposed materials are similar to those used on the works to repair the Grade II listed Wharfe Bridge itself. On this point, therefore, it is concluded that the proposed materials to be used for the proposed recreational raised seating area would lead to no harm to the setting of any designated or non-designated heritage assets. The Council's Conservation Officer also raises concerns regarding the design of the railings and the paths leading to the recreational raised seating area, which could be improved to maintain the natural setting of this embankment. On this point therefore, it is considered that the railing design and path design would lead to less than substantial harm to the setting of the Conservation Area and the setting of the Grade II listed Wharfe Bridge but no harm to the setting of any other designated or non-designated heritage assets.

5.31 Overall, having regard to the above discussion, the proposal is considered to lead to less than substantial harm to the significance of designated heritage assets, namely the Tadcaster Conservation Area and the Grade II listed Wharfe Bridge. Paragraph 196 of the NPPF states "*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use*". As set out earlier in this report, paragraph 196 of the NPPF should be read in conjunction with paragraph 193 of the NPPF which states that when considering the impact of a proposal on the significance of a designated heritage asset, "great weight" should be given to the asset's conservation. This wording reflects the statutory duty in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990. The desirability of preserving the settings of heritage assets, including listed buildings and conservation areas, should not simply be given careful consideration by the

decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise.

5.32 In terms of public benefits, the applicant's agent has advised the proposal would lead to the creation of a recreational raised seating and viewing area on the south riverbank of the River Wharfe which would provide an area from which the Grade II listed Wharfe Bridge would be viewed, understood and appreciated from by members of the public, both locals and visitors alike. Furthermore, the applicants agent advises that the proposal would lead to improvements to the visual appearance of this part of the riverside; result in additional recreational space; result in improved access to the riverside; enhance Tadcaster's heritage through the provision of an information lectern detailing the history of Tadcaster Bridge; and enable community engagement through the burying of a time capsule.

5.33 Taking each of these proposed public benefits in turn:

- While the creation on of the recreational raised seating area would allow provide an area from which the Grade II listed Wharfe Bridge would be viewed, understood and appreciated from by members of the public, both locals and visitors alike; the existing public footpaths along the grassed riverbank currently provide for this.
- The visual appearance of this part of the riverside would, in only be improved when taking into account the existing unlawful temporary bridge foundation, otherwise, it is not considered that the visual appearance of this part of the riverside would be improved in any significant sense, when comparison is made to a grassed riverbank.
- The proposal would not result in any additional recreational space. It would be sited on an existing area of Local Amenity Space which would complement the designation of the site.
- The proposal is not considered to result in any improved access to the riverside. Existing public rights of way run alongside the south side of the riverbank.
- While the provision of an information lectern and time capsule are noted, these could be provided without the need for the proposed development.

5.34 In weighing the harm against the public benefits of the proposal, it is not considered that the applicant has demonstrated any public benefits which would, taken either singularly or cumulatively, outweigh the harm identified in this instance.

5.35 Having regard to the above, it is considered that the proposed development would lead to less than substantial harm to the significance of designated heritage assets, namely the Tadcaster Conservation Area and the Grade II listed Wharfe Bridge. When the harm is weighed against the public benefits of the scheme, it is considered that the proposal is unacceptable, as the public benefits identified would not outweigh the harm. The proposal would therefore be contrary to Policies SP18 and SP19 of the Core Strategy, Policies ENV1, ENV25 and ENV27 of the Selby District Local Plan and S66 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 and national policy contained within the NPPF.

Impact on Archaeology

5.33 The application site is located within an Archaeological Consultation Zone and within close proximity to the scheduled Tadcaster motte and bailey castle. North

Yorkshire County Council Heritage services have been consulted on the proposals and the Principal Archaeologist has advised that the proposals, given their nature, siting and scale are unlikely to have a significant impact on archaeological deposits. The Principal Archaeologist therefore raises no objections to the proposals.

- 5.34 Having regard to the above, it is considered that the proposed development would not have any adverse impacts on archaeology in accordance with Policy ENV28 of the Selby District Local Plan and national policy contained within the NPPF.

Design and Impact on the Character and Appearance of the Area

- 5.35 The application proposes the installation of a recreational raised seating area over an existing temporary bridge foundation, which would be retained as part of the proposals. The proposed seating area would measure maximum of 6.1 metres by 7.4 metres and would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The sides of the proposed recreational raised seating area would be clad in twice weathered ashlar magnesium limestone with twice weathered magnesium limestone coping to match Wharfe Bridge; atop the magnesium limestone copings would be black painted galvanised steel railings to be 1.1 metre high and socket fixed to coping; and the floor surface of the recreational raised seating area would be Marshalls Conservation Paving in Silver Grey. Sited on the recreational raised seating area would be an ashlar magnesium limestone plinth with an information board, along with 2No. Woodscape Standard Picnic Sets. Leading to the recreational raised seating area to the west would be a ramp with a Resin Bonded Surface in Silver Granite set with Marshalls Conservation Kerb in Silver Grey, and 1.1-metre-high post and rail fence. To the immediate south and east of the recreational raised seating area is an area of hedge planting to soften the appearance of the development, while further to the south 3No. standard size Lime trees would be planted in positions to match the existing avenue, in lieu of the TPO Lime trees which have been removed previously.
- 5.36 Given the size, siting and design of the proposals in respect of the context of their surroundings, it is considered that the proposals would not have any significant adverse impact on the character and appearance of the area, in accordance with Policy ENV1 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and national policy contained within the NPPF.

Impact on Trees

- 5.37 The proposed development is sited next to an avenue of Lime trees which are covered by a group Tree Preservation Order (TPO) (reference: 2/1987).
- 5.38 The application has been supported by a Tree Report to BS5837:2012 undertaken by Jo Ryan Arboriculture Urban Greening dated March 2018. The survey includes significant trees/ groups of trees with a diameter of 75mm or more (measured at a height of 1.5m above ground level) located within and adjacent to the development area. The report provides information for the retention and protection of trees on the development site.

- 5.39 The submitted Tree Report has been assessed by the Council's Tree Consultant who notes that vegetation in proximity of the proposed development comprises an avenue of Lime trees which are covered by TPO reference 2/1987 and an informal line of trees lying to the west of the main avenue and abutting the sports ground. The Council's Tree Consultant concurs with the tree quality assessments contained within the submitted Tree Report and is broadly in agreement with the data provided. The Council's Tree Consultant concludes that there would be no adverse impact on trees in proximity to the proposed works subject to no excavation works being undertaken south of the existing line of sheet piling and any roots over 20mm diameter encountered during excavation being cut cleanly (using a hand saw) and their cut ends covered in damp hessian to prevent desiccation until the excavation can be backfilled. This should be undertaken (using good quality topsoil) as quickly as possible – ideally within one working day. As such, the Council's Tree Consultant raises no objections to the proposals, subject to a condition on the method of working in close proximity to trees.
- 5.40 The comments of representees are noted regarding the potential removal of some of the TPO trees covered by TPO reference 2/1987 at the time of the installation of the temporary bridge foundation, without consent. The Council's Tree Consultant has considered this claim and advises that it is likely that some trees have been removed at some point in the past. Whether this occurred as result of construction of the temporary footbridge or whether it occurred previously is not possible to determine on site. However, Google Earth Pro shows trees as historic data and appears to suggest that there were two trees lying to the north west of T8 and one north west of T9 as recently as 2015. This would suggest that three specimens were removed around the time of the installation of the temporary bridge foundation.
- 5.41 The submitted proposed site plan (drawing no. NY017099-A-100.003 P5) demonstrates how 3No. standard size Lime trees would be planted in positions to match the existing avenue as part of the proposals, in lieu of the TPO Lime trees which have been removed previously. These replacement trees would be covered by TPO reference 2/1987. For the avoidance of doubt, these replacement trees are located within the application site boundary and therefore a condition could be attached to any planning permission granted requiring these to be planted, maintained and managed. The proposed trees are to be Common Lime (*Tilia Europaea*) standard size in accordance with BS:3936. A maintenance and management plan has been submitted in respect of the lime trees to be planted as part of the proposals, which sets out: newly planted trees will be checked for disease by a competent person annually for any major deterioration in their condition; pruning of epicormic or basal growth will be undertaken annually in September; weed control by ensuring no weed growth within a 500mm diameter of each tree annually between April and August. A suitable herbicide should be used in compliance with manufacturer's instructions. Fertilise using suitable slow release fertiliser as per manufacturer's instructions for the first 3 years after planting annually between April and August; inspect tree ties and stakes as scheduled and after strong winds. Replace loose, broken ties or decayed stakes to original specification; remove ties and stakes 4 years after planting; and remove dead trees and replace as per original specification annually until year 5. The applicant's agent has confirmed that North Yorkshire County Council would be responsible for the management and maintenance of the trees for the first 5 years, although this work would be carried out by the tree supplier.

