



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY, 12 JANUARY 2022**
Time: **2.00 PM**
Venue: **COUNCIL CHAMBER - CIVIC CENTRE, DONCASTER ROAD, SELBY, YO8 9FT**
To: **Councillors J Cattanach (Chair), J Mackman (Vice-Chair), M Topping, K Ellis, I Chilvers, R Packham, P Welch, D Mackay and C Richardson**

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 - 20)**

To confirm as a correct record the minutes of the Planning Committee meeting held on 8 December 2021.

5. **Planning Applications Received (Pages 25 - 26)**
- 5.1. **2020/0225/FULM - Land South of Gloster Close, Busk Lane, Church Fenton (Pages 27 - 60)**
 - 5.2. **2021/1295/REM - Yew Tree House, Main Street, Kelfield (Pages 61 - 112)**
 - 5.3. **2019/0559/FULM - Ibbotsons, Mill Hill, Braegate Lane, Colton (Pages 113 - 136)**
 - 5.4. **2021/1087/FULM - Toll Bridge Filling Station (Derelict), Ousegate, Selby (Pages 137 - 178)**
 - 5.5. **2019/0031/FUL - Land South of Chapel View, Marsh Lane, Bolton Percy (Pages 179 - 204)**

Janet Waggott

Janet Waggott, Chief Executive

<p style="text-align: center;">Dates of next meetings (2.00pm) Wednesday, 9 February 2022</p>
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Enquiries relating to this agenda, please contact Victoria Foreman on 01757 292046 or vforeman@selby.gov.uk.

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Minutes

Planning Committee

- Venue: Council Chamber - Civic Centre, Doncaster Road, Selby, YO8 9FT
- Date: Wednesday, 8 December 2021
- Time: 2.00 pm
- Present: Councillor J Cattanach in the Chair
- Councillors J Mackman (Vice-Chair), K Ellis, I Chilvers, R Packham, P Welch, D Mackay and C Richardson
- Councillor R Musgrave was also in attendance as a substitute.
- Officers Present: Martin Grainger – Head of Planning, Ruth Hardingham – Planning Development Manager, Glenn Sharpe – Solicitor, Fiona Ellwood – Principal Planning Officer, Gareth Stent – Principal Planning Officer, Irma Sinkeviciene – Senior Planning Officer, Victoria Foreman – Democratic Services Officer
- Public: 14

45 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor M Topping. Councillor R Musgrave was in attendance as a substitute for Councillor M Topping.

46 DISCLOSURES OF INTEREST

Councillor J Mackman declared a non-pecuniary personal interest in agenda item 5.1 – 2020/0014/FULM, Land Off Barff View, Burn, as he was the Chair of the Selby District Housing Committee; Councillor Mackman confirmed that he would leave the meeting during consideration thereof.

Councillor R Musgrave declared a non-pecuniary interest in agenda item 5.1 – 2020/0014/FULM, Land Off Barff View, Burn, as he was the Executive Member for Place Shaping and as such, had a great deal of involvement with the Council's housing matters. Councillor Musgrave confirmed that he too would leave the meeting during consideration thereof.

Councillor R Musgrave also declared a non-pecuniary interest in agenda items 5.4 and 5.5 - Land Off York Road, North Duffield and Green Lane North Duffield, as he was the North Yorkshire County Council elected Member for Escrick Division, which included North Duffield. Councillor Musgrave explained that he knew the speakers on the two items but had not discussed the applications with them. As such, he would not be leaving the meeting during consideration thereof.

Councillor K Ellis declared a non-pecuniary interest in agenda items 5.2 and 5.3 - Land South of Electricity Substation, Rawfield Lane, Fairburn, 5.4 - 2020/1391/FUL - Land Off York Road, North Duffield, 5.5 - 2021/0913/S73 - Green Lane, North Duffield and 5.6 - 2021/1295/REM - Yew Tree House, Main Street, Kelfield, as he had received representation on each item, but would not leave the meeting during consideration thereof.

Councillors J Cattanach, R Packham and D MacKay declared non-pecuniary interests in agenda items 5.7 - 2020/0718/FUL - New Coates Farm, Hirst Road, Carlton and 5.8 - 2020/0719/FUL - Coates Hall Lodge, Hirst Road, Carlton, as they had all received representations for both applications. However, Councillors Cattanach, MacKay and Packham all confirmed that they would not be leaving the meeting during consideration thereof.

47 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chair announced that an Officer Update Note had been circulated and was available to view alongside the agenda on the Council's website.

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

The Chair announced that the order of business had been amended so that the agenda items would be taken in the following order:

Item 5.5 - 2021/0913/S73 - Green Lane, North Duffield
Item 5.4 - 2020/1391/FUL - Land Off York Road, North Duffield
Item 5.2 - 2021/0789/FULM - Land South of Electricity Substation, Rawfield Lane, Fairburn
Item 5.3 - 2021/0633/FULM - Land South of Electricity Substation, Rawfield Lane, Fairburn
Item 5.6 - 2021/1295/REM - Yew Tree House, Main Street, Kelfield
Item 5.7 - 2020/0718/FUL - New Coates Farm, Hirst Road, Carlton
Item 5.8 - 2020/0719/FUL - Coates Hall Lodge, Hirst Road, Carlton
Item 5.1 - 2020/0014/FULM - Land Off Barff View, Burn, Selby

48 MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 10 November 2021.

The Chair informed the Committee that wording regarding the vote to extend

the meeting past three hours had been omitted from the minutes, and that this would be added in by Officers. As such, the minutes could be agreed, subject to the aforementioned amendment.

The amendment was proposed and seconded, and vote taken.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 10 November 2021 for signing by the Chairman, subject to the amendment above.

49 PLANNING APPLICATIONS RECEIVED

The Planning Committee considered the following planning applications.

49.1 2021/0913/S73 - GREEN LANE, NORTH DUFFIELD

Application: 2021/0913/S73

Location: Green Lane, North Duffield, Selby

Proposal: Section 73 application to remove condition 07 (Highway Improvement Works) of approval 2018/0273/REM Reserved matters application relating to Reserved Matters approval appearance, landscaping, layout, scale and access of approval 2015/0520/OUT Outline application (with all matters reserved) for residential development (9 dwellings) granted on 13 March 2018

The Principal Planning Officer presented the application which had been brought before Planning Committee at the request of Councillor Karl Arthur. Additionally, 14 letters of representation had been received which raised material planning considerations in objection to the scheme, and Officers would otherwise determine the application contrary to these representations.

Members noted that the application was a Section 73 application to remove condition 07 (Highway Improvement Works) of approval 2018/0273/REM Reserved matters application relating to Reserved Matters approval appearance, landscaping, layout, scale and access of approval 2015/0520/OUT Outline application (with all matters reserved) for residential development (9 dwellings) granted on 13 March 2018.

The Committee asked numerous questions of the Officer about the scheme, in particular about the highway verges, installation of a footpath by the Highways Authority and connection to the main part of the settlement. It was also queried as to whether the footpath

could be put on the north side of Green Lane; Officers explained that this had been discussed when the outline planning permission had been granted but reminded Members that this matter was not before the Committee for consideration. The southern side had been assessed as better, and any subsequent change would require removal, variation or deletion of the specific arrangement already agreed as part of the outline permission.

Nancy Gray, objector, was invited to speak at the meeting and spoke against the application.

Councillor Bob Wells, Parish Council representative, was invited to speak at the meeting and spoke against the application. A picture relating to the application had been submitted by Councillor Wells had been circulated to the Committee by email before the meeting.

Councillor Karl Arthur, Ward Member, was invited to speak at the meeting and spoke against the application.

Members debated the application further and acknowledged that the footpath agreed as part of the original permission was essential and part of the local amenity, and as such, should be retained. Therefore, permission should be refused.

It was proposed and seconded that the application be REFUSED. A vote was taken and was carried.

RESOLVED:

That permission be REFUSED for the following reason:

- **that the proposed highway improvement works shown on approved drawing number 1449.01 (Section 278 footway design) controlled by condition 7 of reserved matters permission 2018/0273/REM and discharged through 2019/0658/DOC were still considered to be reasonable and necessary in the interests of the safety and the convenience of highway users, in accordance with policies ENV1 and T1 of the Selby District Local Plan.**

49.2 2020/1391/FUL - LAND OFF YORK ROAD, NORTH DUFFIELD

Application: 2020/1391/FUL

Location: Land Off York Road, North Duffield

Proposal: Change of use of land from agriculture to domestic curtilage and formation of new field boundary (retrospective)

The Senior Planning Officer presented the application which had been brought before the Committee as it was a departure from the Selby District Core Strategy. However, Officers considered that there were material planning considerations and were therefore recommending approval of the application.

Members noted that the application was for a change of use of land from agriculture to domestic curtilage and formation of new field boundary (retrospective).

An Officer Update Note had been circulated and published online ahead of the meeting which gave details of an amendment to Condition 05.

The Committee asked questions about the scheme relating to visibility of the strip of land, the number of letters of support and if there was a need for a fixed boundary. Officers explained that the character and appearance of the rural setting had to be considered, regardless of where it could be viewed from.

Councillor Bob Wells, Parish Council representative, was invited to speak at the meeting and spoke in favour the application.

Jennifer Hubbard, agent, was invited to speak at the meeting and spoke in favour of the application.

Members debated the application further and agreed with the Officer's recommendation and accompanying conditions set out in the report. However, some Members felt that Condition 05 was not needed, as the removal of permitted development rights was excessive.

It was proposed and seconded that permission be GRANTED.

An amendment was subsequently proposed and seconded that permission should be GRANTED, but subject to the removal of Condition 05. A vote was taken on the amended proposal and was CARRIED.

RESOLVED:

That the application be GRANTED, subject to the conditions set out in paragraph 7 of the report and the removal of Condition 05, as detailed in the Officer Update Note.

49.3 2021/0789/FULM - LAND SOUTH OF ELECTRICITY SUBSTATION, RAWFIELD LANE, FAIRBURN

Application: 2021/0789/FULM

Location: Land South of Electricity Substation, Rawfield Lane, Fairburn

Proposal: Construction of a zero-carbon energy storage and management facility including containerised batteries, synchronous condensers and associated infrastructure, access and landscaping

The Principal Planning Officer presented the application which had been brought before Planning Committee as the scheme was inappropriate development in the Green Belt and Very Special Circumstances were required to approve it.

Members noted that the application was for the construction of a zero-carbon energy storage and management facility including containerised batteries, synchronous condensers and associated infrastructure, access and landscaping.

An Officer Update Note had been circulated and published online ahead of the meeting which gave details of a letter from Zero Carbon which set out key details and benefits of the scheme. It also gave updated consultation responses from North Yorkshire County Council's Ecologist and the Lead Local Flood Authority, as well as Hillam Parish Council and the applicant.

The Committee asked numerous questions of the Officer about the scheme in relation to more detailed dimensions of the transformers and buildings associated with the scheme, as well as the related infrastructure and which parish councils had been consulted.

Officers gave a detailed answers to the various queries about the scale and height of the numerous components of the proposal, and confirmed that all four relevant parish councils, namely Burton Salmon, Hillam, Monk Fryston and Fairburn, had been consulted.

James Blackburn, applicant, was invited to speak at the meeting and spoke in favour of the application.

Members debated the application further and acknowledged that the proposals and report before them were very complicated. The views of the Committee were that the scheme constituted inappropriate development in the green belt, that it resulted in harm to the openness of the green belt both spatially and visually, that it was not a production unit and did not generate green energy but was merely a storage facility taking and storing power from the grid and was not of national significance or strategic importance. Therefore, it was not justified in the green belt location.

The Committee agreed that there were other places in the Selby District where such a scheme would be better suited as it was not in keeping with the local area. The very special circumstances required for such development in the green belt had not been met and, as such, the application should be refused.

There was no proposer or seconder for the application to be granted.

The reasons for refusal were summarised by the Committee and were as follows:

- the impact on the green belt would be substantial by way of inappropriate development, as the scheme represented a significant encroachment into open green belt on agricultural land;
- the detrimental impact on the openness of the green belt which was highly protected by both local and national planning policy, which express the green belt's importance to the government, in particular its openness and permanence;
- the impact on the character of the green belt, which would again be significant due to the height of the structures and solid density of the multiple battery units;
- the proposed battery storage units were not in keeping with the green belt and would be of detriment and do harm;
- the whole areas would become industrialised and urbanised, and therefore out of character with the local conservation villages of Monk Fryston and Hillam;
- highway safety would be compromised due to

increased traffic on the A63 and at the crossroads of the junction of the A63 and Rawfield Lane;

- the scheme did not constitute renewable energy provision and was inappropriate development which failed to preserve the openness of the green belt and was contrary to Policy SP3 of the Selby District Council Core Strategy and of the NPPF; and
- lastly, very special circumstances did not exist to outweigh the harm to the green belt.

It was proposed and seconded that the application be REFUSED. A vote was taken and was CARRIED.

RESOLVED:

That the application be REFUSED for the following reasons:

- the impact on the green belt would be substantial by way of inappropriate development, as the scheme represented a significant encroachment into open green belt on agricultural land;
- the detrimental impact on the openness of the green belt which was highly protected by both local and national planning policy, which express the green belt's importance to the government, in particular its openness and permanence;
- the impact on the character of the green belt, which would again be significant due to the height of the structures and solid density of the multiple battery units;
- the proposed battery storage units were not in keeping with the green belt and would be of detriment and do harm;
- the whole areas would become industrialised and urbanised, and therefore out of character with the local conservation villages of Monk Fryston and Hillam;
- highway safety would be compromised due to increased traffic on the A63 and at the crossroads of the junction of the A63 and Rawfield Lane;

- the scheme did not constitute renewable energy provision and was inappropriate development which failed to preserve the openness of the green belt and was contrary to Policy SP3 of the Selby District Council Core Strategy and of the NPPF; and
- lastly, very special circumstances did not exist to outweigh the harm to the green belt.

49.4 2021/0633/FULM - LAND SOUTH OF ELECTRICITY SUBSTATION, RAWFIELD LANE, FAIRBURN

Application: 2021/0633/FULM

Location: Land South of Electricity Substation, Rawfield Lane, Fairburn

Proposal: Installation and operation of a battery storage facility and ancillary development on land off Rawfield Lane, Monk Fryston

The Principal Planning Officer presented the application which had been brought before Planning Committee as the scheme was inappropriate development in the Green Belt and Very Special Circumstances were required to approve it.

Members noted that the application was for the installation and operation of a battery storage facility and ancillary development on land off Rawfield Lane, Monk Fryston.

An Officer Update Note had been circulated and published online ahead of the meeting which explained that whilst Hillam Parish Council had not submitted any formal observations regarding the application, and had agreed at a recent meeting that it had none to submit on behalf of the Hillam residents, it wished to stress that the Planning Committee must seriously consider any concerns of other local Parish Councils, and not leave them overlooked, which often felt like the case when the applicant was a large organisation.

The Update Note also set out additional points from the applicant regarding connection to the National Grid and location of a temporary construction compound. As a result, Officers confirmed that an additional condition would be required to secure the containment and restoration of the construction compound site before the

facility was brought into use.

Phil Roden, agent, was invited to speak at the meeting and spoke in favour of the application.

Members debated the application further, and as with application 20211/0789/FULM which they had considered previously, felt that the scheme again constituted inappropriate development in the green belt, resulted in harm to the openness of the green belt and the character of the area. The very special circumstances required for such development in the green belt had not been met and the application should be refused.

There was no proposer or seconder for the application to be granted.

The reasons for refusal were summarised by the Committee and were as follows:

- the impact on the green belt would be substantial by way of inappropriate development, as the scheme represented a significant encroachment into open green belt on agricultural land;
- the detrimental impact on the openness of the green belt which was highly protected by both local and national planning policy, which express the green belt's importance to the government, in particular its openness and permanence;
- the impact on the character of the green belt, which would again be significant due to the height of the structures and solid density of the multiple battery units;
- the proposed battery storage units were not in keeping with the green belt and would be of detriment and do harm;
- the whole areas would become industrialised and urbanised, and therefore out of character with the local conservation villages of Monk Fryston and Hillam;
- highway safety would be compromised due to increased traffic on the A63 and at the crossroads of the junction of the A63 and Rawfield Lane;
- the scheme did not constitute renewable energy provision and was inappropriate development which failed to preserve the openness of the green belt and was contrary to Policy SP3 of the Selby District Council Core Strategy and of the NPPF; and
- lastly, very special circumstances did not exist to

outweigh the harm to the green belt.

It was proposed and seconded that the application be REFUSED. A vote was taken and was CARRIED.

RESOLVED:

That the application be REFUSED for the following reasons:

- the impact on the green belt would be substantial by way of inappropriate development, as the scheme represented a significant encroachment into open green belt on agricultural land;
- the detrimental impact on the openness of the green belt which was highly protected by both local and national planning policy, which express the green belt's importance to the government, in particular its openness and permanence;
- the impact on the character of the green belt, which would again be significant due to the height of the structures and solid density of the multiple battery units;
- the proposed battery storage units were not in keeping with the green belt and would be of detriment and do harm;
- the whole areas would become industrialised and urbanised, and therefore out of character with the local conservation villages of Monk Fryston and Hillam;
- highway safety would be compromised due to increased traffic on the A63 and at the crossroads of the junction of the A63 and Rawfield Lane;
- the scheme did not constitute renewable energy provision and was inappropriate development which failed to preserve the openness of the green belt and was contrary to Policy SP3 of the Selby District Council Core Strategy and of the NPPF; and
- lastly, very special circumstances

did not exist to outweigh the harm to the green belt.

49.5 2021/1295/REM - YEW TREE HOUSE, MAIN STREET, KELFIELD

Application: 2021/1295/REM

Location: Yew Tree House, Main Street, Kelfield

Proposal: Reserved matters application (following the 2017/0701/OUT) including access, appearance, landscaping, layout and scale for the erection of 6 No dwellings

The Principal Planning Officer presented the application which had been brought before Planning Committee because 11 letters of representation had been received, which raised material planning considerations in objection to the scheme and officers would otherwise determine the application contrary to these representations.

Members noted that the application was a reserved matters application (following the 2017/0701/OUT) including access, appearance, landscaping, layout and scale for the erection of 6 No dwellings.

An Officer Update Note had been circulated and published online ahead of the meeting which gave details of a consultation responses from Kelfield Parish Council and the Conservation Officer, responses to concerns by the agent, further letters of support, an added letter of objection and two additional conditions.

The Committee asked Officers about the elevations and the views of the Conservation Officer. Officers explained that further discussions were undertaken with the Conservation Officer who had sought assurance that some parts involved in the scheme could be protected, despite the fact that Yew Tree House was a non-designated heritage asset, was not listed or in a conservation area and could therefore be demolished. The Conservation Officer had also been of the view that the layout of the dwelling should be more traditional. Officers reminded the Committee that the application before them was for reserved matters, and that the site already had outline permission.

Jennifer Hubbard, agent, was invited to speak at the meeting and spoke in favour of the application.

Members debated the application further and acknowledged that Officers were unsure if a suggested layout plan of the dwellings was shown during the outline stage of the application.

Some Members expressed unease that the views of the Conservation Officer were not being given appropriate weight, as they had expressed a number of concerns. The scheme before the Committee was different from the original indicative layout, and whilst the application should not be refused, Officers should speak to the Conservation Officer further in order for more information to be garnered before the Committee took a decision.

Officers acknowledged that the Conservation Officer's response had only been received in the week prior to the meeting, but that the agent for the application had wanted the scheme determined. Officers also explained that they didn't feel the Conservation Officer's response was critical, as the site was not in a conservation area, nor a listed building; there was also a resourcing issue within the Conservation Team.

Some Members felt that as the scheme before them was a reserved matters application, design was a subjective thing; Members were being asked to consider what was before them. If Officers had duly reflected on the Conservation Officer's comments, the Committee should determine the application.

Other Members were of the opinion that the Committee should not feel pressured into determining the scheme, and as such, that the application should be deferred, and the agent asked to again consider the Conservation Officer's concerns. There were members of the Committee who felt that the arrangement of the dwellings was too cramped and constituted overdevelopment on the site, that the proposed access arrangements were unsatisfactory and may contribute to overlooking and that parking may become an issue for residents in the future. It was strongly suggested that the views of the Committee should be fed back to the agent.

There was no proposal forthcoming from Members to grant the application.

It was proposed and seconded that the application be DEFERRED in order for amendments to the scheme to come forward. A vote was taken and was carried.

RESOLVED:

That the application be DEFERRED in order for a number of amendments to come forward, for the following reasons:

- **a design that better reflects the Conservation Officer's comments;**
- **for the issue of over development to be addressed;**
- **for minimum privacy distances to be considered;**
- **a suggested reduction in the number of accesses; and**
- **the need for differing and smaller house types.**

At this point in the proceedings Members proposed and seconded that the meeting of the Committee should continue beyond the three-hour time limit.

RESOLVED:

To continue the meeting beyond three hours.

The meeting was then adjourned at 4.40pm by the Chair for ten minutes to facilitate a comfort break. The meeting reconvened at 4.50pm.

49.6 2020/0718/FUL - NEW COATES FARM, HIRST ROAD, CARLTON

Application: 2020/0718/FUL

Location: New Coates Farm, Hirst Road, Carlton

Proposal: Creation of a bund/bank to protect properties from flooding (retrospective)

The Senior Planning Officer presented the application which had been brought before Planning Committee as 16 letters of representation had been received, which raised material planning considerations in objection to the scheme, and Officers would otherwise determine the application contrary to these representations.

Members noted that the application was for the creation of a bund/bank to protect properties from flooding (retrospective).

An Officer Update Note had been circulated and published online ahead of the meeting which gave details of a further representation by the applicant, which

expressed concerns that report did not provide a summary of the applicant's counter arguments to all the specific objections submitted that had mentioned tree removal, bund height above the damp proof course, flooding of the applicants in 2020 and existence of the bund at that time.

Officers explained that the representation was not considered to have changed the Officer recommendation as it was in line with the Environment Agency's view that the bund would not have a negative impact with regards to flooding in the local area. The Environment Agency were aware of all the objections that had been submitted. The response highlighted that the Environment Agency's objections had been withdrawn.

The Committee asked about the bunds made of soil and the location of the village of Carlton in relation to the application site.

The Democratic Services Officer read out a speech submitted by Kenneth Foulkes, objector. Mr Foulkes had asked that the speech be read out on his behalf to the Committee.

Members debated the application further and some stated their familiarity with the area and their understanding of what the applicants were trying to do. It was a vital point that the Environment Agency did not see any threats with what was proposed and expressed a sympathy with the applicants for trying to protect themselves from flooding in the future.

The Committee asked for clarification as to which property on the location plans was Coates Hall and were of the opinion that the Environment Agency should be in attendance at the meeting to answer their questions.

Officers reported that no representatives had been available. However, Members were assured that a site visit had been undertaken by the Environment Agency who had been satisfied with the proposals.

It was proposed and seconded that the application be GRANTED. A vote was taken and was carried.

RESOLVED:

That the application be GRANTED, subject to the conditions set out at paragraph 7 of the report.

49.7 2020/0719/FUL - COATES HALL LODGE, HIRST ROAD, CARLTON

Application: 2020/0719/FUL

Location: Coates Hall Lodge, Hirst Road, Carlton

Proposal: Creation of a bund/bank for flood protection (retrospective)

The Senior Planning Officer presented the application which had been brought before Planning Committee as the application was being considered at the same time as 2020/0718/FUL; cumulatively the two applications formed a single entity. This application had received 6 letters of representation and 2020/0718/FUL had received 16 letters of representation, which raised material planning considerations in objection to the scheme, and Officers would otherwise determine the application contrary to these representations.

Members noted that the application was for the creation of a bund/bank for flood protection (retrospective).

An Officer Update Note had been circulated and published online ahead of the meeting which gave details of a further representation by the applicant, which expressed concerns that report did not provide a summary of the applicant's counter arguments to all the specific objections submitted that had mentioned tree removal, bund height above the damp proof course, flooding of the applicants in 2020 and existence of the bund at that time.

Officers explained that the representation was not considered to have changed the Officer recommendation as it was in line with the Environment Agency's view that the bund would not have a negative impact with regards to flooding in the local area. The Environment Agency were aware of all the objections that had been submitted. The response highlighted that the Environment Agency's objections had been withdrawn.

Members expressed their support for the application; it was subsequently proposed and seconded that the application be GRANTED. A vote was taken and was carried.

RESOLVED:

That the application be GRANTED, subject to the conditions set out in

paragraph 7 of the report.

49.8 2020/0014/FULM - LAND OFF BARFF VIEW, BURN

Application: 2020/0014/FULM

Location: Land Off Barff View, Burn

Proposal: Proposed construction of 10 affordable homes, to include a two-storey block of six two-bedroom apartments and four single-storey two-bedroom semi-detached properties

The Principal Planning Officer presented the application which due to it being an application by Selby District Council for its own development on its own land.

Members noted that the application was for the proposed construction of 10 affordable homes, to include a two-storey block of six two-bedroom apartments and four single-storey two-bedroom semi-detached properties.

An Officer Update Note had been circulated and published online ahead of the meeting which gave details of further consultation responses received from the Lead Local Flood Authority following some additional information provided by the applicant.

As a result, further information was required from the applicant on the following matters; a review of the design and calculations for the highway and surface water drainage systems for the developments to reduce the discharge rate as close as possible to greenfield run off rates, whilst acknowledging the size restriction of 75mm orifice size/control; determining the requirements of the Highway Authority for adopting the new section of highway, and confirmation of the impact of the ground water in terms of the cellular storage area, and whether mitigation should be incorporated into the design.

The Committee asked the Officer to clarify what the correct recommendation was; Officers confirmed that the revised recommendation, as detailed in the Officer Update Note, was incorrect. The Committee were instead asked to agree that the decision should be minded to approve, with authority to approve deferred to the Head of Planning Services, subject to receipt of the above additional information, and subject to that information satisfying the requirements of the Lead Local Flood Authority, and subject to any additional relevant appropriate conditions arising from that consultee.

Members also asked questions relating to comments from Burn Parish Council, the layout of the scheme, potential loss of biodiversity, potential flooding and car parking.

Officers explained that the layout of the scheme had not changed since the application was originally submitted. Officers had tried to create a balance between the loss of biodiversity and the benefits of social housing that was sorely needed in the district. With regards to flooding, Members were informed that various flood risk assessments had been produced with some concerns raised; however, the Environment Agency had withdrawn its objections. There were various measures that would be undertaken to mitigate, counteract and plan for any future flooding. The Environment Agency had wanted levels to be raised further; as a result, there was a condition that set such levels.

Members discussed the application further, with some of the opinion it was important to recognise that Officers had considered the overall balance of the proposals and made a judgement. It was essential that flooding issues were resolved, but the balance was that the need for affordable homes outweighed the risks.

It was proposed and seconded that the application be minded for approval, with authority to approve deferred to the Head of Planning Services, subject to receipt of the above additional information, and subject to that information satisfying the requirements of the Lead Local Flood Authority, and subject to any additional relevant appropriate conditions arising from that consultee. A vote was taken and was lost. As a result of the vote, clear reasons for refusal were required.

After some further discussion, it was proposed and seconded that the application be deferred in order to allow Officers to undertake further work on the application by supplying more detail on potential flooding and the suitability of car parking provision, and subject to:

- the receipt of the additional information from the Lead Local Flood Authority;
- that information satisfying the requirements of the Lead Local Flood Authority; and
- any additional relevant appropriate conditions arising from that consultee.

It was proposed and seconded that the application be

GRANTED. A vote was taken and was carried.

RESOLVED:

That the application be DEFERRED in order for Officers to undertake further work on the application by supplying additional detail on potential flooding and the suitability of car parking provision on the site.

The meeting closed at 6.00 pm.

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Planning Committee

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

1. The legislation which allowed Councils to take decisions remotely came to an end on 7 May 2021. As such, Planning Committee meetings to be held after this date have reverted to being 'in person', but there will still be restrictions on numbers of attendees in the room due to Covid-19. **If you are intending to come to a meeting of the Committee in person, please let Democratic Services know as soon as possible, as you are encouraged to watch the meeting online instead, and if you wish to speak at the meeting, you can do this remotely via Microsoft Teams if you so wish.**
2. 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.
3. 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.
4. 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>
5. 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.
6. The next part is the public speaking process at the committee. Speakers will be able to attend the meeting in person again and will have to comply with Covid-safe procedures in the Council Chamber such as social distancing, mask wearing (unless exempt), sanitising of hands and following the one-way system which will be in place in the room.
7. Alternatively, speakers can join the meeting remotely via Microsoft Teams if they prefer to speak that way.

8. The following may address the committee for **not more than 5 minutes each**:
 - (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 on an application to be considered by the Planning Committee should have registered to speak with Democratic Services **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).**

9. Members of the public registered to speak can do so remotely (i.e., via Microsoft Teams online) or in person. If speaking remotely, they must submit a copy of what they will be saying **by 3pm on Monday before the Committee meeting** (amended to the Tuesday if the deadline falls on a bank holiday). This is so that if they experience connectivity issues their representation can be read out on their behalf (for the allotted five minutes).
10. Speakers physically attending the meeting and reading their representations out in person do **not** need to provide a copy of what they will be saying.
11. The number of people that can access the Civic Suite will need to be safely managed due to Covid secure guidelines, which is why it is important for the public to let Democratic Services know if they plan on attending in person.
12. Speakers attending remotely (online via Microsoft Teams) will be asked to access the meeting when their item begins and leave when they have finished speaking and continue watching the stream on YouTube.
13. If speaking in person, the public will be asked to come up to a desk from the public gallery (where they will be seated in a socially distanced manner), sit down and use the provided microphone to speak. They will be given five minutes in which to make their representations, timed by Democratic Services. Once they have spoken, they will be asked to return to their seat in the public gallery. The opportunity to speak is not an opportunity to take part in the debate of the committee.
14. 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.
15. The members of the committee will then debate the application, consider the recommendations and then make a decision on the application.
16. 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.

17. 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.
18. This is a council committee meeting which is open to the public.
19. 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
20. The arrangements at the meeting may be varied at the discretion of the Chairman.
21. 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.
22. Please note that the meetings will be streamed live on YouTube 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.
23. These procedures are being regularly reviewed.

Contact:

Democratic Services

Email: democraticservices@selby.gov.uk

January 2022

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Agenda Item 5

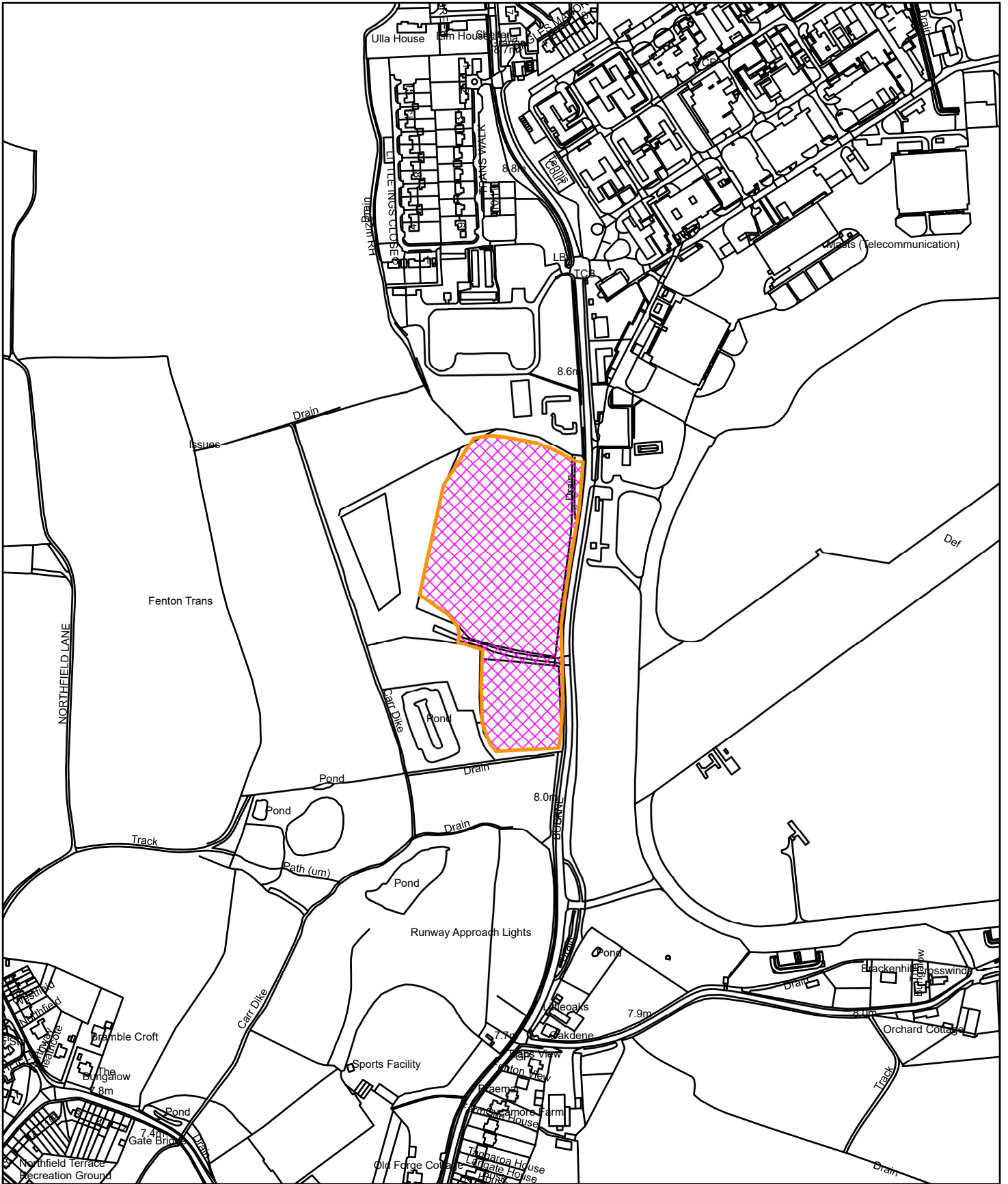
Items for Planning Committee - 12 January 2022

Item No.	Ref	Site Address	Description	Officer	Pages
5.1	2020/0225/FULM	Land South of Gloster Close Busk Lane Church Fenton	Proposed change of use from grazing agricultural land to BMX cycle track with toilet block, picnic area and car park	FIEL	27 - 60
5.2	2021/1295/REM	Yew Tree House Main Street Kelfield	Reserved matters application (following the 2017/0701/OUT) including access, appearance, landscaping, layout and scale for the erection of 6 No dwellings	GAST	61 - 112
5.3	2019/0559/FULM	Ibbotsons Mill Hill Braegate Lane Colton	Use of agricultural buildings and land for the processing and storage of potatoes, erection of enlarged storage building following demolition of existing building, construction of internal road way and footpath, construction of water tanks, excavation of lagoons, and construction of hard-standings	DIHO	113 - 136
5.4	2021/1087/FULM	Toll Bridge Filling Station (Derelict) Ousegate Selby	Development of one ground floor commercial unit [class uses E[a] and E[b] and 13 no. residential apartments to include landscaped gardens; cycle storage and refuse storage provision; access and flood barrier walls	MACO	137 - 178
5.5	2019/0031/FUL	Land South of Chapel View, Marsh Lane, Bolton Percy	Proposed erection of three dwellings	YVNA	179 - 204

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Agenda Item 5.1

Land South of Gloster Close, Busk Lane, Church Fenton
2020/0225/FULM

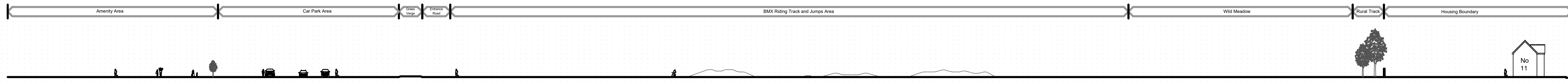


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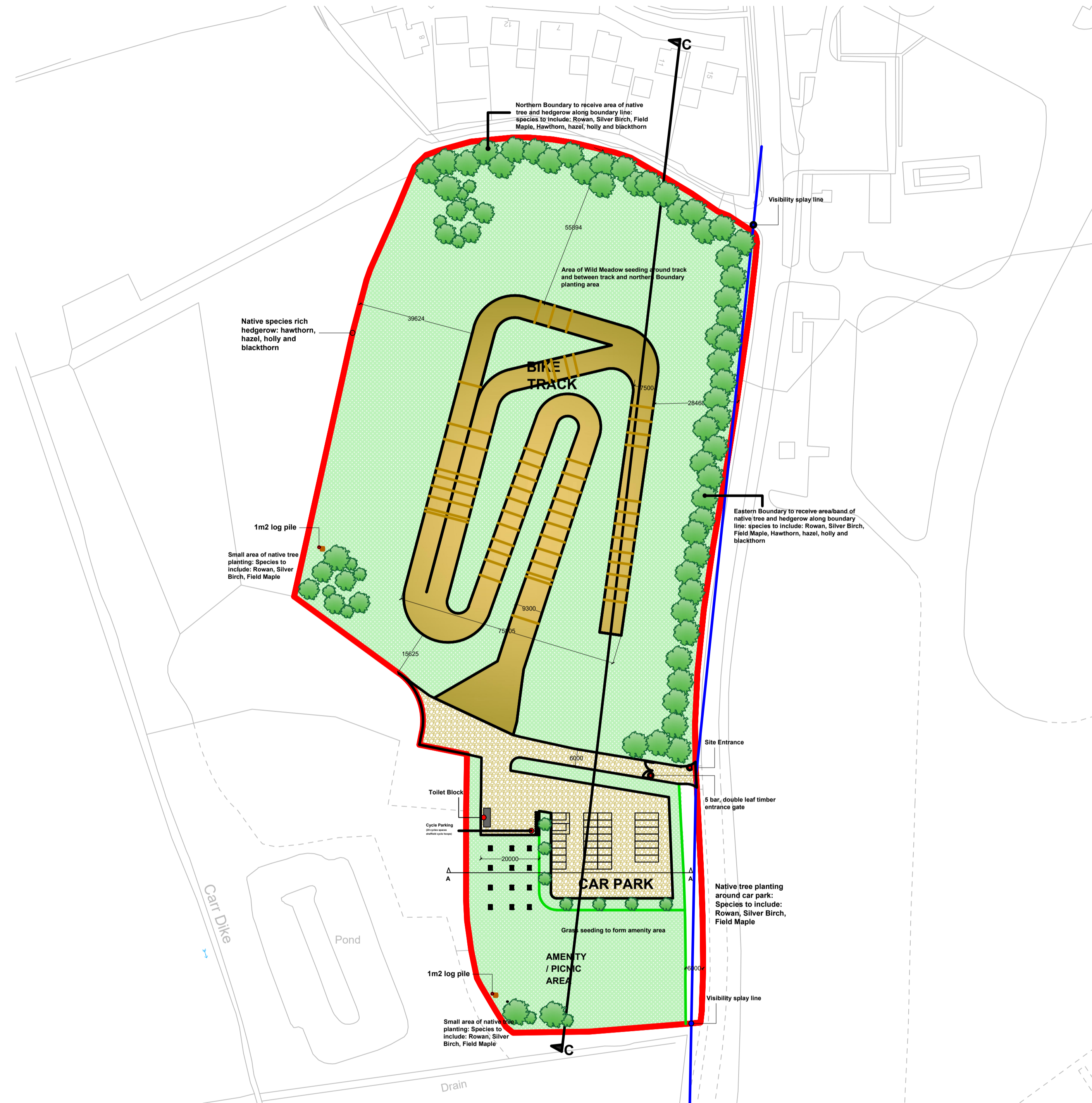