- 5.42 Subject to conditions relating to the method of working in close proximity to trees and the planting of replacement TPO trees which would be subject to the submitted maintenance and management plan, it is considered that the development is acceptable in respect of its impact on trees in accordance with Policy ENV1(5) of the Selby District Local Plan and national policy contained within the NPPF.

Impact on Residential Amenity

- 5.43 The comments from representees are noted regarding the impact of the proposals on the residential amenities of neighbouring properties. In terms of the impact of the proposed development on the residential amenities of neighbouring properties in terms of oppression, overshadowing or overlooking, given the size, siting and design of the proposed development in relation to neighbouring properties, it is not considered that the proposals would result in any significant adverse effects of oppression, overshadowing or overlooking so as to adversely affect the amenities of the occupiers of any neighbouring properties in these respects.
- 5.44 In terms of the impact of the proposed development on the residential amenities of neighbouring properties in terms of noise and disturbance, it is noted that the application site is located on an area of land allocated as Local Amenity Space, which is already used for recreational purposes. The proposal would result in the provision of a recreational raised seating area on part of this land. The use of the land for recreational purposes would remain as part of the proposals, albeit that a formal viewing and seating area would be created. As the land use would remain the same, there is nothing to suggest that the proposal would result in any significant adverse impacts on the residential amenities of neighbouring properties in terms of noise and disturbance over and above the current situation.
- 5.45 Having regard to the above, it is considered that the amenities of the adjacent properties would be preserved in accordance with Policies ENV1(1) and ENV2 of the Selby District Local Plan and national policy contained within the NPPF.

Flood Risk

- 5.46 The application site is located within Flood Zone 3a which has been assessed as having between a 1 in 100 or greater annual probability of river flooding (>1%) or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any one year.
- 5.47 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 (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere”*.
- 5.48 Paragraph 158 of the NPPF states that *“The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach*

should be used in areas known to be at risk now or in the future from any form of flooding”

- 5.49 Paragraph 159 of the NPPF states that *“If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance”*.
- 5.50 The application proposes the installation of a recreational raised seating area over the existing temporary bridge foundation (which is proposed to be retained) within Flood Zone 3a and therefore the sequential test would be required to determine whether there are any reasonably available sites at lower probability of flooding that could reasonably accommodate the proposed development. Given the nature of the proposed development, to provide a recreational raised seating area on the riverbank with views of the Grade II listed Wharfe Bridge, which would be a water compatible use, it would be considered reasonable and necessary to narrow down the geographical coverage area for the sequential test to an area along the riverbank either side of the Grade II listed Wharfe Bridge.
- 5.51 A flood risk assessment and a sequential test have been submitted with the application.
- 5.52 In terms of the flood risk assessment, the submitted information includes a Flood Risk Assessment (Project No. JAG/AD/JF/40773-RP001) undertaken by Alan Wood and Partners dated April 2018 and an Addendum to the Flood Risk Assessment Project No. JAG/AD/JF/40773-RP001) undertaken by Alan Wood and Partners dated May 2018. The Environment Agency have been consulted on the proposals and consider that the submitted Flood Risk Assessment and Addendum to the Flood Risk Assessment are acceptable and the proposed development would not cause any unacceptable increases in flood risk. The Environment Agency therefore raise no objections to the proposed development in terms of flood risk. A condition could be attached to any planning permission granted requiring the development to be carried out in strict accordance with the recommendations and mitigation measures contained within the submitted Flood Risk Assessment and Addendum to the Flood Risk Assessment.
- 5.53 In terms of the sequential test, the submitted information sets out that given the nature of the proposed development, to provide a recreational raised seating area on the riverbank with views of the Grade II listed Wharfe Bridge, which would be a water compatible use, it would be considered reasonable and necessary to narrow down the geographical coverage area for the sequential test to an area along the riverbank either side of the Grade II listed Wharfe Bridge. This is agreed by Officers. The applicant’s agent has undertaken the sequential test on this basis and considers that the proposal passes the sequential test as all the land within the geographical search area, as identified in the submitted Sequential Test documents, is located within Flood Zone 3a. Officers have undertaken the sequential test on this basis and consider that there are no other areas at lower floor risk within the geographical search area. As such, Officers consider that the scheme is considered to be acceptable in terms of passing the sequential test.

- 5.54 Subject to the aforementioned condition relating to the development being carried out in accordance with the recommendations and mitigation measures contained within the submitted Flood Risk Assessment and Addendum to the Flood Risk Assessment, the proposal is considered to be acceptable in respect of flood risk in accordance with national policy contained within the NPPF.

Other Issues

- 5.55 Concerns have been raised regarding the access to the proposed seating area for members of the public who are non-ambulant. The scheme incorporates the provision of ramped access to the recreational raised seating area within the land which forms part of the application site. It is noted that to the north west of the application site (outside of the red edge) are existing kissing gates to access the riverside public footpath walks, however these are outside the application site and the applicant does not have control over this area or the removal of the kissing gates. Access to the riverside and Local Amenity Space for non-ambulant members of the public therefore would remain as at present, however the proposals themselves have also taken this matter into account with the provision of a ramped access.
- 5.56 Concerns have been raised that the existing temporary bridge foundation has recently been subject to anti-social behaviour, which would continue and potentially increase if the proposal were allowed. The Designing Out Crime Officer has been consulted on the proposals and has advised that an analysis of crime and anti-social behaviour for an area within a 100m radius of the site has been carried out, at the time the application was submitted, for a 12 month period and there were no incidents recorded by North Yorkshire Police. The Designing Out Crime Officer has liaised with the local Neighbourhood Policing Team supervision who state that although the proposal does have the potential to suffer from anti-social behaviour they have no evidence to prove that it will. Representatives have subsequently advised that anti-social behaviour has been evident at the site of the existing temporary bridge foundation. Within the period from 1 October 2018 to 30 September 2019, 3 crimes and 1 anti-social behaviour incident had been recorded by North Yorkshire Police and therefore the site continues to be located within a low crime and disorder area. The Designing Out Crime Officer notes that there are no dwellings in a position to allow natural surveillance of the proposal by residents. However, there is potential passive surveillance by persons using the Wharfe Bridge. Persons wishing to act in a criminal or anti-social manner do not wish to be seen and therefore the Designing Out Crime Officer recommends that this area should be provided with lighting. The Designing Out Crime Officer states that they understand that the temporary bridge was illuminated and therefore conclude that the provision of lighting at the site should not be an issue. They go on to advise that any lighting should be attached to a lamp column. The comments of the Designing Out Crime Officer are noted regarding the provision of a lighting scheme on the recreational raised seating area. However, the lighting of the temporary bridge was agreed for a temporary period and was in response to an emergency situation. The provision of permanent lighting in this location needs to be given consideration in respect of its impacts, including its impact on heritage assets. The Council's Conservation Officer has advised against the provision of any permanent lighting at the site due to the potential adverse impact on the setting of nearby heritage assets. In light of this and taking into account the visibility of the proposed recreational raised seating

area from the Wharfe Bridge which itself has lighting, it is considered that the design of the proposal without any lighting would be acceptable in respect of designing out crime, on balance.

5.57 Concerns have been raised that insufficient information has been submitted in support of the application in respect of various main issues and that insufficient consultations have been carried out by the Local Planning Authority. Throughout the application process, additional information has been submitted by the applicant's agent in support of the proposals, as requested by the Local Planning Authority to enable a comprehensive assessment of the scheme and additional consultations have been undertaken with consultees on the proposals.

5.58 Concerns have been raised that the incorrect application fee has been paid.

6. CONCLUSION

6.1 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposed development would lead to less than substantial harm to the significance of designated heritage assets, namely the Tadcaster Conservation Area and the Grade II listed Wharfe Bridge. When the harm is weighed against the public benefits of the scheme, it is considered that the proposal is unacceptable, as the public benefits identified would not outweigh the harm. The proposal would therefore be contrary to Policies SP18 and SP19 of the Core Strategy, Policies ENV1, ENV25 and ENV27 of the Selby District Local Plan and S66 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 and national policy contained within the NPPF.

Notwithstanding the above, it is considered that the proposed development is acceptable in respect of its impact on archaeology, the character and appearance of the area, trees, the residential amenity of the occupants of neighbouring properties, flood risk and any other issues which have been raised and assessed as part of the application.

7. RECOMMENDATION

This application is recommended to be REFUSED for the following reason(s):

01. The proposed development would lead to less than substantial harm to the significance of designated heritage assets, namely the Tadcaster Conservation Area and the Grade II listed Wharfe Bridge. When the harm is weighed against the public benefits of the scheme, it is considered that the proposal is unacceptable, as the public benefits identified would not outweigh the harm. The proposal is therefore be contrary to Policies SP18 and SP19 of the Core Strategy, Policies ENV1, ENV25 and ENV27 of the Selby District Local Plan and S66 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 and national policy contained within the NPPF.

8. Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010 and the Public Sector Equality Duty (PSED)

Section 149(1) of the Equality Act 2010 provides that a public authority must, in the exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant characteristic and those who do not share it. Subsection (3) of Section 149 specifies in further detail what “having due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it” involves.

This includes having due regard, in particular, to the need to:

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The “relevant protected characteristics” are listed in Section 149(7) and include age, disability and race.

In the case of the determination of this application, the possible impact when it comes to access to the riverside and Local Amenity Space for non-ambulant members of the public has been highlighted as a potential issue. However, as noted above such access would remain as at present and a ramped access has been incorporated into the proposed development. In the circumstances and paying due regard to the PSED, it is not considered that the proposals would give rise to any adverse impacts on those sharing a protected characteristic.

9. Financial Issues

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

10. Background Documents

Planning Application file reference 2017/0872/FUL and associated documents.

Contact Officer:

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Appendices:

Appendix A: Officer Report and Officer Update Note to 16 January 2019 Planning Committee



Report Reference Number: 2017/0872/FUL

To: Planning Committee
Date: 16th January 2019
Author: Jenny Tyreman (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/0872/FUL	PARISH:	Tadcaster Town Council
APPLICANT:	North Yorkshire County Council	VALID DATE:	29 th August 2017
		EXPIRY DATE:	24 th October 2017
PROPOSAL:	Proposed installation of a recreational raised seating area over the existing temporary bridge foundation		
LOCATION:	Land At Wharfe Bank Tadcaster		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee at the discretion of the Head of Planning.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located within the defined development limits of Tadcaster, which is a Local Service Centre as identified in the Core Strategy, and on an existing area of Local Amenity Space.
- 1.2 The application site comprises an existing temporary bridge foundation located on a grassed riverbank on the south side of the River Wharfe, to the south east of the Grade II listed Wharfe Bridge.
- 1.3 To the north of the application site is the River Wharfe; to the south east and north west of the application site is the grassed riverbank on the south side of the River

Wharfe; and to the south west of the application site is a car park associated with the Football Ground.

The Proposal

- 1.4 The application proposes the installation of a recreational raised seating area over an existing temporary bridge foundation. The proposed seating area would measure maximum of 6.9 metres by 10.3 metres and would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The sides of the proposed recreational raised seating area would be clad in twice weathered ashlar magnesium limestone with limestone coping to match Wharfe Bridge; atop the limestone copings would be black painted galvanised steel railings to be 1.1 metre high and socket fixed to coping; and the floor surface of the recreational raised seating area would be Marshalls Conservation Paving in Silver Grey. Sited on the recreational raised seating area would be an ashlar magnesium limestone plinth with an information board, along with 2No. Woodscape Type 3 Backrest Seats and 2No. Woodscape Standard Picnic Sets. Leading to the recreational raised seating area to the west would be a ramp with a Resin Bonded Surface in Silver Granite set with Marshalls Conservation Kerb in Silver Grey, and 1.1 metre high post and rail fence.

Relevant Planning History

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

2. CONSULTATION AND PUBLICITY

All immediate neighbours were informed by letter, a site notice has been erected, an advert placed in the local press and statutory consultees notified.

- 2.1 **Parish Council** – No objections. Members fully and strongly support this application. The plans are good for tourism, would be a great asset to the community, would greatly improve the area, increase footfall and attract more visitors to the town.

- 2.2 **Conservation Officer** – Initial Response 28.09.2017: As the site can be viewed from the conservation area and from listed buildings, the development here would impact upon the setting the heritage assets, in particular the Grade II listed Wharfe Bridge. The ideal scenario would be for this site to be returned to its original form as a grassed riverbank. However, the creation of a seating/viewing area could also improve the appearance of this site if it is designed well and uses high quality natural materials. It is advised that the proposals are re-designed to improve their appearance.

Further Response 16.05.2018: The principle of the development is supported; however there will need to be further amendments to the proposals before they are considered to be acceptable for this location:

- Reduce size to reflect the existing concrete base and not to increase its size.
- Use bespoke railings and furniture
- Flat topped railings, simple appearance and a traditional style found within Tadcaster

- Use of natural materials for the paving slabs and not concrete
- Reclaimed stone for cladding the walls to blend in with surroundings
- Amend path details

Further Response 29.10.2018: The principle of the development is supported; however there are still elements of the proposal which are considered to have an adverse impact upon the significance of the listed bridge through development within its setting:

- Reduce size to reflect the existing concrete base and not to increase its size.
- Use of natural materials for the paving slabs and kerbs and not concrete.

2.3 **Historic England** – Advised no consultation with Historic England necessary.

2.4 **HER Officer** – No objections.

2.5 **Communities And Partnerships** – No response within statutory consultation period.

2.6 **Public Rights Of Way Officer** – No objections, subject to an informative in respect of public rights of way.

2.7 **The Environment Agency (Liaison Officer)** – Initial Response 08.05.2018: In the absence of an acceptable Flood Risk Assessment (FRA) we object to the grant of planning permission.

Further Response 15.05.2018: No objections following the submission of a revised FRA.

2.8 **Ainsty (2008) Internal Drainage Board** – No comments.

2.9 **Yorkshire Water Services Ltd** – No response within statutory consultation period.

2.10 **Canal And River Trust** – Advised no consultation with Canal and River Trust necessary.

2.11 **Council's Tree Consultant** – No objections, subject to a condition on the method of working in close proximity to trees. In terms of the possible removal of trees covered by tree preservation order, it is considered likely that some trees have been removed at some point in the past. Whether this occurred as result of construction of the temporary footbridge or whether it occurred previously is not possible to determine on site. Google Earth Pro shows trees as historic data and appears to suggest that there were two trees lying to the north west of T8 and one north west of T9 as recently as 2015. This would suggest that three specimens were removed around the time of constructing the temporary bridge.