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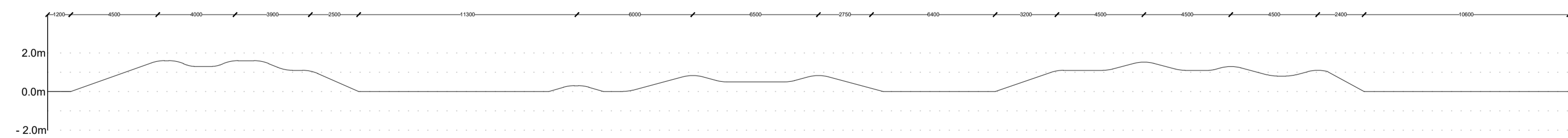
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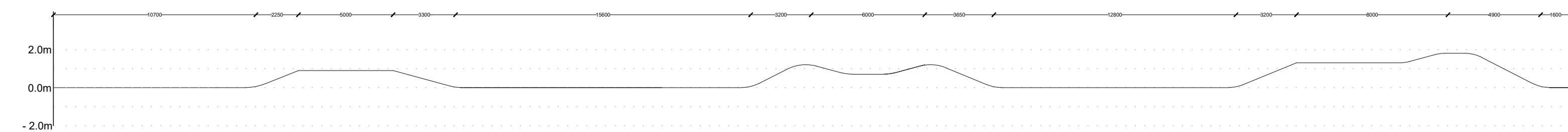
SECTION C-C - 1:500



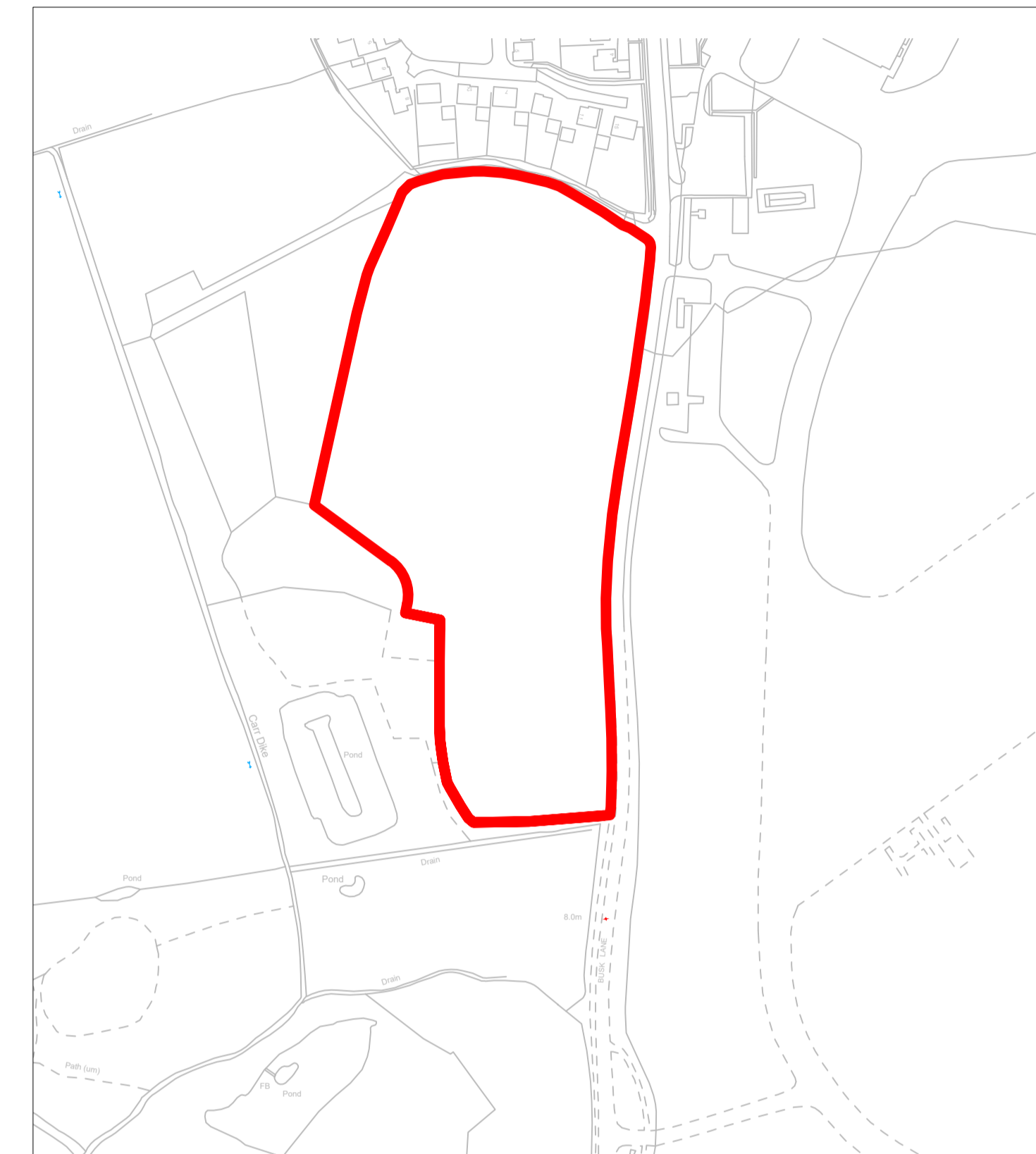
PROPOSED SITE PLAN - 1:1000



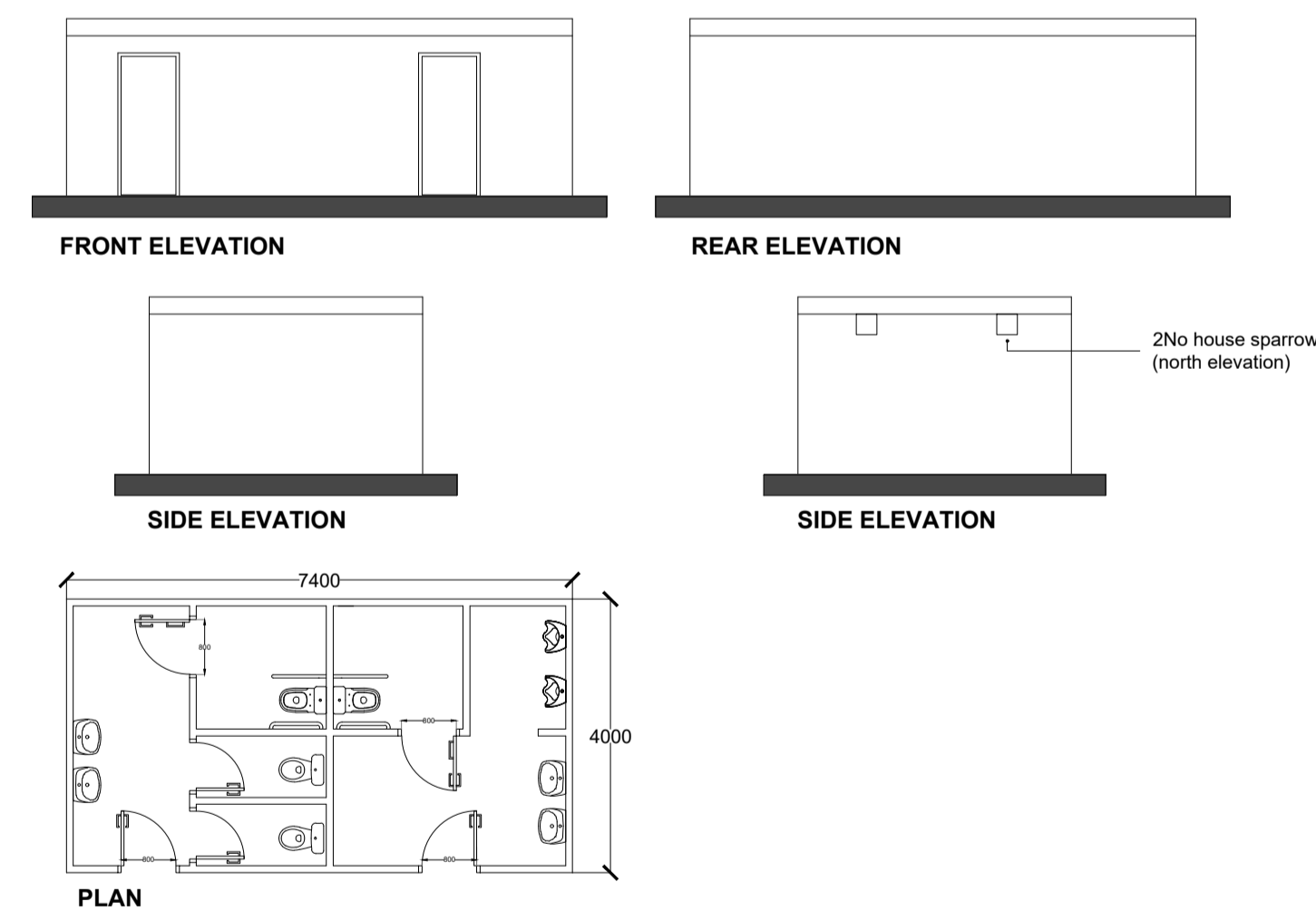
PROPOSED TRACK LEVEL INFORMATION - 1:200



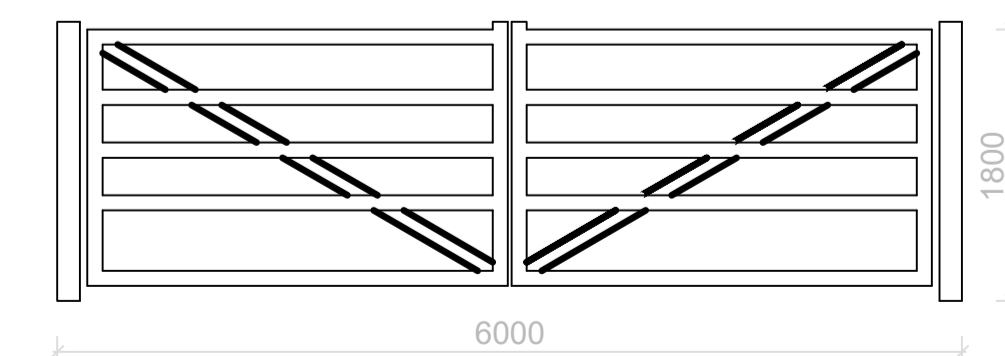
PROPOSED TRACK LEVEL INFORMATION - 1:200



SITE LOCATION PLAN - 1:2500



TOILET BLOCK - 1:100



ENTRANCE GATE - 1:50

KEY

NOTES:

Entrance Track, Parking area and Amenity area will be made good with permeable hard standing

Top soil to be imported and scultures to form outdoor cycle track

Landscaping Notes:

- Hard Landscaping: MOT Type 1 well compacted stone, compacted in layers of 150mm. Car park and track road to be self draining permeable surface.
- Soft Landscaping: Wild Meadow seed to be spread on North Side of site to provide soft screen between existing housing and proposed track area
- Small native tree line to define car park and amenity areas
- 5 Bar, double leaf, timber entrance gate
- Sheffield Cycle Hoop

REV.	DESCRIPTION:	STATUS	BY:	DATE:
H	Landscaping areas added. Tree and Hedgerow areas added to Northern Boundary and Eastern Boundary. Wild meadow and grass seeding areas added	P1		Jan 21
G	Ecological enhancements added	P1		Nov 20
F	20 Sheffield Hoops added for Cycle Parking	P1		Oct 20
E	Track size reduced.	P1		Oct 20
D	Track size reduced. Bunds and willow removed. Wild meadow added. Site section added	P1		Sep 20
C	Car Parking reduced. Amenity space increased. Site entrance gate added	P1		Jun 20
B	Sections added. Landscaping notes added. Toilet block details provided	P1		Mar 20
A	Client track updates	P1		Feb 20

REVISIONS

DRAWING STATUS:
PLANNING

AMENDED DRAWING

CLIENT:

PROJECT TITLE:
BUSK LANE, CHURCH FENTON

DRAWING TITLE:
PROPOSED SITE PLAN, SITE LOCATION PLAN AND LEVEL INFORMATION

DRAWING SCALE: AS INDICATED DRAWN BY: DRAWN DATE: 31.01.2020 CHECKED: PAPER SIZE: A1 APPROVED BY:

DRAWING NUMBER: BL001 SUITABILITY: P1 REVISION: H

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Report Reference Number: 2020/0225/FULM

To: Planning Committee
Date: 12 January 2022
Author: Fiona Ellwood (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0225/FULM	PARISH:	Church Fenton Parish Council
APPLICANT:	Busk Lane Outdoor	VALID DATE: EXPIRY DATE:	1st April 2020 1st July 2020
PROPOSAL:	Proposed change of use from grazing agricultural land to BMX cycle track with toilet block, picnic area and car park		
LOCATION:	Land South of Gloster Close Busk Lane Church Fenton Tadcaster North Yorkshire		
RECOMMENDATION:	REFUSE		

The application was deferred from committee on the 30 June 2021, for a site visit, the application was then reported back to the Planning Committee on the 18 August 2021. Members resolved at that meeting (18 August 2021) that they were minded to GRANT planning permission subject the resolution of various minor matters. Members authorised delegated powers to officers to issue the decision subject to these matters being resolved.

These matters included:

- No issues being raised following statutory consultation with the Civil Aviation Authority and Leeds East Airport.
- Agreeing any additional conditions in relation to site management.
- Agreement of the conditions set out at paragraph 7 of the report and in the officer update note.
- Agreement of an additional condition that the site reverts back to agricultural use should the BMX site be abandoned in the future.

Outcome:

- The statutory consultations were carried out with the CAA and Leeds Airport and no objections or issues were raised.
- Since the committee resolution, officers have received delayed comments from the Local Lead Flood Authority. The LLFA advised that additional conditions are recommended and that further information on the final discharge arrangements is required prior to determination of the application. The additional conditions require Committee approval as they do not fall within the scope of the delegated powers agreed by Members at the time of making the decision. The additional information regarding final discharge arrangements has been requested from the applicant however this has not been provided and the applicant confirms they do not intend to provide this information.

On this basis, the application is therefore brought back to Members for further consideration. Officers recommend that the application is now refused based on advice provided by the LLFA due to lack of sufficient information to fully assess the impact of the development in terms of water discharge arrangements.

1. CONSULTATION AND PUBLICITY UPDATE

Consultations

1.1 Civil Aviation Authority

Confirm that they have no comments to make.

1.2 Leeds East Airport

Make no comments on the proposal.

1.3 LLFA-NYCC Lead Local Flood Authority

LLFA response 11/10/21-summarised

Recommend that infiltration testing in accordance with BRE is carried out and if Plan A is not viable the applicant should seek the approval of the IDB in terms of the increased discharge rate to the adjacent watercourse as a plan B. They should also satisfy themselves that the Carr Dike is within the ownership of the applicant. This should be undertaken *prior to determination* to ensure that the applicant has a viable means of discharging surface water. Once the discharge arrangements have been confirmed then we would suggest applying conditions relating to the following (full wording not repeated here);

- Surface water drainage scheme to be agreed employing principles of sustainable drainage where possible
- A detailed management and maintenance scheme for the drainage confirming ownership and funding
- Exceedance flow plan required.

1.4 Publicity

1 further letter of response has been received since the committee. Some of the points raised are covered in the summary of representations in the report

appendixed below and so are not repeated here. Additional points raised summarised as follows:

- Queries about the FRA not being on public access
- Committee members not given accurate information
- Reiterates FRA inadequate. Required Data missing- eg to show FR from rivers and reservoir, no mention of increased risk due to construction from imported soil, no soil volumes provided, no mitigation for potential water displacement. Full and proper FRA would include all flood risks and mitigation.
- EA comments don't mention the risk from Reservoir and river flooding – SDC should be responsible for this failure
- Failure to mention importation of 1000's of cubic metres of soil which will raise ground levels
- Final drainage statement should factor in imported soil.
- Ditch shown on drainage plan no longer exists and so is unsuitable for discharge
- Current drainage proposals are only preliminary

2. APPRAISAL UPDATE

- 2.1 The LLFA have now raised concerns in their most recent response to the further drainage technical note and the preliminary drainage strategy submitted in January 2021. The response makes clear that some of the information required and comments made could be provided at the detailed design stage and secured by condition. This includes storage calculations to show the volume attenuated, the requirement is to show how the drainage system is designed, a requirement to show where the water will be stored and/or conveyed that does not impact on the users of the site not impact in terms of flood risk off the site, the flow control and infiltration rates and exceedance flow paths, confirmation of responsibility of maintenance. Three additional conditions are required for (i) drainage, (ii) maintenance and management and (iii) Exceedance flow plans. These conditions could be imposed should member wish to approve the application.
- 2.2 However, the LLFA recommend that for this site infiltration testing is carried out and if Plan A of the drainage strategy submitted is not viable approval should be sought from the IDB in terms of increased discharge rate to the adjacent water course as Plan B. It is also necessary to establish if Carr Dike is within the ownership of the applicant. The LLFA make clear this should be undertaken prior to determination to ensure the applicant has a viable means of discharging surface water.
- 2.3 The applicant was requested to provide the information and was asked to confirm whether there the scheme would be created by moving existing soil on site or if it was intended to import soil onto the site. The applicant has responded on the basis that it unreasonable to request the additional information at this stage and they consider that soakaway calculations can be required by a suitably worded condition, and this has been done as standard practice on other applications. No further response on the issue of soil importation has been received.
- 2.4 Based on the advice provided by the LLFA, in this particular instance the scheme is not considered to be acceptable in terms of Flood Risk and Drainage due to insufficient information being available to determine whether the development can achieve a viable means of discharging surface water. The proposed development

would therefore conflict with the aims of SDLP Policy ENV1, CS Policy SP1, SP19, Policy F1 of the CFNP and with the NPPF.

3. RECOMMENDATION

3.1 This application is recommended to be **REFUSED** for the following reason:

The scheme is not considered to be acceptable in terms of Flood Risk and Drainage due to insufficient information being available to determine whether the development can achieve a viable means of discharging surface water. The proposed development would therefore conflict with the aims of SDLP Policy ENV1, CS Policy SP1, SP19, Policy F1 of the CFNP and with the NPPF.

4 Legal Issues

4.1 Planning Acts

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

4.2 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.

4.3 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.

5. Financial Issues

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

6. Background Documents

Planning Application file reference 2020/0225/FULM and associated documents.

Contact Officer:

Fiona Ellwood (Principal Planning Officer)

fellwood@selby.gov.uk

Appendices:

Appendix 1 – Committee Report 18 August 2021

Appendix 2 – Officer Update Note 18 August 2021

Appendix 1- Report from planning committee meeting of 18 August 2021

Please note that the report in the appendix below includes the additional conditions referred to in the update note and the committee minutes from the August meeting.

Report Reference Number: 2020/0225/FULM

To: Planning Committee
Date: 18th August 2021
Author: Fiona Ellwood (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0225/FULM	PARISH:	Church Fenton Parish Council
APPLICANT:	Busk Lane Outdoor	VALID DATE: EXPIRY DATE:	1st April 2020 1st July 2020
PROPOSAL:	Proposed change of use from grazing agricultural land to BMX cycle track with toilet block, picnic area and car park		
LOCATION:	Land South of Gloster Close Busk Lane Church Fenton Tadcaster North Yorkshire		
RECOMMENDATION:	APPROVE		

This application was deferred at the meeting of 30th June 2021 for a committee site visit.

This application was originally brought before Planning Committee due to the significant number of representations both in support and opposition to the application, which raise material planning considerations and that Officers would otherwise determine the application contrary to some of these representations.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site area covers approximately 1.6 hectares of agricultural grazing land to the west of Busk Lane, opposite the east-west runway of Leeds East Airport. The site is roughly rectangular in shape and is relatively open being bounded by a variety of small unmanaged mounds (primarily to the road frontage), post and wire mesh or post and rail fencing. Beyond the site to the north is an unmade access track running in front of the rear garden boundary fencing of a recent housing development. A number of mature trees sit alongside the fencing.
- 1.2 The site is accessed through a metal gate and an unmade agricultural access track leading off Busk Lane.
- 1.3 The site lies outside but adjacent to the development Limits of Church Fenton Airbase and is therefore classed as open countryside.

The Proposal

- 1.2 The application seeks permission for the change of use from grazing agricultural land to BMX cycle track with toilet block, picnic area and car park. The proposal is being promoted as a community facility that will be managed by the landowner who lives locally. The site will be accessed from the existing access at the southern end of the site from Busk Lane. Key elements of the proposal include;
- BMX Track and associated jumps made from soil
 - Associated access works and parking and cycle parking area
 - Boundary treatment and Landscaping
 - Small toilet block

Relevant Planning History

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

2017/0833/DOC: Discharge of conditions 10 (Highways), 11 (Access) and 15 (Travel plan) of approval 2015/0318/FUL Erection of 39 dwellings, construction of access roads and associated recreation open space: Busk Lane, Church Fenton, North Yorkshire, LS24 9SE: COND, 28-SEP-17

2017/0832/MAN2: Non material amendment of approval 2015/0318/FUL for erection of 39 dwellings, construction of access roads and associated recreation open space: Busk Lane, Church Fenton, North Yorkshire, LS24 9SE: PER, 13-OCT-17

2017/0591/DOC: Discharge of conditions 02 (materials), 03 (landscape), 06 (surface water), 07 (foul and surface water drainage), 20 (surface water watercourse), 09 (ground works engineering), 12 (groundworks), 14 (construction method), 16 (site clearance), 17 (flood risk assessment), 18 (energy renewal), 19 (noise) and 22 (lighting) of approval 2015/0318/FUL for erection of 39 dwellings, construction of access roads and associated recreation open space: Busk Lane, Church Fenton, North Yorkshire: COND, 28-SEP-17

2016/0444/FUL: Proposed erection of an accommodation block in connection with an outdoor pursuits activity centre on land west of Busk Lane, Church Fenton, North Yorkshire: REF, 15-SEP-16

2015/0846/FUL: Creation of new field access off Busk Lane, Church Fenton, North Yorkshire: PER, 19-NOV-15

2015/0318/FUL: Erection of 39 dwellings, construction of access roads and associated recreation open space: RAF Church Fenton, Busk Lane, Church Fenton, North Yorkshire, LS24 9SE: PER, 21-DEC-15

2013/0285/FUL: Formation of a caravan and camping site in conjunction with existing fishing lake including construction of amenity block: Land off Busk Lane, Church Fenton, North Yorkshire: REF, 25-JUL-13

2012/1103/FUL: Construction of 28 dwellings, associated access road and landscaped areas on land at the former Officers Mess: RAF Church Fenton, Busk Lane, Church Fenton, North Yorkshire, LS24 9SE: PER, 02-OCT-14

2010/0528/FUL: Erection of 9 live/work units and 4 affordable houses and associated access road and landscaped areas on land at the former officers' mess: RAF Church Fenton, Busk Lane, Church Fenton, North Yorkshire: PER, 18-FEB-11

2. CONSULTATION AND PUBLICITY

- 2.1 **NYCC Highways** - initially considered that the information provided was not sufficient to fully assess the planning application in terms of the highway impact and sought a Transport Assessment giving details of likely vehicle trips to and from the site and accidents within the area in the last 5 years. It was noted that 102 car parking spaces were proposed and therefore it was anticipated that significant vehicle movements would be created. The existing access is deteriorating and should be brought up to NYCC's specification and, as the site is located within the 40mph speed limit, visibility splays of 2.4m x 120m are required.

Following the submission of further information and a reduction in the number of proposed parking spaces to 30, the Highway Authority has confirmed that it has no objections subject to a number of conditions in respect of; improvements to the access, the provision of visibility splays and a Construction Management Plan.

2.2 **Environment Agency**

Response 30th July 2021- No comments on the proposal. Our Flood Risk Standing Advice should be followed.

Yorkshire Water Services - no comments to make.

- 2.3 **Selby Area Internal Drainage Board** - give the following comments and recommendations;

If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year. If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow. If the surface water is to be discharged to any ordinary watercourse within the Drainage District, Consent from the IDB would be required in addition to planning permission and would be restricted to 1.4 litres per second per hectare or greenfield runoff. No obstructions within 7 metres of the edge of an ordinary watercourse are permitted without Consent from the IDB.

Following receipt of further information and re-consultation, no comments have been received from the IDB.

- 2.4 **Local Lead Flood Authority** – initially commented that the submitted documents were limited and failed to acknowledge paragraph 165 of the NPPF which states that "Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. It was also noted that the submitted drainage statement stated: "Due to the nature of the proposed development a detailed drainage scheme is not proposed at this stage as it would cost a significant amount of money for what is at this stage essentially a community

project. Notwithstanding this it is indicatively proposed to provide permeable surfacing of access and parking areas and with a proposed landscape and boundary treatment scheme more vegetation will be added to aid in water retention. We would be happy to enter into an appropriate condition if needed as at this point in the process we could commit to more financial expense." In the absence of any form of assessment of the baseline site conditions, or any proposed means of disposing of the site runoff, the LLFA felt unable to provide any meaningful comments and could not be satisfied that any condition attached could be discharged. As a minimum, it was suggested that the applicant should determine where and how surface water would be disposed of as the proposal will involve a significant amount of bare soil which can result in significant uncontrolled runoff from the site unless carefully managed. The LLFA recommended that the applicant provide further information.

Following receipt of further information and re-consultation, no comments have been received from the LLFA. An update will be given at the Committee Meeting.

- 2.5 **Environmental Health** - is aware nearby residents have raised concerns over the potential impact of development on the residential amenity of the area, including impacts due to noise emissions. Alternative legislative regimes do exist in relation to noise recreational land use, mainly noise nuisance as defined by the Environmental Protection Act 1990. It is worth noting that Nuisance is broadly defined as an unlawful and/or unreasonable interference with the enjoyment of land whereas the Planning regime seeks to protect residential amenity in terms of observable effect level. In view of the differences between the regimes, it is recommended that the alternative regime should not be relied upon to achieve Planning objectives. Consequently, the applicant is required to consider the proposals with respect to noise impact in terms of the NPPF, PPG and relevant local policies and submit further information to demonstrate compliance with the relevant policies including an assessment of the likely impact together with any proposals for mitigation.

In considering the subsequently submitted Environmental Noise Assessment, which recognises that the proposed development does have the potential to have a negative impact on residential receptors, it is agreed that there is no guidance available which specifically deals with the case at hand and it is difficult to carry out an assessment. The assessment proposes three planning conditions designed to mitigate the impacts of the development. The first condition seeks to ensure that the track is only used by bicycles and that motorcycles must not use the track which is agreed. The second condition seeks to restrict the hours of operation between 0800 and 2200 based on the assumptions contained within the assessment, mainly that operational noise is below the proposed 50dB_LA_{eq} criterion. The assessment states that "Given the community owned nature of the development it is probably not appropriate to set noise limits within a planning condition since there is no business owner who can be held responsible for the site and is therefore not really enforceable". The condition proposed therefore is based on a number of assumptions, should those assumptions prove to be an underestimate of the noise emissions then the criteria could be exceeded with no means to exercise control. This gives rise to the potential for an unacceptable impact on residential amenity in terms of noise, particularly in the evening time. It is therefore recommended that the applicant is asked to consider restricting the opening times in the evening to protect the residential amenity of the area, alternatively it may be necessary to impose a suitably worded condition that does achieve the boundary level derived in the assessment. The third condition seeks to restrict motorised earth moving equipment between the hours of 0800 and 2200. It is questioned whether it is really necessary

to use earthmoving equipment in the evening and it is recommended that the hours are restricted to between 0800 and 1800 by way of a suitably worded condition.

Further consultation with EHO

If there is no control over the operator being community owned then Recommends use restricted to hours of 0800 to 1800 similar to non motorised uses.

2.6 **Natural England** - has no comments to make.

2.7 **North Yorkshire Bat Group** – no comments received.

2.8 **Yorkshire Wildlife Trust** - noted that the application is supported by a Preliminary Ecological Appraisal (PEA) and that the ecologist has recommended surveys for protected species, specifically that great crested newt surveys of the four ponds close to the site should be undertaken. Given the proximity of ponds to the application site, and the presence of records in the area, The Trust considered it likely that great crested newts could be present on the site. Full landscape proposals, to allow sufficient assessment and recommendations for impacts upon habitats to be made, were also suggested. The Preliminary Ecological Appraisal states that the site offers potential habitat for ground nesting birds and brown hare but no mitigation is proposed. The planning statement says the development will provide a significant amount of net gain which is encouraging and any new planting should use a mix of native species appropriate to the area.

Having reviewed additional information submitted by the applicant, specifically the Drainage Technical Note and Environmental Noise Assessment, the Trust noted it is intended that runoff generated by the development will ultimately be discharge to Carr Dike via the existing drainage ditch just outside the site's southern boundary and any potential ecological implications (including to protected species) of the drainage strategy will need to be explored prior to determination. The revised plans incorporate a smaller car park area, resulting in an area which is now labelled as an amenity/picnic area which seems an ideal location for habitat creation, for example a wildflower grassland. The Trust also considered that areas between the tracks could be developed as wildflower grassland and the proposed willow planting could be replaced with a native species rich hedgerow, if appropriate to the local area. In its current form there are missed opportunities to incorporate habitat for wildlife into the design, which would enrich the environment for visitors, particularly children.

2.9 **County Ecologist** –

First response-7 Sept 2020

No GCN detected. Would like to see PEA updated to reflect the details of the planning application and clarifies what the applicant is undertaking in terms of ecological enhancement.

Second response- 30 Sept 20

Further ponds identified by local resident need to be considered. But we consider it unreasonable to delay determination until next spring for these to be surveyed because;

(i)the site is poor habitat so if GCN's are present in these other ponds they would not be dependent on the application site. Therefore, in terms of the Habitat and species Regs 2017 the proposed development would not be detrimental to the conservation status of the GCN,

(ii) reasonable avoidance measure could reduce the risks but need to be set out in the Ecological Impact Assessment.

(iii) One of the three ponds contained large numbers of 3-spined sticklebacks and GCN rarely breed near these.

Adjoining habitat- land to the south contains fen and appears to be a remnant of the once extensive tract know as Fenton Trans. It could qualify for a SINC & should be considered to be of county wide value for biodiversity. The applicants ecological survey didn't identify this. It could be damaged by any alteration to its current hydrology. SDC must therefore ensure any drainage arrangements don't impact upon it. Drainage requirements-Same applies for toilet block

Third Response- 11th Jan 2021

Comments on the new PEA.

- The ecological enhancements in the new PEA include planting native species trees and a species rich hedge with a wildflower area and bird nest boxes – these offer net gains for Biodiversity.
- The PEA does not include reasonable Avoidance Measures for GCN's
- More detailed spec on the meadow area needed

Final response- 23 Feb 21-Re-consultation -The PEA has now been revised to include Reasonable Avoidance Measures to minimise risks of accidental harm to amphibians and other small wildlife during construction. As such a condition is recommended requiring adherence to the ecological mitigation and enhancement measures set out in section 4.2 (Recommendations) and Appendix 3, Figure 2 (Ecological Enhancement Plan) of the PEA report (*land off Busk Lane, Church Fenton, North Yorkshire- Preliminary Ecological Appraisal, January 2021 by Quants Environmental*)

- 2.10 **Designing Out Crime Officer** - the overall design and layout of the proposed scheme is considered acceptable. The Revised National Planning Policy Framework states that planning policies and decisions should aim to ensure that developments create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. The most significant crime issues that could affect this development are auto crime and cycle theft. It is noted that no lighting is proposed for the site and that the opening hours will be based around natural daylight. However, with no opening hours being stipulated there is the potential for the site to be used well into the night during the summer; which could be to the detriment of residential amenity in the area. Consequently, it is recommended that opening hours are set to manage the impact the proposal may have on residential amenity. It is also noted that it is proposed to have three part time staff employed at the site. This is to be commended as it will provide capable guardianship at the site and help prevent crime and disorder.
- 2.11 **North Yorkshire Fire & Rescue Service** - the North Yorkshire Police, Fire and Crime Commissioner Fire and Rescue Authority have no objection/observation to the proposed development.
- 2.12 **Public Rights of Way Officer** - no comments received.
- 2.13 **HER Officer** - there are no known archaeological sites in the area indicated or within the immediate vicinity and there are no objections to the proposal.

- 2.14 **Waste and Recycling Officer** - no comments received.
- 2.15 **Ulleskelf Parish Council** - have considered the re-consultation of the application and, as the proposed development is on the opposite side of the road to the majority of the residential properties on Busk Lane, the Parish Council would like to request that a pedestrian crossing is installed along Busk Lane to allow residents to safely cross the road to the facility.
- 2.16 **Church Fenton Parish Council** - the application was discussed at the ordinary Parish Council meeting on 16 April 2020 and the Council are in favour of supporting the application.

18 Feb 2021- Observations made;

- Improvement to plans acknowledged.
- Urbanisation should be kept to a minimum in line with the ethos of the River Wharfe Regional Corridor within which it is identified in NDP as falling within.
- Welcome the reduction in scale of facility, size of track, amount of car parking and additional landscaping which will help it remain a more local facility.
- Equal number of positive and negative responses within the community. Negative ones are mostly from those most directly affected.
- Newly designated SINC should be taken into consideration.

2.17 **Representation**

- 2.18 The application has been statutorily advertised by site and press notice and by letter to adjoining properties.
- 2.19 Letters of objection have been received from 28 individuals and one Business on the following summarised grounds:

General

- Conflicts with Green Belt Policy
- Contrary to the Local Plan Policy
- Planning site notices not seen
- Lack of professional application details
- Site may be contaminated and an assessment should be undertaken
- Site is a gift from a recent local resident and this use is a minority activity which benefits only a small number in this community
- Reference made to the applicants use of other sites and lack of regard for the impact of schemes on the locality
- Work has already commenced and is causing noise and disturbance

Ecology

- Revised plans and details don't overcome previous concerns
- Latest ecology statement incorrect- re SINC now designated,
- Ecology statement -Number of ponds incorrect- at least one has been omitted.
- Newt survey incorrect, species list
- Ecology statement – not clear if Ditch 1 and Carr Dyke are one and the same
- Harm to wildlife from the development and the subsequent use.

- Lack of features to promote wildlife
- No consideration of how it might affect protected species
- Applicant deals with waste soil and any imported to the site could be contaminated

Impact on Locality/management

- Adverse Impact on character and visual amenity of quiet rural countryside
- No information on the height of the jumps
- Additional vehicular traffic on an overburdened road.
- Noise and Disturbance
- Lack of noise impact assessment
- Query whether speaker systems would be installed or required
- Question the viability and need for the facility
- If it fails the land should be re-instated to former condition so it's not a lasting eyesore
- No details of proper community engagement.
- The village already has enough recreational facilities- and other facilities in the larger settlements are within easy distance.
- Focal point for antisocial behaviour
- No clarification on insurance and liability
- Permeable surfaces are stated but the site is not suitable and has been under water
- Management – the resolve for proper operation, maintenance, security and sympathetic integration with community and environment cannot be relied upon
- Reference to a community owned or community facility is not correct as the PC are not involved in the maintenance or management. Suggest planning condition to ensure community use only.
- This is not a beginners track and is unsuitable for children
- Concerns over the hours of opening and the hours when excavators can work
- Query whether the track will be lit during the evenings
- No reception or facilities which may subsequently be required
- Concerns over potential injuries and whether first aid skills are readily available
- Disproportionate for small village. It is larger than others provided for settlements the size of Selby or larger.
- other comparable sites offer less parking. The 30 parking spaces is inappropriate and excessive to the size of this site. Should be reduced to 10 or less.
- This will quickly turn into a crime hotspot for quad and off-road motorbikes adding to noise and adverse effect on quality of life for the residents
- Inadequate security
- The track design is well in excess of Olympic Standards according to the BMX Track Design Guide and is therefore excessive for a village facility.
- Current skate park in the village is underutilised and suggests there will be few interested in this facility
- Footpath which purports to link the site to the settlement is narrower than the stated 2m and is substandard
- No information on the toilet block
- No information on future maintenance
- Entrance is close to the emergency services access for Church Fenton Airfield
- Lack of economic benefit and no information on whether residents would be charged to use the facility

- Reference to a refused application 2016/0444/FUL (accommodation block and outdoor pursuits activity centre at an existing fishing lake)
- Could be used for competitions and events

Landscaping

- Query whether the proposed planting on the N & E boundaries is in addition to the existing row of long willows and the newly planted ones?
- Bund purpose is unclear
- Planting which has occurred so far is inadequate

Drainage Issues

- Drainage is preliminary and there is a Lack of appropriate drainage investigation and planning
- Object to drainage in southern end of the site.
- Manhole cover exists in vicinity of proposed trees. Planting may have adverse effect and increase risk of flooding.
- Structures or ramps could channel and force water towards the Rowley Fields Development
- Giant soakaway under carpark would leach into sectors of the site and ponds.

Flood Risk

- Application requires a full Flood Risk Assessment due to being in Zone 2.
- EA, NPPF & SDC policy require Flood Risk Assessment
- Soil mounds would increase flood risk elsewhere.
- Main flooding risk is from the Wharfe at Ulleskelf and local land drainage
- Applicants infilled this and adjacent land with soil from airfield resulting in loss of flood catchment area.

2.20 Letters of support have been received from 40 individuals on the following summarized grounds;

- An easily accessible outdoor exercise facility for the local community
- Reduced parking supported as most visitors will be local on foot.
- Support but the scale is too big
- Good to see this rather than more housing
- Suggest change 40mph to 30mph in the vicinity
- Nothing the objectors say give cause for concern, all impacts are far less than housing
- Its not designed as an Olympic BMX, rather an open space for children to learn to cycle in safety
- Better to have more car parking than not enough
- Suggest another activity such as roller skating is included
- Picnic area great for families
- Health and social Benefits to children

2.21 Detailed comments received making suggestions to incorporate planning conditions.

2.22 Many of these comments were received prior to the revised scheme which took into account many of the issues raised.

3 SITE CONSTRAINTS

- 3.1 The application site lies within Flood Zone 2, which has a medium probability of flooding. The site does not contain any protected trees and there are no statutory or local landscape or heritage designations. A recently designated Site of Importance for Nature Conservation (SINC), known as Fenton Trans, lies immediately south of the application site and features species rich wetland.

4 POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. Consultation on preferred options took place in early 2021. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (July 2021) (NPPF) replaced the February 2019 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 2021 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

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

Selby District Core Strategy Local Plan (CS)

- 4.6 The relevant CS Policies are:

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

SP15 - Sustainable Development and Climate Change
SP18 - Protecting and Enhancing the Environment
SP19 - Design Quality

Selby District Local Plan (SDLP)

4.7 The relevant SDLP Policies are:

ENV1 - Control of Development
ENV2 - Environmental Pollution and Contaminated Land
RT3 - Formal Sport and Recreational Facilities
T1 - Development in Relation to the Highway Network
T2 - Access to Roads

Church Fenton Neighbourhood Plan 2020-2027 (CFNP)

AS2: New Community Facilities
EGS2: Protecting Biodiversity and Habitats
F1: Flood Risk
EGS3: Green Infrastructure and corridors

5 APPRAISAL

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

- The Principle of the Development
- Design and Impact on the Appearance of the Area
- Impact on Highway Safety
- Impact on Residential Amenity
- Flood Risk and Drainage
- Ecology

The Principle of the Development

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

5.3 The site is outside the redeveloped Church Fenton airbase site on land that for planning purposes is open countryside. CS Policy SP2 states that the majority of new development will be directed to the towns and more sustainable villages with development in the countryside being limited to “the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances”. The proposal is not considered to fall into any of the listed

forms of development. However, in terms of SP2, the development is the use of the land with minimal development in the way of structures other than the toilet block. The development comprises mainly the track and the car park. It is considered that the use will contribute to the local economy and the vitality of the community given its recreation use. Moreover, given the nature of the proposal, it is appropriate to consider the Development Plan as a whole and particularly those policies dealing specifically with sport and recreational uses. The VDS for Church Fenton was adopted as Supplementary Planning Guidance in 2012 and provides useful contextual information for Church Fenton but no policies directly relevant to the consideration of this proposal.