2.12 **Designing Out Crime Officer** – An analysis of crime and anti-social behaviour for an area within a 100m radius of the site has been carried out for a 12 month period and there were no incidents recorded by North Yorkshire Police. We have liaised with the local Neighbourhood Policing Team supervision who state that although the proposal does have the potential to suffer from anti-social behaviour they have no evidence to prove that it will. As there are no dwellings nearby there is no potential

natural surveillance of the proposal by residents. However, there is potential passive surveillance by persons using the bridge over the river. It is therefore important that any sight lines are not obstructed by any trees and there should be a management and maintenance policy in place to ensure that this does not occur. Persons wishing to act in a criminal or anti-social manner do not wish to be seen and therefore this area should be provided with lighting. It is understood that the temporary bridge was illuminated and therefore this should not be an issue. Any lighting should be attached to a lamp column and bollard lighting should not be used as it does not project sufficient light at the right height and distorts the available light due to the 'up-lighting' effect; making it difficult to recognise facial features and as a result causes an increase in the fear of crime. It is also susceptible to being damaged. The provision of lighting on a lamp column would also provide the potential for a mobile CCTV camera to be installed, should it be felt that one is required. There should be a litter bin provided that is constructed of a fire resistant material. The design of any seating should prevent people from being able to lay across them, the provision of arm rests can be one solution. It is understood that the proposed materials for the seating and tables may be amended to consist of iron frames and wooden lats. These should be secured in place and again there should be a Management & Maintenance Policy in place that provides details of how any damage, including graffiti, will be dealt with in a timely manner.

- 2.13 **Neighbour Summary** – All immediate neighbours have been informed by letter, a site notice has been erected and an advert placed in the local press. Seven letters of representation have been received as a result of this advertisement from three person(s). These object to the application and raise concerns in respect of: (1) the retention of the temporary bridge foundation, which should be removed and the area reinstated to its previous condition; (2) removal of protected trees without consent to facilitate the provision of the temporary bridge foundation; (3) insufficient information submitted in support of the application in respect of various main issues; (4) insufficient consultations carried out by the Local Planning Authority; (5) the impact of the proposal on designated heritage assets, including the Grade II listed Wharfe Bridge and the Tadcaster Conservation Area; (5) incorrect assessment of the application in respect of designated heritage assets; (6) the impact of the proposal on the historic avenue of Lime Trees adjacent to the application site which are protected by Tree Preservation Order; (7) the impact of the proposal on local amenity space; (8) access to the proposed seating area for members of the public who are non-ambulant; (9) impact of the proposed seating area on the residential amenities of surrounding properties in terms of noise and disturbance; (10) the impact of any proposed lighting on the designated heritage assets, character and appearance of the area and residential amenities of neighbouring properties; (11) the existing temporary bridge foundation being subject to anti-social behaviour, which would continue and potentially increase if the proposal were allowed; (12) the increase in the size of the seating area and lack of justification for the increase in the size of the seating area; (13) the materials and furniture proposed for the seating area; and (14) the location of the replacement TPO trees outside the application site boundary.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site is located within the defined development limits of Tadcaster, which is a Local Service Centre as identified in the Core Strategy, and on an existing area of Local Amenity Space.
- 3.2 The application site is located in close proximity to a number of designated and non-designated heritage assets and within an archaeology consultation zone.
- 3.3 The application site is located next to an avenue of Lime trees which are covered by a group Tree Preservation Order (TPO) (reference: 2/1987).
- 3.4 The application site is located within Flood Zone 3a which has been assessed as having between a 1 in 100 or greater annual probability of river flooding (>1%) or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any one year.

National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)

- 3.5 The National Planning Policy Framework (July 2018) replaces the first NPPF published in March 2012. The Framework does not change the status of an up to date development plan and where an application conflicts with such a plan, permission should not usually be granted (paragraph 12). This application has been considered against the 2018 NPPF.

Selby District Core Strategy Local Plan

- 3.6 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

- 3.7 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).”

- 3.8 The relevant Selby District Local Plan Policies are:
 - ENV1 – Control of Development
 - ENV2 – Environmental Pollution and Contaminated Land
 - ENV25 – Control of Development in Conservation Areas
 - ENV27 – Scheduled Monuments and Important Archaeological Sites
 - ENV28 – Other Archaeological Remains

- ENV29 – Protection of Local Amenity Space

4. APPRAISAL

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

- The Principle of the Development
- Impact on Heritage Assets
- Impact on Archaeology
- Design and Impact on the Character and Appearance of the Area
- Impact on Trees
- Impact on Residential Amenity
- Flood Risk
- Other Issues

The Principle of the Development

4.2 Policy SP1 of the Core Strategy provides 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.

4.3 The application site is located within the defined development limits of Tadcaster, which is a Local Service Centre as identified in the Core Strategy. Policy SP2 of the Core Strategy states that *"The majority of new development will be directed to the towns and more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints. Sherburn in Elmet and Tadcaster are designated as Local Service Centres where further housing, employment, retail, commercial and leisure growth will take place appropriate to the size and role of each settlement"*.

4.4 The application site is located on an existing area of Local Amenity Space. Policy ENV29 of the Selby District Local Plan states that *"Proposals for the development of local amenity space, as defined on the proposals map, will not be permitted"*. The supporting text to Policy ENV29 at paragraph 4.172 states that *"The built framework of settlements necessarily includes areas of open space, both public and private. This open space fulfils a number of important roles, for example, providing the setting for buildings or groups of buildings, or contributing to the character and townscape of settlements. In many instances such areas also provide opportunities for informal recreation. Village greens are particularly important having historical, townscape and local amenity value"*. The overall aim of the policy is to protect Local Amenity Space from infill development to support housing and employment growth within settlements. Existing areas of Local Amenity Space within built up areas which provide an important local amenity are therefore protected from such forms of development through Policy ENV29 of the Selby District Local Plan.

4.5 The application proposes the installation of a recreational raised seating area over an existing temporary bridge foundation. Whilst Policy ENV29 purports to prevent any form of development of Local Amenity Space; when the policy is read in context and with the written justification set out in paragraphs 4.172-4.174 of the Selby

District Local Plan, it is clear that the policy is seeking to prevent the loss of such Local Amenity Space to other forms of development that would exclude use or enjoyment of such Local Amenity Space. This proposal would provide opportunities for informal recreation which would complement the designation of the site as Local Amenity Space and would not undermine the policy objectives set out in SP2 of the Core Strategy or ENV29 of the Selby District Local Plan. There is nothing in the Development Plan or the NPPF to identify this type of development as being unsustainable, or preclude in principle development of this type in this location. The proposal is therefore considered to be acceptable in principle and accords with Policies SP1 and SP2 of the Core Strategy and Policy ENV29 of the Selby District Local Plan.

Impact on Heritage Assets

- 4.6 The comments of representees are noted regarding the impact of the proposals on heritage assets. It should be noted that additional information in respect of the impact of the proposals on heritage assets has been provided throughout the course of the application. The following assessment of the application in respect of the impact on heritage assets is based on all of the information as submitted at the time of writing this report in December 2018.
- 4.7 The application site is located within close proximity to a number of designated heritage assets, including the Grade II listed Wharfe Bridge and the Tadcaster Conservation Area.
- 4.8 Relevant policies in respect of the effect upon the setting of heritage assets include Policies SP18 and SP19 of the Core Strategy. Policy SP18 requires, amongst other things, the high quality and local distinctiveness of the natural and man-made environment be sustained by safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledge importance. Policy SP19 requires, amongst other things, that proposals positively contribute to an area's identity and heritage in terms of scale, density and layout.
- 4.9 Relevant policies within the NPPF which relate to development affecting the setting of heritage assets include paragraphs 189 to 198.
- 4.10 Paragraph 189 of the NPPF states that *"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation"*.
- 4.11 Paragraph 192 of the NPPF states that *"In determining applications, local planning authorities should take account of:*

- a) *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) *the desirability of new development making a positive contribution to local character and distinctiveness”.*

- 4.12 Paragraph 193 of the NPPF states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”.*
- 4.13 Paragraph 196 of the NPPF states that *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”.*
- 4.14 Paragraph 196 of the NPPF should be read in conjunction with paragraph 193 of the NPPF which provides that when considering the impact of a proposal on the significance of a designated heritage asset, “great weight” should be given to the asset’s conservation. This wording reflects the statutory duty in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990.
- 4.15 Whilst considering proposals for development which affects a Listed Building or its setting, regard is to be made to Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 which requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'. Section 72 of the above Act contains similar requirements with respect to buildings or land in a Conservation Area.
- 4.16 In the case of *Barnwell Manor Wind Energy Ltd v E.Northants DC, English Heritage, National Trust & SSCLG [2014] EWCA Civ 137*, it was held that in enacting Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990, Parliament intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise. In *The Forge Field Society and Others, Regina (on The Application of) v Sevenoaks District Council [2014] EWHC 1895 (Admin)* Lindblom J confirmed that the desirability of preserving the settings of listed buildings should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise.
- 4.17 The application proposes the installation of a recreational raised seating area over an existing temporary bridge foundation. The proposed seating area would measure maximum of 6.9 metres by 10.3 metres and would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The sides of the proposed recreational raised

seating area would be clad in twice weathered ashlar magnesium limestone with limestone coping to match Wharfe Bridge; atop the limestone copings would be black painted galvanised steel railings to be 1.1 metre high and socket fixed to coping; and the floor surface of the recreational raised seating area would be Marshalls Conservation Paving in Silver Grey. Sited on the recreational raised seating area would be an ashlar magnesium limestone plinth with an information board, along with 2No. Woodscape Type 3 Backrest Seats and 2No. Woodscape Standard Picnic Sets. Leading to the recreational raised seating area to the west would be a ramp with a Resin Bonded Surface in Silver Granite set with Marshalls Conservation Kerb in Silver Grey, and 1.1 metre high post and rail fence.