5.4 SDLP Policy RT3 states that “Proposals for sport and recreation development will be permitted, provided:

- 1) The proposal would not be so intrusive as to seriously detract from the character of the area by virtue of its appearance or associated noise;
- 2) The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity;
- 3) New buildings or structures would be well designed and appropriately landscaped; and
- 4) The facilities are designed in such a way as to allow easy access and active participation by disabled people in sport.

5.5 The NPPF at para 83 and 84 accepts that sites may have to be found adjacent or beyond settlements sets out that Planning decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside. However, it states that it is important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on roads and exploits any opportunities to make a location more sustainable. The use of sites that are well related to existing settlements should be encouraged where suitable opportunities exist.

5.6 The Church Fenton Neighborhood Plan (CFNP) has now been examined. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application. At the time of writing this report the plan is approaching a referendum which will be held on 3rd August 2021. Some weight for the policies of the plan is now appropriate. The site lies within the extent of the plan area.

5.7 Policy AS2 of the CFNP relates to new community facilities and sets out that these will be supported where these can demonstrate community support through public consultation and engagement. The supporting text also states that any new facility should not disrupt other aspects of community life, in particular residential amenity. The application details indicate that a various community engagement with residents and councillors has taken place. In consultation with the Parish Council the applicant undertook a community engagement consultation exercise which included presentation of the proposal, and which is stated to have received positive feedback. Although there has been both support and opposition to this application, it is considered that the proposal meets the requirements of Policy A2 of the CFNP in this respect. In principle the development complies with this policy subject to the impacts on residential amenity or other aspects of community life. These are considered in subsequent sections of this report. The site lies within an area identified as the River Wharfe Regional corridor in the CFNP where Policy EGS3

seeks to ensure development proposals don't disrupt its functioning. The policy indicates that development proposals should seek to integrate strong green infrastructure including, new accessible public green spaces for formal and informal recreation, retention of trees, hedges and landscape features and corridors for wildlife to move through.

- 5.8 Overall it is recognized that, by their very nature, some forms of organized sport and recreation require extensive amounts of land and may need to be accommodated outside towns and villages in the countryside. As such this proposal which is a large site but is adjacent to and adjoining the Church Fenton Airbase settlement is acceptable in principle provided that it is not intrusive, doesn't affect sensitive landscapes, amenity or ecological interests. These aspects are considered in other sections of this report.

Design and Impact on the Appearance of the Area

- 5.9 SDLP Policy ENV1 requires the effect of new development on the character of the area and the standard of design in relation to the site and its surroundings to be taken into account when considering proposals for new development. Similarly, CS Policy SP19 expects new development to have regard to the local character, identity and context of its surroundings. Paragraph 127 of the NPPF states that planning decisions should ensure that developments; are visually attractive as a result of layout and landscaping; sympathetic to local character, while not preventing change, and; establish a sense of place. RT2 requires proposals for sport and recreation not to be so intrusive as to seriously detract from the character of the area due to appearance or noise.
- 5.10 This scheme comprises 1.6 hectares of land on the edge of Church Fenton Airbase which has been largely redeveloped for housing. The site is currently an open grass field. The extent of the BMX track and parking area have been significantly reduced since the original submission so that a robust landscaping scheme can take place and to take account of ecological interests. The track itself comprises earth mounds around which the green appearance of the site will be maintained. Landscaping is proposed with areas of native trees and hedgerow along the northern and eastern boundaries. On the west boundary a native species hedgerow would be provided and a small copse of native trees in the southwest corner of the BMX track and another southwest of the car parking. In addition, trees would be planted around the car park. The access into the site is proposed to be re-surfaced in crushed hardcore/ aggregate rather than tarmac to avoid an urban appearance. However, the Highway Authority do require the visibilities splay to required standards and the 1st 20 metres into the site to be made up in accordance with a highway specification. Notwithstanding this the overall appearance of the site subject to the landscaping being implemented will retain a rural and undeveloped appearance.
- 5.11 Overall, the impact of the development on the landscape and visual amenity of the area would be acceptable and meets the requirements of ENV1, SP19 and RT2 in these respects.

Impact on Highway Safety

- 5.12 SDLP Policy T1 requires new development to be well related to the existing highway network and Policy T2 states that development resulting in the intensification of the use of an existing access will be supported provided there

would be no detriment to highway safety. The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 5.13 Amended plans have now been received which satisfy the highway requirements in terms of the access standards and parking. The amended scheme includes a number of measures and reduces the car parking area and provides cycle parking hoops. Subject to conditions to secure that these are implemented to the required standards, the development is acceptable in these respects. In addition, due to the nature of the road network in the vicinity of the site, it is advised that a construction management plan be submitted with details of any temporary access, wheel washing facilities, parking of contractors and visitors' vehicles, storage of plant and materials and details of a responsible site manager.
- 5.14 It is noted that the PC request a pedestrian crossing due to the majority of dwellings being on the other side of the road. The Highways Authority have made a request for a pedestrian assessment to determine whether a crossing facility is required in the area. However, the Traffic Engineer has indicated that a full assessment is not possible given the anticipated pedestrian flows are not known. Given that the speed limit is to remain as a 40MPH speed limit and would not meet the criteria for reducing to a 30MPH limit, a zebra crossing is concluded to be unsuitable. This is also backed up by the fact that the BMX facility will be limited to certain opening times, a Zebra or Signal-controlled crossing would be therefore used infrequently. Caution should be exercised where pedestrian flows are generally light, or light for long periods of the day, as would occur at this location. Motorists who become accustomed to not being stopped at the crossing may begin to ignore its existence, with dangerous consequences. Given the limited information provided on vehicle trips in the Highway Statement and the level of car parking proposed on site, it is anticipated that that vehicle flows will be relatively light, and so people should be able to cross when there are gaps in the flow. Low pedestrian and vehicle flows really rule out the installation of a signal-controlled crossing. Subject to adherence to the above-mentioned conditions, it is considered that an acceptable scheme can be achieved in terms of road safety requirements and would be compliant with LP Policies ENV1, RT3,T1 and T2.

Impact on Residential Amenity

- 5.15 SDLP saved Policy ENV1 requires a good standard of layout and design and that the effect of new development upon the amenity of adjoining occupiers to be taken into account. AS2 of the CFNP requires new community facilities. Not to disrupt community life including residential amenity. Paragraph 127 of the NPPF similarly seeks to ensure that developments create places that are safe, with a high standard of amenity for existing and future users. It advocates early discussion between the community to clarify expectations and reconcile local and commercial interests. Criteria 1) and 2) of Policy RT3 seek to ensure that proposals would not be so intrusive as to seriously detract from the character of the area by virtue of its appearance or associated noise; and would not have a significant adverse effect on local amenity.
- 5.16 The applicant has in this case undertaken various community engagement with residents to gauge local opinion including a presentation in consultation with the parish council. The level of responses to this scheme suggests both positive and negative response. Many of the points raised have been taken into account in

discussing a revised scheme which reduces the scale of the facility, reduces the car parking provision and increased the landscaping and biodiversity.

- 5.17 The site is located adjacent to a number of residential dwellings and has the potential to have significant impacts on the current amenity enjoyed by the occupants in terms of noise and disturbance. In particular the nearest dwelling affected will be those seven on Gloster Close whose rear gardens back on to a track running along the northern boundary of the site.
- 5.18 The layout of the proposal has been designed to minimize the impact on adjacent dwellings. The access and parking area is to the south of the site so that vehicle movements are well away from domestic curtilages. The size of the BMX track has been reduced and pulled further south into the site away from the dwellings. A belt of tree and hedge planting is to be provided along the north and east boundaries which will, in the longer term, provide both visual as well as and some acoustic screening.
- 5.19 The submitted Environmental Noise Assessment (ENA) recognises that the proposed development does have the potential to have a negative impact on residential receptors, although it is agreed that there is no guidance available which specifically deals with the case at hand and it is difficult to carry out an assessment. To mitigate against potential noise nuisance three planning conditions are suggested. The first condition seeks to ensure that the track is only used by bicycles and that motorcycles must not use the track. The second condition suggests restricting the hours of operation between 0800 and 2200 based on the assumptions contained within the assessment, mainly that operational noise is below the proposed 50dBLAeq criterion. However, this is based on the assumption within the ENA that "given the community owned nature of the development it is probably not appropriate to set noise limits within a planning condition since there is no business owner who can be held responsible for the site and is therefore not really enforceable". The condition proposed therefore is based on a number of assumptions, should those assumptions prove to be an underestimate of the noise emissions then the criteria could be exceeded with no means to exercise control. This gives rise to the potential for an unacceptable impact on residential amenity in terms of noise, particularly in the evening time. Moreover, since a planning permission runs with the land not a particular owner, safeguards need to be in place. It is therefore recommended that the opening times are restricted in the evening to protect the residential amenity of the area. Such a condition would be reasonable, enforceable and necessary to adequately ensure the amenity of nearby residents is not harmed from noise in the evenings when it is generally quieter in the neighbourhood. As such it is recommended that the use of the facility be restricted to 0800 to 20:00 hours only. This would still allow early evening use in the summer months whilst stopping later evening noise after 8pm when the general ambient noise levels are low and families require more peace and quiet enjoyment of their homes. The third condition seeks to restrict motorised earth moving equipment between the hours of 0800 and 2200. The EHO questions whether it is necessary to use earthmoving equipment in the evening and it is recommended that the hours are restricted to between 0800 and 1800 by way of a suitably worded condition in line with the opening hours.
- 5.20 Subject to the above conditions it is not considered that the proposed development would adversely affect the amenity of nearby residents and therefore the scheme complies with SDLP saved policies ENV1, RT3, Policy AG2 of the CFNP and with the NPPF.

Flood Risk and Drainage

5.21 SDLP Policy ENV1 requires account to be taken of the capacity of local services and infrastructure and CS Policy SP19 seeks to prevent development from contributing to or being put at risk from water pollution. Strategy Policy SP15, 'Sustainable Development and Climate Change' commits Selby District Council to:

- Ensure that development in areas of flood risk is avoided wherever possible through the application of the sequential test and exception test; and ensure that where development must be located within areas of flood risk that it can be made safe without increasing flood risk elsewhere
- Support sustainable flood management measures such as water storage areas and schemes promoted through local surface water management plans to provide protection from flooding; and biodiversity and amenity improvements.

Policy F1 of the CFNP sets out that development proposals should not add to the overall level of flood risk in the parish and sets out a number of principles to be adhered to relating to avoiding Flood zone areas, surface water management, permeable surfaces and soakaways, sustainable drainage systems and a presumption against culverting or restricting watercourses.

5.22 Paragraph 158 of the NPPF states that "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Paragraph 159 of the NPPF states that "If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance". The site is in Flood Zone 2 and there are no other sites reasonably available for this type of facility in lower flood risk areas in the district. The facility uses a large area of land close to the edge of the settlement and would be difficult to accommodate on alternative sites. This land has uniquely been made available or the use by the landowner.

5.23 In terms of vulnerability, Table 2 of the National Planning Policy Framework (NPPF) Flood Risk and Coastal Change Matrix outlines the flood risk vulnerability classification of land. These range from 'highly vulnerable' uses such as basement dwellings to 'water compatible' uses. Amenity open space and outdoor sports and recreation uses fall within this latter category of water compatible.

5.24 As such, although in FZ2, neither a sequential test nor an exceptions test is necessary. Given the appropriateness of the location of the site adjacent to an existing settlement and the lack of opportunity or availability of other sites for such uses, the proposed development of this facility within this site in Flood zone 2 is considered acceptable. Due to the lack of infrastructure, buildings, or surfacing, it is not considered that this development will increase the risk of flooding elsewhere. Moreover, the proposed landscaping scheme will increase vegetation on the site and improve the sites overall water retention and biodiversity

- 5.25 A Flood Risk Assessment (FRA) is required for all proposals for new development located in Flood Zones 2 and 3 as designated by the Environment Agency. A FRA should identify and assess the risks of all forms of flooding to and from the development and demonstrate how these flood risks will be managed, taking climate change into account. It should identify opportunities to reduce the probability and consequences of flooding. The FRA should include the design of surface water management systems including Sustainable Drainage Systems (SUDs) and address the requirements for safe access to and from the development in areas at risk of flooding. A FRA was submitted as part of the original application details. A subsequent Preliminary Drainage Strategy and a Drainage Technical Note have also submitted. The EA have been consulted regarding these submissions and have no comments to make on the proposal. They advise flood risk standing advice should be followed. This relates to the vulnerability of developments and sets out advice to follow for surface water management, access and evacuation and floor levels.
- 5.26 The Standing advice in terms of access and evacuation, relates mainly to buildings and floor levels and design details to make buildings incorporate flood resistance and resilience measures and due to the lack of structures these are not required on this site.
- 5.27 In terms of surface water management, a condition can be imposed to meet the IDB's surface water requirements. It is noted that the County Ecologist has concerns to ensure sustainable drainage systems are in place to avoid harm to the hydrology of the Fen which is now a SINC. There is nothing to suggest these concerns cannot be addressed through the submission of a suitable scheme via a planning condition.
- 5.28 As such the scheme is considered to be acceptable in terms of Flood Risk and Drainage and complaint with SDLP Policy ENV1, CS Policy SP19, F1 of the CFNP and with the NPPF.

Ecology

- 5.29 SDLP Policy ENV1 states that proposals should not harm acknowledged nature conservation interests and CS Policy SP18 seeks to safeguard the natural environment and increasing biodiversity. These policies are consistent with NPPF paragraphs 170 and 175 which seek to protect and enhance sites of biodiversity value. Policy SP15 of the CS promotes sustainable development and SP15B (c) seeks to ensure development incorporates water -efficient design and sustainable drainage systems. SP15B d) seeks to protect, enhance and create habitats to both improve biodiversity resilience to climate change and utilize biodiversity to contribute to climate change mitigation and adaptation. Policy EGS2 of the CFNP (Protecting Biodiversity and Habitats) seeks to enhance and support wildlife and/or biodiversity on development sites. The Fenton Trans is specifically referred to in this policy.
- 5.30 Following consultation, with the Yorkshire Wildlife Trust and the County Ecologist, an amended scheme and an updated new Preliminary Ecological Appraisal has been provided. This includes for the planting of native species trees and a species

rich hedge with a wildflower area and bird nest boxes – these offer net gains for Biodiversity.

- 5.31 The PEA has also now been revised to include Reasonable Avoidance Measures to minimise risks of accidental harm to amphibians and other small wildlife during construction. As such a condition is recommended requiring adherence to the ecological mitigation and enhancement measures set out in section 4.2 (Recommendations) and Appendix 3, Figure 2 (Ecological Enhancement Plan) of the PEA report.
- 5.32 It has been noted that the adjoining habitat- land to the south contains fen and is a remnant of the once extensive tract known as Fenton-Trans. The site has now been ratified (November 2020) under the SINC guidelines for designation. The main feature is 'Rich-Fen' as in an area of species rich fenland (primarily wetland/marsh in character). Concerns were expressed by the NYCC Ecologist and Yorkshire Wildlife Trust that the applicants ecological survey didn't identify this. Further, it could be damaged by any alteration to its current hydrology and SDC must therefore ensure any drainage arrangements for the site as well as the toilet block do not impact upon it. The YW Trust also noted it is intended that runoff generated by the development will ultimately be discharge to Carr Dike via the existing drainage ditch just outside the site's southern boundary and comment that any potential ecological implications (including to protected species) of the drainage strategy will need to be explored. A revised drainage strategy has been submitted but no response has been received from the drainage Board. A further prompt has been sent at the time of writing this report and an update will be given.
- 5.33 Notwithstanding the submitted drainage details it is advised that a condition be imposed to ensure the full drainage details are agreed by both IDB and the NYCC Ecologist to ensure no harm to the water course or Hydrology systems which might adversely affect the Fen.
- 5.34 Subject to the conditions mentioned above and subject to the development complying with the recommendations, mitigations and enhancements of the updated PEA the development is considered to be acceptable in terms of its ecological impact and complaint with SDLP Policies ENV1 and CS Policies SP15 & SP18 and EGS2 of the CFNP.

Other matters

- 5.35 A suggestion has been made by Councillors and members of the public that a condition be imposed that the land must revert to its current agricultural use if the use as a BMX track ever ceases. Officers have considered this suggestion in consultation with Legal Officers and consider this would fail the tests of reasonableness, necessity, conciseness and would be difficult to enforce. It would be difficult to assess at what point the use had ceased. There could be temporary interruptions, seasonal interruptions or minimal usage for long periods. The definition of whether it had 'ceased permanently would be hard to assess and owners or operators may be unwilling to co-operate in agreeing that a use had permanently stopped. Reversion back to agricultural land could be problematic due to landscape features, car park areas, earthworks, and possibly the landscaping itself. Removal of features to facilitate agricultural use may be required and this would incur expense of the landowner.

- 5.36 Condition 16 below limits the use to a BMX facility only and for no other purpose within Use Class F. Use Class F was introduced in September 2020 and covers the uses previously defined in the revoked Class D1 which included outdoor sports. Since the new Class F encompasses a wider range of uses, most of which would be unlikely to be considered acceptable on this site outside the development limits it is considered, reasonable and appropriate in the interests of protecting the countryside and the character and appearance of the area to impose this limitation on usage.

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 proposal, whilst being contrary in principle to CS Policy SP2 it is considered to be consistent with the aims of Policies RT3, the Development Plan as a whole and with the NPPF. The development is considered acceptable subject to conditions in terms of the impacts on Highway safety, the character and appearance of the area, Residential Amenity, Flood Risk, Drainage and Climate Change, Ecology and Biodiversity and is consistent with CS Policies SP1, SP15, SP18, and SP19 together with SDLP Policies ENV1, RT3, T1 & T2, the Church Fenton NDP and the NPPF.

7 RECOMMENDATION

- 7.1 This application is recommended to be **approved** 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 complete accordance with the plans/drawings listed below: (to be inserted)

Reason:

For the avoidance of doubt.

03. The development must not be brought into use until the access to the site at Busk Lane 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:

- (i) The access must be formed with 6 metres radius kerbs, to give a minimum carriageway width of 5.5 metres, and that part of the access road extending 20 metres into the site must be constructed in accordance with Standard Detail number A2 and the following requirements.
- (ii) Any gates or barriers must be erected a minimum distance of 10 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway

- (iii) Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway and must be maintained thereafter to prevent such discharges
- (iv) Measures to enable vehicles to enter and leave the site in a forward gear.

All works must accord with the approved details

Reason

To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users.

INFORMATIVE

Notwithstanding any valid planning permission for works to amend the existing highway, you are advised that a separate licence will be required from North Yorkshire County Council as the Local Highway Authority in order to allow any works in the existing public highway to be carried out.

04. There must be no access or egress by any vehicles between the highway and the application site at Busk Lane until splays are provided giving clear visibility of 120 metres measured along both channel lines of the major road from a point measured 2.4 meters down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times. An explanation of the terms used in this condition is available from the Local Highway Authority.

Reason

In the interests of highway safety.

05. No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:
- (i) details of any temporary construction access to the site including measures for removal following completion of construction works;
 - (ii) wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
 - (iii) the parking of contractors' site operatives and visitor's vehicles;
 - (v) areas for storage of plant, machinery and materials (including stockpiling of earth or materials) used in constructing the development clear of the highway and away from the northern end of the site adjacent to dwellings;
 - (vi) contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.
 - (vii) Dust Management
 - (viii) Hours of working during construction to be limited to Monday to Friday 08:00 to 18:00 Monday to Friday, 09:00 to 13:00 on Saturdays and no work on Sundays or Bank Holidays

Construction of the permitted development must only be undertaken in accordance with the approved Construction Management Plan.

Reason

In the interest of public safety and amenity.

06. Prior to the commencement of the development full drainage plan shall be submitted for the written approval of the Local Planning Authority in consultation with the Drainage Board and the NYCC Ecologist and should provide for details of the surface water disposal in a manner which does not harm the nearby Fenton Trans. The details should include;

- Details of runoff destination
- Details of flow control
- Exceedance flow path
- Confirmation of responsibility for maintenance

If the surface water were to be disposed of via a soakaway system percolation tests must be undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year. If surface water is to be directed to a mains sewer system the Water Authority must be in agreement that the existing system will accept this additional flow. If the surface water is to be discharged to any ordinary watercourse within the Drainage District, Consent from the IDB would be required in addition to runoff being restricted to 1.4 litres per second per hectare or greenfield runoff.

Informative -There must be no obstructions within 7 metres of the edge of an ordinary watercourse without Consent from the IDB.

Reason

To ensure the site is acceptably drained and does not harm the Fenton Trans Site of Importance to Nature Conservation

07. The BMX track and facilities hereby approved shall be only be used by non-motorised bicycles. There shall be no motocross bikes or any other motorised vehicle using the tracks at any time.

Reason

In the interests of residential amenity and to accord with Policies ENV1 and RT3 of the SDLP.

08. The track and the associated facilities shall only be used during daylight between the hours of 08:00 to 20:00 hours Monday to Saturday, 10:00 to 20:00 on Sundays and Bank Holidays. Outside of these hours, access to the site will be restricted through locking the entrance gates shown on the approved plans.

Reason

In the interests of residential amenity and to accord with Policies ENV1 and RT3 of the SDLP.

09. Any maintenance to the track requiring motorised earth moving equipment will only be carried out during the hours of 08:00 to 18:00 hours Monday to Fridays and 09:00 to 13:00 hours Saturdays and not on Sundays or Bank Holidays.

Reason

In the interests of residential amenity and to accord with Policies ENV1 and RT3 of the SDLP.

10. The development shall be carried in full accordance with the recommendations, mitigation measures and enhancement measures set out in section 4.2 (Recommendations) and Appendix 3, Figure 2 (Ecological Enhancement Plan) of the PEA report (*land off Busk Lane, Church Fenton, North Yorkshire-*

Preliminary Ecological Appraisal, January 2021 by Quants Environmental) and shall thereafter be operated and maintained in accordance with the above report.

Reason

In the interests of ecology and biodiversity and to comply with Policies ENV1 & RT3 of the SDLP and Policies SP15, SP18 & SP19 of the CS.

11. There shall be no artificial, solar or electric lighting within the site.

Reason

In the interests of visual amenity the character of the area and the Ecological interests of the site and to comply with Policy ENV1 of the SDLP.

12. Before any work starts on the construction of the BMX track, a fully detailed landscaping scheme in accordance with the landscaping indicated on Plan Ref BL001/P1/Revision H (Proposed Site Plan, Site Location and Level Information) which is consistent with the recommendations, mitigation measures and enhancement measures set out in section 4.2 (Recommendations) and Appendix 3, Figure 2 (Ecological Enhancement Plan) of the PEA report (*land off Busk Lane, Church Fenton, North Yorkshire- Preliminary Ecological Appraisal*, January 2021 by Quants Environmental), shall be submitted to and approved in writing by the local planning authority to include;

- Details of the species, location, planting density and stock size on planting of all trees and shrub and meadow planting
- Details of the measures for the management and maintenance of the approved landscaping.

The approved scheme shall be implemented in full before the BMX facility is brought into use or, if by agreement with the Local Planning Authority if the facility is ready to use outside the planting and seeding season, it shall be implemented in full in the first planting and seeding season thereafter. The approved implemented scheme shall be retained for the lifetime of the development.

Reason:

In the interests of visual amenity Ecology and to enhance the Biodiversity of the site and in order to comply with Policy ENV1 and RT3 of the SDLP and SP15, and SP19 of the CS.

13. Any trees, shrubs, plants or seeding implanted in accordance with condition 12 above which dies, fails to thrive, are removed or become seriously damaged or diseased within the first five years shall be replaced in the next planting season with others of similar size and species.

Reason

To ensure successful establishment of the approved landscaping scheme in the interests of visual amenity, Ecology and to enhance the Biodiversity of the site and to comply with Policy ENV1 and RT3 of the SDLP and SP15, and SP19 of the CS.

14. Before the facility is brought into use, details of the gates to be provided at the site entrances shall be submitted for the written approval of the local planning authority and shall be installed before the facility is brought into use and kept closed and locked outside of the hours of use as specified in condition 08 of this permission.

Reason

To safeguard the site and to prevent use outside of the operational hours in the interests of the amenity of the area and to comply with Policy ENV1 and RT3 of the SDLP.

15. Before the facilities are brought into use, the parking area and cycle parking facilities shall be installed and made available for use and shall thereafter be maintained for the lifetime of the development.

Reason

To ensure adequate parking facilities for car users and cyclists on site in the interests of amenity and road safety requirements and to comply with Policy ENV1 and RT3 of the SDLP.

16. The use of the site shall be limited only to the BMX facility hereby granted and as limited by these conditions and shall not be used for any other use with Class F of 'The Town and Country Planning (Use Classes) Order 1987 (as amended) or any other order revoking or re-enacting this Order.

Reason

In the interests of residential Amenity and the character and appearance of the area.

17. Before the development hereby approved is brought into use, a detailed management plan shall be submitted for the written approval of the Local Planning Authority providing the details of the following;

- (i) A system for providing the relevant contact details of the responsible person or persons who will manage the site to the Parish Council and to update the Parish Council of any subsequent changes.
- (ii) The management of litter and waste on site
- (iii) The management of the toilet facilities
- (iv) Management and Maintenance of the track
- (v) The closure of the gate and the site outside of the hours of operation and the means of preventing use outside of the hours specified in conditions 08 and 09 of this permission.

One agreed, the approved Management Plan shall be implemented and adhered to for the lifetime of the development.

Reason

In the interests of residential Amenity and the character and appearance of the area.

18. If the BMX facility hereby approved ceases to operate for a period of one year or more, the planning permission shall no longer endure and the land shall revert back in land use planning terms to its former agricultural use.

Reason

The use hereby approved is outside the development limits of any settlement in open countryside where the Council wish to retain over control any future proposal for the use or development of this site.

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

Planning Application file reference 2020/0225/FULM and associated documents.

Contact Officer: Fiona Ellwood (Principal Planning Officer)

Appendices: None

Appendix 2 - Officer Update Note 18 August

The following update was presented to Members at committee:

Item 5.3

APPLICATION NUMBER:	2020/0225/FULM	PARISH:	Church Fenton Parish Council
APPLICANT:	Busk Lane Outdoor	VALID DATE: EXPIRY DATE:	1st April 2020 1st July 2020
PROPOSAL:	Proposed change of use from grazing agricultural land to BMX cycle track with toilet block, picnic area and car park		
LOCATION:	Land South of Gloster Close Busk Lane Church Fenton Tadcaster North Yorkshire		

- Members are advised that additional responses were received since the last committee meeting in June including representations from Fenton Landscape. However, these are summarised in section 2 of the Officers Report.
- The section on Flood Risk has been updated since the June Committee. And takes account of the additional representations.
- Condition 16 – typing error has been pointed out and the wording should be amended as follows;

The use of the site shall be limited *only to* the BMX facility hereby granted and as limited by these conditions and shall not be used for any other use with Class F of 'The Town and Country Planning (Use Classes) Order 1987 (as amended) or any other order revoking or re-enacting this Order.

- Following re-consultation- further comments have been received from the IDB. These repeat their earlier comments and make the additional comment that because the proposal is to establish a gravity connection with the existing watercourse to the west, the consent of the IDB is required by law and this should be covered by planning conditions. Permissible flow rates need to be discussed and agreed.

Officer response

The planning condition 6 requires a full drainage strategy to be agreed prior to commencements

Other matters and additional conditions;

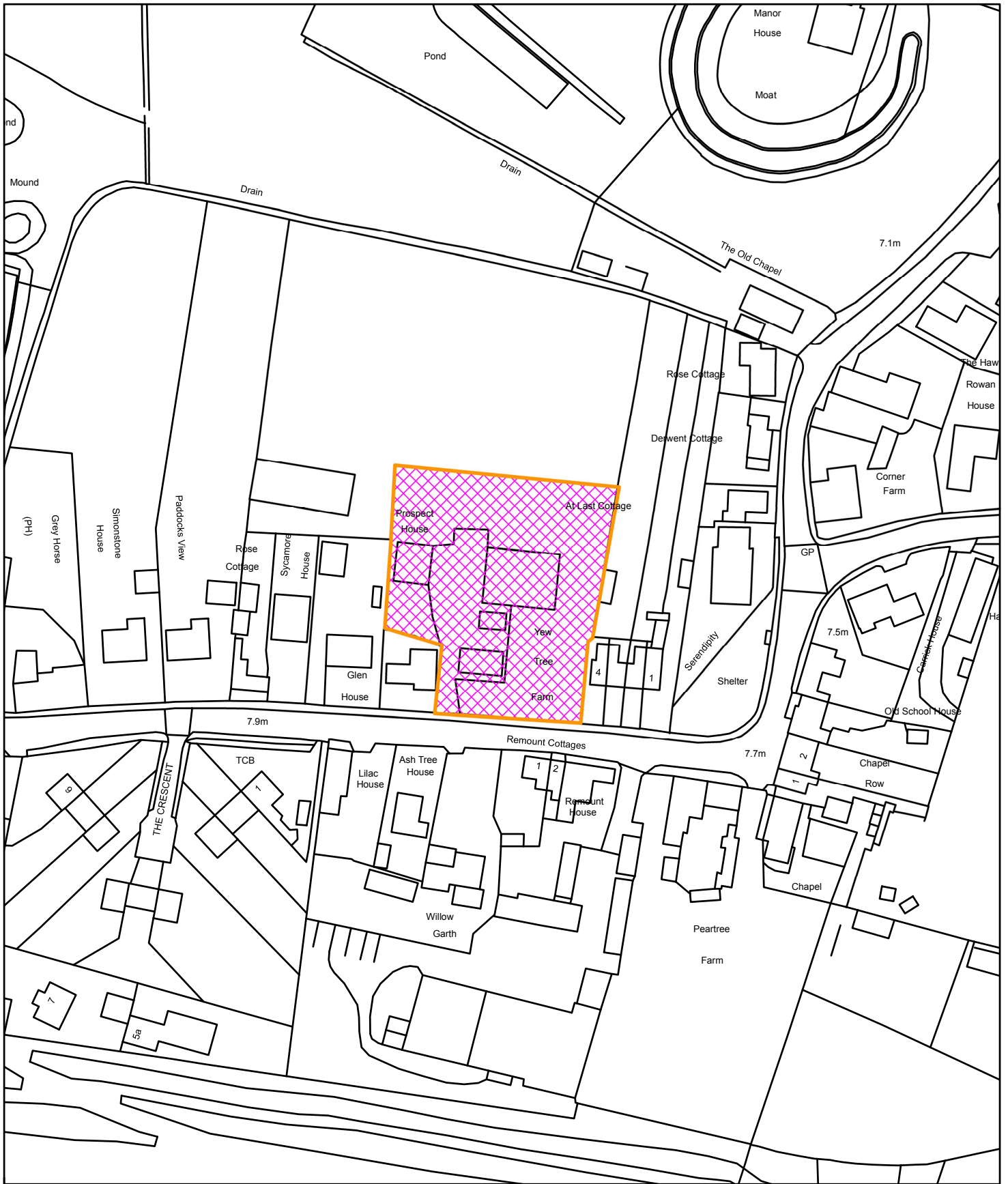
- It is considered that a condition requiring details of the site management would be appropriate to ensure the facilities, toilets, litter, waste, management of the track are adequately managed. It is requested that the precise wording of this condition is

delegated to officers to add to the existing conditions should this application be approved today.

- At the time of writing this update, the possibility of a personal condition is under discussion as an option and an update will be given at the meeting

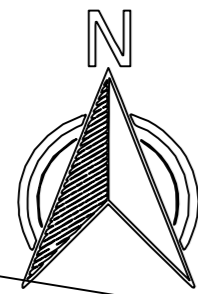
Agenda Item 5.2

Yew Tree House, Main Street, Kelfield
2021/1295/REM



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LINE OF OVERHEAD POWER CABLES

1.2m post and rail timber fencing

Greenhouse

PLOT6

1.5m boarded fence

PLOT5

REVISED DEVELOPMENT LIMIT

PLOT4

375mm Yorkshire Water Sewer

GARAGE

GARAGE

GARAGE

Plum 5h,4s

1.5m brick wall

permeable block paving to driveway

Apple

silver birch

1.8m timber fencing

electricity posts

1.2m metal railings

1.2m metal railings

silver birch

PLOT1 1.5m timber fencing

0.6m brick wall

0.6m brick wall

PLOT3

375mm Yorkshire Water Sewer

1.8m timber fencing

FRONT LAWN OF PLOT1

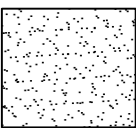
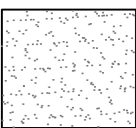
TREE TYPE A

1.5m timber fencing

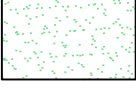
existing 2.4m brick wall

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AMENDED DRAWING



20mm GRAVEL SURFACING



PERMEABLE BLOCK PAVING

1.5m timber fencing

3.000 3.000

57700

1.5m brick wall

1.5m timber fencing

1.5m brick wall

1.8m timber fencing

YEW TREE HOUSE REAR GARDEN

4.5m

1.5m brick wall

PLOT2

4

0m 5m 10m 15m 20m
SCALE BAR

YEW TREE HOUSE KELFIELD
PROPOSED SITE LAYOUT
20/12/2021 Drawn PW
Scale 1:200@A2 Drawing 032

Yew Tree House (EXISTING)

4.0m

1.8m timber fencing

EXISTING DRIVEWAY

0.9m brick wall

NEW DRIVEWAY

3.000 3.000

existing W manhole

1.2m brick wall

refuse bin collection point for 8 bins

6m access to be constructed to NY Highways specification

0.9m brick wall

375mm YW Sewer

MAIN STREET

7.9m

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Report Reference Number: 2021/1295/REM

To: Planning Committee
Date: 12th January 2022
Author: Gareth Stent (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2021/1295/RE M	PARISH:	Kelfield Parish Council
APPLICANT:	Mr Richard Atkinson	VALID DATE: EXPIRY DATE:	18th October 2021 13th December 2021
PROPOSAL:	Reserved matters application (following the 2017/0701/OUT) including access, appearance, landscaping, layout and scale for the erection of 6 No dwellings		
LOCATION:	Yew Tree House Main Street Kelfield Selby North Yorkshire YO19 6RG		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as 12 letters of representation have been received, which raise material planning considerations in objection to the scheme and officers would otherwise determine the application contrary to these representations. The item was also deferred from the 8 December 2021 committee to seek amendments for the following:

- A design that better reflects the conservation officers' comments,
- Addresses issues of over development,
- Minimum privacy distances,
- Reduction in the number of accesses,
- Differing and smaller house types.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The proposal is a reserved matters submission, for 6 dwellings following approval in outline under application 2017/0701/OUT.
- 1.2 The outline included an indicative site plan and allowed for the demolition of the garage, farm buildings and glass house, however all matters were reserved. This submission therefore provides the outstanding detail in respect of the access, appearance, landscaping, layout and scale of the 6 dwellings proposed.
- 1.3 A similar reserved matters application was submitted under reference 2021/0842/REM, however during the consideration of this application, it was found that the application site (depicted by the red line) was larger than that approved under the outline, as it extended further north. The application was therefore invalidated. The application was resubmitted with the red line application site now matching that of the outline and the dwellings (plots 4-6) having to be shunted further south.
- 1.4 The outline was originally recommended for refusal by Officers (10 January 2017); however, Members gave the applicants the opportunity to submit a revised plan to the site boundaries that better reflected the development limits and address the other matters. The scheme then was reported to the 5 December 2018 Committee where Officers again recommended refusal, but Members of the Committee were minded to approve the application. It was then brought back to the 16 January 2019 Committee, with a list of appropriate conditions and approved (Decision issued 17.1.2019). This established the principle of developing the site.
- 1.5 The application site comprises part of Yew Tree Farm, including the existing farmhouse (Yew Tree House), and the adjoining farmyard area, including four buildings: a glass and timber framed greenhouse; a single storey shed; an agricultural building; and a single storey garage.
- 1.6 To the north of the application site is agricultural land associated with Yew Tree Farm and within the same ownership as the application site. Beyond this is the Scheduled Ancient Monument of Kelfield moated site and fishpond. To the east and west of the application site is residential development to the north side of Main Street, while to the south of the application site is Main Street, with residential development to the south side of Main Street beyond.

The Proposal

- 1.7 This is a reserved matters application seeking approval for the access, appearance, landscaping, layout and scale of 6 dwellings. These are all detached 4-bed properties with garages, except for plots 2 & 3 having no garages. The existing farmhouse (Yew Tree House) would be retained as part of the proposals. The existing driveway would serve Yew Tree House and Plot 1. A new private drive would be created to serve the rear plots 2,3,4,5 & 6.
- 1.8 The main changes following deferment from the 8 December committee include:
 - Plot 2 access from Main Street omitted, reducing the accesses to 2 in number.
 - Relocation of bin collection points to the front of the site.

- Relocation of plot 1 and the garage for the existing house to provide greater separation from neighbouring gardens. The windows of plot 1 facing west have also been moved higher up in the roof.
- Agent confirmed that a full application for COU of a strip of land to the rear of the site to garden land to enable the gardens to plots 4-6 to be extended.

- 1.9 The agent explains that “the amendments do not address the Conservation Officer's comments, which we do not agree to be justified. The site is not within a conservation area and does not affect the setting of a designated heritage asset or even a non-designated asset that is formally recognised in any local list, SPD, or policy. As previously pointed out it can be demolished without permission in order to overcome the objection if necessary.”
- 1.10 The agent also explains that the indicative layout was based upon a larger site area, and it cannot work with this reduced site area. The agent explains the indicative plan only 13 parking spaces max, for 7 dwellings, less than what is currently proposed so would have caused more parking problems. With the reduced red line site area, it would have equally small, if not smaller, gardens.
- 1.11 The agent also points out that there is no evidence of there ever being any historic farm buildings or layout on this site, only modern farm buildings, there is no justification for what is being sought by the Conservation Officer/Members and there is nothing else like this in the village. The dwellings proposed on the other hand do reflect the type of houses that are found in the village and in neighbouring villages and in Riccall Conservation Area.
- 1.12 In terms of members request for a greater housing mix, the agent points out that there is no policy requirement or up to date housing needs survey for Kelfield to justify smaller houses on a scheme of this size and there was no requirement in the outline permission for a specific type or mix of houses.
- 1.13 Finally the agent explains that “there is an extant planning permission across the road from the site for 9 large modern detached houses to the rear of a far more attractive and better condition historic farmhouse with far more attractive and older brick outbuildings, which are to be demolished and replaced ref.2010/0036/FUL and discharge of condition ref. 2012/1138/DOC. This consent will be available for members to view on the presentation. The agent states that all conditions have been discharged and a new access crossing constructed lawfully implementing this permission, which can therefore be completed at any time once the business on site ceases trading. This site was not required to incorporate smaller houses or a traditional farm layout.”

Relevant Planning History

- 1.14 The following historical application is considered to be relevant to the determination of this application.
- 2021/0842/REM - Reserved matters application including access, appearance, landscaping, layout and scale for the erection of 6 No dwellings. Invalid.
 - 2017/0701/OUT - Outline application for demolition of garage, farm buildings and glasshouse and erection of residential development (all matters reserved), Decision: PER, Decision Date: 17-JAN-19

- 2016/0597/OUT - Outline application with all matters reserved for the demolition of existing dwelling, garage, farm buildings and glasshouse and erection of residential development, Decision: REF, Decision Date: 30-AUG-16. Dismissed at appeal.
- CO/1987/0339 – Outline application for residential development on 0.05ha of land. Permitted 09-MAR-87.

2. CONSULTATION AND PUBLICITY

- 2.1 NYCC Highways – No objections subject to conditions covering the need for the detailed plans of road and footway layout, also a condition to ensure the roads and footways are constructed prior to the occupation of the dwellings. Conditions covering the discharge of surface water, private access/verge crossings, visibility splays, pedestrian visibility, access and turning, conversion of garage spaces, on-site parking, storage are also included.
- 2.2 Yorkshire Water - No objection to the reserved matters. 'Proposed site Layout 031 (dated 14/10/2021) shows required stand-off distance for onsite public sewer.
- 2.3 The Ouse & Derwent Internal Drainage Board – No objection subject to a condition covering the need for full drainage details:
- 2.4 Landscape Consultant – No response received.
- 2.5 Waste and Recycling Officer – No Objection: Collection vehicles will not access private drives or use them for turning and it is noted that a bin presentation point has been identified although preference would be to move this closer to the junction with the main road. The presentation point should be large enough to accommodate two bins per property each collection day.

The existing property of Yew Tree House will already present their bins at the main road, and this should be maintained. Plot 1 should present with Yew Tree House and plot 4 will also present at the main road and so a presentation point will only be required for plots 3 to 6. In terms of distance from the highway as close as possible is always the preference because it's much more efficient in terms of collection times.

External bin storage at each new property should be large enough to accommodate 4 x wheeled bins (refuse, green waste and 2 x recycling). Care should also be taken to ensure that internal storage facilities are included for residents to store materials for recycling separately from their residual / non-recyclable waste prior to disposal.

- 2.6 Parish Council – Kelfield District Council supported the original application to demolish Yew Tree House and erect 6 new dwellings on the site. However, it does not support the 'new' retention of Yew Tree House on this revised application.
- 2.7 National Grid - This application falls outside of Cadent's distribution network. Please contact your local Gas distributor and/or National Grid for comments on this application.
- 2.8 Natural England - Natural England has no comments to make on this application.
- 2.9 Yorkshire Wildlife Trust – No response received.

- 2.10 County Ecologist - The only comment made is that the biodiversity value of the new hedge planting would be improved:
- (a) If additional native species such as holly, field maple or hazel were included in addition to hawthorn and blackthorn.
 - (b) If British-provenance plants are used (imported hedging plants often flower out of synch with local insect populations).
- 2.11 National Grid - Asset Protection – Response awaited, and Members will be updated at Committee.
- 2.12 Northern Powergrid - Response awaited and Members will be updated at Committee.
- 2.13 Conservation officer – (1.12.21) Objection.

This application is a reserved matters application, the outline application was approved in 2017 which showed the retention of the farmhouse, a row of single storey garages to the left (north-west), semi-detached house to the right (east) and a long range to the rear (north). The scheme was supported from a conservation perspective due to the layout having an agricultural influence. The current scheme differs dramatically from the approved outline illustrative layout, it now shows a domestic arrangement with three large detached properties surrounding the existing farmhouse and three detached plots to the rear (north). This is disappointing to see as it shows little consideration to the historic development or local distinctiveness of the village.

Kelfield is an historic settlement and is mentioned in the Domesday Survey of 1086 as Chelchefelt. Its current layout is thought to have existed since this period with a main street and long plots to either side. To the north of the application site is Kelfield Moated site and fishpond which dates from the 13th Century. The architecture within the village is influenced by agriculture and this theme should be retained in any future developments.

The application site contained the 19th Century farmhouse and farm buildings which date to the 20th Century to the rear. Yew Tree House has been identified as a non-designated heritage asset. A non-designated heritage asset can be a building, monument, site, place, area or landscape identified as having a degree of significance. It is considered that this building has architectural value in terms of its aesthetic value, it has a positive external appearance which contributes to the street scene and adds to the character of Kelfield. A Heritage Statement should have been submitted with this application as a requirement within the NPPF paragraph 203:

“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

The retention of the farmhouse in this scheme is completely supported as it will retain the local distinctiveness of Kelfield. However, this new layout and the design, bulk and positioning of the proposed new dwelling is not supported and will have a harmful impact upon the local distinctiveness of Kelfield as well as upon the non-designated heritage asset of Yew Tree Farmhouse.

The development fails to meet the requirements of the NPPF paragraph 203 relating to non-designated heritage assets. It fails to meet the requirements of paragraphs 199 and 194 as the significance of the site has not been assessed. The proposed scheme does not comply with Core Strategy policy SP18 or SP19. These policies specifically relate to design and context.

SP19 states that: Proposals for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside...Both residential and non-residential development should meet the following key requirements:

- a) Make the best, most efficient use of land without compromising local distinctiveness, character and form.
- b) Positively contribute to an area's identity and heritage in terms of scale, density and layout.

This scheme does not positively contribute to the local distinctiveness of Kelfield and would erode the historic character of this agricultural site. Substantial amendments are required for this proposal to improve the layout, building types and their design.

2.14 Neighbour Summary – The application has been publicised by site notice and an advert placed in the local press. 12 letters of objection have been received and 5 letters of support as a result of this advertisement.

2.15 The concerns raised were as follows:

- Concerns over the number of new accesses. This could be limited to 2. Access to Plot 2 isn't necessary and could be made off the private drive. This will reduce the ability for existing residents to park on the street and increase traffic in the village. Specifically impacting on Remount cottages opposite, which have no driveways.
- This section of the street is referred to as a "choke point". There are already cars regularly parked on the carriageway from properties without parking space. There are many vehicles using Kelfield as a short cut. There are many wide items of farm equipment passing through which often struggle to negotiate this part of the street. Heavy lorries collecting farm produce face similar issues. Any possibility of more vehicles parking on the carriageway would have a very negative effect on the flow of traffic and road safety.
- Kelfield is a 'Smaller Village': a 'Secondary Village' (Selby District Council Core Strategy Local Plan, 2013) and inappropriate for this scale of development. The development will encroach into the open countryside.

- Kelfield is not a sustainable location as it has no shop and no school. It has a public house (open three nights a week), a village hall, a cricket ground and a bus shelter. The bus service is very limited. Future residents of the proposed development would likely be dependent upon the private car.
- The plans for 6 No four-bedroomed, three-storey detached dwellings would not follow the existing linear pattern of building to the north side of Main Street. They would also dwarf the row of 4 No two-storey terraced cottages alongside them and opposite. Smaller sized 'affordable' homes using the existing drive would be a preferable plan. Plot 1 should be single storey and not a 3-storey town house.
- The new drive for access to Plots 3, 4, 5 and 6 and the drive for access to Plot 2 are at the narrowest point of Main Street, approaching a right-angled bend, and would have highway safety implications.
- All the dwellings on the south side of Main Street are in a higher risk flood zone than those on the north side and some, including ours, are built below the current level of the road, so there are concerns about drainage on the proposed site. The agricultural land around Yew Tree House, as it is now, soaks up any surplus surface water.
- Plots 4, 5 and 6 of the proposed development are part of the wider setting of the former Manor House, a Moated Site and Fishpond which is a Scheduled Ancient Monument of archaeological interest and potentially a habitat for great crested newts.
- The development will have a harmful impact on the character and appearance of the area and inappropriate relationship to the existing village and street scene.
- The development will have a harmful impact on privacy, loss of light and overshadowing to neighbouring properties.
- Light pollution by vehicles exiting the site.
- Impact on electricity cables in and around the site serving Kelfield. Concerns over the capacity of the sewerage system.
- Construction noise and disturbance.
- The plans are no resemblance to the plans approved in 2017. The 2017 indicative layout was much more considered.
- The plans should include details of a playground for children.

2.16 5 letters of support, from 3 addresses as detailed below:

- The proposed dwellings will be beneficial to our village, boosting population and helping to attract a better bus service.
- It will attract young families to the village and join the village community.
- The site is an ideal location for new housing, higher and away from the river, and on a much larger plot so not to intrude on nearby housing.

- The scheme will enhance this part of the village and remove the farm. Sites opposite have been developed for similar developments on lower land.

2.17 Following deferral from 8 December committee, the plans were amended and reconsultation took place by means of a 21-day site notice: 1 further letter was received raising the following issues: Any further representations will be reported to members via the update note as the publicity expires on the 14.1.22.

- Support (to a limited degree) the development of this plot of land, but the proposed dwellings and layout is totally out of keeping and character with the village of Kelfield. It seems to me that because the initial development area has been reduced in size that the conclusion has been reached to build 'upwards' instead of 'outwards', contrary to the outline.
- The proposed size (height) of Plot 2 will cause overshadowing and a loss of light (particularly in the evenings) and loss of privacy to the 4 terraced cottages adjacent and to the east of the site. This objection could be mitigated by reducing the height of the dwellings.
- Plot 4,5 & 6 will cause a loss of visual amenity as residents of the cottages enjoy looking beyond the proposed development site to the wooded area and fields.
- Whilst encouraged to note that the entrances to the proposed site have been reduced from 3 to 2 this does not negate the adequacy of parking/loading or turning. The narrowness of the area also encourages parking on the footpath (2 wheels up). I see nothing in the amended plan that would reduce this issue, in fact with the site entrance it would mean that on street parking would be moved towards the blind left-hand bend to the east of the site or mean that cars would park between the 2 entrances and thus cause blind spots themselves to oncoming traffic as you tried to pull out of the site.
- Concerns over subsidence to the 4 adjacent cottages from mains water supply. This hasn't been taken into consideration with such a large excavation and ground works required.

3 SITE CONSTRAINTS

Constraints

3.1 The site lies partly within the countryside and partly within the development limits of Kelfield. The site lies within Flood Zone 1. Scheduled Ancient Monument of Kelfield moated site lies to the north.

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 22 October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State, and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. Consultation on preferred options took place in early 2021. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (July 2021) (NPPF) replaced the February 2019 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 2021 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

“219...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

ENV27 – Scheduled Monuments and Important Archaeological Sites
T1 – Development in Relation to the Highway Network
T2 – Access to Roads
RT2 – Open Space Requirements for New Residential Development
CS6 – Developer Contributions to Infrastructure and Community Facilities

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
- Design, layout and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Impact on Archaeology
- Flood Risk and Drainage
- Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing and Public Open Space
- Waste and Recycling
- Other

The Principle of the Development

5.2 The principle of developing the site for residential purposes has already been set via the outline consent 2017/0701/OUT. This was for the demolition of garage, farm buildings and glasshouse and erection of residential development granted on the 17th of January 2019. This was a blanket outline permission and reserved full details of the access, appearance, landscaping, layout and scale of the residential development. The approval was subject to a number of planning conditions, which the developer will be required to address in implementing any reserved matters consent.

5.3 The principle of proposed residential development has therefore been established through the granting of outline planning permission. This dealt with issues concerning the secondary nature of the village in the settlement hierarchy, backland development and issues surrounding part of the site being beyond settlement limits and within the countryside. The outline also showed an indicative layout plan, which showed a pair of semi-detached dwellings on the frontage then a linked courtyard of smaller dwellings to the rear with garaging. This is specially commented on in the objections, however, was only indicative and wasn't tied to the outline, as all matters were reserved.

5.4 Therefore whilst being acceptable in principle, the reserved matters proposal will be assessed in terms of the considerations below.

Impact on Heritage Assets

5.5 The application site is located within the historic village of Kelfield and within the setting of the Scheduled Ancient Monument of Kelfield moated site and fishpond to the north.

5.6 It is noted that the original outline permission was supported by a Design and Access Statement, which incorporated a Heritage Statement. This was reviewed by the Conservation Officer who raised no objections to the scheme. It is noted that comments were made at the time in relation to the proposals and the potential impacts on the non-designated heritage asset of the existing farmhouse (Yew Tree House) and the designated heritage asset of the Scheduled Ancient Monument of Kelfield moated site and fishpond to the north. Following discussions with the Conservation Officer and Planning Agent amendments were sought and agreed in order to make the proposals acceptable. This involved retaining the farmhouse and showing an indicative plan for the development of the remainder of the plot.

5.7 The previous Officers report for the outline states:

“Furthermore, the Council’s Conservation Officer notes that the revised indicative layout is more reflective of the agricultural and rural character of Kelfield and would blend in with the existing townscape. Going forward, the Council’s Conservation Officer advises that any proposed new properties at the site should be constructed using materials to match those found in the local area and the scale, form and proportions of any new properties should reflect traditional buildings.”

Therefore, concluding that the proposals were acceptable.

5.8 The proposed scheme moves away from the linked courtyard type arrangement to the rear of the site in favour of larger detached dwellings. The position of the dwellings does however still somewhat align with the form previously indicated and the dwellings are a good distance from the ancient monument. Also, whilst Yew Tree House is regarded as a non-designated asset, the site is not within a Conservation Area and Officers consider it would be difficult to sustain a reason for refusal based on the form of the current scheme.

5.9 The Conservation Officer was consulted late on in the process and the objection was presented to the 8 December committee as an update. This is detailed in full within the consultation section above, and details how the development fails to meet the requirements of the NPPF paragraph 203 relating to non-designated heritage assets. The Conservation Officer wished for a more traditional layout that replicated a historical agricultural range and therefore preserved the setting of the non-designated heritage asset.

5.10 These views are noted, and members did defer the application in order that a scheme which better reflected the conservation officers’ comments could come forward. However, the planning agent pointed out that the site was not within a Conservation Area and no buildings were listed. The agent considers non designated heritage assets have very little protection and the main farmhouse could in fact be demolished without consent under a 28-day demolition notice. The only way to prevent this would be for the dwelling to be emergency listed. The agent also pointed out that a similar backland modern housing development was permitted opposite without such historical consideration. On this basis the agent did not wish to amend the scheme as they considered it unjustified.

5.11 Therefore in order to progress the proposal, given the previous recommendation of approval combined with the issues raised by the agent, officers are still minded to support the proposal. Whilst a scheme which better reflects the indicative layout plan would be more traditional, refusing the submission on heritage grounds would be difficult to substantiate. The proposal therefore would not result in any

substantial harm to any designated or non-designated heritage assets in accordance with Policy ENV27 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

Design, layout, landscaping and Impact on the Character and Appearance of the Area

- 5.12 Relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 (1) and (4) of the Selby District Local Plan, and Policy SP19 "Design Quality" of the Core Strategy.
- 5.13 As described in the introduction, the development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield (southern part) and part within the countryside (the northern part).
- 5.14 To the north of the application site is agricultural land associated with Yew Tree Farm and within the same ownership as the application site. The area's character is mainly frontage development within Kelfield, particularly on the northern side of Main Street. This is interrupted by farmsteads and commercial uses that stretch further north from Main Street. To the south of Main Street, the character differs slightly with more in-depth type development. This is typified by application 2010/0036/FUL which was for the redevelopment of a farmstead opposite the site for 9 dwellings. The architectural styles and material used on residential properties within the vicinity of the application site vary, but predominantly consist of a mixture of red brick and rendered properties with pantile roof tiles of varying colours.
- 5.15 This submission shows 6 detached 2 storey dwellings, with the existing Yew Tree House being retained. The amended plans show these are served from two access, 1 of which is new. This arrangement is broadly similar to the indicative layout, which showed frontage development then a linked mews/agricultural type development within the rear of the plot. This will undoubtedly have some impact on the character of the area, as the amount of development over and above the existing buildings on the site will increase. Plots 4-6 will also extend beyond the location of the current agricultural buildings. With the inclusion of the farmhouse, the density is 26 dwellings per hectare.
- 5.16 In terms of the layout, plot 2 is the frontage property, and the amended plans show it now accessed from the private drive, having previously been shown with its own frontage access onto Main Street. This is set back from road on a similar position to Prospect House to the west. The siting of plot 2 does project forward of the cottages to the east, however, is not considered to cause harm to the streetscene. Plot 1 is accessed from the current driveway that serves Yew Tree House with a garage and turning provided. The remaining plots i.e., 3-6 are all accessed from a private drive. The wall on the frontage of Main Street is to be reconstructed at a height of 0.9m as parts have since fallen away.
- 5.17 In terms of the scale of the dwellings, Plots 1-3 would measure approximately 8.6 metres in width, 8.41 metres in depth, 5.3 metres to the eaves and 8 metres to the ridge. Their design would be traditional, with a simple frontage and sash windows either side of the central doorway. To rear is less traditional, with a 'lean to' design and rooflights. The attic space is also utilised to provide a bedroom within the roof space and a chimney is added for additional form. The materials are shown on the

elevation plans; however, they lack detail and are therefore conditioned for samples to be submitted. These are shown as follows:

- Walls: red blended multi facing brickwork
- Roofing: red concrete or clay pantiles (probably need to be clay pantiles only)
- Windows: timber or PVCU
- Doors: timber or composite or aluminium
- Stone faced concrete cills

5.18 In respect of Plot 4-6, these would measure approximately 10 metres in width, 6.8 metres in depth, 5.57 metres to the eaves and 8 metres to the ridge. These would all be accessed from a new access to the eastern side of Yew Tree House and partially visible from Main Street. Again, the design is simple and reflects that of plots 1-3. These would be set back from the highway and would only be partially visible from the public highway. Materials to be used for Plots 4-6 are:

- Walls: unknown
- Roofing: Sandtoft or similar concrete or clay terracotta pantile
- Windows: timber or PVCU
- Doors: timber or composite or aluminium
- Stone faced concrete cills

5.19 Whilst concrete tiles were mentioned in the submission, natural clay tiles are more characteristic and therefore a condition is added covering the need to agree the specific materials.

5.20 In respect of landscaping, these details are shown on the submitted amended landscape drawing 042. A number of new hedgerows and tree planting are proposed with a number of existing trees on the site boundary to be retained. The new hedging is to be a mixture of hawthorn and blackthorn and essentially lines the private drive and forms the northern boundary to differentiate the gardens of plots 4-6. The hedge row specie mix was varied in line with the ecologists' comments. 6 new trees are shown and are a mix of Rowan, Acer, Crab apple and Amelanchler (service berry). A condition is added in respect of the need to implement the landscaping scheme and covers replacement planting.

5.21 In terms of boundary treatments, there are a mixture of treatments proposed. These include 0.9 metres brick walls to the front of the site, 1.5 metre and 0.6 metre brick walls internal to the site along the private driveway, 1.2 metre metal railings on the frontages of plots 4-6 and 1.2 metre post and rail fence to the rear of the site. Gates have been inserted into the northern boundary (rear of plots 4, 5, & 6) to allow access to the land beyond which could be used for agricultural use.

5.22 In terms of the design and overall layout, careful attention has been given to the design and siting of the dwellings. The span of the dwellings and their overall form are relatively large in size and scale. However, given the size of the plots there would still be appropriate separation distances and prevent the site from feeling over developed. Plots 1-3 have good sized private amenity areas, with plots 4-6 less so, on account of the dwellings needing to shift south to stay within the original application site.

5.23 Overall, although this is a in depth development and dwellings are relatively large in size and scale, the careful design, siting, boundary treatments, use of materials and

landscaping will ensure the scheme will not have a significant or detrimental impact on the character and appearance of the area. Therefore, having had regard to Policies ENV1 of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy and NPPF.

Impact on Residential Amenity

- 5.24 Relevant policies in respect of the impact of the proposal on residential amenity include Policy ENV1 (1) of the Selby District Local Plan. This is consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved for all existing and future occupants of land and buildings.
- 5.25 The key considerations in respect of residential amenity are the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 5.26 The application has received several objections in respect of privacy, overshadowing and general amenity from the dwellings to the west, where plot 1 is close to the shared boundaries. The position of plot 1 has been amended since the 8th December 2021 committee shifting the dwelling to the east.
- 5.27 To the north of the application site are open fields, to the east is 4 Main Street and its rear garden, to the south is the highway, Main Street and to the west is Prospect House and Glen House. Plot 1 is closest to the western boundary with the main dwelling located 8.46 metres from the common boundary with Glen House and between 9.7 and 10.25 metres from the common boundary with Prospect House. Plot 3 is closest to the eastern boundary of the site with the main dwelling located 8.6 m from the common boundary with 4 Main Street.
- 5.28 In considering the proposed development, in particular plots 1 and 3, these face the rear gardens of current neighbouring dwellings. From the elevations members will see that the design has taken account of this, with first floor windows being replaced with rooflights to limit overlooking. The only first floor window in the main elevation will be an ensuite window, so obscure glazed. Likewise, the room in the roof space will have rear facing rooflights, which are positioned high up within the roof plane and therefore remove the opportunity for overlooking.
- 5.29 Plot 2 faces Main Street and is set sufficiently back so as not to overlook the dwellings opposite. This too has the rear elevation rooflight arrangement to ensure privacy is maintained between the plots in particular plot 3. Plots 4-6 represent less of a concern, as these face fields to the north and all front facing windows face the internal private drive.
- 5.30 Plot 1 sits directly to the rear of Prospect House, which has a very small and irregular shaped rear garden. This means the rear windows of Prospect House will face the side gable of Plot 1. The amended plans now show plot 1 being handed, meaning the narrowest part of the gable faces south, which will marginally improve the outlook from Prospect House. This distance is 11.95m away, which is just above the recommended distances to safeguard outlook (11m). The amended plans now show the Plot 1 has shifted to the east and away from the boundary of Glen House. This distance is now 8.46m at ground floor and 10.52m to the first set of rooflights (which have been shown higher in the roof), which improves the relationship between the properties. Plot 1 replaces a much smaller agricultural

building in this location and with its 8m ridge will undoubtedly have more of an impact than currently exists. The dwelling however is north so will cause no loss of sunlight, however, will be visible from the rear windows of Prospect House. This cannot really be repositioned any further north as it would impact on plot 6. Also, a double garage is proposed to the southern boundary of Plot 1. This was contemplated being moved to the opposite side of the plot; however, officers considered the benefit of this to be very little given the shallowness of the garage roof.

- 5.31 An issue has also been raised within the objections over the proximity of an electricity pole with equipment on it in the northwestern corner of the site near plots 1 and 6. The objector believes in sufficient separation exists between the plots. Northern Power Grid were consulted however didn't provide a response. If the development is later found to be too close, then the scheme will have to be amended or the infrastructure moved at the developers cost.
- 5.32 Finally in respect of any noise and nuisance generated from the development, this is expected whilst construction occurs and condition 5 of the outline seeks to control this and states:

"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."

- 5.33 Therefore, given the orientation of the plots and the separation distances involved, it is not considered that the proposals would cause sufficient harm in respect of overshadowing, overlooking, oppression or loss of light justify refusal of the submission. It is therefore concluded that the proposal would be acceptable in respect to its impacts on residential amenity and would therefore be in accordance with Policy ENV1(1) of the Local Plan and policies contained within the NPPF.

Impact on Highway Safety

- 5.34 Policy in respect of highway safety and capacity is provided by Policies ENV1 (2), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy.
- 5.35 The application site currently has one existing access that serves the farm. This would be utilised by Plot 1 and the existing Farmhouse. Further to this, the scheme has been amended to reduce the number of new accesses now down to 1. The new private drive will now serve plots 2,3,4,5 & 6. Each plot would have on-site parking and access to garages. The application has received considerable objection in respect of highways and parking, as this section of the Main Street is narrow and used for on street parking. Residents were concerned that the additional flows will harm highway safety and remove the ability of resident's opposite to park on street. Residents were also concerned that the 2 previous additional accesses were not all necessary, (in particular the access to plot 2) despite the indicative plan on the outline showing 2 additional accesses. This has been somewhat alleviated by the amended plans.
- 5.36 NYCC Highways have assessed the application in respect of the parking levels, visibility and the number of proposed access points and raise no objection. Conditions have been suggested covering the need for the detailed plans of road and footway layout, also a condition to ensure the roads and footways are constructed prior to the occupation of the dwellings. Conditions covering the discharge of surface water, private access/verge crossings, visibility splays,

pedestrian visibility, access and turning, conversion of garage spaces are also included. Condition 6 of the outline already covers the need for onsite parking and storage.

- 5.37 It is therefore considered that the scheme is acceptable and in accordance with policies ENV1(2), T1 and T2 of the Local Plan, Policy SP19 of the Core Strategy with respect to the impacts on the highway network subject to conditions.

Impact on Archaeology

- 5.38 NYCC Heritage Services were consulted on the original outline permission. In summary, the Principal Archaeologist raised no objections to the proposals in terms of their impact on archaeology, subject to a condition (No.4) requiring a scheme of archaeological mitigation recording is undertaken in response to the ground disturbing works associated with the proposal. This condition will need full discharge prior to development commencing and therefore safeguards the archaeological potential of this historic village.

Flood Risk and Drainage

- 5.39 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design.
- 5.40 The site is confirmed to lie within Flood Zone 1, which has a low probability of flooding. Therefore, the Sequential Test and Exceptions Tests do not need to be applied and would have been necessary at the outline stage. Nor does any flood resilience need incorporating into the scheme.
- 5.41 In terms of drainage, the submission was accompanied by an amended drainage layout plan, which showed the surface water would be disposed of via a soakaway on the owner's adjacent land and foul water would be disposed of via Yorkshire Water Mains. Whilst the plan shows the routing of the drainage, the plan lacks detail in terms of flow rates.
- 5.42 Yorkshire Water and the Ouse and Derwent Internal Drainage Board and have been consulted on the proposals. Yorkshire Water have raised no objections to the proposal as the 6m easement is maintained on the eastern side of the site for the 400m surface water sewer that runs through the site. This is also protected by condition 7 on the outline. The Ouse and Derwent Drainage Board have raised no objections to the proposals subject to a condition requiring a detailed scheme of drainage to be agreed. This however is already a condition of the outline (No.8) and therefore does not need repeating. The proposal is therefore acceptable in respect of drainage and flood risk and therefore accord with Policies SP15, SP16, SP19 of the Core Strategy, and the NPPF.

Nature Conservation and Protected Species

- 5.43 Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 179 to 182 of the NPPF. The presence of a protected species is a material planning consideration.

- 5.44 The application site is not within an area designated for nature conservation. However, the application site is located within proximity to a pond known to have great crested newts. Whilst it is noted that no information regarding ecology has been provided with this application, Nature Conservation and Protected Species ecology was considered under the outline application. It is noted that an Extended Phase 1 Habitat Survey dated, January 2017 was submitted along with a great crested newts presence/ absence survey was undertaken dated June 2018. NYCC Ecology reviewed the application at the time and overall raised no objections to the proposed development. Subject to conditions requiring (1) the development to be carried out in accordance with the recommendations of the Extended Phase 1 Habitat Survey undertaken by Wold Ecology Ltd, dated January 2017 and the Great Crested Newt Presence/Absence Survey undertaken by Astute Ecology ecological Consultants, dated June 2018 and (2) the proposed future management of the proposed receptor area and wildlife corridor. These were conditioned as part of the outline consent under conditions 09 and 10. Also the landscape plan was amended to increase the hedgerow species as per the ecologist's comments.
- 5.45 Overall, it is considered that the proposal would not harm any acknowledged nature conservation interests and is therefore in accordance with Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

Land Contamination

- 5.46 Relevant policies in respect of land contamination include Policy ENV2 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy. This matter was again considered within the outline where a contamination statement was submitted which addressed the site former agricultural use. This was reviewed by the Council's consultants and deemed acceptable subject to more through assessment being undertaken i.e., a Phase 1 Desk Based Assessment. Several conditions were recommended in respect of land contamination within the outline (No.11-14) and therefore do not need to be reattached to any permission granted by this application.
- 5.47 As such, having had regard to all relevant information, it is considered that the proposal would be acceptable in respect of land contamination and is, therefore, in accordance with Policy ENV2 of the Selby District Local Plan.

Affordable Housing and Public open space contributions

- 5.48 Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the district. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the district. The Policy notes that the target contribution will be equivalent to the provision of up to 10% affordable units. The calculation of the extent of this contribution is set out within the Affordable Housing Supplementary Planning Document which was adopted on 25 February 2014.
- 5.49 Given this is a reserved matters application, Affordable Housing is not a matter for consideration as this would have been controlled at the outline stage.
- 5.50 Similarly in respect of public open space contributions, whilst the Council agreed in 2020 the CIL/S106 Infrastructure Funding Statement which gives the ability of schemes with more than 4 dwellings to be liable for contributions in line with Policy

RT2 of the Selby District Local Plan, in this instance no contributions are necessary, as this is a reserved matters submission and wasn't requested at the outline stage.

Waste and Recycling

- 5.51 For developments of 4 or more dwellings developers must provide waste and recycling provision at their own cost and as such should the application be approved.
- 5.52 The amended layout shows provision for a bin collection point on the site frontage with space for 8 bins. This collection point is now on the main highway and overcomes the concerns previously raised in respect of the previous plans, which showed the collection point 21m set back from the highway. The existing property of Yew Tree House will already present their bins at the main road, and this should be maintained. Plot 1 should present with Yew Tree House and plot 2 will also present at the main road and so a presentation point will only be required for plots 3 to 6. Condition 15 of the outline permission secures the provision of bins etc at developer's expense so there is no need to repeat that 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 this reserved matters aligns with the principle of the proposed development agreed at the outline stage. The proposed 6 dwellings are appropriately landscaped and are of an appropriate scale, appearance that will ensure no adverse impact on the character and appearance of the area and living conditions of neighbouring occupiers.
- 6.2 Furthermore, the proposals are considered to be acceptable in respect of highway safety, flood risk, drainage, nature conservation and protected species, land contamination, affordable housing and waste and recycling. The proposal is therefore considered to be acceptable in accordance with Policies SP1, SP2, SP4, SP18 and SP19 of the Core Strategy, Policies ENV1, ENV 2, T1 and T2 of the Core Strategy and the advice contained within the NPPF.

7 RECOMMENDATION

This application is recommended to be Granted subject to the expiry of the publicity on the 14.1.2022 and subject to no new issues being raised. Following the expiry of the publicity the Head of Planning/Planning Development Manger be authorised to issue the Reserved matters permission subject to the following conditions:

01. The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:
- Atkinson 01 - Location Plan
 - 032 – Proposed Site Layout
 - 092 – Proposed Site Layout (Whole site)
 - 042 – Landscaping Layout
 - 052 – Proposed Drainage Layout
 - 061 – Plot 4, 5 & 6 floor plans and elevations
 - 092 – Plot 1 Floor plans and elevations

- 072 – Plots 2 & 3 Floor plans and elevations
- 082 – Garage layout and elevations

Reason:

For the avoidance of doubt.

02. Notwithstanding the submitted plans and drawings, the materials to be used in the construction of the exterior walls, roof(s) and boundary walls of the dwellings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before above ground construction of the dwellings commences. The development shall then be carried out in accordance with the approved details.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 and ENV25 of the Selby District Local Plan.

03. There shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site, until the following drawings and details have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority, or alternatively details of a management company for the site have been submitted for consideration:

a. Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:

- the proposed highway layout including the highway boundary
- dimensions of any carriageway, cycleway, footway, and verges
- visibility splays
- the proposed buildings and site layout, including levels
- accesses and driveways
- drainage and sewerage system
- lining and signing- traffic calming measures
- all types of surfacing (including tactiles), kerbing and edging.

b. Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:

- the existing ground level
- the proposed road channel and centre line levels
- full details of surface water drainage proposals.

c. Full highway construction details including:

- typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
- when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
- kerb and edging construction details
- typical drainage construction details.

d. Details of the method and means of surface water disposal.

e. Details of all proposed street lighting.

f. Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.

g. Full working drawings for any structures which affect or form part of the highway network.

h. A programme for completing the works.

The development shall only be carried out in full compliance with the approved drawings and details unless agreed otherwise in writing by the Local Planning Authority with the Local Planning Authority in consultation with the Highway Authority.

Reason:

In accordance with policies T1 and T2 of the Local Plan and to secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of highway users.

04. No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority in consultation with the Highway Authority before the first dwelling of the development is occupied.

Reason:

In accordance with policies T1 and T2 of the Local Plan and to ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.

05. There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme.

REASON

In accordance with policies T1 and T2 of the Local Plan and in the interests of highway safety.

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

a. The details of the access shall have been approved in writing by the Local Planning Authority in consultation with the Highway Authority.

d. The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number A1.

e. Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.

g. 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 shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In accordance with policies T1 and T2 of the Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

07. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 43 metres measured along both channel lines of the major road Main Street from a point measured 2 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with policy number and in the interests of road safety.

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

Reason:

In accordance with policies T1 and T2 of the Local Plan and the interests of road safety to provide drivers of vehicles using the access and other users of the public highway with adequate inter-visibility commensurate with the traffic flows and road conditions.

09. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:

- b. vehicular, cycle, and pedestrian accesses
- c. vehicular and cycle parking
- d. vehicular turning arrangements
- e. manoeuvring arrangements
- f. loading and unloading arrangements.

Reason:

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

10. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number 9:
 - b. are available for use unless otherwise approved in writing by the Local Planning Authority.

Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

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

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

Reason:

In accordance with policies T1 & T2 of the Local Plan and to ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity the development.

12. All tree planting, hedgerow planting and turfing shown on Landscaping Layout 041a shall be carried out in the first planting seasons following the first occupation of the dwellings or the substantial completion of the development, whichever is the sooner.

Reason:

To ensure the landscaping is carried out in accordance with Local Plan Policy ENV1 and Core Strategy Policy SP18.

13. If within a period of five years from the date of the planting of any tree/hedge/shrub that tree/hedge/shrub, or any replacement, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree/hedge/shrub of the same species and size as that originally planted shall be planted in the same location as soon as reasonably possible and no later than the first available planting season.

Reason:

To ensure maintenance of a healthy landscape scheme, in accordance with Local Plan Policies ENV1 and Core Strategy Policy SP18.

14. No development above slab level of the dwellings hereby approved shall commence until details of electric vehicle charging points for each dwelling have been submitted to and approved in writing by the Local Planning Authority.

Thereafter the approved charging points shall be provided prior to occupation of each dwelling and subsequently retained for that purpose.

Reason:

To encourage the use of low emission vehicles, in turn reducing CO2 emissions and energy consumption levels in accordance with Plan Policy SP15.

15. No development above slab level of the dwellings hereby approved shall take place until details of measures to facilitate the provision of high speed broadband for the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to occupation of each dwelling.

Reason:

In the interests of providing a sustainable form of development and economic growth and in order to ensure compliance with paragraph 112 of the National Planning Policy Framework and Plan Policy SP12.

Informatives:

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

HI-01 INFORMATIVE

In imposing condition number above it is recommended that before a detailed planning submission is made a draft layout is produced for discussion between the applicant, the Local Planning Authority and the Highway Authority in order to avoid abortive work. The agreed drawings must be approved in writing by the Local Planning Authority for the purpose of discharging this condition.

HI-07 INFORMATIVE

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.

HI-14 INFORMATIVE

The proposals shall cater for all types of vehicles that will use the site. The parking standards are set out in the North Yorkshire County Council publication 'Transport Issues and Development - A Guide' available at www.northyorks.gov.uk

HI-17 INFORMATIVE- Mud on the Highway

You are advised that any activity on the development site that results in the deposit of soil, mud or other debris onto the highway will leave you liable for a range of

offences under the Highways Act 1980 and Road Traffic Act 1988. Precautions should be taken to prevent such occurrences.

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 2021/1295/REM and associated documents.

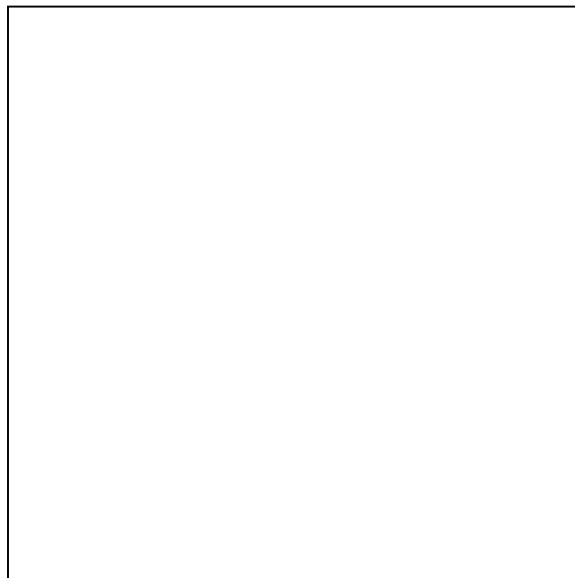
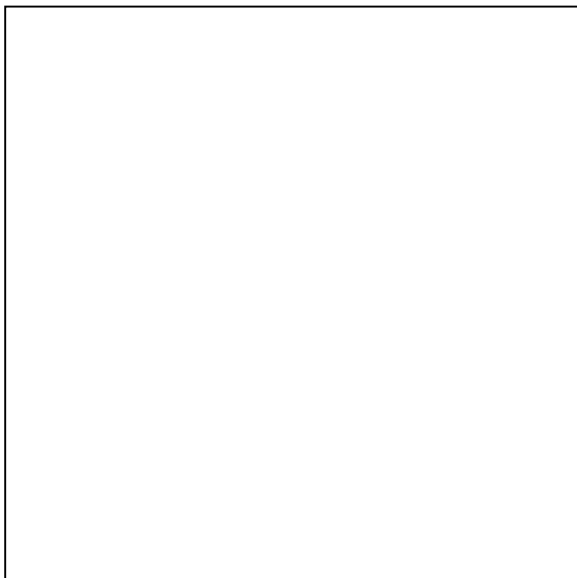
Contact Officer: Gareth Stent (Principal Planning Officer)

Appendices:

Appendix 1 – Committee report 8 December 2021

Appendix 2 – Officer Update Note 8 December 2021

Appendix 1 – Original Report 8 December 2021



Report Reference Number 2021/1295/REM
Agenda Item No:

To: Planning Committee
Date: 8th December 2020
Author: Gareth Stent (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2021/1295/REM	PARISH:	Kelfield Parish Council
APPLICANT:	Mr Richard Atkinson	VALID DATE: EXPIRY DATE:	18th October 2021 13th December 2021
PROPOSAL:	Reserved matters application (following the 2017/0701/OUT) including access, appearance, landscaping, layout and scale for the erection of 6 No dwellings		
LOCATION:	Yew Tree House Main Street Kelfield Selby North Yorkshire YO19 6RG		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as 11 letters of representation have been received, which raise material planning considerations in objection to the scheme and officers would otherwise determine the application contrary to these representations.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The proposal is a reserved matters submission, for 6 dwellings following approval in outline under application 2017/0701/OUT.
- 1.2 The outline included an indicative site plan and allowed for the demolition of the garage, farm buildings and glass house, however all matters were reserved. This submission therefore provides the outstanding detail in respect of the access, appearance, landscaping, layout and scale of the 6 dwellings proposed.
- 1.3 A similar reserved matters application was recently submitted under reference 2021/0842/REM, however during the consideration of this application, it was found that the application site (depicted by the red line) was larger than that approved under the outline, as it extended further north. The application was therefore invalidated. The application was resubmitted with the red line application site now matching that of the outline and the dwellings (plots 4-6) having to be shunted further south.
- 1.4 The outline was originally recommended for refusal by Officers (10th Jan 2017), however Members gave the applicants the opportunity to submit a revised plan to the site boundaries that better reflected the development limits and address the other matters. The scheme then was reported to the 5th December 2018 Committee where Officers again recommended refusal, but Members of the Committee were minded to approve the application. It was then brought back to the 16th January 2019 Committee, with a list of appropriate conditions and approved (Decision issued 17.1.2019). This established the principle of developing the site.
- 1.5 The application site comprises part of Yew Tree Farm, including the existing farm house (Yew Tree House), and the adjoining farm yard area, including four buildings: a glass and timber framed greenhouse; a single storey shed; an agricultural building; and a single storey garage.
- 1.6 To the north of the application site is agricultural land associated with Yew Tree Farm and within the same ownership as the application site. Beyond this is the Scheduled Ancient Monument of Kelfield moated site and fishpond. To the east and west of the application site is residential development to the north side of Main Street, while to the south of the application site is Main Street, with residential development to the south side of Main Street beyond.