The Applicant's Assessment of the Impact of the Proposals on Heritage Assets

- 4.18 The application has been supported by a Heritage Statement, undertaken by Solstice Heritage LLP dated April 2018. The executive summary states that *"This assessment finds that the proposed development will significantly improve views across the river looking south from Wharfe Bridge with the addition of more sympathetic materials which will allow it to blend in with the surrounding area. Furthermore, in creating a designated viewing area and introducing an interpretation panel, the proposed development will better reveal the significance of the Grade II-listed Wharfe Bridge. In terms of potential wider impacts, the proposed development is situated c. 50 m south of the Tadcaster Conservation Area. In spite of this close proximity, however, there are no meaningful views between the proposed development site and the historic town centre, in particular the linear development along Bridge Street and the numerous listed buildings along it. As such, the proposed development will result in a neutral impact upon the significance of the Tadcaster Conservation Area. Finally, given the distance and lack of indivisibility to and from the proposed development site due to intervening development, it is considered that the proposed development will result in a neutral impact to the significance of the scheduled Tadcaster motte and bailey castle"*.
- 4.19 The Heritage Statement acknowledges that the application site is located within close proximity to a number of designated heritage assets and that the proposal has the potential to affect the setting of those designated heritage assets. The assessment identifies one Conservation Area, one Scheduled Ancient Monument, three Grade II* listed buildings and 43 Grade II listed buildings within 500 metres of the application site. The application site is located approximately 50 metres south east of the Tadcaster Conservation Area, approximately 300 metres south east of the scheduled Tadcaster motte and bailey castle and approximately 75 metres south east of the Grade II listed Wharfe Bridge. An assessment of the significance of each of these designated heritage assets is provided within the Heritage Statement. In addition to designated heritage assets, the Heritage Statement acknowledges that the application site is located within close proximity to a number of non-designated heritage assets and that the proposal has the potential to affect the setting of those non-designated heritage assets. The assessment identifies up to 56 non-designated heritage sites within 500 metres of the application site and provides details of the significance of those non-designated heritage assets.
- 4.20 The Heritage Statement sets out that the application site currently comprises a large modern concrete platform with railings, left behind after the removal of a temporary footbridge across the River Wharfe. The Statement sets out that the current unattractive concrete platform situated within the proposed development

site, visible from the Grade II listed Wharfe Bridge looking south, detracts from its setting, and as a result, its significance. On the other hand, views of the bridge from the proposed development site are extensive and allow for appreciating and understanding the structure. Therefore, these views and the ability to experience them make a contribution to the setting of the asset. Finally, the site itself is set back from the main road and due to intervening development, is substantially screened from the historic centre of the town providing no contribution to views looking east and west along Bridge Street whether entering or exiting the conservation area.

4.21 In terms of an impact assessment of the proposed development on the setting of heritage assets, the Heritage Statement focuses the assessment on the impact of the proposed development on the three key designated heritage assets which have the potential to be affected by the proposals: the Tadcaster Conservation Area, the scheduled Tadcaster motte and bailey castle; and the Grade II listed Wharfe Bridge. In terms of the impact of the proposed development on the Tadcaster Conservation Area, the Heritage Statement concludes that the conservation area derives much of its primary character from the line of historic development along Bridge Street. There is no intervisibility between the proposed development site and the main street, due to intervening development. Furthermore, views looking southward over the bridge on arrival into Tadcaster, where the proposed development is visible, would be marginally improved. Given there is no intervisibility between the proposed development site and the main street, the Heritage Statement concludes that the development is considered to have an overall neutral impact on the setting of the Tadcaster Conservation Area. In terms of the impact of the proposed development on the scheduled Tadcaster motte and bailey castle, the Heritage Statement concludes that given the distance and lack of intervisibility to and from the proposed development site, the proposed development would result in a neutral impact to the significance of the Tadcaster motte and bailey castle scheduled monument. In terms of the impact of the proposed development on the Grade II listed Wharfe Bridge, the Heritage Statement concludes that the proposed development, in creating an additional designated viewing area as well as introducing an interpretation panel, would better reveal the significance of the bridge through creating improved views to and from it, and providing information on its history. As such, the Heritage Statement concludes that the proposed development would have a moderate positive impact on this element of the setting of the historic bridge.

4.22 The applicant's agent has submitted additional information on the impact of the proposals on heritage assets during the application process. In terms of justifying the size of the proposed recreational raised seating area, the applicant's agent has advised that the recreational raised seating area would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The proposed size of the seating area utilises land which was altered as part of the provision of the temporary bridge foundation and is a size required to provide a meaningful space for the proposed seating and viewing area and to allow access to and from the proposed seating and viewing area.

The Local Planning Authority's Assessment of the Impact of the Proposals on Heritage Assets

- 4.23 The application has been assessed by the Council's Conservation Officer, the comments of whom are noted and have been fully considered as part of the assessment of this application. In initial comments, the Council's Conservation Officer advised that the ideal scenario would be for this site to be returned to its original form as a grassed riverbank. However, the Council's Conservation Officer also advised that the creation of a seating/viewing area could improve the appearance of this site if it is designed well and uses high quality natural materials. Accordingly, it is clear from the initial comments of the Conservation Officer that the starting point for the assessment of the application in respect of the impact of the proposals on heritage assets is the lawful use of the site as a grassed riverbank. However, the initial view from the Conservation Officer was that the creation of a seating/viewing area at the site could be acceptable in respect of the impact of the proposals on heritage assets, although the design and materials to be used would need to be improved from those then proposed.
- 4.24 In the most up-to-date comments, the Council's Conservation Officer states that *"Keeping aside whether or not the concrete base has permission or not, the proposal to utilise an existing concrete base and to enhance and improve its appearance is fully supported from a conservation perspective. The current concrete base does not preserve or enhance the character and appearance of the Tadcaster Conservation Area and it has an adverse impact upon the significance of the listed Tadcaster Bridge due to the site being located within its setting. The application has been submitted with a Heritage Statement, which identifies nearby heritage assets and the impact of the development upon their significance. The conclusion is that the development would have a moderate positive impact upon the setting of the historic bridge. Although improvements to the concrete base have the potential to improve the appearance of the site, this can only be achieved by use of high quality materials and finishes. There are still concerns with increasing the size of the concrete base as it would increase the visibility and make the structure more noticeable from the listed bridge. As mentioned previously, there is limited justification for increasing the size of the area and the development would therefore not be achieving the original purpose of utilising the existing platform and would be moving away from its historical link to the footbridge which was built when the listed bridge failed following the flooding [in December 2015]. From this perspective, it is still advised from a conservation perspective to maintain the existing size of the concrete base as enlarging it will cause less than substantial harm to the significance of the designated heritage asset of the bridge. With regards to the proposed materials, natural stone is proposed for the walling, this has been used for the repairs to the listed bridge and can therefore be considered to be acceptable. A simple flat topped railing is also proposed. Concrete paving slabs are still proposed to be used on the floor of the seating area. This is not a natural material or a material found locally. Stone setts or stone flags would still be the preferable choice in this location. It is also proposed to create a resin bonded gravel path leading to the seating area, if this gravel has a grey/brown finish this would be considered to be acceptable as it would complement the natural stone. It is proposed to line the path with a concrete kerb; this material is not sympathetic and should preferably be natural stone".* In conclusion, the Council's Conservation Officer states that *"The principle of the development is supported; however there are still elements of the proposal which are considered to have an adverse impact upon the significance of the listed bridge through development within its setting".* The Council's Conservation Officer considered that further amendments would be required in order for the proposals to be considered acceptable including a reduction in the size

of the proposed recreational raised seating area to reflect the existing concrete base and not to increase its size, plus the use of natural materials for the paving slabs and kerbs as opposed to the use of concrete. The comments of the Conservation Officer in terms of the proposed amendments to the scheme are addressed below in the Officers assessment of the impact of the proposals on heritage assets.

- 4.25 Officers have fully considered the information submitted by the applicant in respect of the impact of the proposals on heritage assets, the comments of representees in respect of the impact of the proposals on heritage assets and the consultation response from the Council's Conservation Officer in respect of the impact of the proposals on heritage assets.
- 4.26 The application site currently comprises an existing temporary bridge foundation and an area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. This was installed in January/February 2016 to enable the provision of a temporary footbridge over the River Wharfe following the collapse of the Grade II listed Wharfe Bridge in the December 2015 flood event. The temporary footbridge remained in situ for approximately 12 months while works were undertaken to repair the Grade II listed Wharfe Bridge, after which it was removed. The temporary bridge foundation to the north side of the riverbank was removed and returned to a grassed riverbank at that time; however the temporary bridge foundation to the south side of the riverbank remains in situ. It is noted that the temporary bridge foundation to the south side of the riverbank is an unlawful structure and the site should have been returned to be returned to its original form as a grassed riverbank following the removal of the temporary footbridge in February 2017. However, North Yorkshire County Council have submitted an application to retain the temporary bridge foundation and repurpose it by installing a recreational raised seating area. Given the temporary bridge foundation is an unlawful structure; the starting point for the assessment of the application in respect of the impact of the proposal on heritage assets is from the lawful use of the site as a grassed riverbank. In this respect the application seeks planning permission for the retention of the unlawful temporary bridge foundation and the installation of a recreational raised seating area.
- 4.27 The submitted Heritage Statement concludes that the installation of a recreational raised seating area over the existing temporary bridge foundation would better reveal the significance of the Grade II listed Wharfe Bridge though creating improved views to and from it and providing information on its history through the introduction of an interpretation panel on the recreational raised seating area. While the Council's Conservation Officer does not raise any objections to the principle of the development, concerns have been raised by the Council's Conservation Officer that the proposal goes beyond the re-use of the existing temporary bridge foundation and the Council's Conservation Officer recommends that the size of the proposed seating area is reduced to reflect the existing concrete base and not to increase its size, otherwise the proposal has the potential to result in less than substantial harm to the setting of the Grade II listed Wharfe Bridge. The rationale behind this is that the larger the size of the proposed recreational raised seating area, the more prominent it would be on the riverbank and the greater the potential for a harmful impact on heritage assets, specifically the Grade II listed Wharfe Bridge.

- 4.28 The proposed recreational raised seating area would enable the Wharfe Bridge to be viewed from the riverbank in a more meaningful manner than at present and would contribute to the appreciation of the history of the listed Wharfe Bridge through the provision of an information board. In terms of the size of the proposed recreational raised seating area, the applicant's agent has advised that the recreational raised seating area would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The proposed size of the seating area utilises land which was altered as part of the provision of the temporary bridge foundation and is a size required to provide a meaningful space for the proposed seating and viewing area and to allow access to and from the proposed seating and viewing area. While the concerns of representees and the Council's Conservation Officer are noted regarding the size of the recreational raised seating area, the proposal would utilise raised land on which works have already taken place (albeit without the benefit of planning permission) in relation to the provision of the temporary footbridge over the River Wharfe and are all tied into the repurposing of this area of land. On this point, therefore, it is concluded that the size of the proposed recreational raised seating area would lead to less than substantial harm to the setting of the Grade II listed Wharfe Bridge but no harm to the setting of any other designated or non-designated heritage assets.
- 4.29 In terms of the proposed materials, the Council's Conservation Officer raises concerns regarding the use of non-natural materials for the paving slabs and kerbs setting out that the proposals must use high quality natural materials in order for them not to have any adverse impact on the setting of heritage assets. However, the proposed materials are similar to those used on the works to repair the Grade II listed Wharfe Bridge itself. On this point, therefore, it is concluded that the proposed materials to be used for the proposed recreational raised seating area would lead to no harm to the setting of any designated or non-designated heritage assets.
- 4.30 Overall, having regard to the above discussion, the proposal is considered to lead to less than substantial harm to the significance of a designated heritage asset, namely the Grade II listed Wharfe Bridge. Paragraph 196 of the NPPF states *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use"*. As set out earlier in this report, paragraph 196 of the NPPF should be read in conjunction with paragraph 193 of the NPPF which states that when considering the impact of a proposal on the significance of a designated heritage asset, "great weight" should be given to the asset's conservation. This wording reflects the statutory duty in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990. The desirability of preserving the settings of heritage assets, including listed buildings and conservation areas, should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise.
- 4.31 In terms of public benefits, the proposal would lead to the creation of a recreational raised seating and viewing area on the south riverbank of the River Wharfe which would provide an area from which the Grade II listed Wharfe Bridge would be viewed, understood and appreciated from by members of the public, both locals and

visitors alike. Furthermore, the proposal would re-purpose the existing temporary bridge foundation and area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The proposal would preserve the history of this previous use, which itself forms an important part of the town history and provided a public benefit to the town by enabling the provision of a temporary footbridge connecting the two sides of Tadcaster for a year while the listed Wharfe Bridge was repaired following the December 2015 flood event. In weighing the harm against the public benefits of the proposal, it is considered that there are clear public benefits in terms of the provision of a seating and viewing area on an area of designated Local Amenity Space which would contribute towards marking and acknowledging a significant recent event in the towns history, directly related to the preservation of the Grade II listed Wharfe Bridge.

- 4.32 Having regard to the above, it is considered that the proposed development would lead to less than substantial harm to the significance of a designated heritage asset, namely the Grade II listed Wharfe Bridge. However, when the harm is weighed against the public benefits of the scheme, it is considered that the proposal is acceptable. The proposal would therefore be in accordance with Policies SP18 and SP19 of the Core Strategy, Policies ENV1, ENV25 and ENV27 of the Selby District Local Plan and S66 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 and the advice contained within the NPPF.

Impact on Archaeology

- 4.33 The application site is located within an Archaeological Consultation Zone and within close proximity to the scheduled Tadcaster motte and bailey castle. North Yorkshire County Council Heritage services have been consulted on the proposals and the Principal Archaeologist has advised that the proposals, given their nature, siting and scale are unlikely to have a significant impact on archaeological deposits. The Principal Archaeologist therefore raises no objections to the proposals.
- 4.34 Having regard to the above, it is considered that the proposed development would not have any adverse impacts on archaeology in accordance with Policy ENV28 of the Selby District Local Plan and the advice contained within the NPPF.

Design and Impact on the Character and Appearance of the Area

- 4.35 The application proposes the installation of a recreational raised seating area over an existing temporary bridge foundation. The proposed seating area would measure maximum of 6.9 metres by 10.3 metres and would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The sides of the proposed recreational raised seating area would be clad in twice weathered ashlar magnesium limestone with limestone coping to match Wharfe Bridge; atop the limestone copings would be black painted galvanised steel railings to be 1.1 metre high and socket fixed to coping; and the floor surface of the recreational raised seating area would be Marshalls Conservation Paving in Silver Grey. Sited on the recreational raised seating area would be an ashlar magnesium limestone plinth with an information board, along with 2No. Woodscape Type 3 Backrest Seats and 2No. Woodscape Standard Picnic Sets. Leading to the recreational raised seating area to the west

would be a ramp with a Resin Bonded Surface in Silver Granite set with Marshalls Conservation Kerb in Silver Grey, and 1.1 metre high post and rail fence.