The Proposal

- 1.7 This is a reserved matters application seeking approval for the access, appearance, landscaping, layout and scale of 6 dwellings. These are all detached 4-bed properties with garages, with the exception of plot 3 having no garage. The existing farmhouse (Yew Tree House) would be retained as part of the proposals. The existing driveway would serve Yew Tree House and Plot 1. A new private drive would be created to serve the rear plots 3,4,5 & 6, and a new driveway created off Main Street to serve the frontage plot No.2.

Relevant Planning History

- 1.8 The following historical application is considered to be relevant to the determination of this application.
- 2021/0842/REM - Reserved matters application including access, appearance, landscaping, layout and scale for the erection of 6 No dwellings. Invalid.
 - 2017/0701/OUT - Outline application for demolition of garage, farm buildings and glasshouse and erection of residential development (all matters reserved), Decision: PER, Decision Date: 17-JAN-19
 - 2016/0597/OUT - Outline application with all matters reserved for the demolition of existing dwelling, garage, farm buildings and glasshouse and erection of residential development, Decision: REF, Decision Date: 30-AUG-16. Dismissed at appeal.
 - CO/1987/0339 – Outline application for residential development on 0.05ha of land. Permitted 09-MAR-87.

2. CONSULTATION AND PUBLICITY

- 2.1 NYCC Highways – No objections subject to conditions covering the need for the detailed plans of road and footway layout, also a condition to ensure the roads and footways are constructed prior to the occupation of the dwellings. Conditions covering the discharge of surface water, private access/verge crossings, visibility splays, pedestrian visibility, access and turning, conversion of garage spaces, on-site parking, storage are also included.
- 2.2 Yorkshire Water - No objection to the reserved matters. 'Proposed site Layout 031 (dated 14/10/2021) shows required stand-off distance for on site public sewer.
- 2.3 The Ouse & Derwent Internal Drainage Board – No objection subject to a condition covering the need for full drainage details:
- 2.4 Landscape Consultant – No response received.
- 2.5 Waste and Recycling Officer – No Objection: Collection vehicles will not access private drives or use them for turning and it is noted that a bin presentation point has been identified although preference would be to move this closer to the junction with the main road. The presentation point should be large enough to accommodate two bins per property each collection day.

The existing property of Yew Tree House will already present their bins at the main road, and this should be maintained. Plot 1 should present with Yew Tree House and plot 4 will also present at the main road and so a presentation point will only be required for plots 3 to 6. In terms of distance from the highway as close as possible is always the preference because it's much more efficient in terms of collection times.

External bin storage at each new property should be large enough to accommodate 4 x wheeled bins (refuse, green waste and 2 x recycling). Care should also be taken to ensure that internal storage facilities are included for residents to store materials for recycling separately from their residual / non-recyclable waste prior to disposal.

- 2.6 Parish Council – No response received.
- 2.7 National Grid - This application falls outside of Cadent's distribution network. Please contact your local Gas distributor and/or National Grid for comments on this application.
- 2.8 Natural England - Natural England has no comments to make on this application.
- 2.9 Yorkshire Wildlife Trust – No response received.
- 2.10 County Ecologist - The only comment made is that the biodiversity value of the new hedge planting would be improved:
- (a) If additional native species such as holly, field maple or hazel were included in addition to hawthorn and blackthorn.
- (b) If British-provenance plants are used (imported hedging plants often flower out of synch with local insect populations).
- 2.11 National Grid - Asset Protection – Response awaited, and Members will be updated at Committee.
- 2.12 Northern Powergrid - Response awaited and Members will be updated at Committee.
- 2.13 Conservation officer - Response awaited and Members will be updated at Committee.
- 2.14 Neighbour Summary – The application has been publicised by site notice and an advert placed in the local press. 11 letters of objection have been received as a result of this advertisement. The concerns raised were as follows:
- Concerns over the number of new accesses. This could be limited to 2. Access to Plot 2 isn't necessary and could be made off the private drive. This will reduce the ability for existing residents to park on the street and increase traffic in the village. Specifically impacting on Remount cottages opposite, which have no driveways.
 - This section of the street is referred to as a "choke point". There are already cars regularly parked on the carriageway from properties without parking space. There are many vehicles using Kelfield as a short cut. There are many wide items of farm equipment passing through which often struggle to negotiate this part of the street. Heavy lorries collecting farm produce face similar issues. Any possibility of more vehicles parking on the carriageway would have a very negative effect on the flow of traffic and road safety.
 - Kelfield is a 'Smaller Village': a 'Secondary Village' (Selby District Council Core Strategy Local Plan, 2013) and inappropriate for this scale of development. The development will encroach into the open countryside.
 - Kelfield is not a sustainable location as it has no shop and no school. It has a public house (open three nights a week), a village hall, a cricket ground and a bus shelter. The bus service is very limited. Future residents of the proposed development would likely be dependent upon the private car.

- The plans for 6 No four-bedroomed, three-storey detached dwellings would not follow the existing linear pattern of building to the north side of Main Street. They would also dwarf the row of 4 No two-storey terraced cottages alongside them and opposite. Smaller sized 'affordable' homes using the existing drive would be a preferable plan. Plot 1 should be single storey and not a 3-storey town house.
- The new drive for access to Plots 3, 4, 5 and 6 and the drive for access to Plot 2 are at the narrowest point of Main Street, approaching a right-angled bend, and would have highway safety implications.
- All the dwellings on the south side of Main Street are in a higher risk flood zone than those on the north side and some, including ours, are built below the current level of the road, so there are concerns about drainage on the proposed site. The agricultural land around Yew Tree House, as it is now, soaks up any surplus surface water.
- Plots 4, 5 and 6 of the proposed development are part of the wider setting of the former Manor House, a Moated Site and Fishpond which is a Scheduled Ancient Monument of archaeological interest and potentially a habitat for great crested newts.
- The development will have a harmful impact on the character and appearance of the area and inappropriate relationship to the existing village and street scene.
- The development will have a harmful impact on privacy, loss of light and overshadowing to neighbouring properties.
- Light pollution by vehicles exiting the site.
- Impact on electricity cables in and around the site serving Kelfield. Concerns over the capacity of the sewerage system.
- Construction noise and disturbance.
- The plans are no resemblance to the plans approved in 2017. The 2017 indicative layout was much more considered.
- The plans should include details of a playground for children.

3 SITE CONSTRAINTS

Constraints

- 3.1 The site lies partly within the countryside and partly within the development limits of Kelfield. The site lies within Flood Zone 1. Scheduled Ancient Monument of Kelfield moated site lies to the north.

4 POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. Consultation on preferred options took place in early 2021. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (July 2021) (NPPF) replaced the February 2019 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 2021 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -
- "219.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
ENV27 – Scheduled Monuments and Important Archaeological Sites
T1 – Development in Relation to the Highway Network
T2 – Access to Roads
RT2 – Open Space Requirements for New Residential Development
CS6 – Developer Contributions to Infrastructure and Community Facilities

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
- Design, layout and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Impact on Archaeology
- Flood Risk and Drainage
- Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing and Public Open Space
- Waste and Recycling
- Other

The Principle of the Development

5.2 The principle of developing the site for residential purposes has already been set via the outline consent 2017/0701/OUT. This was for the demolition of garage, farm buildings and glasshouse and erection of residential development granted on the 17th of January 2019. This was a blanket outline permission and reserved full details of the access, appearance, landscaping, layout and scale of the residential development. The approval was subject to a number of planning conditions, which the developer will be required to address in implementing any reserved matters consent.

5.3 The principle of proposed residential development has therefore been established through the granting of outline planning permission. This dealt with issues concerning the secondary nature of the village in the settlement hierarchy, backland development and issues surrounding part of the site being beyond settlement limits and within the countryside. The outline also showed an indicative layout plan, which showed a pair of semi-detached dwellings on the frontage then a linked courtyard of smaller dwellings to the rear with garaging. This is specially commented on in the objections, however, was only indicative and wasn't tied to the outline, as all matters were reserved.

5.4 Therefore whilst being acceptable in principle, the reserved matters proposal will be assessed in terms of the considerations below.

Impact on Heritage Assets

- 5.5 The application site is located within the historic village of Kelfield and within the setting of the Scheduled Ancient Monument of Kelfield moated site and fishpond to the north.
- 5.6 It is noted that the original outline permission was supported by a Design and Access Statement, which incorporated a Heritage Statement. This was reviewed by the Conservation Officer who raised no objections to the scheme. It is noted that comments were made at the time in relation to the proposals and the potential impacts on the non-designated heritage asset of the existing farmhouse (Yew Tree House) and the designated heritage asset of the Scheduled Ancient Monument of Kelfield moated site and fishpond to the north. Following discussions with the Conservation Officer and Planning Agent amendments were sought and agreed in order to make the proposals acceptable.
- 5.7 The previous Officers report for the outline states, *“Furthermore, the Council’s Conservation Officer notes that the revised indicative layout is more reflective of the agricultural and rural character of Kelfield and would blend in with the existing townscape. Going forward, the Council’s Conservation Officer advises that any proposed new properties at the site should be constructed using materials to match those found in the local area and the scale, form and proportions of any new properties should reflect traditional buildings.”* Therefore, concluding that the proposals were acceptable.
- 5.8 The proposed scheme moves away from the linked courtyard type arrangement to the rear of the site in favour of larger detached dwellings. The position of the dwellings does however align with the form previously indicated and the dwellings are a good distance from the ancient monument. Also, whilst Yew Tree House is regarded as a non-designated asset, the site is not within a Conservation Area and Officers consider it would be difficult to sustain a reason for refusal based on the form of the current scheme.
- 5.9 The Conservation Officer was consulted late on in the process and these views will be provided via an officer update to committee.
- 5.10 Notwithstanding any forthcoming Conservation Officer’s views, Officers consider that whilst a scheme that aligns with the indicative plan shown at outline would better reflect the character of the village, the scheme as proposed would not result in any substantial harm to any designated or non-designated heritage assets in accordance with Policy ENV27 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

Design, layout, landscaping and Impact on the Character and Appearance of the Area

- 5.11 Relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 (1) and (4) of the Selby District Local Plan, and Policy SP19 "Design Quality" of the Core Strategy.
- 5.12 As described in the introduction, the development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield (southern part) and part within the countryside (the northern part).

- 5.13 To the north of the application site is agricultural land associated with Yew Tree Farm and within the same ownership as the application site. The area's character is mainly frontage development within Kelfield, particularly on the northern side of Main Street. This is interrupted by farmsteads and commercial uses that stretch further north from Main Street. To the south of Main Street, the character differs slightly with more in-depth type development. The architectural styles and material used on residential properties within the vicinity of the application site vary, but predominantly consist of a mixture of red brick and rendered properties with pantile roof tiles of varying colours.
- 5.14 This submission shows 6 detached 2 storey dwellings, with the existing Yew Tree House being retained. These are served from three access, 2 of which are new. This arrangement is broadly similar to the indicative layout, which showed frontage development then a linked mews/agricultural type development within the rear of the plot. This will undoubtedly have some impact on the character of the area, as the amount of development over and above the existing buildings on the site will increase. Plots 4-6 will also extend beyond the location of the current agricultural buildings. With the inclusion of the farmhouse, the density is 26 dwellings per hectare.
- 5.15 In terms of the layout, plot 2 is the frontage property which has its own new access from Main Street. This is set back from road on a similar position to Prospect House to the west. The siting of plot 2 does project forward of the cottages to the east, however is not considered to cause harm to the streetscene. Plot 1 is accessed from the current driveway that serves Yew Tree House with a garage and turning provided. The remaining plots i.e. 3-6 are all accessed from a private drive. The wall on the frontage of Main Street is to be reconstructed at a height of 0.9m as parts have since fallen away.
- 5.16 In terms of the scale of the dwellings, Plots 1-3 would measure approximately 8.6 metres in width, 8.41 metres in depth, 5.3 metres to the eaves and 8 metres to the ridge. Their design would be traditional, with a simple frontage and sash windows either side of the central doorway. To rear is less traditional, with a 'lean to' design and rooflights. The attic space is also utilised to provide a bedroom within the roofspace and a chimney is added for additional form. The materials are shown on the elevation plans; however they lack detail and are therefore conditioned for samples to be submitted. These are shown as follows:
- Walls: red blended multi facing brickwork
 - Roofing: red concrete or clay pantiles (probably need to be clay pantiles only)
 - Windows: timber or PVCU
 - Doors: timber or composite or aluminium
 - Stone faced concrete cills
- 5.17 In respect of Plot 4-6, these would measure approximately 10 metres in width, 6.8 metres in depth, 5.57 metres to the eaves and 8 metres to the ridge. These would all be accessed from a new access to the eastern side of Yew Tree House and partially visible from Main Street. Again, the design is simple and reflects that of plots 1-3. These would be set back from the highway and would only be partially visible from the public highway. Materials to be used for Plots 4-6 are:
- Walls: unknown
 - Roofing: Sandtoft or similar concrete or clay terracotta pantile

- Windows: timber or PVCU
- Doors: timber or composite or aluminium
- Stone faced concrete cills

- 5.18 Whilst concrete tiles were mentioned in the submission, natural clay tiles are more characteristic and therefore a condition is added covering the need to agree the specific materials.
- 5.19 In respect of landscaping, these details are shown on the submitted landscape drawing 041. A number of new hedgerows and tree planting are proposed with a number of existing trees on the site boundary to be retained. The new hedging is to be a mixture of hawthorn and blackthorn and essentially lines the private drive and forms the northern boundary to differentiate the gardens of plots 4-6. The hedge row specie mix will be varied inline with the ecologists comments and amended plans are expected prior to committee. 6 new trees are shown and are a mix of Rowan, Acer, Crab apple and Amelanchier (service berry). A condition is added in respect of the need to implement the landscaping scheme and covers replacement planting.
- 5.20 In terms of boundary treatments, there are a mixture of treatments proposed. These include 0.9 metres brick walls to the front of the site, 1.5 metre and 0.6 metre brick walls internal to the site along the private driveway, 1.2 metre metal railings on the frontages of plots 4-6 and 1.2 metre post and rail fence to the rear of the site.
- 5.21 In terms of the design and overall layout, careful attention has been given to the design and siting of the dwellings. The span of the dwellings and their overall form are relatively large in size and scale. However, given the size of the plots there would still be appropriate separation distances and prevent the site from feeling over developed. Plots 1-3 have good sized private amenity areas, with plots 4-6 less so on account of the dwellings needing to shift south to stay within the original application site.
- 5.22 Overall, although this is a in depth development and dwellings are relatively large in size and scale, the careful design, siting, boundary treatments, use of materials and landscaping will ensure the scheme will not have a significant or detrimental impact on the character and appearance of the area. Therefore, having had regard to Policies ENV1 of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy and NPPF.

Impact on Residential Amenity

- 5.23 Relevant policies in respect of the impact of the proposal on residential amenity include Policy ENV1 (1) of the Selby District Local Plan. This is consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved for all existing and future occupants of land and buildings.
- 5.24 The key considerations in respect of residential amenity are the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 5.25 The application has received several objections in respect of privacy, overshadowing and general amenity from the dwellings to the west, where plot 1 is close to the shared boundaries.

- 5.26 To the north of the application site are open fields, to the east is 4 Main Street and its rear garden, to the south is the highway, Main Street and to the west is Prospect House and Glen House. Plot 1 is closest to the western boundary with the main dwelling located 5.5 metres from the common boundary with Glen House and between 7.3 and 10.5 metres from the common boundary with Prospect House. Plot 3 is closest to the eastern boundary of the site with the main dwelling located 8.6 m from the common boundary with 4 Main Street.
- 5.27 In considering the proposed development, in particular plots 1 and 3, these face the rear gardens of current neighbouring dwellings. From the elevations members will see that the design has taken account of this, with first floor windows being replaced with rooflights to limit overlooking. The only first floor window in the main elevation will be an ensuite window, so obscure glazed. Likewise, the room in the roofspace will have rear facing rooflights, which are positioned high up within the roof plane and therefore remove the opportunity for overlooking.
- 5.28 Plot 2 faces Main Street and is set sufficiently back so as not to overlook the dwellings opposite. This too has the rear elevation rooflight arrangement to ensure privacy is maintained between the plots in particular plot 3. Plots 4-6 represent less of a concern, as these face fields to the north and all front facing windows face the internal private drive.
- 5.29 Plot 1 sits directly to the rear of Prospect House, which has a very small and irregular shaped rear garden. This means the rear windows of Prospect House will face the side gable of Plot 1. This distance is 11.8m away, which is just above the recommended distances to safeguard outlook. Plot 1 replaces a much smaller agricultural building in this location and with its 8m ridge will undoubtedly have more of an impact than currently exists. The dwelling however is north so will cause no loss of sunlight however will be visible from the rear windows of Prospect House. This cannot really be repositioned any further north as it would impact on plot 6. Also, a single garage is proposed to the southern boundary of Plot 1. This was contemplated being moved to the opposite side of the plot, however officers considered the benefit of this to be very little given the shallowness of the garage roof.
- 5.30 An issue has also been raised within the objections over the proximity of an electricity pole with equipment on it in the north western corner of the site near plot 1 and 6. The objector believes in sufficient separation exists between the plots. A response from asset protection is awaited. If it is too close, then the scheme will have to be amended or the infrastructure moved at the developers cost.
- 5.31 Finally in respect of any noise and nuisance generated from the development, this is expected whilst construction occurs and condition 5 of the outline seeks to control this and states "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."
- 5.32 Therefore, given the orientation of the plots and the separation distances involved, it is not considered that the proposals would cause sufficient harm in respect of overshadowing, overlooking, oppression or loss of light justify refusal of the submission. It is therefore concluded that the proposal would be acceptable in respect to its impacts on residential amenity and would therefore be in accordance with Policy ENV1(1) of the Local Plan and policies contained within the NPPF.

Impact on Highway Safety

- 5.33 Policy in respect of highway safety and capacity is provided by Policies ENV1 (2), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy.
- 5.34 The application site currently has one existing access that serves the farm. This would be utilised by Plot 1 and the existing Farmhouse. Further to this, two new accesses would be created, one separate access for plot 2 and one in the form of a private drive for Plots 3-6. Each plot would have on-site parking and access to garages. The application has received considerable objection in respect of highways and parking, as this section of the Main Street is narrow and used for onstreet parking. Residents were concerned that the additional flows will harm highway safety and remove the ability of residents opposite to park on street. Residents were also concerned that the 2 additional accesses were not all necessary, (in particular the access to plot 2) despite the indicative plan on the outline showing 2 additional accesses.
- 5.35 NYCC Highways have assessed the application in respect of the parking levels, visibility and the number of proposed access points and raise no objection. Conditions have been suggested covering the need for the detailed plans of road and footway layout, also a condition to ensure the roads and footways are constructed prior to the occupation of the dwellings. Conditions covering the discharge of surface water, private access/verge crossings, visibility splays, pedestrian visibility, access and turning, conversion of garage spaces are also included. Condition 6 of the outline already covers the need for onsite parking and storage.
- 5.36 It is therefore considered that the scheme is acceptable and in accordance with policies ENV1(2), T1 and T2 of the Local Plan, Policy SP19 of the Core Strategy with respect to the impacts on the highway network subject to conditions.

Impact on Archaeology

- 5.37 NYCC Heritage Services were consulted on the original outline permission. In summary, the Principal Archaeologist raised no objections to the proposals in terms of their impact on archaeology, subject to a condition (No.4) requiring a scheme of archaeological mitigation recording is undertaken in response to the ground disturbing works associated with the proposal. This condition will need full discharge prior to development commencing and therefore safeguards the archaeological potential of this historic village.

Flood Risk and Drainage

- 5.38 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design.
- 5.39 The site is confirmed to lie within Flood Zone 1, which has a low probability of flooding. Therefore, the Sequential Test and Exceptions Tests do not need to be applied and would have been necessary at the outline stage. Nor does any flood resilience need incorporating into the scheme.

- 5.40 In terms of drainage, the submission was accompanied by a drainage layout plan, which showed the surface water would be disposed of via a soakaway on the owner's adjacent land and foul water would be disposed of via Yorkshire Water Mains. Whilst the plan shows the routing of the drainage, the plan lacks detail in terms of flow rates.
- 5.41 Yorkshire Water and the Ouse and Derwent Internal Drainage Board and have been consulted on the proposals. Yorkshire Water have raised no objections to the proposal as the 6m easement is maintained on the eastern side of the site for the 400m surface water sewer that runs through the site. This is also protected by condition 7 on the outline. The Ouse and Derwent Drainage Board have raised no objections to the proposals subject to a condition requiring a detailed scheme of drainage to be agreed. This however is already a condition of the outline (No.8) and therefore does not need repeating. The proposal is therefore acceptable in respect of drainage and flood risk and therefore accord with Policies SP15, SP16, SP19 of the Core Strategy, and the NPPF.

Nature Conservation and Protected Species

- 5.42 Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 179 to 182 of the NPPF. The presence of a protected species is a material planning consideration.
- 5.43 The application site is not within an area designated for nature conservation. However, the application site is located within proximity to a pond known to have great crested newts. Whilst it is noted that no information regarding ecology has been provided with this application, Nature Conservation and Protected Species ecology was considered under the outline application. It is noted that an Extended Phase 1 Habitat Survey dated, January 2017 was submitted along with a great crested newts presence/ absence survey was undertaken dated June 2018. NYCC Ecology reviewed the application at the time and overall raised no objections to the proposed development. Subject to conditions requiring (1) the development to be carried out in accordance with the recommendations of the Extended Phase 1 Habitat Survey undertaken by Wold Ecology Ltd, dated January 2017 and the Great Crested Newt Presence/Absence Survey undertaken by Astute Ecology ecological Consultants, dated June 2018 and (2) the proposed future management of the proposed receptor area and wildlife corridor. These were conditioned as part of the outline consent under conditions 09 and 10. Also the landscape plan was amended to increase the hedgerow species as per the ecologists comments.
- 5.44 Overall, it is considered that the proposal would not harm any acknowledged nature conservation interests and is therefore in accordance with Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

Land Contamination

- 5.45 Relevant policies in respect of land contamination include Policy ENV2 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy. This matter was again considered within the outline where a contamination statement was submitted which addressed the site former agricultural use. This was reviewed by the Council's consultants and deemed acceptable subject to more through assessment being undertaken i.e. a Phase 1 Desk Based Assessment. Several

conditions were recommended in respect of land contamination within the outline (No.11-14) and therefore do not need to be reattached to any permission granted by this application.

- 5.46 As such, having had regard to all relevant information, it is considered that the proposal would be acceptable in respect of land contamination and is, therefore, in accordance with Policy ENV2 of the Selby District Local Plan.

Affordable Housing and Public open space contributions

- 5.47 Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the district. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the district. The Policy notes that the target contribution will be equivalent to the provision of up to 10% affordable units. The calculation of the extent of this contribution is set out within the Affordable Housing Supplementary Planning Document which was adopted on 25 February 2014.
- 5.48 Given this is a reserved matters application, Affordable Housing is not a matter for consideration as this would have been controlled at the outline stage.
- 5.49 Similarly in respect of public open space contributions, whilst the Council agreed in 2020 the CIL/S106 Infrastructure Funding Statement which gives the ability of schemes with more than 4 dwellings to be liable for contributions in line with Policy RT2 of the Selby District Local Plan, in this instance no contributions are necessary, as this is a reserved matters submission and wasn't requested at the outline stage.

Waste and Recycling

- 5.50 For developments of 4 or more dwellings developers must provide waste and recycling provision at their own cost and as such should the application be approved.
- 5.51 The layout shows provision for a bin collection point at the rear of the garage to plot 2. This shows space for 6 bins. Comments were sought from the Waste and Recycling Officer, who stated that collection vehicles will not access private drives or use them for turning. The bin collection point was noted; however, the preference was to have this closer to the road and should be large enough to accommodate two bins per property each collection day. The existing property of Yew Tree House will already present their bins at the main road, and this should be maintained. Plot 1 should present with Yew Tree House and plot 2 will also present at the main road and so a presentation point will only be required for plots 3 to 6. The collection point initially shown only showed space for 6 bins and therefore this was amended to 8.
- 5.52 In terms of distance from the highway the agent was asked to address this, however declined as they consider the current 21m distance is within the 25m recommended distance within the SPD (March 2007) and is acceptable. In this instance whilst it makes the collection service less efficient, the position was agreed. Condition 15 of the outline permission secures the provision of bins etc at developer's expense so there is no need to repeat that 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 this reserved matters aligns with the principle of the proposed development agreed at the outline stage. The proposed 6 dwellings are appropriately landscaped and are of an appropriate scale, appearance that will ensure no adverse impact on the character and appearance of the area and living conditions of neighbouring occupiers.
- 6.2 Furthermore, the proposals are considered to be acceptable in respect of highway safety, flood risk, drainage, nature conservation and protected species, land contamination, affordable housing and waste and recycling. The proposal is therefore considered to be acceptable in accordance with Policies SP1, SP2, SP4, SP18 and SP19 of the Core Strategy, Policies ENV1, ENV 2, T1 and T2 of the Core Strategy and the advice contained within the NPPF.

8 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:
- Atkinson 01 - Location Plan
 - 031a – Proposed Site Layout
 - 041a – Landscaping Layout
 - 051 – Proposed Drainage Layout
 - 061 – Plot 4, 5 & 6 floor plans and elevations
 - 071 – Plot 1,2 & 3 Floor plans and elevations
 - 081 – Garage layout and elevations

Reason:

For the avoidance of doubt.

02. Notwithstanding the submitted plans and drawings, the materials to be used in the construction of the exterior walls, roof(s) and boundary walls of the dwellings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before above ground construction of the dwellings commences. The development shall then be carried out in accordance with the approved details.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 and ENV25 of the Selby District Local Plan.

03. There shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site, until the following drawings and details have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority, or alternatively details of a management company for the site have been submitted for consideration:

a. Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:

- the proposed highway layout including the highway boundary
- dimensions of any carriageway, cycleway, footway, and verges
- visibility splays
- the proposed buildings and site layout, including levels
- accesses and driveways
- drainage and sewerage system
- lining and signing- traffic calming measures
- all types of surfacing (including tactiles), kerbing and edging.

b. Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:

- the existing ground level
- the proposed road channel and centre line levels
- full details of surface water drainage proposals.

c. Full highway construction details including:

- typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
- when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
- kerb and edging construction details
- typical drainage construction details.

d. Details of the method and means of surface water disposal.

e. Details of all proposed street lighting.

f. Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.

g. Full working drawings for any structures which affect or form part of the highway network.

h. A programme for completing the works.

The development shall only be carried out in full compliance with the approved drawings and details unless agreed otherwise in writing by the Local Planning Authority with the Local Planning Authority in consultation with the Highway Authority.

Reason:

In accordance with policies T1 and T2 of the Local Plan and to secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of highway users.

04. No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority in consultation with the Highway Authority before the first dwelling of the development is occupied.

Reason:

In accordance with policies T1 and T2 of the Local Plan and to ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.

05. There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme.

REASON

In accordance with policies T1 and T2 of the Local Plan and in the interests of highway safety.

06. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements
- c. The details of the access shall have been approved in writing by the Local Planning Authority in consultation with the Highway Authority.
 - d. The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number A1.
 - e. Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
 - g. 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 shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason:

In accordance with policies T1 and T2 of the Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

07. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 43 metres measured along both channel lines of the major road Main Street from a point measured 2 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height

shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with policy number and in the interests of road safety.

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

Reason:

In accordance with policies T1 and T2 of the Local Plan and the interests of road safety to provide drivers of vehicles using the access and other users of the public highway with adequate inter-visibility commensurate with the traffic flows and road conditions.

09. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:

- b. vehicular, cycle, and pedestrian accesses
- c. vehicular and cycle parking
- d. vehicular turning arrangements
- e. manoeuvring arrangements
- f. loading and unloading arrangements.

Reason:

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

10. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number 9:

- d. are available for use unless otherwise approved in writing by the Local Planning Authority.

Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

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

11. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 or any subsequent Order, the garage(s) shall

not be converted into domestic accommodation without the granting of an appropriate planning permission.

Reason:

In accordance with policies T1 & T2 of the Local Plan and to ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity the development.

12. All tree planting, hedgerow planting and turfing shown on Landscaping Layout dated 14/10/21 shall be carried out in the first planting seasons following the first occupation of the dwellings or the substantial completion of the development, whichever is the sooner.

Reason:

To ensure the landscaping is carried out in accordance with Local Plan Policy ENV1 and Core Strategy Policy SP18.

13. If within a period of five years from the date of the planting of any tree/hedge/shrub that tree/hedge/shrub, or any replacement, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree/hedge/shrub of the same species and size as that originally planted shall be planted in the same location as soon as reasonably possible and no later than the first available planting season.

Reason:

To ensure maintenance of a healthy landscape scheme, in accordance with Local Plan Policies ENV1 and Core Strategy Policy SP18.

Informatives:

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

HI-01 INFORMATIVE

In imposing condition number above it is recommended that before a detailed planning submission is made a draft layout is produced for discussion between the applicant, the Local Planning Authority and the Highway Authority in order to avoid abortive work. The agreed drawings must be approved in writing by the Local Planning Authority for the purpose of discharging this condition.

HI-07 INFORMATIVE

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.

HI-14 INFORMATIVE

The proposals shall cater for all types of vehicles that will use the site. The parking standards are set out in the North Yorkshire County Council publication 'Transport Issues and Development - A Guide' available at www.northyorks.gov.uk

HI-17 INFORMATIVE- Mud on the Highway

You are advised that any activity on the development site that results in the deposit of soil, mud or other debris onto the highway will leave you liable for a range of offences under the Highways Act 1980 and Road Traffic Act 1988. Precautions should be taken to prevent such occurrences.

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 2021/1295/REM and associated documents.

Contact Officer:

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

Appendices: None

Appendix 2 – Officer Update Note 8 December 2021

Item 5.6

APPLICATION NUMBER:	2021/1295/REM	PARISH:	Kelfield Parish Council
APPLICANT:	Mr Richard Atkinson	VALID DATE: EXPIRY DATE:	18th October 2021 13th December 2021
PROPOSAL:	Reserved matters application (following the 2017/0701/OUT) including access, appearance, landscaping, layout and scale for the erection of 6 No dwellings		
LOCATION:	Yew Tree House Main Street Kelfield Selby North Yorkshire YO19 6RG		
RECOMMENDATION	GRANT		

Consultation response from the Parish Council

Kelfield District Council supported the original application to demolish Yew Tree House and erect 6 new dwellings on the site. However, it does not support the 'new' retention of Yew Tree House on this revised application.

Consultation response from the Conservation officer – Objection

This application is a reserved matters application, the outline application was approved in 2017 which showed the retention of the farmhouse, a row of single storey garages to the left (north-west), semi detached house to the right (east) and a long range to the rear (north). The scheme was supported from a conservation perspective due to the layout having an agricultural influence. The current scheme differs dramatically from the approved outline illustrative layout, it now shows a domestic arrangement with three large detached properties surrounding the existing farmhouse and three detached plots to the rear (north). This is disappointing to see as it shows little consideration to the historic development or local distinctiveness of the village.

Kelfield is an historic settlement and is mentioned in the Domesday Survey of 1086 as Chelchefelt. Its current layout is thought to have existed since this period with a main street and long plots to either side. To the north of the application site is Kelfield Moated site and fishpond which dates from the 13th Century. The architecture within the village is influenced by agriculture and this theme should be retained in any future developments.

The application site contained the 19th Century farmhouse and farm buildings which date to the 20th Century to the rear. Yew Tree House has been identified as a non-designated heritage asset. A non-designated heritage asset can be a building, monument, site, place, area or landscape identified as having a degree of significance. It is considered that this building has architectural value in terms of its aesthetic value, it has a positive external appearance which contributes to the street scene and adds to the character of Kelfield. A

Heritage Statement should have been submitted with this application as a requirement within the NPPF paragraph 203:

“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

The retention of the farmhouse in this scheme is completely supported as it will retain the local distinctiveness of Kelfield. However, this new layout and the design, bulk and positioning of the proposed new dwelling is not supported and will have a harmful impact upon the local distinctiveness of Kelfield as well as upon the non-designated heritage asset of Yew Tree Farmhouse.

The development fails to meet the requirements of the NPPF paragraph 203 relating to non-designated heritage assets. It fails to meet the requirements of paragraphs 199 and 194 as the significance of the site has not been assessed. The proposed scheme does not comply with Core Strategy policy SP18 or SP19. These policies specifically relate to design and context.

SP19 states that: Proposals for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside...Both residential and non-residential development should meet the following key requirements:

- a) Make the best, most efficient use of land without compromising local distinctiveness, character and form.
- b) Positively contribute to an area’s identity and heritage in terms of scale, density and layout.

This scheme does not positively contribute to the local distinctiveness of Kelfield and would erode the historic character of this agricultural site. Substantial amendments are required for this proposal to improve the layout, building types and their design.

The planning agent has responded to the concerns in a separate email to members dated: 4.12.21.

5 letters of support, from 3 addresses:

- The proposed dwellings will be beneficial to our village, boosting population and helping to attract a better bus service.
- It will attract young families to the village and join the village community.
- The site is an ideal location for new housing, higher and away from the river, and on a much larger plot so not to intrude on nearby housing.

- The scheme will enhance this part of the village and remove the farm. Sites opposite have been developed for similar developments on lower land.

Additional Letter of objection:

The design has too many accesses will create parking and blockages for the Main Street in Kelfield as the increase in home working has resulted in more on street parking at a pinch point before a sharp bend in the road. It would be much better for a small residential development to have one driveway to serve all the properties.

Additional Conditions:

14. No development above slab level of the dwellings hereby approved shall commence until details of electric vehicle charging points for each dwelling have been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved charging points shall be provided prior to occupation of each dwelling and subsequently retained for that purpose.

Reason:

To encourage the use of low emission vehicles, in turn reducing CO2 emissions and energy consumption levels in accordance with Plan Policy SP15.

15. No development above slab level of the dwellings hereby approved shall take place until details of measures to facilitate the provision of high speed broadband for the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to occupation of each dwelling.

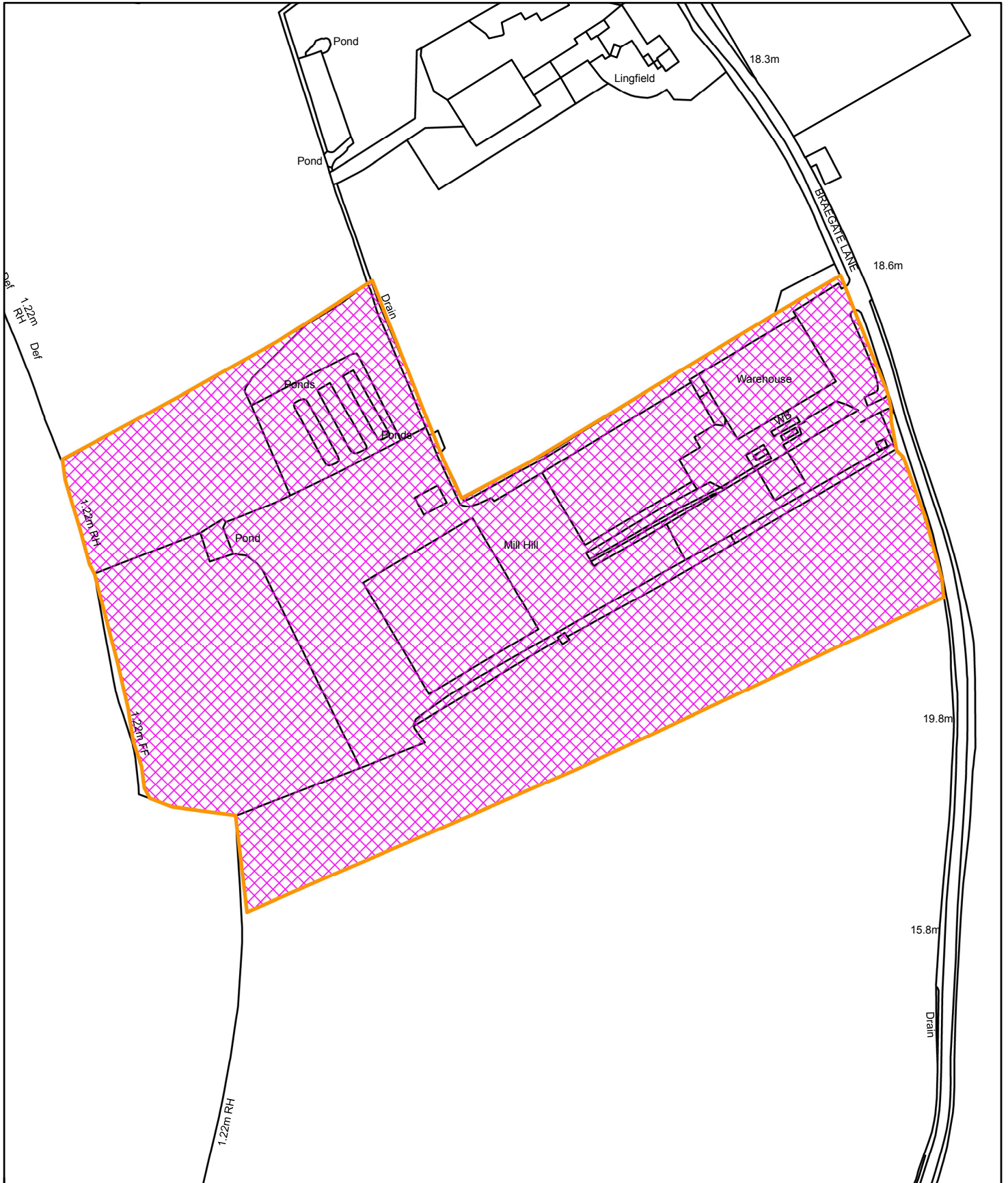
Reason:

In the interests of providing a sustainable form of development and economic growth and in order to ensure compliance with paragraph 112 of the National Planning Policy Framework and Plan Policy SP12.

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Agenda Item 5.3

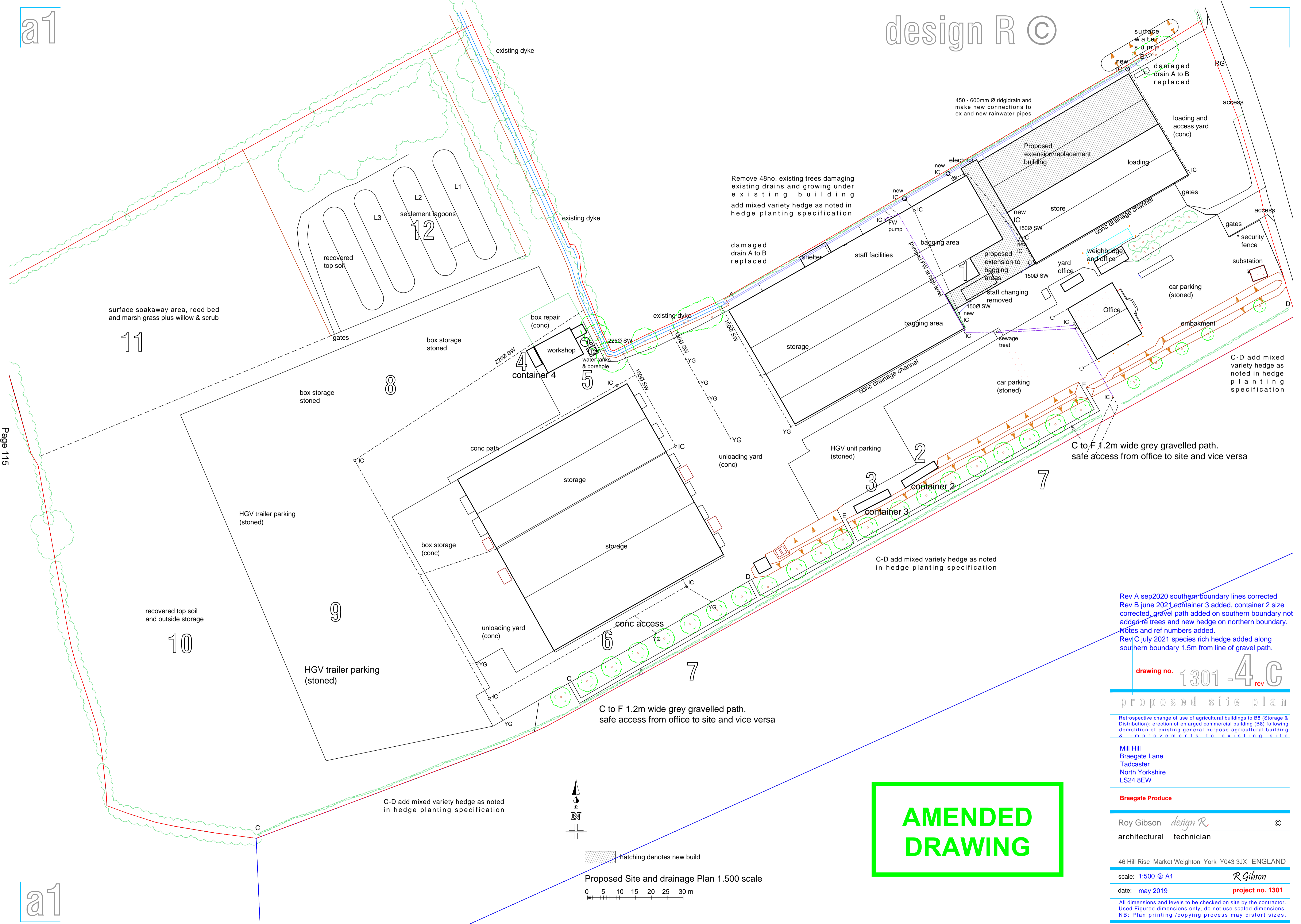
Ibbotsons, Mill Hill, Braegate Lane, Colton
2019/0559/FULM



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Rev A sep2020 southern boundary lines corrected
 Rev B june 2021 container 3 added, container 2 size corrected, gravel path added on southern boundary not added re trees and new hedge on northern boundary. Notes and ref numbers added.
 Rev C july 2021 species rich hedge added along southern boundary 1.5m from line of gravel path.

drawing no. **1301-4 C** rev

proposed site plan

Retrospective change of use of agricultural buildings to B8 (Storage & Distribution); erection of enlarged commercial building (B8) following demolition of existing general purpose agricultural building & improvements to existing site.

Mill Hill
 Braegate Lane
 Tadcaster
 North Yorkshire
 LS24 8EW

Braegate Produce

Roy Gibson *design R.* ©
 architectural technician

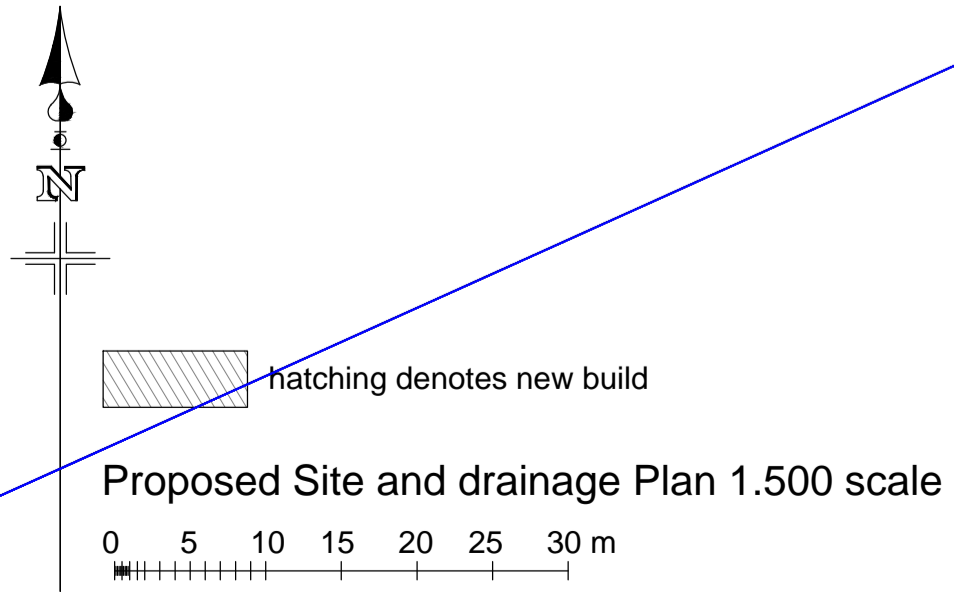
46 Hill Rise Market Weighton York Y043 3JX ENGLAND

scale: 1:500 @ A1 *R Gibson*

date: may 2019 **project no. 1301**

All dimensions and levels to be checked on site by the contractor. Used Figured dimensions only, do not use scaled dimensions. NB: Plan printing /copying process may distort sizes.

AMENDED DRAWING



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Report Reference Number: 2019/0559/FULM

To: Planning Committee
Date: 12 January 2022
Author: Diane Holgate Principal Planning Officer
Lead Officer: Ruth Hardingham Planning Development Manager

APPLICATION NUMBER:	2019/0559/FULM	PARISH:	Colton Parish
APPLICANT:	Braegate Produce Ltd	VALID DATE:	05.06.2019
		EXPIRY DATE:	EOT in place
PROPOSAL:	Use of agricultural buildings and land for the processing and storage of potatoes, erection of enlarged storage building following demolition of existing building, construction of internal road way and footpath, construction of water tanks, excavation of lagoons, and construction of hard-standings		
LOCATION:	Ibbotsons Mill Hill Braegate Lane Colton Tadcaster LS24 8EW		
RECOMMENDATION:	Planning Permission be GRANTED subject to conditions		

This application has been brought before Planning Committee at the request of Councillor Musgrave.

1.0 INTRODUCTION AND BACKGROUND

1.1 This application is for full planning permission for the intensification of the use of the agricultural buildings and land for the processing and storage of potatoes. The proposal also includes the erection of an enlarged storage building following demolition of the existing building along with the construction of a new internal roadway, footpath, water tanks, lagoons and hardstandings.

- 1.2 The application was submitted on the 5 June 2019 following the previous application 2018/0562/FULM being withdrawn on officer advice due to insufficient information.
- 1.3 The use and some of the works have been implemented as such the proposal is for part retention of the development. The demolition and re- construction of the storage building has not yet commenced.
- 1.4 The site was formerly occupied by Ibbotson potato farmers from 1982 prior to be acquired by Braegate Produce supplies in 2018 who supply potatoes to supermarkets, wholesalers and processors around the UK.
- 1.5 The use has change from a storage facility in connection with potato farming in the local area by a local farmer, to a processing, storage and distribution facility where potatoes are provided by various growers. Braegate Produce procure produces from various potato growers, the product is processed and packed then distributed to supermarkets, wholesalers and processors all around the UK. In legal terms any buildings which were substantially completed more than 4 years ago have become lawful and immune from enforcement action. This only applies to their structures. The same applies to engineering works. The Courts have held that the period of immunity for a structure is 4 years, but the use of that building needs to have taken place for 10 years for it to have become immune.
- 1.6 The application is supported by the following information:
- Existing and proposed elevations
 - Site Plan
 - Proposed elevations and sections
 - Design and Access Statement
 - Ecology Assessment and Net Gain Assessment
 - Transport Assessment
 - Travel Plan
 - Planting Specifications
 - Topographical Survey
 - Planning Statement
- 1.7 On visiting the site officers identified a number of developments that do not have the benefit of planning permission and in the case of the operational development are less than 4 years old:
- Water towers
 - Internal road
 - Path
 - Hard surfaces
 - Lagoons
- 1.8 The applicant has commissioned a topographical survey of the site to accurately identify all development on site and amended plans and up to date ecological assessments have been provided.
- 1.9 Potatoes are delivered to the site 5 days per week Monday to Friday, and deliveries out of the site, to customers, are 7 days per week. Deliveries in generally are between 06:00 to 16:00 Monday to Friday, deliveries are generally 04:00 to 22:00.

- 1.10 Generally the packing operations work 6 days per week, 06:00 Monday through to Sunday morning 04:00. The business runs a day shift and a night shift. The number of packing lines in use and, consequently, the staff present on site is based on the daily orders.

2.0 CONSULTATION AND PUBLICITY

Consultation Responses

- 2.1 **NYCC Ecology** – The ecology walkover survey doesn't raise any ecological issues. The site is of low ecological value and the calculations show that the proposed hedgerow planting would achieve a net gain for biodiversity. Hedge planting should follow the plan 1301 Rev A submitted in October 2019.

NY Fire and Rescue – No objections

NYCC Highways - NYCC highways raise no objections. The previous use would have the potential to create numerous vehicle movements. The information provided within the Transport Statement has identified that there have been no accidents at the site in the last 5 years and that improvements have been made to the existing accesses. The improvements made were agreed with the Highway Authority.

NY Police – No comments.

NYCC Local Lead Flood Authority (LLFA) – The supporting statement states that surface water currently drains to soakaways, a condition is recommended requiring details of drainage.

The proposed reconstruction of the agricultural building and side extension are proposed on existing hardstanding that is already draining to the watercourse network as shown on the existing site layout plan. The proposed extension would not therefore result in an increase in surface water rate and volume entering the watercourse, thus not increasing flood risk elsewhere.

Notwithstanding this, in accordance with the NYCC SuDS design guide, any runoff from the redevelopment of a brownfield site should be reduced by 30%. The applicant has not provided any calculations to demonstrate how the runoff from the proposed reconstructed unit and extension will be managed and reduced by 30%.

The following condition is recommended:

Development shall not commence until a scheme restricting the rate of development flow runoff from the site has been submitted to and approved in writing by the Local Planning Authority. The flowrate from the site shall be restricted to a minimum 30% reduction of the existing positively drained runoff rate in accordance with the NYCC SuDS Design Guide. A 30% allowance shall also be included for climate change effects for the lifetime of the development. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.

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

NYCC Archaeology – There are no known archaeological sites in the area indicated or within the immediate vicinity. No objections.

Ainsty IDB – Discharge rate to the watercourse has not been agreed. The site is outside the district with no Board maintained watercourse within the immediate vicinity. The preferred option is discharge to soakaways. If there has been a previous discharge to a watercourse and if soakaways are not possible the existing rate should be reduced by 30%. If approved the following condition should be included:

No development approved by this permission shall be commenced until the Local Planning Authority, in consultation with Ainsty (2008) Internal Drainage Board, has approved a scheme for the disposal of surface water. Any such scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

The following criteria should be considered for the disposal of surface water:

- 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).
- For the redevelopment of a brownfield site, the applicant should first establish the extent of any existing discharge to that watercourse.
- Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140 litres per second per hectare or the established rate whichever is the lesser for the connected impermeable area).
- Discharge from “greenfield sites” taken as 1.4 litres per second per hectare (1:1 year storm).
- Storage volume should accommodate a 1:30 year event with no surface flooding and no overland discharge off the site in a 1:100 year 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.

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

The Countryside Charity (CPRE) – An agricultural use has been in operation for some years. The increased activity at the site have started to cause some concerns with local CPRE Members and residents in the area particularly in relation to traffic movements.

Furthermore, from the site, the vehicles travel along Braegate Lane to the A64. Until the A64 is reached, both Braegate Lane and Colton Lane are typical rural lanes and whilst residents are used to some large vehicular movements, the number of these movements are now causing distress and intimidation to many local road users.

The NPPF states very clearly that planning decisions should ensure any significant effects on the transport network, including from highway safety, can be mitigated to

an acceptable level. It goes on to state that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety.

The application includes the erection of a 40m new building, following the demolition of an existing general purpose agricultural building. It is recognised that whilst the new building is particularly large, it is in-keeping with the remaining buildings on site in terms of scale. CPRENY has no specific comments to make on the building and welcomes the use of solar panels on site in relation to the mitigation of climate change.

In terms of ecological improvements, CPRENY are dismayed that so many boundary trees and hedgerows are to be removed to facilitate the proposals, although understand that the submitted planting plan has included replanting of native species which will provide a good mix of habitats for biodiversity. However, it is disappointing that the applicant has not sought to provide net gain for biodiversity as part of the proposals in line with the revised NPPF (para.170) and the emerging Environment Bill.

Whilst CPRENY do not object in principle to the proposals, it is considered that as a minimum conditions should be attached to any future planning permission to secure effective hours of operation which do not include night time vehicular movements, restrictions on daily traffic movements and an appropriate biodiversity management plan. Furthermore, a condition relating to night-time noise control should be attached if proved appropriate. If the Council are not satisfied that the proposal can be made satisfactory by effective conditions then the application should be refused and enforcement action undertaken to ensure that vehicle movements and hours of operation return to the pre-sale level and commencement of operations by the applicant.

SDC Environmental Health – No objections. Aware of concerns raised by neighbouring receptors with regards to light spill from the development. Condition recommended:

Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone - E2 contained within Table 1 of the Institute of Light Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2005.

Reason: In order to safeguard the amenity of adjoining residential occupiers.

Environment Agency (EA) – No response.

NYCC Public Rights of Way (PROW) – No response.

Yorkshire Water – No response.

Bolton Percy, Colton and Steeton Parish Council – conflicts with Green Belt policy, concerns in relation to noise, traffic and highways. Concerns with regards to the number of HGV traffic movements, width of the existing country lane and the impact on the condition of the road due to the weight of the vehicles.

NY Bats – No response.

Yorkshire Wildlife Trust (YWT) – No response.

Publicity

2.2 The application has been advertised in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. A site notice was placed outside the site and then again after the submission of amended details and additional reports.

2.3 Various letters of objection have been received from one contributor.

The objections raised are paraphrased below:

- The application is a major departure from open countryside and with an enormous environmental impact from the vehicles servicing the site.
- A Transport Assessment has not been supplied with the application.
- The applicant's Travel Plan and Traffic Impact Assessment are fundamentally flawed and the County Council seem to have accepted them without checking, this is not acceptable, especially when to accept them is a breach of our rights within Article 8 of the Human Rights Act - the right of peaceful enjoyment of ones possessions and property.
- There are no details provided with regards to operating times. The key factor to the application is that it is a commercial operation without restrictions on specific usage in open countryside and this definition of use applies along its transport route. At any time it could change operations to any content of storage and vehicle operations.
- If there were reasonable operation hours and if the applicant stuck to the vehicle movements stated then a substantial element of our objections would cease.
- The proposal is for 17.9 acres of commercial development in the open countryside and access along a disproportionate narrow country road where the volume of HGV's servicing the site is far greater than the declared.
- Movements, forcing cyclists and pedestrians off Colton Lane and eroding the verges along the lane by up to 1m in places.
- The Applicant has submitted details of employees on the site, the huge majority do not contribute anything to the local economy. There is no overriding economic necessity of this site.

3.0 SITE CONSTRAINTS

3.1 The main constraints identified are:

- Low risk coal authority area.

4.0 POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. Consultation on preferred options took place in early 2021. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework July 2021 recently amended replaces the previous versions dated, February 2019, July 2018 NPPF and 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 2021 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

"219...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 (2013)

- 4.6 The relevant policies of the Core Strategy 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 (2005)

4.7 The relevant saved policies of the Selby District Local Plan are:

- ENV1 Control of Development
- EMP9 Expansion/re-development of existing employment uses in the countryside
- T1 Development in Relation to the Highway Network
- T2 Access to Roads

National Planning Policy Framework (July 2021)

4.8 The NPPF confirms the role of the planning system is to contribute towards the achievement of sustainable development. Paragraph 8 of the NPPF sets out the three overarching objectives a) an economic objective, b) a social objective c) an environmental objective. The relevant chapters/paragraphs of the NPPF are:

2. Achieving sustainable development
4. Decision making
6. Building a strong and economic economy
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places
15. Conserving and enhancing the natural environment

Annexe 1 Implementation

Annexe 2 Glossary

National Design Guide

5.0 APPRAISAL

5.1 This report will consider the harms and benefits of the proposal and the main issues are considered to be:

- The Principle of Development
- Impact on the Countryside and Landscape Visual Impact
- Impact on the Natural Environment
- Highways and Transportation
- Impact on Residential Amenity
- Design

The Principle of Development

5.2 The Core Strategy directs most growth to Selby to foster regeneration and strengthen and diversify its economy, encouraging diversification in rural areas and focus some growth the Sherburn in Elmet and Tadcaster.

5.3 The site is located in the rural area outside the development limits of the village of Colton and as such is classed as open countryside, policy SP2 (c) of the Core Strategy states that development is generally resisted unless it involves the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes and well-designed buildings, proposals of an appropriate

scale that would diversify the local economy. The site is not within the Green Belt – the GB boundary runs to the east of Braegate Lane and washes over Colton. Policy EMP9 of the Local Plan allows for the expansion and/or redevelopment of existing industrial and business uses outside of development limits.

- 5.4 The proposal also involves the erection of a replacement building. The existing storage building has a floor area of 2026 sq m, the proposed storage building (existing plus the replacement) has a floor area of 2044 sq m which results in an increase of 18 sq m. The proposal is therefore considered to be of an appropriate scale in terms of the building. Transport and Traffic movements are considered later in the report; however, the Transport Assessment indicates that the comings and goings have not significantly increased and as such the scale of the use is considered to be appropriate for the location.
- 5.5 The use of the buildings is for employment purposes; the agent has advised that there are 86 employees - 10 drivers, 9 office staff and 67 production staff.
- 5.6 The proposal involves the re-use of the existing buildings for employment purposes and a diversification of a former agricultural use and as such is acceptable in principle.
- 5.7 Paragraph 84 of the NPPF states that planning decisions should enable the sustainable growth and expansion of all types of businesses in rural areas both through conversion of existing buildings and well-designed new buildings and the development and diversification of agricultural and other land based rural businesses.
- 5.8 The proposal therefore complies with both local and national planning policy.

Impact on the Countryside and Landscape Visual Impact

- 5.9 Core Strategy Policy SP18, saved policy EMP9 require the expansion and re-development of existing businesses outside development limits to 2) not have a significant adverse effect on the character and appearance of the area and 4) proposals involving the expansion onto adjoining land would not result in the best and most versatile land and the site would be well related to the existing development and well screened.
- 5.10 As set out in paragraph 5.4 above, the proposed replacement building is marginally larger than the existing building it is to replace. The external finishes are to be a goosewing grey composite panel with verge trims which is not dissimilar to the existing building. The replacement building and re-cladding will improve the aesthetics of the building and in turn improve the appearance of the area.
- 5.11 In terms of expansion onto adjoining land, the land to the west/north was originally agricultural land associated with the Ibbotson's operation, the information provided suggests that this was in agricultural use until 2007 with the new use coming in around 2017. In 2018, google images provided by the agent show that the change of use took place, this is within the last 10 years and as such permission is sought for the use of the parcel of land in connection with the operations. A walkway has been created on the land to the south outside of the original site. The applicant advises that this has been created following health and safety guidance to allow a safe route for staff to ensure there is sufficing separation space from vehicles and people.

5.12 Policy EMP9 requires that expansion onto adjoining land should be well related to the development, which it is and be well screened. Both parcels of land are screened on all boundaries. The proposal involves the removal of the row of trees along the northern boundary of the site. These trees have been identified as moderate value in terms of biodiversity. The removal of the trees is not considered by officers to have a significant visual impact on the wider countryside when taking account of the mature landscaping within the adjacent site to the north. The proposed hedgerows on the north and south boundaries will provide good screening longer term to the site. The footpath to the south is made up of loose material to provide a hard surface protected walkway and will not be visible from distant views.

5.13 DEFRA Maps identify the land as being Grade 2 which is Very Good. In terms of assessing development proposals on agricultural land government guidance states that Grade 2 land is:

“Land with minor limitations that affect crop yield, cultivations or harvesting. A wide range of agricultural and horticultural crops can usually be grown. On some land in the grade there may be reduced flexibility due to difficulties with the production of the more demanding crops, such as winter harvested vegetables and arable root crops. The level of yield is generally high but may be lower or more variable than grade 1.”

The Town and Country Planning (Development Management Procedure (England) Order) (DMPO) 2015 requires local planning authorities to consult with Natural England on proposals for non-agricultural applications that result in a loss of more than 20 hectares of land. The adjoining land is less than 20 hectares. Taking account of the land being well related to the site and screened on boundaries the use of the land would not be practical for agricultural purposes given its scale.

5.14 The land to the north is used for outdoor storage and lagoons associated with the washing of the potatoes. Due to the topography, the site boundary screening and the interception of longer distance views by hedgerows and trees the storage area is not significantly visible. In order to manage the open storage area it is recommended that that conditions is imposed controlling the height of any equipment stored in this area and of a distance from the boundary.

5.15 Chapter 15 of the NPPF seeks to conserve and enhance the natural environment by protecting and enhancing landscapes, biodiversity, geology and soils recognise soils as a natural capital asset that provide important ecosystem services consider the economic and other benefits of BMV agricultural land, and try to use areas of poorer quality land instead of higher quality land

Highways and Transportation

5.16 Saved policies T1 and EMP 9 of the Local Plan, Policy SP19 Design Quality and Chapter 9 of the NPPF set out the considerations in relation to highways and transportation.

5.17 The application is supported by a Transport Assessment and Travel Plan prepared by Local Transport Projects Chartered Transport consultants.

- 5.18 There are two existing accesses to the site off Braegate Lane that are utilised for the use separating the HGV/commercial traffic from light vehicles. The northernmost access serves all commercial and HGV traffic to the site. This was improved recently with increased junction radii, new surfacing and sight line improvements. This allows safe access and egress for large vehicles, with adequate area provided internal to the site to enable HGVs to turn around and exit in a forward gear.
- 5.19 The second access to the south of the site serves the office part of the site and is also used by shift workers. It is only used by cars/occasional light vans and was also recently improved with new surfacing and widening. The two accesses ensure that HGV movements are completely separate from car traffic at the site, helping to improve safety, including pedestrian safety within the site.
- 5.20 The speed limit at Braegate Lane is 60mph. Vehicle speed surveys were undertaken to inform the Transport Assessment. The vehicles speeds surveyed were 45/46 mph which is significantly below the 60mph in both directions.

Pedestrian Provision

- 5.23 Whilst the walking distance to the nearest villages of Colton and Appleton Roebuck are within the 2km suggested as a maximum walking distance by the Chartered Institution of Highways & Transportation (CIHT) the Transport Assessment accepts that the potential for walking trips is limited given the rural location and lack of footways. There are several public footpaths within the vicinity of the site, including three accessed within the village of Colton and several to the west of the site and one within the vicinity of the site. The PROW's are not affected by the development.

Cycle Provision

- 5.24 The proposed development site is located within a reasonable cycle ride, up to 5km (approximately 15 minutes at the average cycling speed of 12mph), of the villages of Colton, Appleton Roebuck, Bilbrough and Bolton Percy. The DfT state that "in common with other modes, many utility cycle journeys are under three miles (5km), although, for commuter journeys, a trip distance of over five miles (8km) is not uncommon".

Public Transport

- 5.25 The Guidelines for Public Transport states that the generally acceptable maximum walking distance that a bus stop should be located from a development site is 400m, although it is acknowledged that actual walking distances can be notably longer. The nearest bus stops to the proposed development site are located in the village of Colton, approximately 700m north-east of the site. Bus service 21 operates from these stops, which provides services every 2 hours to York via Askham Bar. Measures to promote and encourage trips by public transport to and from the site are detailed within the site Travel Plan (LTP, 2019).

Accident Data

- 5.26 The Transport Assessment states that, following a survey of the Department of Transport Data, no collisions have been recorded within the vicinity of the site during the 5-year study period of 01.01.2013 and 31.12.2017. It is concluded that there is no collision history over the last 5 years and that the proposals should not have a detrimental road safety impact on the local highway network.

Traffic Impact

5.27 The details supplied outline the current and proposed trip numbers/ traffic movements at the site:

HGV:

- 20 two-way HGV movements Monday-Friday; and
- 10 two-way HGV movements Saturday and Sunday.

Staff Vehicles:

- 10 office staff;
- 9 HGV drivers (7 full-time, 2 part-time);
- 66 Production staff including 4 managers (including approximately 30% car sharing); and
- 33 to 42 agency staff with various hours (including approximately 30% car sharing).

5.28 The Transport Assessment envisages that the traffic flow at the site will remain unchanged as part of the current proposal and due to a significant number of staff trips to/from the site expected to be made outside of the network peak hours, the impact of the proposal on the adjacent highway network is expected to be negligible.

5.29 Concerns have been raised by an interested party with regards to the highways impact, particularly the HGV comings and goings in relation to noise and disturbance and the impact on the condition of the public highway.

5.30 NYCC Highways Officer has been consulted and agrees with the outcomes of the Transport Assessment. The Highway Authority has no objections to the development given that vehicle movements to and from the site will not change from those already taking place. Whilst it is appreciated that the change of use was not previously approved through planning, it is noted that the previous use would have the potential to create numerous vehicle movements. The information provided within the Transport Statement has identified that there have been no accidents at the site in the last 5 years and that improvements have been made to the existing accesses. The improvements made were agreed with the Highway Authority.

5.32 NYCC Highways Engineers have advised that Braegate Lane and Colton Lane were surface dressed in 2017 and that there are no further plans to re-construct the highway.

5.32 The applicant has provided information about their intention to implement a travel plan. The information provided has explained the proposed process and monitoring requirements. The Highways Officer has recommended a condition requiring the formal submission of a Travel Plan and designated parking areas should Members resolve to grant planning permission.

- 5.33 The proposal is considered not to result in any highway safety issues or significant impact on the highway network as advised by both the applicants and the Council's competent experts.
- 5.34 Paragraph 111 of the NPPF states that development should only be prevented on highways grounds if there would be unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

Impact on the Natural Environment

- 5.35 Policy SP18 Protecting and Enhancing the Environment of the Core Strategy and Chapter 15 Conserving and enhancing the natural environment of the NPPF set out the key considerations with regards to development and the impact on the natural environment.
- 5.36 An Ecology Appraisal 2018 by Yorkshire Ecology Surveys has been submitted with the application and more recently an updated Walkover Survey by Curtis Ecology. The report concludes that proposals to extend and/or replace existing buildings onsite within the same footprint or on hard standing is on land of Negligible Ecological Value.
- 5.37 The proposal involves the removal of an existing tree line which consists of semi mature *Fraxinus excelsior* (Common Ash) and *Fagus spp* (Beech) along the northern boundary. The consultants advise that the trees affect the foundations of the building immediately to the south and also the bankside of the existing ditch.
- 5.38 Whilst the trees are of amenity value along the northern boundary, they are considered by ecologists to be of moderate ecological value. The proposal is to replace the trees with a species rich native hedgerow of greater ecological value.
- 5.39 A second hedgerow is proposed along the southern boundary to meet with the existing hedgerows to the west and east boundaries of the site.
- 5.40 The surveys conclude that there was very little favourable habitat for bats within the application site. The trees around the perimeter of the site would be of benefit to bats as such the reports recommend the consideration of suitable lighting to ensure that there are no negative effects for the foraging habitats for bats. The lagoons have been considered to be very unlikely habitat for Great Crested Newts due to their location and the water is polluted from the washing of potatoes, the water is regularly disturbed and there are no aquatic plants growing in the ponds which means that GCN breeding pond is definitely not present.
- 5.41 The survey did not indicate the presence of any reptile species and data concludes that the site is not favourable habitat in addition to a lack of connectivity.
- 5.42 The survey did not indicate any nesting birds within the site boundaries. Any clearance and demolition should occur only in the months of October – February inclusive. An informative is recommended should Members resolve to grant permission.
- 5.43 The survey recommendations include long lasting ecological enhancement with species rich hedgerow, bat boxes to be fitted, enrichment plan and dark corridors around the habitat that may be used by trees. Conditions are recommended should Members resolve to grant permission.

- 5.44 The aforementioned policies and paragraph 174 and 180 of the NPPF seeks to conserve and enhance biodiversity. Whilst the proposal results in a loss of trees of limited weight is attached to their loss due the overall biodiversity net gain through the replacement with a native hedgerow. The proposal is therefore considered to be acceptable in terms of the impact on the natural environment.

Impact on Residential Amenity

- 5.45 Saved policies ENV1 Control of Development and EMP9 Expansion of existing industrial/business uses outside development limits of the local plan seek to ensure that new development and expansion of existing industrial/business uses would not have a significant adverse effect on local amenity.
- 5.46 As set out above in section 2.3 above concerns have been raised by an interested party with regard to the impact of the development on their residential amenity. The interested party is located around 500 metres to the north of the site on Colton Lane, this is a significant distance from the site, however, the occupiers are affected by comings and goings along Colton Lane/Braegate Lane as they are particularly close (around 250 metres) to the junction with the A64 and the service station.
- 5.47 The material planning concerns raised mainly relate to the level of comings and goings, which in the opinion of the interested party create noise and disturbance as a result of the change in the use and the impact on the stability and structure of the road and their property.
- 5.48 As set out in paragraph 5.30 above, NYCC have advised that they agree with the conclusions of the Transport Surveys and Assessment and that the change in the use does not result in a significant increase in vehicle trips from the former use. On this basis there is no evidence to suggest that any impact on the condition of the road or the occupier's property is as a result of the use and operations at Braegate Produce.
- 5.49 In terms of other impacts from the development such as noise, water pollution and light pollution, the Council's Environmental Health Officer (EHO) has advised that they have no objections to the change of the use from an agricultural storage and processing facility for potato farming to the storage, processing and distribution of potatoes brought onto site from alternative agricultural suppliers.
- 5.50 The EHO has recommended a condition to control lighting, it is accepted that the nearest residential receptor is some distance from the site and as such would not be significantly affected by light pollution. The details of lighting are an important consideration in terms of the night-time visual impact and on ecological receptors. On this basis , it is considered reasonable and necessary to apply a condition requiring technical lighting details should Members resolve to grant planning permission.
- 5.50 Whilst the level of comings and goings has been concluded not to be significant from the outcomes of the reports and advice from competent experts it is considered that it would be reasonable and necessary to control the traffic movements by condition to protect the amenity of residents along the travel route from unnecessary disturbance should Members resolve to grant permission.

Design

- 5.51 Saved policy ENV1 Control of Development and EMP 9 (3) expansion/re-development of industrial and business uses, SP 19 Design Quality of the Core Strategy and Chapter 12 Achieving Well Designed Places of the NPPF and the National Design Guide set out the key principles of quality design. The local and national policies state that the proposal should achieve high quality design, materials and landscaping which complements the existing buildings.
- 5.51 The design and appearance of the collection of buildings are that of a typical agricultural storage facility located within the open countryside. The buildings are large in scale and cover most of the site, however the height and roof span reduce the overall mass of the buildings.
- 5.52 The external appearance of the proposed extension/replacement building will be in keeping with the existing cladding in a grey colour. The design is functional and serves a purpose by responding well to the existing local character and identity. The proposed extension will be seen entirely in context with the existing buildings and as such whilst good design and the creation of high quality, beautiful buildings are fundamental to the planning and development process and a key aspect of sustainable development the design is sympathetic and in keeping.
- 5.53 It is therefore considered that the proposal is acceptable in terms of the design and appearance.

Other Matters

Archaeology

- 5.54 NYCC have advised that there are no archaeology issues, the proposed new build is to replace an existing building as such there are no heritage assets to consider.

Drainage

- 5.55 NYCC LLFA have advised that there are no objections with regards to the disposal of surface water from the site, however a detailed drainage strategy is required with regards to the run off rates. This is echoed by the drainage board. Details provided by the drainage board suggest that approval has not been given for discharge into the water course – despite the watercourse not being owned/managed by the IDB. An informative is recommended advising the applicant to seek the necessary permissions for existing and additional water discharge into any water course.

6.0 CONCLUSION AND PLANNING BALANCE

- 6.1 The established use as a processing, storage and distribution facility at the former Ibbotson's sites has changed from that solely connected with the farming of land by the Ibbotson farmers in the local area to a facility that processes, stores and distributes potatoes that are sourced from a variety of farmers and locations. It has been concluded that this has resulted in a change of use of the site. The proposal seeks permission for this along with the proposed replacement of a building and the retention of other developments as described in connection with the use. The application also seeks permission for the use of land to the west as outdoor storage, land to the north west for lagoons connected with the washing of potatoes and the land to the south which has been included in the site to provide a pedestrian path.

- 6.2 The operation of the site has therefore changed from agriculture and ancillary uses to a business use for the processing, storage and distribution.
- 6.3 The Government states in the NPPF that planning decisions should help create conditions in which businesses can invest, expand and adapt. Paragraph 81 of the NPPF states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities.
- 6.4 The NPPF states in paragraph 84 that planning decisions should enable a) the sustainable growth and expansion of *all* businesses in rural areas both through conversion of existing buildings and well-designed new buildings and b) the development and diversification of agricultural and other land based rural businesses.
- 6.5 Braegate Produce delivers an important role in food production by supplying UK grown potatoes to the UK market by working with UK producers in addition to employing 86 staff members. The proposal is considered to be a diversification of the former agricultural facility.
- 6.6 It has been concluded that there are no unreasonable impacts from the diversification that cannot be effectively managed through the use of planning conditions that meet with the legal tests.
- 6.7 The NPPF states that the purpose of the planning systems is to contribute towards sustainable development, the objective of sustainable development is to meet the needs of the present without compromising the ability of future generations to meet their own needs. The proposal puts forward economic, social and environmental objectives for which significant weight has been attached in reaching the officer recommendation.
- 6.8 The concerns raised by interested parties have been thoroughly investigated and taken into account in reaching the recommendation. Conditions are recommended should Members resolve to grant planning permission in line with the officer recommendation.
- 6.9 Significant weight has been attached to the NPPF in supporting the economic growth and productivity whilst taking into account the local circumstances.
- 6.10 Taking into account all of the above material planning considerations, Officers are of the view that the planning balance lies in favour of the proposal and as such recommend that planning permission is **GRANTED**.

7.0 RECOMMENDATION

PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

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 not be carried out otherwise in complete accordance with the approved plans and specifications.

Amended Supporting Statement Published 24.09.2021

Location Plan 1301-1B

Proposed Layout Plan 1301-4C

Five Acre Plot 1301-15

Proposed Elevations 1301-10

Part Proposed Site/Building Plan 1301-8

Proposed Sections 1301-11

Roof Plan 1301-12

Reason

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

03. Before development is commenced full details of the proposals for the disposal of foul sewage and surface water drainage, including the results of any necessary percolation tests, shall be submitted to and approved in writing by the Local Planning Authority. Only the approved scheme shall be implemented.

Reason:

To ensure the adequate provision for drainage from the proposed development, having had regard to Policy ENV1 of the Selby District Local Plan.

04. Development shall not commence until a scheme restricting the rate of development flow runoff from the site has been submitted to and approved in writing by the Local Planning Authority. The flowrate from the site shall be restricted to a minimum 30% reduction of the existing positively drained runoff rate in accordance with the NYCC SuDS Design Guide. A 30% allowance shall also be included for climate change effects for the lifetime of the development. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.

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

05. There shall be no delivery of products from suppliers to the site other than on Monday to Friday between the hours of 0600 hours and 1600 hours and not at all on a Saturday or Sunday.

Reason

To ensure the impact of the development on residential amenity is protected, having had regard to Policy ENV1 of the Selby District Local Plan

06. There shall be no deliveries of products out of the site to customers other than on Monday to Friday between the hours of 0400 hours to 2200 hours and not at all on a Saturday or Sunday.

Reason

To ensure the impact of the development on residential amenity is protected, having had regard to Policy ENV1 of the Selby District Local Plan.

07. There shall be no packing operations either inside or outside buildings other than between Monday 0600 hours to Sunday 0400 hours.

Reason

To ensure the impact of the development on residential amenity is protected, having had regard to Policy ENV1 of the Selby District Local Plan.

08. The external cladding shall match the existing buildings unless otherwise agreed in writing.

Reason

In the interest of policy ENV1 and EMP9 of the Selby District Local Plan

09. Prior to the first occupation of the building a detailed ecological enhancement plan and long-term management plan shall be submitted to and agreed in writing by the LPA. The plan shall include:

- Species rich hedgerows
- Bat boxes
- Enrichment plan
- Dark corridors

Reason

In the interest of conserving and enhancing the natural environment in line with policies ENV14 Protected Species of the Local Plan, SP18 Core Strategy and Chapter 15 of the NPPF.

10. Within 3 months of the date of this approval a detailed plan shall be submitted to and agreed with the LPA. The plan shall include the area used for outdoor storage, height in which items are to be stored and the proximity to the boundaries.

Reason

In the interest of visual amenity and protecting distance views across the countryside in accordance with Core Strategy Policy SP18, saved policy EMP9 and Chapter 15 of the NPPF.

- 1 The applicant is advised of the following requirements in relation to the surface water disposal.
 - 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).
 - For the redevelopment of a brownfield site, the applicant should first establish the extent of any existing discharge to that watercourse.
 - Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140 litres per second per hectare or the established rate whichever is the lesser for the connected impermeable area).
 - Discharge from “greenfield sites” taken as 1.4 litres per second per hectare (1:1 year storm).
 - Storage volume should accommodate a 1:30 year event with no surface flooding and no overland discharge off the site in a 1:100-year 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.

- 2 The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.

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 2020/0149/FULM and associated documents.