- 4.36 Given the size, siting and design of the proposals in respect of the context of their surroundings, it is considered that the proposals would not have any significant adverse impact on the character and appearance of the area, in accordance with Policy ENV1 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

Impact on Trees

- 4.37 The proposed development is sited next to an avenue of Lime trees which are covered by a group Tree Preservation Order (TPO) (reference: 2/1987).
- 4.38 The application has been supported by a Tree Report to BS5837:2012 undertaken by Jo Ryan Arboriculture Urban Greening dated March 2018. The survey includes significant trees/ groups of trees with a diameter of 75mm or more (measured at a height of 1.5m above ground level) located within and adjacent to the development area. The report provides information for the retention and protection of trees on the development site.
- 4.39 The submitted Tree Report has been assessed by the Council's Tree Consultant who notes that vegetation in proximity of the proposed development comprises an avenue of Lime trees which are covered by TPO reference 2/1987 and an informal line of trees lying to the west of the main avenue and abutting the sports ground. The Council's Tree Consultant concurs with the tree quality assessments contained within the submitted Tree Report and is broadly in agreement with the data provided. The Council's Tree Consultant concludes that there would be no adverse impact on trees in proximity to the proposed works subject to no excavation works being undertaken south of the existing line of sheet piling and any roots over 20mm diameter encountered during excavation being cut cleanly (using a hand saw) and their cut ends covered in damp hessian to prevent desiccation until the excavation can be backfilled. This should be undertaken (using good quality topsoil) as quickly as possible – ideally within one working day. As such, the Council's Tree Consultant raises no objections to the proposals, subject to a condition on the method of working in close proximity to trees.
- 4.40 The comments of representees are noted regarding the potential removal of some of the TPO trees covered by TPO reference 2/1987 at the time of the installation of the temporary bridge foundation, without consent. The Council's Tree Consultant has considered this claim and advises that it is likely that some trees have been removed at some point in the past. Whether this occurred as result of construction of the temporary footbridge or whether it occurred previously is not possible to determine on site. However, Google Earth Pro shows trees as historic data and appears to suggest that there were two trees lying to the north west of T8 and one north west of T9 as recently as 2015. This would suggest that three specimens were removed around the time of the installation of the temporary bridge foundation.
- 4.41 The submitted proposed site plan (drawing no. NY017099-A-100.003 P4) demonstrates how 3No. standard size Lime trees would be planted in positions to match the existing avenue as part of the proposals, in lieu of the TPO Lime trees

which have been removed previously. These replacement trees would be covered by TPO reference 2/1987. For the avoidance of doubt, these replacement trees are located within the application site boundary and therefore a condition could be attached to any planning permission granted requiring these to be planted, maintained and managed. The proposed trees are to be Common Lime (*Tilia Europaea*) standard size in accordance with BS:3936. A maintenance and management plan has been submitted in respect of the lime trees to be planted as part of the proposals, which sets out: newly planted trees will be checked for disease by a competent person annually for any major deterioration in their condition; pruning of epicormic or basal growth will be undertaken annually in September; weed control by ensuring no weed growth within a 500mm diameter of each tree annually between April and August. A suitable herbicide should be used in compliance with manufacturer's instructions. Fertilise using suitable slow release fertiliser as per manufacturer's instructions for the first 3 years after planting annually between April and August; inspect tree ties and stakes as scheduled and after strong winds. Replace loose, broken ties or decayed stakes to original specification; remove ties and stakes 4 years after planting; and remove dead trees and replace as per original specification annually until year 5. The applicant's agent has confirmed that North Yorkshire County Council would be responsible for the management and maintenance of the trees for the first 5 years, although this work would be carried out by the tree supplier.

- 4.42 Subject to conditions relating to the method of working in close proximity to trees and the planting of replacement TPO trees which would be subject to the submitted maintenance and management plan, it is considered that the proposal is considered acceptable in respect of its impact on trees in accordance with Policy ENV1(5) of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Residential Amenity

- 4.43 The comments from representees are noted regarding the impact of the proposals on the residential amenities of neighbouring properties. In terms of the impact of the proposed development on the residential amenities of neighbouring properties in terms of oppression, overshadowing or overlooking, given the size, siting and design of the proposed development in relation to neighbouring properties, it is not considered that the proposals would result in any significant adverse effects of oppression, overshadowing or overlooking so as to adversely affect the amenities of the occupiers of any neighbouring properties in these respects.
- 4.44 In terms of the impact of the proposed development on the residential amenities of neighbouring properties in terms of noise and disturbance, it is noted that the application site is located on an area of land allocated as Local Amenity Space, which is already used for recreational purposes. The proposal would result in the provision of a recreational raised seating area on part of this land. The use of the land for recreational purposes would remain as part of the proposals, albeit that a formal viewing and seating area would be created. As the land use would remain the same, there is nothing to suggest that the proposal would result in any significant adverse impacts on the residential amenities of neighbouring properties in terms of noise and disturbance over and above the current situation.
- 4.45 Having regard to the above, it is considered that the amenities of the adjacent properties would be preserved and the amenities of the future property would be

acceptable in accordance with Policies ENV1(1) and ENV2 of the Selby District Local Plan and the advice contained within the NPPF.

Flood Risk

- 4.46 The application site is located within Flood Zone 3a which has been assessed as having between a 1 in 100 or greater annual probability of river flooding (>1%) or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any one year.
- 4.47 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 (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere”*.
- 4.48 Paragraph 158 of the NPPF states that *“The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding”*
- 4.49 Paragraph 159 of the NPPF states that *“If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance”*.
- 4.50 The application proposes the installation of a recreational raised seating area over the existing temporary bridge foundation within Flood Zone 3a and therefore the sequential test would be required to determine whether there are any reasonably available sites at lower probability of flooding that could reasonably accommodate the proposed development. Given the nature of the proposed development, to provide a recreational raised seating area on the riverbank with views of the Grade II listed Wharfe Bridge, which would be a water compatible use, it would be considered reasonable and necessary to narrow down the geographical coverage area for the sequential test to an area along the riverbank either side of the Grade II listed Wharfe Bridge.
- 4.51 A flood risk assessment and a sequential test have been submitted with the application.
- 4.52 In terms of the flood risk assessment, the submitted information includes a Flood Risk Assessment (Project No. JAG/AD/JF/40773-RP001) undertaken by Alan Wood and Partners dated April 2018 and an Addendum to the Flood Risk Assessment Project No. JAG/AD/JF/40773-RP001) undertaken by Alan Wood and Partners dated May 2018. The Environment Agency have been consulted on the proposals and consider that the submitted Flood Risk Assessment and Addendum to the Flood Risk Assessment are acceptable and the proposed development would not

cause any unacceptable increases in flood risk. The Environment Agency therefore raise no objections to the proposed development in terms of flood risk. A condition could be attached to any planning permission granted requiring the development to be carried out in strict accordance with the recommendations and mitigation measures contained within the submitted Flood Risk Assessment and Addendum to the Flood Risk Assessment.

- 4.53 In terms of the sequential test, the submitted information sets out that given the nature of the proposed development, to provide a recreational raised seating area on the riverbank with views of the Grade II listed Wharfe Bridge, which would be a water compatible use, it would be considered reasonable and necessary to narrow down the geographical coverage area for the sequential test to an area along the riverbank either side of the Grade II listed Wharfe Bridge. This is agreed by Officers. The applicant's agent has undertaken the sequential test on this basis and considers that the proposal passes the sequential test as all the land within the geographical search area, as identified in the submitted Sequential Test documents, is located within Flood Zone 3a. Officers have undertaken the sequential test on this basis and consider that there are no other areas at lower floor risk within the geographical search area. As such, Officers consider that the scheme is considered to be acceptable in terms of passing the sequential test.
- 4.54 Subject to the aforementioned condition, relating to the development being carried out in accordance with the recommendations and mitigation measures contained within the submitted Flood Risk Assessment and Addendum to the Flood Risk Assessment, the proposal is considered to be acceptable in respect of flood risk in accordance with the advice contained within the NPPF.