Contact Officer:

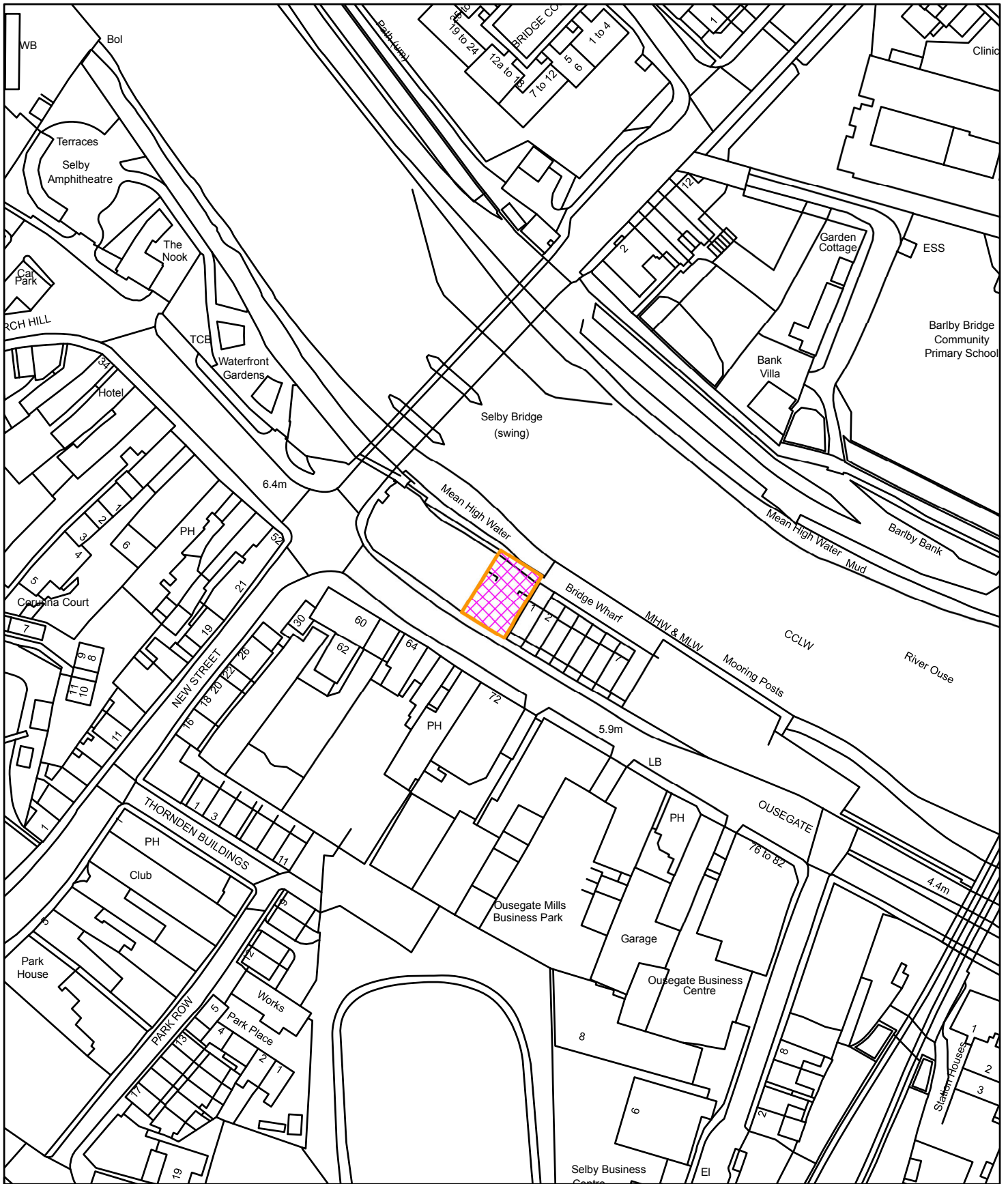
Diane Holgate - Principal Planning Officer

dholgate@selby.gov.uk

Appendices: None

Agenda Item 5.4

Toll Bridge Filling Station, Ousegate, Selby
2021/1087/FULM

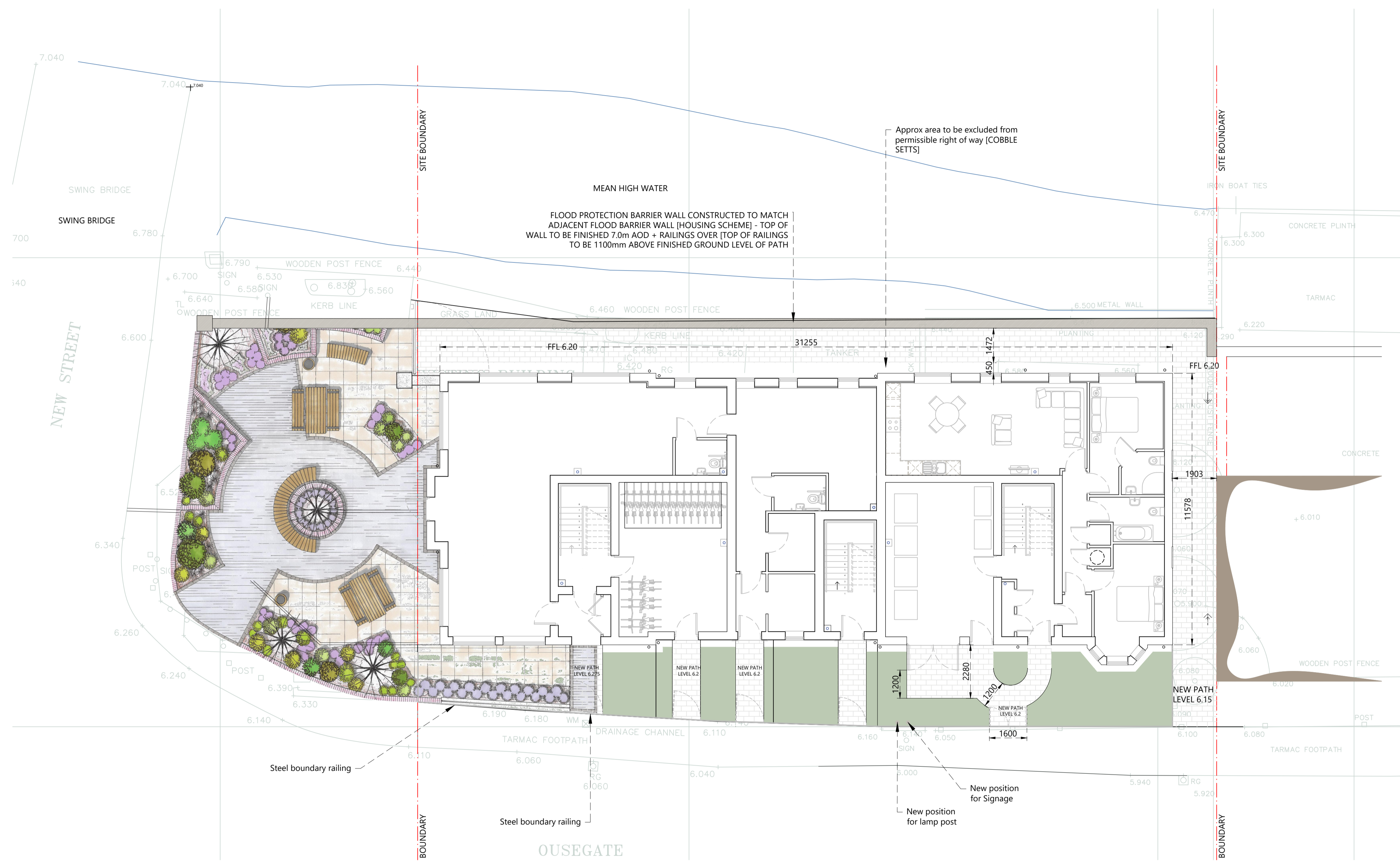


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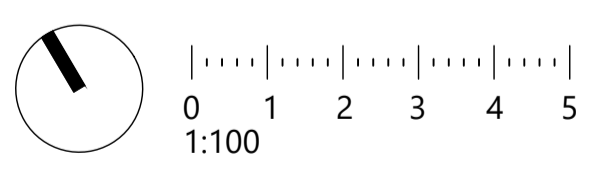


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SITE PLAN AS PROPOSED
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AMENDED
DRAWING

Project Name	Ousegate, Selby	Project No	505
Client	Kennedy	Architect	Butler
Date	Dec 2021	Scale	1:50 @A1
Sheet No	505	Sheet Title	P-01

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Report Reference Number: 2021/1087/FULM

To: Planning Committee
Date: 12 January 2022
Author: Mandy Cooper (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2021/1087/FULM	PARISH:	Selby Town Council
APPLICANT:	Parkside Corporation Investment Opportunities Ltd	VALID DATE: EXPIRY DATE:	31st August 2021 30th November 2021
PROPOSAL:	Development of one ground floor commercial unit [class uses E[a] and E[b] and 13 no. residential apartments to include landscaped gardens; cycle storage and refuse storage provision; access and flood barrier walls		
LOCATION:	Toll Bridge Filling Station (Derelict) Ousegate Selby North Yorkshire		
RECOMMENDATION:	APPROVE subject to a Unilateral Undertaking		

This application has been brought before Planning Committee due to the level of affordable housing being proposed.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located within the defined Development Limits of Selby, which is a Principal Town in the Selby District Core Strategy settlement hierarchy and the primary focus for new development, including housing, in the district.
- 1.2 The proposal site comprises a former filling station (now demolished) and at approximately 0.75ha is therefore classed as Previously Developed Land (Brownfield). The site also includes a small area of open space to the east side and adjoining existing residential development, which is owned by Selby District Council and defined on the Local Plan Selby inset map as a Local Amenity Area (Policy

ENV29). Immediately east of the site is a former wharf, which is now occupied by several townhouses. To the south side of Ousegate are a number of mostly older two and three storey buildings, which are in commercial use, several of which are Grade II Listed Buildings. The site is within the Selby Town Conservation Area. There is also a relatively modern building situated to the northern corner to the Ousegate junction with The Crescent, which comprises flats. West of the site and beyond the Ousegate Bridge is an area of public realm comprising seating areas with low level tree planting and shrubs; south of which are a varied range of commercial buildings with flats above.

- 1.3 The site is situated in a prominent waterfront position to the corner of Ousegate, immediately northeast of the entrance to Selby town centre and New Street, which merges into Barlby Road (A19) and the former toll bridge which crosses the River Ouse.
- 1.4 The application site is also included within the Selby Gateway Scheme, which is funded by the Transforming Cities Fund. This is an important programme of investment which aims to enhance the existing public realm, walking and cycling routes, with improved visual amenity and an improved gateway experience at the Selby Rail Station. In addition to the station, the site also encompasses five other key areas (Cowie Drive and proposed car park, Crescent /Park Street junction, Olympia Bridge and Shipyard Road), which includes the Ousegate Riverside.
- 1.5 The application site has an extant permission under application ref: 2010/0044/FUL for the: Erection of a building for A1, A2, A3, A4, A5, B1(a) & (b) and D1 use at ground floor and 10 No. dwellings on the upper floors, with ancillary bin and bicycle storage and landscaping of public open space. The approval was subject to a Unilateral Undertaking to secure the Public Open Space, in addition to a number of conditions.

The Proposal

- 1.6 The proposal would provide 13 dwellings, (comprising of 1 no. - 1 bedroom; 10 no. - 2 bedroom and 2 no. - 3 bedroom), the majority of which would be to the upper floors; in addition to one commercial unit [class uses E[a] (display and retail sale of goods, other than hot food) and E[b] (sale of food and drink for consumption (mostly) on the premises) and one residential unit situated to the ground floor.
- 1.7 There would be three distinct blocks to the north side of Ousegate, set back from the Ousegate frontage with a defensible barrier in the form of a low wall with railings above. The boundary wall would also enclose a small open area fronting the ground floor apartment with additional grassed and paved areas fronting the communal access and entry doors to the cycle storage and refuse areas; in addition to two internal stairwells. There would be a public area comprising landscaping with seating areas to the west side and adjoining the commercial unit, with a flood barrier wall located to the rear (north) of the development.

Relevant Planning History

- 1.8 The following historical applications are considered to be relevant to the determination of this application:
 - CO/1994/0449, Alt Ref: 8/19/1200/PA: Conservation Area Consent for the proposed demolition of former Fish & Chip Shop, Ousegate, Selby

Decision: Permitted: 23-FEB-95

- CO/1994/0433, Alt Ref: 8/19/1187/PA: Proposed erection of five flagpoles and flags for Selby Waterfront Project on land at The Nook, Ousegate, Riverbank Ousegate, junction of New Millgate, Holmes Lane, Selby, Decision: Permitted: 01-AUG-94
- CO/2003/06848, Alt Ref: 8/19/1463/PA: Proposed construction of and improvement to flood defences: Both sides of River Ouse between River View, Barlby and east Common Lane, Selby Decision: Permitted: 08-DEC-03
- 2005/0753/FUL - Erection of building to provide ground floor retail unit with 8 No. apartments above and associated works at Toll Bridge Filling Station, Ousegate, Selby Decision: Permitted: 21/09/2005
- 2010/0044/FUL, Alt Ref: 8/19/173F/PA: Erection of a building for A1, A2, A3, A4, A5, B1(a) & (b) and D1 use at ground floor and 10No. dwellings on the upper floors with ancillary bin and bicycle storage and landscaping of public open space: Toll Bridge Filling Station (Derelict), Ousegate, Selby Decision: Permitted: 15-MAR-10 This permission is still extant due to a technical commencement having been made.
- 2010/1290/DPC, Alt Ref: 8/19/173H/PA: Application to discharge condition 8 (Landscaping) and part discharge condition 21 (Flood defences and flood gates) of approval 2010/0044/FUL (8/19/173F/PA) for the erection of a building and public open space: Toll Bridge Filling Station (Derelict), Ousegate, Selby Decision: Permitted: 19-JAN-11
- 2010/0294/DPC, Alt Ref: 8/19/173G/PA: Application to discharge condition 5 (contaminated land) of approval 2010/0044/FUL (8/19/173F/PA) for erection of a building for A1, A2, A3, A4, A5, B1(a) & (b) and D1 use at ground floor and 10No. dwellings on the upper floors with ancillary bin and bicycle storage Decision: Permitted: 23-MAR-10
- 2018/0393/DOC, Alt Ref: Discharge of conditions 12 (drainage), 13 (foul and surface water drainage) and 14 (surface water) of approval 2010/0044/FUL for erection of a building for A1, A2, A3, A4, A5, B1(a) and (b) and D1 use at ground floor and 10No. dwellings on the upper floors with ancillary bin and bicycle storage and landscaping of public open space: Toll Bridge Filling Station (Derelict), Ousegate, Selby Decision: Withdrawn: 26-MAR-19
- 2018/0454/DOC: Discharge of condition 19 (energy) of approval 2010/0044/FUL Erection of a building for A1, A2, A3, A4, A5, B1 (a) & (b) and D1 use at ground floor and 10No. dwellings on the upper floors with ancillary bin and bicycle storage and landscaping of public open space: Toll Bridge Filling Station (Derelict), Ousegate, Selby Decision: Withdrawn: 26-MAR-19

- 2018/0706/DOC: Discharge of condition 05 (site investigation) of approval 2010/0044/FUL for erection of a building for A1, A2, A3, A4, A5, B1(a) and (b) and D1 use at ground floor and 10No. dwellings on the upper floors with ancillary bin and bicycle storage and landscaping of public open space: Toll Bridge Filling Station (Derelict), Ousegate, Selby
Decision: Withdrawn: 26-MAR-19
- 2018/0211/DOC: Discharge of conditions 02 (materials), 03 (doors, window frames, glazing bars, rainwater goods, roof vents and ridge tiles), 04 (doors, window frames and glazing bars), 06 (archaeology), 07 (ground preparation), 09 (surface treatment), 10 (lighting), 11 (excavation), 13 (foul and surface water), 16 (noise), 18 (drawings), 20 (display panels) and 21 (flood defences and flood gates) of approval 2010/0044/FUL for erection of a building for A1, A2, A3, A4, A5, B1(a) and (b) and D1 use at ground floor and 10 No dwellings on the upper floors with ancillary bin and bicycle storage and landscaping of public open space: Toll Bridge Filling Station (Derelict), Ousegate, Selby
Decision: Withdrawn: 26-MAR-19
- 2018/0453/FUL: Section 73 application to vary condition 23 (list of approved plans) of approval 2010/0044/FUL to permit amendments to the elevations to include Velux automatic opening vents [smoke and fire safety], solar photovoltaic panels to roof planes and omission of chimneys: Toll Bridge Filling Station (Derelict), Ousegate, Selby
Decision: Withdrawn: 26-MAR-19
- 2020/0587/S73: Section 73 application to vary/remove 1-23 conditions of planning permission reference 2010/0044/FUL Erection of a building for A1, A2, A3, A4, A5, B1(a) & (b) and D1 use at ground floor and 10No. dwellings on the upper floors with ancillary bin and bicycle storage and landscaping of public open space: Toll Bridge Filling Station (Derelict), Ousegate, Selby,
Decision: Withdrawn: 15.10.2021
- 2021/0472/SCN: EIA Screening opinion request for the Selby Gateway scheme. The Proposed Scheme will comprise an enhanced public realm, walking and cycling routes, improved visual amenity and an improved gateway experience at the Selby Rail Station. The scope covers six key elements: Selby Station Gateway, Cowie Drive and proposed car park, Crescent / Park Street junction, Ousegate Riverside, Olympia Bridge and Shipyard Road: Selby Station, Station Road, Selby
Decision: EIAREQ: 11.05.2021
- 2021/0692/SCP, Alt Ref: EIA Scoping Request for an enhanced public realm, walking and cycling routes, improved visual amenity and an improved gateway experience at the Selby Train Station. The scope covers six key elements: Selby Park and Station Gateway, Cowie Drive and Proposed Car Park, Crescent / Park Street junction, Ousegate Riverside, Olympia Bridge and Shipyard Road: Selby Station, Station Road, Selby
Decision: Scoping Opinion issued: 29.07.2021

2. CONSULTATION AND PUBLICITY

- 2.1 NYCC Highways Canal Road - The Local Highway Authority recommends that conditions are attached to any permission granted and comprising: Detailed plans of road and footway layout; Construction of adoptable roads and footways; Delivery of off-site highway works and a Construction Management Plan. In addition to the inclusion of informatives.
- 2.2 Environmental Health (Initial Response) - Given the proximity of this proposed site to nearby residential properties, there is the potential for construction work to have a detrimental impact on local residents. A condition is recommended for a construction management plan, details of foundation piling and for the hours of construction to be limited. Additional comments relate to the application site being located directly adjacent from the Air Quality Management Area (AQMA) designated by Selby District Council in 2018 on New Street. The reason that the extent of the AQMA has not needed to be extended is due to the open aspect of the area around the traffic lights at the bridge foot. Concerned that a multi-storey building on this site will give rise to another street canyon and further air quality issues. Request an Air Quality Assessment (AQA) is provided to assess the impact on air quality during the construction phases and once the dwellings are in situ.
- 2.3 Environmental Health (2nd response) – In respect of Noise, the submitted Assessment shows that enhanced glazing would reduce noise levels to a satisfactory level.
- 2.4 Conservation Officer – General comments in respect of location being a key gateway site into Selby. Refers to site within Conservation Area and proximity to several Grade II Listed Buildings. Various aspects of design details still unacceptable and will not preserve the character or appearance of the Conservation Area.
- Sensitive location therefore use of natural and traditional materials to ensure high quality of development.
 - Natural and traditional materials should be used- Use of concrete and reconstituted products and UPVC windows would be harmful with adverse impact on historic environment.
 - Upvc windows with thick stick-on glazing bars are not advised. Should be timber sash and have integral slender glazing bars.
 - Notwithstanding application details- Require sample panel of brick and stone on site showing pointing and finish.
 - Advises alternative roof pantiles to avoid poor seam to edge.
 - Full details of grey slate sample and its origin are required to ensure appropriate for this location.
 - Gutters and rainwater pipes should be black painted metal and not plastic as shown.
 - Requests that fascia boards or dry verges are not used for gables.
 - Principle of using dormers acceptable but those shown are wider than the windows below and appear top heavy.
 - Windows to ground floor also overly wide.
 - Further details required in respect of door details which should be timber.
 - Natural stone should be used for block paving not concrete and paving setts should be coursed and not in a herringbone pattern.

- Too many Rooflights to front roof slope and should be conservation style being top hung, with lead glazing bar in black painted metal with lead flashings not velux as indicated.
- Insufficient details for boundary treatments - require details of wall, coping, railings and gates and ratio should be more railing and less wall.

2.5 Urban Designer - Current proposals not dramatically different from what was submitted previously.

- Suggest small modification to three windows to rear of central block shifting windows to the right.
- Dormers could be smaller.
- Quality of the finished scheme in this gateway location, particularly materials and details, will be critical.
- Materials - Key use of similar brick coursing (Flemish bond) proposed to match other properties along Ousegate acceptable.
- Juliet balconies – Unclear as to whether glass barriers as these are visually jarring elements on the rear elevations.
- UPVC window and door frames - Windows should have sashes that are easily removed and therefore providing 'ease of access' concerns and glazing bars integral to construction. If UPVC is deemed acceptable with slim profile. Suggest reduction in the number of panes on the Georgian property. Sample photo submitted reveals a further difficulty in constructing the building to match the drawings. Windows which have three rows of panes, no break shown to allow to work as sliding sash windows, yet retain the vertical proportions of the panes, as drawn. timber-framed windows could be only option for the Georgian-styled property if this concern cannot be met with UPVC options.
- Landscape- Proposed Communal Garden - Transforming Cities Fund (TCF) regeneration project has direct implications for the proposed character of this space.
- Footpaths should be widened as much as possible, TCF programme is working to improve pedestrian and cycle movement along Ousegate as a whole.
- Security / Privacy - Defensible space should be provided outside ground floor windows (to rear) such as a line of railings would prevent potential security or antisocial behaviour issues.
- Lack of detail for bin storage.
- Details - support the use of chimneys, good proportions to buildings, general approach to fenestration and openings, and attention to detail.- Ensure that openings and blind windows are also recessed to the same extent as windows (minimum 50mm).
- Railings - less height to the walls, and taller railings used to achieve the same boundary heights overall. Side elevations show railings to the ground, rather than seated atop dwarf walls, and should be amended to reflect front elevation drawings.
- Detail and profiles of stone coping used for boundaries required.
- Construction details should be requested at a scale of 1:20.- and should ensure that dry eaves are not used.
- Quality Assurance - If possible, the continued involvement of the architect should be encouraged or enforced, to oversee delivery of high quality detailing, rather than potentially leaving this to a design and build process, or interpretation by a builder. Failing this, other mechanisms for ensuring quality

should be considered, such as staged inspections used in Listed Building works.

- 2.6 County Ecologist – Observations: Clearance of vegetation to be undertaken outside the bird breeding season (March to August inclusive for most species). If this is not possible, a competent person must first check to ensure that no nesting birds are present; any active nests need to be left undisturbed until the young have fledged.
- Applicant will need to show how the proposed development would achieve net gains for biodiversity in line with Para 174d of the NPPF.
 - Do not require a Preliminary Ecological Appraisal but the applicant may wish to discuss with an ecologist how they could incorporate ecological enhancements into the development and compensate for any loss of natural vegetation from the site.
- 2.7 Designing Out Crime Officer - In relation to designing out crime, it is pleasing to note that each apartment is provided with its own secure cycle storage and defensive space created to the front elevation by the wall and railings. No further comments to make regarding the proposal.
- 2.8 North Yorkshire Fire & Rescue Service - Will make further comment in relation to the suitability of proposed fire safety measures at the time when the building control body submit a statutory Building Regulations consultation to the Fire Authority.
- 2.9 Public Rights of Way Officer - No public right of way crosses or abuts the area of indicated in the application. This will be why we have not responded previously.
- 2.10 Canal and River Trust - Site is adjacent to the River Ouse, where the Trust is Navigation Authority. Impact of the Works upon the Stability of the Riverbank
- Essential that works do not impose excessive loading onto the riverbank, and lead to collapse of land into the waterway. Request inclusion of an appropriately worded condition to demonstrate that the development will not result in an increased risk of land instability.
 - Rear elevation of proposed buildings would be highly visible when viewed from the River Ouse and the approach from the road swing bridge.
 - Large box dormer to rear, with greater overall massing viewed from river. Pushing perception of height to potentially uncomfortable level and could over dominate rear of properties, detracting from the character and appearance of the local area and the associated Conservation Area.
 - Lighting - can impact on river navigation - particularly important since the site is close to the toll and railway bridges.
 - Request specific informative is appended to the decision notice: in relation to Trust's 'Code of Practice for Works affecting the Canal & River Trust'
- 2.11 NYCC Archaeology - The site is within the historic core of the medieval town of Selby and occupies a site on the river front. This would have been a vibrant area of the medieval town with varied commerce and industry. Having looked at the case history for the plot it is noted that archaeological works in the form of observation during remedial works has previously taken place. This suggested a high level of disturbance to deposits across the site as a result of later 20th century activity and therefore a relatively low archaeological potential. No objection to the proposal and have no further comments make.

- 2.12 Waste and Recycling Officer – (Initial Response) - Requires further information on the dimensions of the bins storage area to assess whether it is suitable for the number of bins that will be required for these properties.
- 2.13 Waste & Recycling Officer (Second Response) – Having calculated the number and size of bins required for the properties and layouts to show how the bins could be accommodated gives recommendations with regard to door widths (at least 1.58m) for accessibility, floor surfaces should be smooth for accessibility, levels and lighting.
- 2.14 Waste & Recycling Officer (Final Response) – Confirmation that change to ground floor internal layout is suitable.
- 2.15 Education Directorate North Yorkshire County Council - Developer contributions would not be sought for education facilities Should the density of the site change this would be recalculated and may show an increase in the amount of contribution sought.
- 2.16 Landscape Consultant - Site is in a very prominent location. Quality of materials and detailing important and long-term commitment for maintenance and management of the external garden areas.
- Further hard and soft landscape information required which explains quality of external hard landscape, planting, trees, garden areas for: perimeter paths and boundary treatments (to the west / north / south and east sides), garden areas to the south side of the building (there is currently no information or explanation on the plans)' refuse storage areas, litter, external lighting garden areas.
 - Prefer higher proportion of natural surface materials such as clay / stone paving rather than all concrete paving as currently proposed.
 - Clearer information for the perimeter gates, walls, railings and copings; to demonstrate a commitment to detail and sympathetic use of materials.
- 2.17 If scheme is approved, recommend the following should be secured by condition or legal agreement:
- Detailed hard and soft landscaping scheme (including external lighting to garden areas).
 - Long term maintenance and management plan; secured by legal agreement, for the life of the scheme.
 - Planting to be implemented in the first available planting season; initial five year defects replacement during the establishment period.
- 2.18 Natural England - No comments to make on this application.
- 2.19 Housing Strategy/Rural Enabler (Initial Response) – Scheme proposes a total of 13 apartments, but with no affordable housing units and no evidence provided, therefore not policy compliant.
- 2.20 Housing Strategy/Rural Enabler (Final Response) - After seeing the Viability Assessment from the DV, nothing further to add in regard to affordable housing on this site. Any financial sum received in lieu would of course be beneficial but

understand this may not be requested by the Council given the tight margins and the sum likely to be received.

- 2.21 Lead Local Flood Authority (Initial Response) – Applicant has provided information to satisfy concerns and the LLFA's objections are removed. A condition is recommended.
- 2.22 Yorkshire Water Services Ltd - Waste Water If planning permission is to be granted, the following conditions requiring separate systems for foul and surface water drainage and no piped discharge of surface water drainage until details have been submitted to the LPA. In addition, the developer is required to provide evidence to demonstrate that surface water disposal via infiltration or watercourse is not reasonably practical before considering disposal to public sewer.
- 2.23 The Environment Agency (Liaison Officer) - No objections to the proposal, subject to condition to cover mitigation measures detailed in the FRA. Informatives also given.
- 2.24 Selby Area Internal Drainage Board – No objections but general advice in respect of means of discharge of surface water and advice regarding standard consents required from IDB.
- 2.25 Selby Town Council – Objects to this planning application on the following grounds:
- Lack of quality development for an entrance to the Town.
 - No parking provision (Could be off site).
 - Inadequate provision for bins.
 - Lost opportunity to improve bridge foot junction.
 - There is no indication of who will maintain the garden area.
- 2.26 Selby Civic Society – Objection to the application:
- Site is located in Selby Town Conservation Area in a prime gateway location, opposite a number of Grade II listed buildings and alongside recently built residential developments. Ousegate is probably the most historically significant street in the town and the first building visitors will pass, once they have crossed the Grade II listed road bridge adjacent to the site, bringing them into Selby.
 - Mixed-use scheme is encouraged and good quality, well designed residential and commercial spaces,
 - Use of uPVC windows and doors is opposed. All the heritage buildings in this area have traditional timber doors and windows, and all the new buildings surrounding this site have timber windows; for example, Bridge Wharf's discharge of conditions (windows) specifies frames section and material in Sapele Hardwood.
 - More detail in the heritage statement and design statement, specifying the designs and materials to be used, so that the design and massing of the building does not detract from neighbouring designated heritage assets or harm the character of the conservation area.
 - Concerns about future maintenance for the gardens and would encourage legal conditions to ensure its indefinite upkeep.
- 2.27 Economic Development Team – No response received.

- 2.28 SDC Strategic Asset Management Officer - No response received.
- 2.29 North Yorkshire Bat Group – No response received.
- 2.30 Yorkshire Wildlife Trust – No response received.
- 2.31 Vale Of York CCG – No response received.

PUBLICITY

- 2.32 The application was advertised by way of site notice and in the Selby Times. No representations have been received as a result of publicity.

3 SITE CONSTRAINTS

- 3.1 The application site is located within the Selby Conservation Area, adjacent to several Listed Buildings and within the Archaeology Consultation Zone. With regard to Flood Zones the site is situated within Flood Zones 2 and 3a. It is also within the British Waterways Buffer area. The Selby District Local Plan Proposals Map also indicates that the site is part of the Trans -Pennine Trail. The eastern portion of the site (approximately one third) is designated Local Amenity Space. The site is also within the Selby Special Policy Area.

4 POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. Consultation on preferred options took place in early 2021. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (July 2021) (NPPF) replaced the February 2019 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 2021 NPPF.

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

“219...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
SP7 - Managing Housing Land Supply
SP8 - Housing Mix
SP9 - Affordable Housing
SP14 - Town Centres and Local Services
SP15 - Sustainable Development and Climate Change
SP16 - Improving Resource Efficiency
SP17 - Low-Carbon and Renewable Energy
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
ENV3 - Light Pollution
ENV4 - Hazardous Substances
ENV25 - Development in Conservation Areas
ENV28 – Archaeological Remains
ENV29 – Local Amenity Space
T1 – Development in relation to Highway
T2 – Access to Roads
RT2 - Open Space Requirements for New Residential Development
RT7 - Riverside Recreational Facilities in Selby/ Barlby Bridge
RT8 - Trans-Pennine Trail
SEL/6 - Ousegate/New Street/Station Road Special Policy Area

4.8 Other Policies/ Guidance:

- National Planning Policy Framework (July 2021)
- Affordable Housing Supplementary Planning Document, 2013
- Developer Contributions Supplementary Planning Document March 20
- Selby Town Design Statement

5 APPRAISAL

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

- Principle of Development
- Impact on Heritage Assets & Character of the Area
- Residential Amenity
- Flood Risk & Drainage
- Highways/Access
- Landscaping/Amenity Areas
- Contamination/Ground Conditions
- Ecology
- Archaeology
- Affordable Housing
- Community Infrastructure Charge (CIL)
- Public Open Space
- Education, Waste & Recycling

Principle of Development

5.2 The application site is situated within the defined development limits of Selby, which is a Principal Town as identified in the Selby District Core Strategy (CS).

5.3 Paragraph 11 of the NPPF establishes that decisions should apply a presumption in favour of sustainable development and states that development proposals that accord with an up-to-date Development Plan should be approved. This accords with the principles of the CS Policy SP1 which states that:

"...when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework..."

and sets out how this will be undertaken.

5.4 The previous permission which was granted in 2010 is still extant, due to a technical commencement and was for 10 apartments with four commercial units to the ground floor. This was granted prior to the Selby District Core Strategy adopted in 2013 and the National Planning Policy Framework (updated in July 2021). The site is currently undeveloped land within the town and comprises the former filling station, now demolished, on the bridge corner and an area of local amenity space, comprising approximately one third of the site which is protected by Policy ENV29 of the Local Plan. This is currently overgrown and disused due to the development of the site not proceeding since the 2010 permission. The uses in the surrounding area and adjacent buildings comprise a mix of residential and commercial shop units. The fact that the extant permission on the site has commenced and could be completed is a material consideration.

5.5 This revised scheme results in changes to the design, an increase in the number of flats and a reduction in the number of commercial units at ground floor. As a new full planning application, it must be assessed in relation to the current development plan. The presumption in favour of sustainable development does not change the status of the development plan as the starting point for decision making.

5.6 Core Strategy (CS) Policy SP2A(a) 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”.

Furthermore, the policy states:

“Selby as the Principal Town will be the focus for new housing, employment, retail, commercial and leisure facilities.”

- 5.7 Selby being the Principal Town is the most sustainable settlement within the District. Selby is well served by local services which includes shops, schools, recreational open space, with a choice of modes of transport including rail and bus, all of which are within walking distance of the application site. Such facilities weigh in favour of the site’s sustainable location.
- 5.8 CS Policy SP4 states that the *“...redevelopment of previously developed land...”* is acceptable in principle subject to proposals protecting local amenity, preserving and enhancing the character of the local area and complying with normal planning considerations. It adds that appropriate scale will be assessed in relation to density, character and form of the local area and should be appropriate to the role and function of the settlement.
- 5.9 Policy SEL/6 is specific to the principal town of Selby and relates to the Ousegate/New Street/Station Road Special Policy Area and allows for uses such as B1 offices, studios, light industry, retail and associated uses (Use Classes A1, A2 and A3), tourism, leisure and residential; (Classifications relate to the Old Use Classes Order and now superseded). The preamble to policy SEL/6 refers to the application site and advises that there is considerable scope for redevelopment (along with many other Brownfield sites within this area). Whilst the commercial units have now been reduced to one to the ground floor and the residential units increased to 13, the proposal would still comply with this policy in this regard.
- 5.10 Policy SEL/6 also refers to properties on the Ousegate frontage as a key area being within the Conservation Area and partly within the commercial centre of Selby. It is highly visible from the road, rail bridges and the River Ouse, with several historic mercantile Grade II Listed Buildings, with a requirement that new development is sympathetic to its surroundings and protects and enhances the special character and appearance of the area.
- 5.11 The proposal would provide a net increase of 13 residential units, which would contribute to the overall housing land supply in the district and provide associated wider public, social and economic benefits and would effectively restore this brownfield site. The proposal is therefore acceptable in principle, subject to all other impacts of the scheme being acceptable and policy compliant. The development of the site for flats and a commercial unit is consistent with the aims of Policy SP2 and SP4 of the Core Strategy.
- 5.12 Policy ENV29 of the Local Plan sets out that proposals for the development of local amenity space as defined on the proposals map, will not be permitted. The 2010 permission provided for a replacement new amenity space on the western end adjacent to the bridge and this scheme would provide a similar arrangement. This is discussed in more detail in the subsequent section of this report. However, subject to the provision of this area the scheme is acceptable in principle.

- 5.13 Overall, the development of the site for flats and a commercial unit with an area of public amenity space is consistent with the aims of Policy SP2 and SP4 of the Core Strategy and with ENV29 of the Local Plan.

Design and Impact on Heritage Assets and Character of the Area

- 5.14 A detailed scheme was agreed under the original approval and was the subject of detailed design consideration and was granted with many conditions relating to the architectural details and materials being agreed. This current proposal needs to be reassessed with regard to the impact on the conservation area, adjacent listed buildings and general character of the area in the light of the current development plan policies and the NPPF.
- 5.15 The application site occupies a frontage position on Ousegate, within the Conservation Area and is situated to the east of the Toll Bridge. Properties on the Ousegate frontage are visible from the road and rail bridges, which cross the river and contribute to the initial impression seen by visitors when entering Selby. These views include a number of historic mercantile buildings which are Grade II listed.
- 5.16 Relevant policies in respect of the effect of development on heritage assets and the setting of heritage assets include Policies SP18 and SP19 of the Core Strategy and saved Policy ENV25 of the Selby District Local Plan.
- 5.17 Relevant paragraphs within the NPPF which relate to the effect of development on heritage assets and their setting include paragraphs 194 to 205. The NPPF states in paragraph 194, that in determining applications Local Planning Authorities should require an applicant to describe the significance of any heritage asset affected. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, LPA's should require developers to submit an appropriate desk based assessment. Paragraph 195 of the NPPF states that the LPA should identify and assess the particular significance of the heritage asset that may be affected by the proposal. Paragraph 200 (NPPF) adds (amongst other things) that:

“Any harm to, or loss of, the significance of a designated heritage asset (...or from development within its setting) should require clear and convincing justification.”

- 5.18 Whilst considering proposals for development which affect 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.”*

When assessing proposals for development which affect a Conservation area regard needs to be made to Section 72 of the Planning (Listed Buildings and Conservation Areas Act) 1990. This requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

- 5.19 CS Policy SP4 (c) states:

"...in all cases proposals will be expected to protect local amenity, to preserve and enhance the character of the local area, and to comply with normal planning considerations."

- 5.20 Other relevant policies in respect to design and impact on the character and appearance of the area include Local Plan Policy ENV1 (1) and (4) and CS Policies SP18 and SP19 of the Core Strategy and Paragraphs 124 to 132 (NPPF) relate to design.
- 5.21 CS 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; and conserving those historic assets which contribute most to the distinct character of the District. Policy SP19 requires, amongst other things, that proposals positively contribute to an area's identity and heritage in terms of scale, density and layout.
- 5.22 Paragraph 197 (NPPF) relates to proposals affecting Heritage Assets and states (amongst other things) that when determining applications, local planning authorities should take account of "*...the desirability of new development making a positive contribution to local character and distinctiveness.*"
- 5.23 Paragraph 126 (NPPF) relates to the aim of achieving well designed places and sets out that, the creation of high quality, beautiful and sustainable places is fundamental to what the planning and development process should achieve and that "*...good design is a key aspect of sustainable development.*"
- 5.24 The overall form, height, massing and scale of the proposed development is not dissimilar to that approved, having three linked buildings. However, the most westerly element has been reduced in width and the easterly element increased. The half-hipped roof which would face west toward the toll bridge has been replaced with a standard pitch roof and flat side gable and thus providing a more simplified elevation.
- 5.25 The three blocks have varying ridge heights, the tallest proposed would be situated to the east side of the site with a height of 13.9m (excluding chimneys). The central block would have a maximum height of 12.2m and the block to the west would have a maximum height of 12.5m. Whilst comments from consultee respondents are acknowledged in regard to the proposed height, it is worth noting that the extant application allowed for development at a height ranging from 11.5m and up to 13.5m, resulting in the difference in height being minimal.
- 5.26 The staggered ridge height of the blocks reflects that of other properties along Ousegate both recent and historical development, in terms of the overall form. In addition, the extant permission has a front and rear dormer to the east block, which resulted in a fourth floor and therefore not unlike the current scheme. The proposal also maintains (as previously) several windows (including bedroom windows) to the end/side elevations which adds architectural interest whilst promoting surveillance of the immediate surroundings.
- 5.27 All but one of the commercial units have been removed from the scheme with only a proposed café/restaurant remaining, which would increase footfall to this area. Views over the river would be provided from an attractive landscaped section, which would occupy the extent of the open area adjoining the west elevation of the

buildings at ground floor level. The removal of all but one of the commercial units has impacted on the design of the ground floor windows and doors, which now comprise of mostly residential scale windows and entry doors to the flats, to the front, side and rear elevations. This results in a more uniform appearance, with larger arched windows proposed to the extent of the commercial unit only.

- 5.28 The hipped roof approved to the west elevation is now a standard pitch roof which is more in keeping with existing development and this would add an attractive edge and focal point when entering Selby from Barlby Road to the north.
- 5.29 The central unit of the development would retain its 'Georgian' style with a white rendered exterior; grey slate tiles for the roof and windows (multiple panes) and doors would reflect this period with additional windows to the principal (south) elevation. The majority of the openings to the two proposed buildings either side of the central unit would have a simplified appearance, with windows having a sliding sash appearance.
- 5.30 The Conservation Officer (CO), Urban Design Officer, Canal and Rivers Trust, Town Council and the Civic Society have all raised a number of concerns with regard to the details of the design and appearance of the proposal, namely the proportions of the dormers and some of the ground floor windows; in addition to materials, particularly the use of UPVC windows. Some of the concerns raised by the CO are reiterated in the Urban Designer's response, who has made extensive comments with regard to various details of the scheme. The applicant has provided information of possible types of proposed windows, which would not be standard UPVC but would comprise of slimline heritage style windows with a woodgrain effect and would not be finished in a stark white but an off-white colour. In addition, a sample window was viewed by the case officer. Notwithstanding this, it would be advisable to have a condition requiring the window details for each unit to be agreed to ensure the details are acceptable for the location.
- 5.31 Windows to the commercial unit are larger in proportion but it is considered that this assists in distinguishing it from the residential units and therefore drawing the public to use the unit. However, suitable conditions in respect of advertisements and any other commercial detailing for this unit should be included in any permission.
- 5.32 The applicant has revised the scheme in response to comments regarding the positioning of windows being 'pinched' to the left-hand side of the rear elevation of the central block. These have now been pulled in from its edge, which results in a more symmetrical elevation with the proposed dormers appearing far more balanced and proportionate to the Juliet balconies included on the adjoining block. In addition, the amended drawings indicate the use of wet pointed verges and conservation style roof lights have now replaced the standard roof lights as originally proposed as part of this scheme.
- 5.33 Additional drawings have been supplied in respect of the boundary wall and fencing, which show the red brick string course to the lower part of the wall. Included is a sectional drawing of the stone coping and high quality, decorative railings. The drawings also show a larger ratio of railing in comparison to the wall (0.77m to 0.52m respectively).
- 5.34 Other observations and concerns can be addressed by way of conditions in respect of the detailing. It is also important to make comparisons between the current proposal and the extant permission. The applicants have strived to produce a much

higher quality scheme than the existing permission, through the use of high-quality materials and fine detailing such as the string coursing, reconstituted stone cills and coping and finer scale windows. Of further consideration is that the scheme also improves upon more recent surrounding residential properties, some of which lack sensitivity to their historic surroundings, through the use of lower quality materials and detailing, notably the development to the south on the corner of Ousegate and The Crescent (A19).