Other Issues

- 4.55 Concerns have been raised regarding the access to the proposed seating area for members of the public who are non-ambulant. The scheme incorporates the provision of ramped access to the recreational raised seating area within the land which forms part of the application site. It is noted that to the north west of the application site (outside of the red edge) are existing kissing gates to access the riverside public footpath walks, however these are outside the application site and the applicant does not have control over this area or the removal of the kissing gates. Access to the riverside and Local Amenity Space for non-ambulant members of the public therefore would remain as at present, however the proposals themselves have also taken this matter into account with the provision of a ramped access.
- 4.56 Concerns have been raised that the existing temporary bridge foundation has recently been subject to anti-social behaviour, which would continue and potentially increase if the proposal were allowed. The Designing Out Crime Officer has been consulted on the proposals and has advised that an analysis of crime and anti-social behaviour for an area within a 100m radius of the site has been carried out, at the time the application was submitted, for a 12 month period and there were no incidents recorded by North Yorkshire Police. The Designing Out Crime Officer has liaised with the local Neighbourhood Policing Team supervision who state that although the proposal does have the potential to suffer from anti-social behaviour they have no evidence to prove that it will. Representatives have subsequently advised that anti-social behaviour has been evident at the site of the existing

temporary bridge foundation. The Designing Out Crime Officer notes that there are no dwellings in a position to allow natural surveillance of the proposal by residents. However, there is potential passive surveillance by persons using the Wharfe Bridge. Persons wishing to act in a criminal or anti-social manner do not wish to be seen and therefore the Designing Out Crime Officer recommends that this area should be provided with lighting. The Designing Out Crime Officer states that they understand that the temporary bridge was illuminated and therefore conclude that the provision of lighting at the site should not be an issue. They go on to advise that any lighting should be attached to a lamp column. The comments of the Designing Out Crime Officer are noted regarding the provision of a lighting scheme on the recreational raised seating area. However, the lighting of the temporary bridge was agreed for a temporary period and was in response to an emergency situation. The provision of permanent lighting in this location needs to be given consideration in respect of its impacts, including its impact on heritage assets. The Council's Conservation Officer has advised against the provision of any permanent lighting at the site due to the potential adverse impact on the setting of nearby heritage assets. In light of this and taking into account the visibility of the proposed recreational raised seating area from the Wharfe Bridge which itself has lighting, it is considered that the design of the proposal without any lighting would be acceptable in respect of designing out crime, on balance.

- 4.57 Concerns have been raised that insufficient information has been submitted in support of the application in respect of various main issues and that insufficient consultations have been carried out by the Local Planning Authority. Throughout the application process, additional information has been submitted by the applicant's agent in support of the proposals, as requested by the Local Planning Authority to enable a comprehensive assessment of the scheme and additional consultations have been undertaken with consultees on the proposals.

5. CONCLUSION

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that "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". Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposed development would not have a detrimental effect on the setting of heritage assets (having regard to paragraphs 189 to 198 of the NPPF and Section 66 of the Planning (Listed Building and Conservation Areas Act) 1990), archaeology, the character and appearance of the area, trees, the residential amenity of the occupants of neighbouring properties, flood risk or any other issues which have been raised and assessed as part of the application. The application is therefore considered to be in accordance with the relevant policies of the development plan, namely, Policies ENV1, ENV2, ENV25, ENV27, ENV28 and ENV29 of the Selby District Local Plan, Policies SP1, SP2, SP15, SP18 and SP19 of the Core Strategy. It is also considered that the application is consistent with relevant guidance in the NPPF and for the purposes of Section 38(6), there are no other material considerations which would indicate otherwise.

6. RECOMMENDATION

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

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

Reason:

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

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

100.001 P1 – Site Location Plan

100.002 P1 – Existing Site Plan

100.004 P1 – Existing Plans and Elevations

NY17009-A-100.003 P4 – Proposed Site Plan

NY17009-A-100.005 Proposed seating Area Works

NY17009-A-100.006 P3 – Proposed Materials and Furniture

Reason:

For the avoidance of doubt.

03. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees which form part of TPO reference 2/1987 and appropriate working methods within the protected areas have been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved and maintained until the completion of the development on the land. Within the protected areas there shall be no storage, deposit, tipping or placing of any materials, soil, spoil or other matter, no parking or movement of vehicles or trailers, no erection or siting of buildings or structures, no excavation or raising of ground levels and no disposal of water or other liquid. Furthermore, no fire(s) shall be lit within 20m of any protected area without the prior written authorisation of the Local Planning Authority.

Reason:

In order to protect the trees covered by TPO reference 2/1987 and to safeguard the character and appearance of the area.

04. The replacement three Lime trees as shown on drawing no. NY17009-A-100.003 P4, shall be planted in the first available planting season following the completion of the works to provide the recreational raised seating area and associated access paths as shown on drawing no. NY17009-A-100.003 P4. Any trees which die, are removed or become seriously damaged or diseased within the first five years shall be replaced in the next available planting season with others of the same size and species. Furthermore, the trees shall be maintained and managed by (or on behalf of) North Yorkshire County Council in strict accordance with the 'Proposed Tree Maintenance Plan' submitted to the Local Planning Authority on 1 October 2018.

Reason:

In order to safeguard the character and appearance of the area.

05. The development shall be carried out in accordance with the flood mitigation measures as set out in the Flood Risk Assessment (Project No. JAG/AD/JF/40773-RP001) undertaken by Alan Wood and Partners dated April 2018 and an Addendum to the Flood Risk Assessment Project No. JAG/AD/JF/40773-RP001) undertaken by Alan Wood and Partners dated May 2018, submitted with the application.

Reason:

In the interests of flood risk and flood risk reduction and in order to comply with the advice contained within the NPPF and NPPG.

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 and the Public Sector Equality Duty (PSED)

Section 149(1) of the Equality Act 2010 provides that a public authority must, in the exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant characteristic and those who do not share it. Subsection (3) of Section 149 specifies in further detail what “having due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it” involves.

This includes having due regard, in particular, to the need to—

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The “relevant protected characteristics” are listed in Section 149(7) and include age, disability and race.

In the case of the determination of this application, the possible impact when it comes to access to the riverside and Local Amenity Space for non-ambulant members of the public has been highlighted as a potential issue. However, as noted above such access would remain as at present and a ramped access has been incorporated into the proposed development. In the circumstances and paying due

regard to the PSED, it is not considered that the proposals would give rise to any adverse impacts on those sharing a protected characteristic.

8. Financial Issues

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

9. Background Documents

Planning Application file reference 2017/0872/FUL and associated documents.

Contact Officer: Jenny Tyreman, Senior Planning Officer

Appendices: None

**Officer Update Note
Planning Committee 16 January 2019**

Item 6.8

APPLICATION NUMBER:	2017/0872/FUL	PARISH:	Tadcaster Town Council
APPLICANT:	North Yorkshire County Council	VALID DATE: EXPIRY DATE:	29 th August 2017 24 th October 2017
PROPOSAL:	Proposed installation of a recreational raised seating area over the existing temporary bridge foundation		
LOCATION:	Land At Wharfe Bank Tadcaster		
RECOMMENDATION:	GRANT		

- All pre-commencement conditions recommended to be attached have the prior written agreement of the applicant.

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Annex

Glossary of Planning Terms

Community Infrastructure Levy (CIL):

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

Curtilage:

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

Environmental Impact Assessment (EIA):

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

National Planning Policy Framework (NPPF):

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

Permitted Development (PD) Rights

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

Previously Developed Land (PDL)

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

Planning Practice Guidance (PPG)

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

Recreational Open Space (ROS)

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

Section 106 Agreement

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

Site of Importance for Nature Conservation

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

Site of Special Scientific Interest (SSI)

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

Scheduled Ancient Monument (SAM):

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

Supplementary Planning Document (SPD)

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

Tree Preservation Order (TPO):

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

Village Design Statements (VDS)

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

Planning Committee 2020-21



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