- 5.35 In conclusion, the proposed development would be of a classical but modern and sustainable design, with the use of high-grade materials. Subject to the inclusion and implementation of relevant conditions in respect of additional detailing. The design of the proposal would result in a significant visual improvement to this disused site at the gateway to the town through the introduction of a scheme of high quality which would be of benefit to this currently unused corner of Selby town, the adjacent heritage assets and the wider locality as a whole and on this basis accords with CS Policies SP4 (c), SP18 and SP19 and saved Policies ENV1 (1) and (4), ENV25 and SEL/6 of the Selby District Local Plan; in addition to the guidance within the NPPF.

Residential Amenity

- 5.36 Policy in respect to securing a good standard of residential amenity are provided by Local Plan Policies ENV1 (1) and Paragraph 130(f) of the NPPF which encourages the creation of places which are safe, inclusive and accessible, promoting wellbeing “...with a high standard of amenity for existing and future users.”
- 5.37 The surrounding area has a mix of uses including retail, restaurants, cafes, hot food takeaways, assembly and leisure and residential properties, some of which are to the upper floors of the commercial premises and in close proximity to the development site.
- 5.38 In terms of separation, distances from properties to the south side of Ousegate are a minimum of 14m and approximately 70m from properties situated on the north bank, as is the case with the existing residential properties immediately east of the site.
- 5.39 The majority of future occupants of the proposed development would not benefit from any private external amenity space. This is typical of the type of development of flats proposed and given its location within Selby Town Centre, occupants would have access to parks and public open spaces within close proximity and future residents would therefore have good access to outdoor amenity space.
- 5.40 Given the nature of the development and its relationship to neighbouring residential properties, the proposal would not have a significant adverse impact in terms of overshadowing, enclosure or have an overbearing impact on the relationship between the occupiers or users respectively of adjacent residential dwellings and an acceptable relationship could be achieved between the existing and proposed development.
- 5.41 On the basis of the above assessment, it is therefore considered that the proposal accords with Local Plan Policy ENV1 (1) and Paragraph 130(f).

Noise and Air Quality

- 5.42 Policy ENV2 A) (SDLP) states development which would give rise to or would be affected by unacceptable levels of (amongst other things) noise nuisance will not be permitted without satisfactory remediation or measures which prevent noise nuisance to be incorporated as part of any scheme. Policy SP19 (k) of the Core Strategy states that development should not contribute or be put at unacceptable risk from (amongst other things) noise and air quality. Paragraph 185 a) (NPPF) advises that new development should mitigate and reduce any potential adverse impacts from existing noise sources. NPPF Paragraph 186 adds that decisions should take account of national objectives for pollutants including Air Quality Management Areas and Clean Air Zones and opportunities to improve air quality or mitigate impacts should be identified.
- 5.43 Given the sites location close to the town centre, the occupants of the development would be subject to noise and pollution from road traffic and nearby commercial premises and on this basis a Noise Impact Assessment has been submitted. The Environmental Health Officer's (EHO) response has raised concerns in respect of the potential of the scheme to have a detrimental impact on nearby residents and during construction. In addition, the EHO points out that the site is directly adjacent to the Air Quality Management Area (AQMA) designated by Selby District Council in 2018 on New Street and therefore has concerns that the proposal would give rise to another "...*street canyon*..." and additional air quality issues. On this basis the EHO requests a number of conditions relating to Piling of foundations; hours of work; a Construction Environmental Management Plan (CEMP) and the submission of an Air Quality Assessment (AQA) to assess the impact on air quality both during the construction phases in addition to following completion of construction of the dwellings.
- 5.44 The EHO has referred to the submitted Noise Assessment and it is proposed to use enhanced glazing to bedroom windows within the development and advises that this would reduce any potential noise to below the WHO guidance threshold of 30dB LAeq, which fulfils the criteria and therefore negates the requirement for further conditions in this regard.
- 5.45 Taking into account the above comments it is considered that subject to the inclusion and compliance with specific conditions required by the EHO that a satisfactory level of residential amenity can be achieved in terms of air quality and noise during construction and in respect of future occupants living conditions, in accordance with CS policy SP19 (k) Local Plan Policy ENV2 A) and the provisions of the NPPF.

Flood Risk / Drainage, Climate Change and Energy Efficiency

- 5.46 Core Strategy Policies SP15, SP16 and SP19 require proposals to take account of flood risk, drainage, climate change and energy efficiency. Criterion d) of Policy SP15 (SDCS) applies in respect of ensuring development is located which avoids flood risk areas. Flood Risk is covered in paragraphs 159 to 169 of the NPPF. Paragraph 167 states that flood risk should not be increased elsewhere, and paragraph 169 advises that major development require sustainable drainage systems unless evidence that it would be inappropriate and point a) adds that advice should be taken from the lead local flood authority (LLFA).

Flood Risk

- 5.47 The application site is situated in both flood zones 2 and 3 whereby Flood Zone 2 comprises land assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5%- 0.1%) in any year. Flood Zone 3a comprises land assessed as having 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 year.
- 5.48 The extant permission under planning ref: 2010/0044/FUL included 10 residential units to the upper floors with the full extent of the ground floor taken up by commercial units. One habitable unit is now proposed to the ground floor including the bedrooms, where previously commercial uses only were proposed. The residential unit would however have access to safe refuge above potential flood levels at first floor and above. The extant permission also negates the need for a sequential test given the level of development is similar.
- 5.49 The submitted Flood Risk Assessment (FRA) also refers to the use of floodproofing at ground floor and a flood evacuation plan would be implemented, in addition to registration with the Environment Agency Flood Line Warnings Direct service.
- 5.50 This change to the arrangement of the units was subject to extensive pre-application discussions with the Environment Agency and also includes the incorporation of a separate flood defence wall beyond the rear of the proposal and would be the same height as defences to either side of the development at 7mAOD. The Environment Agency in their response have advised that there are no objections to the proposal subject to the imposition of a condition ensuring that the development is carried out in accordance with the submitted Flood Risk Assessment.

Surface Water Disposal

- 5.51 The NPPF at paragraph 169 states that:
- “Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*
- a) take account of advice from the lead local flood authority;*
 - b) have appropriate proposed minimum operational standards;*
 - c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
 - d) where possible, provide multifunctional benefits.”*
- 5.52 The submitted information indicates that the developer is proposing to discharge surface water to the existing public sewer. Yorkshire Water Services have advised in their response that evidence should be provided in terms of the drainage hierarchy with sufficient justification as to why other methods for surface water disposal (such as disposal via infiltration or watercourse) are not reasonably practical and have been disregarded in favour of the public sewer, given that this should be the last resort with other means eliminated first. They add however, that conditions can be included which would require this information from the applicant.

- 5.53 The Ouse & Derwent Internal Drainage Board (IDB) have responded advising that they have no comments given that the site is outside their control and the Selby Internal Drainage Board have responded with recommendations, which are to be included as informatives, in addition to a condition relating to SuDS.
- 5.54 The Local Lead Flood Risk Authority (LLFA) advised in their initial response that in respect of the discharge of surface water to the River Ouse confirmation is required that the discharge outfall is set above the 'Mean High Water' level to ensure a free outfall. The LLFA also highlight the fact that the Highway Authority would not normally allow private surface water discharge into highway gullies and refer to the fact that a Maintenance Programme and ongoing maintenance responsibilities for all drainage assets should be submitted.
- 5.55 Final comments from the LLFA refer to amended details which confirms that the outfall to the River Ouse would be above the 'Mean High Water' levels measured at Selby Westmill with the range being between 0.63m and 5m and has been between those levels for 90% of the time while the outfall is set at 5.3m. The Drainage plan has also been revised to show that no surface water will discharge from the development to the highway. In addition, the applicant has confirmed that a management company will take on the maintenance and management of the drainage infrastructure including the silt traps and non-return valves and the LLFA have included a condition which requires full details of the maintenance and management of these features.

Foul Drainage

- 5.56 Foul drainage is proposed to discharge into the main sewer. Yorkshire Water Services in their response however, have advised that a condition be included requiring separate systems for foul water.

Climate Change & Energy Efficiency

- 5.57 With respect to energy efficiency, there is no supporting Energy Statement provided. However, in order to comply with the specific requirements of Policies SP15 and SP16 of the Core Strategy which require that 10% of total predicted energy should be from renewal, low carbon or decentralised energy sources or improved energy efficiency through design of building, a condition should be imposed in order to ensure compliance with CS Policies SP15, SP16 and SP17; Criterion 7 of Local Plan Policy ENV1 and the relevant advice in the NPPF.

Conclusion

- 5.58 On the basis of the above comments, assessment and that the means of both foul and surface water drainage are provided in accordance with the conditions required by the Environment Agency; Yorkshire Water Services and the LLFA, it is considered that the development is capable of a satisfactory provision for both foul and surface water and therefore accords with CS Policies SP15, SP16 and SP17 and the relevant advice within the NPPF.

Highways/Access

- 5.59 Policy in respect to highway safety and capacity is provided by SDLP Policies ENV1 (2), T1 and T2 and criterion f) of Core Strategy Policy SP15. The aim of these

policies accord with paragraph 110 (b) of the NPPF which states that development should ensure that safe and suitable access can be achieved for all users to a site.

- 5.60 There would be no vehicular access or car parking provided, but there would be improvements to the existing pedestrian footway both to the frontage and rear of the site. Given the sites sustainable location within the town centre residents would have access to various modes of transport within walking distance, including the bus and railway stations.
- 5.61 The Highway Officer has not raised any objections to the scheme but states the requirement for pre-commencement conditions which includes the submission of plans for the road and footway layout; Construction of adoptable roads and footways; Delivery of off-site highway works and a Construction Management Plan.
- 5.62. The site is located on the route of the Trans-Pennine Trail which is a project to create a multiuser route for walkers, cyclists, riders and disabled linking Liverpool to Hull. The trail generally follows disused railways, canals, riverside paths and existing rights of way etc. Policy RT8 of the Local Plan seeks to support the development of the trail and enhance access along it. The current trail route is indicated to be along both sides of the river at this point and there is nothing to suggest this development would compromise this route.
- 5.63 In conclusion and subject to the submission, approval and implementation of the conditions as specified, the proposal is acceptable in terms of highway safety in accordance with Policies ENV1 (2), RT8 and T1 of the Local Plan and the policies contained within the NPPF.

Landscaping/Amenity Areas

- 5.64 CS Policy SP18 requires that high quality and local distinctiveness of the natural environment will be sustained by “...safeguarding, and where possible, enhancing the natural environment, including the landscape character and setting of areas of acknowledged importance.”
- 5.65 The undeveloped site contains an area of local amenity space, comprising approximately one third of the site, which is protected by Policy ENV29 of the Local Plan. This is currently overgrown and disused due to the development of the site not proceeding since the 2010 permission. The loss of this space and development of the site without its replacement would be contrary to Policy ENV29 of the Local Plan. However, the scheme proposes a replacement area of public open space on the western side of the site adjacent to the bridge. This would be of approximately equal size and would be positioned in a more appropriate location, with greater public benefit and would assist in opening up the riverside and enhancing the appearance of the area. This was provided within the 2010 permission and is repeated on the plans for this scheme.
- 5.66 The 2010 permission was subject to a Unilateral Undertaking (UU) to the Council not to bring the dwellings into use until the public access areas were completed, made available and permanently maintained and retained for public access. This included the new small garden area and provided for public access along the river front to the rear of the buildings linking back round to Ousegate at the eastern end of the development. It is recommended that this application be subject to a similar form of Unilateral Agreement by the applicants. The previous UU would need to be

updated and the existing plan for the Public Open Space substituted with the latest layout plan in order to highlight the areas the public would have access to.

- 5.67 The submitted plan shows that the area would comprise a central circular area with a tree and semi-circular bench and the immediate walkway would be paved in non-slip, pale grey, block setts. The area to the southeast would incorporate larger (non-slip) paving with a small bench, table, vegetation and two trees, with a similar arrangement to the northeast. Additional raised bed planting would be provided to the north, west and northwest edge and corners and enclosed within a low (0.6m) boundary wall. Refuse bins would also be incorporated within this area.
- 5.68 The Urban Designer (UD) has also made reference to the proposed garden stating that the Transforming Cities Fund (TCF) regeneration project has direct implications for the character of the space in terms of the paving materials, where it is favoured that paving is in accordance with that currently used. The UD has included a link for the applicant's information who may be able to access some funding in this regard.
- 5.69 Notwithstanding the submitted plans, a more detailed scheme for this area with appropriate planting for a public area can be required by a suitably worded planning condition.
- 5.70 The Landscape Architect (LA) in his response has stated that the submitted plans give no explanation of detailing for the amenity area including planting, trees, materials, refuse storage areas and advises that a higher proportion of natural surfaces such as clay and stone paving rather than the concrete pavers proposed. He adds there should be clearer information in respect of the perimeter gates, walls, fencing and coping stones to indicate the sympathetic use of materials.
- 5.71 Given the ownership of this portion of land and as with the extant permission, the proposal would need to be secured through a Unilateral Undertaking which would ensure that the land remains open and accessible and is maintained for the lifetime of the development by the owner or any future owner(s) of the development (in the event that it is ever sold). With regard to the LA's comments about more detailing, this can be secured by condition, requiring the details he refers to.

Contamination /Ground Conditions

- 5.72 Local Plan Policy ENV2 and criterion k) of Core Strategy Policy SP19 require development which would give rise to or would be affected by unacceptable levels of (amongst other things) contamination or other environmental pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated within new development. Paragraph 183 (a) of the NPPF states that development sites should be suitable for the proposed use taking account of ground conditions and risks arising from unstable land and contamination. Paragraph 184 adds that the responsibility for a secure development in respect of ground contamination and land stability lies with the developer/and or landowner.
- 5.73 Details referring to a Phase 1 Desk Top Study and Phase 2 Intrusive Ground Investigation Works accompanies the application, which includes gas screening values and volatile organic compounds and concludes that the risk is low.
- 5.74 The Contamination Consultant (CC) has advised that the submitted report makes reference to the sites former use as a petrol filling station and that investigative works were carried out which included collecting of nine soil samples. These were

analysed for various contaminants were detected above the assessment criteria for a commercial end use therefore no remediation in relation to soil contamination is proposed. Elevated levels of methane were detected which requires provision of gas protection measures. In addition, three groundwater samples were collected and analysed and whilst there were some exceedances, further assessment indicated to be of negligible risk to the River Ouse due to dilution. However, the CC concludes that given the end use would be residential, the risk assessment will need to be updated to account for this – being a more sensitive receptor to contamination and remediation will be required in the form of provision of gas protection measures and includes standard conditions to cover the works required. With regard to stability, the Canal & Rivers Trust (CRT) have advised (in addition to other comments) that land stability is a material planning consideration. Adding that supporting information should be provided prior to commencement through the submission of cross sections of foundations relating to the riverbank with details of the means of construction. They conclude that this could be through the inclusion of a suitable condition.

- 5.75 In conclusion and subject to the implementation of the conditions recommended by the CC and CRT, there are no concerns with regard to contamination and land stability and the development is considered to accord with Local Plan Policy ENV2 and criterion k) of Core Strategy Policy SP19, in addition to the relevant paragraphs within the NPPF.

Ecology

- 5.76 Protected Species include those protected under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration. Relevant policies relating to nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 of the Core Strategy.
- 5.77 The application site is not a protected site for nature conservation and is not known to be the habitat of, or to be inhabited by, any protected flora or fauna.
- 5.78 The County Ecologist (CE) in response has advised that a Preliminary Ecological Assessment (PEA) is not required. He has however, made recommendations including that clearance of vegetation on site should be undertaken outside the bird breeding season but if not possible then an inspection by a competent person be made to ensure there are no active nests or nesting birds present. In addition, the CE has stated that the applicant might wish to speak to an Ecologist with regard to how ecological enhancements could be incorporated to compensate for the loss of natural vegetation. It is considered that this matter can be addressed through the condition requiring detailed landscaping plans.
- 5.79 On this basis, it is considered that the proposal would not harm any known nature conservation interests or protected species and would therefore meet the relevant requirements of Policy SP18 of the Core Strategy, Policy ENV1 of the Local Plan and the NPPF in this regard.

Archaeology

- 5.80 Local Plan Policy ENV28 and Core Strategy Policy SP18 (amongst other things) are concerned with the protection of archaeological remains and that the NPPF (para. 194) affords protection for such remains.

- 5.81 The NYCC Archaeology Officer (AO) has responded to the proposal, advising that the required archaeological observation works were undertaken during demolition of the former filling station, which suggested a high level of disturbance to deposits across the site as a result of later 20th century activity and therefore a relatively low archaeological potential. On this basis the AO advises that there is no objection with no further comments.
- 5.82 Having regard to the above and given the fact that requisite works have taken place, it is considered that the proposal accords with Policy ENV28 of the Selby District Local Plan and the advice contained within the NPPF.

Affordable Housing

- 5.83 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) sets out the affordable housing policy context for the District. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District.
- 5.84 At the time of approving the extant permission, Affordable Housing was only applicable to developments of 15 or more dwellings and the scheme was for 10 dwellings. The applicant's still have this as a fall back position, which is considered to be a material consideration with regard to the current application.
- 5.85 However, this revised new application increases the number of units to 13 and therefore CS SP9 is applicable and 40% on site provision of AH should be secured for schemes above the threshold of 10 dwellings. The actual amount of affordable housing is a matter for negotiation at the time of the application having regard to any abnormal costs, economic viability and any other requirements associated with the development.
- 5.86 Whilst the proposal is for 13 apartments, the applicants do not propose to sell but plan to rent them out and would not therefore benefit from any immediate profit. A Viability Assessment accompanies the application, which refers to the additional costs of the development which the applicants consider to be over and above standard costings.
- 5.87 The Viability Assessment has been reviewed by an independent consultant who has concluded that the viability pressure is high for the site and would result in a negligible margin of profit due in part to the abnormal costs on this site and at best, the maximum contribution that could be made is £13,308. In light of the independent advice sought Officers consider that the scheme does not therefore justify the provision of affordable housing and is therefore considered acceptable without any affordable housing contributions in line with Policy SP9 of the Core Strategy.

Community Infrastructure Charge (CIL)

- 5.88 The Community Infrastructure Levy (CIL) 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 and changes were made in September 2019. New developments that create net additional 'gross

internal area' of 100 square metres or more, or create new dwellings, are potentially liable for the levy.

- 5.89 The CIL Officer (CO) has confirmed that the apartments would be CIL liable and therefore chargeable but that this would be at a £0.00 rate in accordance with the current local charging schedule. If however, the proposal was amended to market housing then the zero rate would change.

Public Open Space

- 5.90 Local Plan Policy RT2, Core Strategy Policies SP12 and SP19, in addition to the Developer Contributions Supplementary Planning Document relate to the provision of recreational open space. There is a requirement to provide 60sqm per dwelling which, in this case, would equate to 300sqm. The submitted layout plan does not incorporate any on-site recreational open space as part of the development.
- 5.91 The Supplementary Planning Document for Developer Contributions and Policy RT2 states a requirement for schemes of more than 4 dwellings and up to and including 10 dwellings would require a commuted sum to provide new or upgrade existing facilities in the locality. Policy RT2 b) advises that the following options would be available, subject to negotiation and levels of existing provision:
- provide open space within the site;
 - provide open space within the locality;
 - provide open space elsewhere;
 - where it is not practical or not deemed desirable for developers to make provision within the site the district council may accept a financial contribution to enable provision to be made elsewhere.
- 5.92 Normally, where open space is provided on-site, or off-site by means of contribution of land, the developer will pay for maintenance for a period of ten years. This works by developers paying a one off 'commuted sum' payment for maintenance. The Council will calculate the amount payable by working out the cost of maintaining the particular piece of open space for one year. From this figure an amount is calculated for a period of ten years taking into account inflation as well as other factors including interest from the money.
- 5.93 In this instance however, the Viability Assessment indicates that due to the high costs of developing this site, that a contribution would not be required. Of further note is that the applicants are providing an area of public open space within the site which would be accessible to the residents, in addition to upgrading the existing pedestrian walkway leading to the river. The provision and maintenance of this area would be secured through a Unilateral Undertaking.

Education, Waste and Recycling

- 5.94 The response on behalf of the Education Directorate advises that based on the number of dwellings proposed that developer contributions would not be sought for education facilities in this instance. The officer adds however, that should the density change, they would need to be reconsulted.
- 5.95 For developments of 4 or more dwellings developers must provide waste and recycling provision at their own cost and as such should the application be

approved a condition could be imposed to secure a scheme for the provision of waste and recycling equipment.

- 5.96 The waste bins were originally proposed to be located to the ground floor in the cycling storage area with appropriate ventilation provided to avoid odour. Initially there was no clear indication of the actual areas allocated for refuse. The WRO has advised that given the type of accommodation proposed large communal bins would be acceptable and includes an extract from the Developer Guidance document.
- 5.97 Following requests from the Waste and Recycling Officer (WRO) the agent has submitted amended information. The submitted changes include an amended internal layout for the ground floor with the two areas proposed for both cycle storage and waste and originally combined now shown as separate storage areas. The cycle storage area would be housed in the west block and the communal bins would be housed in the east block. In addition, a double width false, timber door is proposed to be a working door, which allow for adequate door width when moving the communal bins. The WRO adds that the retail unit also requires waste storage areas although they may use a private contractor so this won't necessarily be a service provided by Selby District Council and the extent would depend on the type of business.
- 5.98 In conclusion and based on the amended plans and comments from the WRO, it is considered that an acceptable method of storage can be achieved.

6 CONCLUSION

- 6.1 The site has an extant permission and comprises a Brownfield site no longer in use which is currently derelict and overgrown due to the previously approved scheme not being implemented and is located within the Development Limits of Selby being the Principal Town of the District. The scheme proposes a high-quality development and provides an opportunity which would result in wider public benefits in terms of providing an attractive gateway and landmark when entering the town, the provision of a replacement public amenity area together with river front public access to the rear of the building and having a positive impact on the character and appearance of the Conservation Area.
- 6.2 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 respect of its impact on heritage assets, the character and appearance of the area, residential amenity, highway safety, flood risk and drainage, nature conservation and protected species, land contamination, affordable housing and waste and recycling. The proposal is therefore considered to be in accordance with Core Strategy Policies SP1, SP2, SP4, SP5, SP7, SP8, SP9, SP14, SP15, SP16, SP17, SP18 and SP19, saved Local Plan Policies ENV1, ENV2, ENV3, ENV4, ENV25, ENV28, ENV29, RT2, RT7, RT8, SEL/6, T1 and T2 of the Selby District Local Plan, national planning policy contained within the NPPF and Section 70 of the Planning (Listed Buildings and Conservation Areas Act) 1990.

7 RECOMMENDATION

This application is recommended to be **GRANTED** subject to completion of a Unilateral Undertaking to secure the provision, maintenance and future

management of the public amenity garden and public access around the building along the waterfront and subject to the following conditions:

TIME LIMIT

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.

PLANS

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

LOC-01- Location Plan
505-P-001A - Landscape Plan
505-P-01 Rev D – Site Plan
505-P-02 Rev C – Ground Floor Plan
505-P-03 Rev B - First Floor Plan
505-P-04 Rev B - Second Floor Plan
505-P-05A - Third Floor Plan
505-P-06 Rev B – Roof Plan
505-P-07 Rev C – Elevations
M&E1-505-P-08 Rev A – Ground & First Floor Mechanical and Electrical Plans
505-D-09 – Front Boundary Wall
P2503-SK2 – Ground Beam
P2503-GB1 – Ground Beam Design & Loadings
P2503-GB2 – Ground Beam Design & Loadings
P2503-GB3 – Ground Beam Design & Loadings

Reason: For the avoidance of doubt

MATERIALS

03. Notwithstanding the submitted details, no development shall take place above slab level until sample panels of roof materials, brickwork and/or masonry for the string courses, heads and cills demonstrating the colour, texture, bond, mortar mix specification and pointing technique have been provided on site, and the details submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In accordance with Policies ENV1 and ENV25 of the Selby District Local Plan and Core Strategy Policy SP19 and in order to ensure that the proposed works are undertaken without detriment to the special architectural and historic interest of the adjacent listed buildings and conservation area.

04. Notwithstanding the submitted details, no development shall take place above slab level until large scale drawings and samples of all proposed external joinery works including doors, windows frames, glazing bars together with, rainwater goods, roof vents, ridge tiles roof lights, railings, gates and boundary walls which shall include full plans and elevations together with vertical and horizontal sections to a scale of at least 1:10 and a typical section of each joinery detail and moulding proposed to

actual scale has been submitted to and approved in writing by the Planning Authority. The details shall include the depth of recess of the window and door frames when measured against the front face of surrounding brickwork/external render/stonework and details of heads, sills and lintels. The development shall then be carried out in accordance with the approved details.

Reason: In accordance with Policies ENV1 and ENV25 of the Selby District Local Plan and Core Strategy Policy SP19 and because it is considered that the use of inappropriate details would be harmful to the special architectural and historic interest of the adjacent listed buildings and conservation area and the Planning Authority therefore needs to retain a measure of control.

05. The external face of the frames of all windows and doors shall be set in reveals of at least 50mm from the front face of the brickwork.

Reason: In the interests of the character and appearance of the area.

LIGHTING

06. Notwithstanding the submitted details, no development shall take place on site until full details of all external lighting to the scheme in terms of the following:

- numbers,
- position,
- type,
- design
- and luminance levels.

has been submitted and approved in writing by the Local Planning Authority. Thereafter the approved details only shall be implemented

Reason: In the interests of River navigation, setting of the adjacent listed buildings, the character and appearance of the conservation area and residential amenity.

ADVERTS

07. No advertisements or fascia boards for the commercial unit shall be erected until details have been submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of the setting of the adjacent listed buildings, the character and appearance of the conservation area and residential amenity.

EH CONSTRUCTION MANAGEMENT

08. No Development shall take place until there has been submitted to and approved in writing by the Local Planning Authority in conjunction with Environmental Health, a Construction Environmental Management Plan. The Plan shall include details of how noise, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. The plan shall also include monitoring, recording and reporting requirements. The construction of the Development shall be completed in accordance with the approved Plan.

Reason: To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

09. No work relating to the development hereby approved, including works of demolition or preparation prior to building operations, shall take place other than between the hours of:

- 08:00 hours and 18:00 hours Mondays to Fridays and
- 08:00 hours to 13:00 hours on Saturdays and at no time on Sundays or Bank or National Holidays.

Reason: To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

EH AIR QUALITY

10. No development shall take place until an Air Quality Assessment has been submitted to and approved in writing by the Local Planning Authority. The assessment shall include damage cost calculation undertaken in relation to the operation of the site and detail emission mitigation measures proposed for the site. An estimate shall be made of the impact that any proposed mitigation measures will have on emissions (i.e. mitigated mass of pollutant) and the financial costs of the mitigation measure to the developer. The assessment shall confirm the timeframe and any phasing of the proposed mitigation, and detail of any 'residual' emissions and damage costs likely to remain after all proposed mitigation measures have been applied. The development shall be carried out in accordance with the approved details.

Reason: To assess the impacts on local air quality and to ensure the development does not have an unacceptable impact on the AQMA (Air Quality Management Area).

EH NOISE

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

Reason: To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

CANAL AND RIVER TRUST

12. No development shall take place unless full details of the construction of foundations have been submitted to and approved in writing by the Local Planning Authority in conjunction with the Canal and Rivers Trust. Details shall include:

- 1) Sections showing the depth of foundations relative to the river Ouse, and
- 2) Information on the means of construction

The development shall be carried out in accordance with the approved details.

Reason: In the interests of minimising the risk of creating land instability in accordance with the advice and guidance contained in paragraph 183 (part a) of the National Planning Policy Framework. The impact upon the character and appearance of the waterway corridor.

CONTAMINATION

13. Prior to construction, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
 - (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
 - (ii) an assessment of the potential risks to:
 - o human health,
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - o adjoining land,
 - o groundwaters and surface waters,
 - o ecological systems,
 - o archaeological sites and ancient monuments;
 - (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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.

14. Prior to construction, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters,

property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

15. Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

16. In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

HIGHWAYS

17. Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority.

The development must only be carried out in compliance with the approved engineering drawings.

Reason: To secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users.

18. No part of the development to which this permission relates must be brought into use until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation.

The completion of all road works, including any phasing, must be in accordance with a programme submitted to and approved in writing with the Local Planning Authority before any part of the development is brought into use.

Reason: To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all prospective highway users.

19. The following schemes of off-site highway mitigation measures must be completed as indicated below:

- The footway fronting the whole of the site must be built with Chinese Granite Stone as it forms part of the Selby Renaissance Scheme area.
- Creation of Pedestrian Crossing point at New Street junction to include a pedestrian light phase

For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority.

An independent Stage 2 Road Safety Audit carried out in accordance with GG119 – Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site.

A programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site. Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

Reason: To ensure that the design is appropriate in the interests of the safety and convenience of highway users.

20. No development for any phase of the development must commence until a Construction Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved Construction Management Plan.

The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

1. details of any temporary construction access to the site including measures for removal following completion of construction works;
2. wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
3. the parking of contractors' site operatives and visitor's vehicles;
4. areas for storage of plant and materials used in constructing the development clear of the highway;
5. measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;

6. details of the routes to be used by HGV construction traffic and highway condition surveys on these routes;
7. protection of carriageway and footway users at all times during demolition and construction;
8. protection of contractors working adjacent to the highway;
9. details of site working hours;
10. erection and maintenance of hoardings including decorative displays, security fencing and scaffolding on/over the footway & carriageway and facilities for public viewing where appropriate;
11. means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development;
12. measures to control and monitor construction noise;
13. an undertaking that there must be no burning of materials on site at any time during construction;
14. removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works;
15. details of the measures to be taken for the protection of trees;
16. details of external lighting equipment;
17. a detailed method statement and programme for the building works; and
18. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: In the interest of public safety and amenity

DRAINAGE

21. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.

Reason: In the interest of satisfactory and sustainable drainage

22. Before any work on the drainage systems begins, details for the maintenance and management of the proposed SuDS drainage scheme arrangement shall be submitted for the written approval of the Local Planning Authority. The scheme shall include drawings showing any surface water assets and any other arrangements to secure the operation of the approved drainage scheme/sustainable urban drainage systems throughout the lifetime of the development.

Reason: To prevent the increased risk of flooding and to ensure the future maintenance of the sustainable drainage system.

FLOOD RISK

23. The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref 90532-PCTS-TollBrdg V2.0 060721 - as prepared by Unda Consulting Ltd) and the following mitigation measures:
 - Finished floor levels shall be set no lower than 6.2 metres above Ordnance Datum (AOD) All flood proof / resilient construction techniques detailed in Section 6.3 of the submitted Flood Risk Assessment

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

24. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority in conjunction with Yorkshire Water Services. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:

- i) Evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
- ii) The means of discharging to the public sewer network at a rate to not to exceed 3.5 litres per second.

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

LANDSCAPING/AMENITY AREA

25. Notwithstanding the submitted details, no development shall take place on site until full details of both hard and soft landscape works for the whole site together with a programme of implementation have been submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved in the first planting and seeding season following the first occupation of the dwellings or the completion of the development whichever is the sooner. Any trees or plants which, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

The scheme shall include the following details:

- Hard and soft landscape information to explain quality of external hard landscape, planting, trees, garden areas for all perimeter paths and boundary treatments (to the west / north / south and east sides).
- Long term maintenance and management plan for planting and trees to all public amenity areas;
- Compensatory ecological enhancements for the loss of natural vegetation

Reason: In accordance with Local Plan Policy ENV1 and because a well-designed landscaping scheme can enhance the living environment of future residents, reduce the impact of the development on the amenities of existing residents and help to integrate the development into the surrounding area.

The public amenity area to the west of the building shall be completed in accordance with approved plans and made available for use prior to the occupation of the flats.

COMMERCIAL UNIT

26. No fixed mechanical ventilation or refrigeration /air conditioning plant shall be installed to the commercial unit until full and precise details have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be constructed, installed and maintained in accordance with the approved scheme.

Reason: In accordance with policy ENV1 of the Selby District Local Plan and in order to safeguard the amenities of the area in which the development is located.

USE CLASS

27. The commercial unit shall be limited the uses under Class E(a) and Class E(b) and not be used for any other purpose including any other use within Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: In accordance with policy ENV1 of the Selby District Local Plan as the proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use having regard to the circumstances of the case.

INFORMATIVES

Canal & River Trust – Consents

The applicant/developer is advised to contact the Canal & River Trust's Works Engineering Team via switchboard on 0303 040 4040 or via email tpwnorth@canalrivertrust.org.uk in order to ensure that any necessary consents are obtained and that the works would comply with the Trust's "Code of Practice for Works affecting the Canal & River Trust"

Highway Consent

Applicants are reminded that in addition to securing planning permission other permissions may be required from North Yorkshire County Council as Local Highway Authority. These additional permissions can include but are not limited to: Agreements under Sections 278, 38, and 184 of the Highways Act 1980; Section 38 of the Commons Act 2006, permissions through New Roads and Streetworks Act 1991 and Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (as amended and including all instruments, orders, plans, regulations and directions). Further information on these matters can be obtained from the Local Highway Authority. Other permissions may also be required from third parties. It is the applicant's responsibility to ensure all necessary permissions are in place.

Delivery of off-site Highway Works

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.

Doors and Windows opening over the Highway

You are advised to ensure that any doors and windows on elevations of the building(s) adjacent to the existing and or proposed highway are constructed and installed such that they do not open over the public highway for a height of 2.4 metres from the level of the adjacent highway. Above 2.4 metres no part of an open door or window must come within 0.5 metres of the carriageway. Any future replacement doors and windows should also comply with these dimensions.

Projections over Footways

You are advised to ensure that any projection overhanging the footway is securely fixed and no part is less than 2.4 metres above the footway level and no closer than 0.5 metres to the edge of the carriageway.

Flood Risk – Evacuation Plan

The applicant should agree a suitable warning and evacuation plan with the LPA's Emergency Planning Team. Surface water drainage details are to be agreed with the Lead Local Flood Authority.

Environmental Permit

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

on or within 8 metres of a main river (16 metres if tidal)
on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
on or within 16 metres of a sea defence
involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

Discharge of Surface Water

Soakaways

If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year.

Mains Sewer

If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow.

Watercourse

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

Obstructions

No obstructions within 9 metres of the edge of an ordinary watercourse are permitted without Consent from the IDB.

Discharge to Main River

If surface water or works are planned adjacent to a Main River within the Drainage District, then the Environment Agency should be contacted for any relevant Permits.

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

For further guidance, pre-application advice & consent form visit: www.shiregroup-idbs.gov.uk and select 'Selby Area IDB'.

For direct enquiries e-mail: planning@shiregroup-idbs.gov.uk

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 2021/1087/FULM and associated documents.

Contact Officer:

Mandy Cooper (Senior Planning Officer)

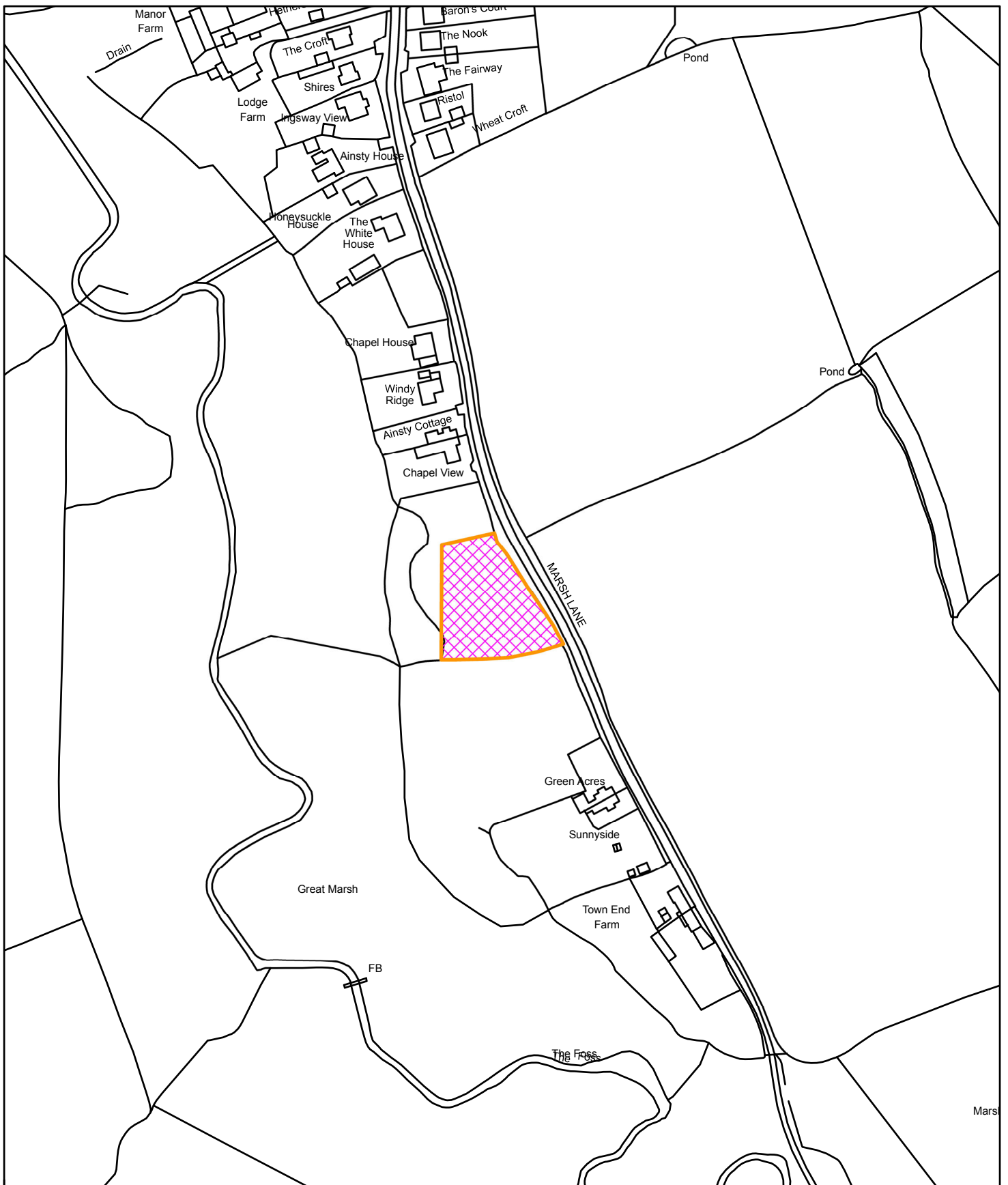
mcooper@selby.gov.uk

Appendices: None

Agenda Item 5.5

Land south of Chapel View, Marsh Lane, Bolton Percy

2019/0031/FUL



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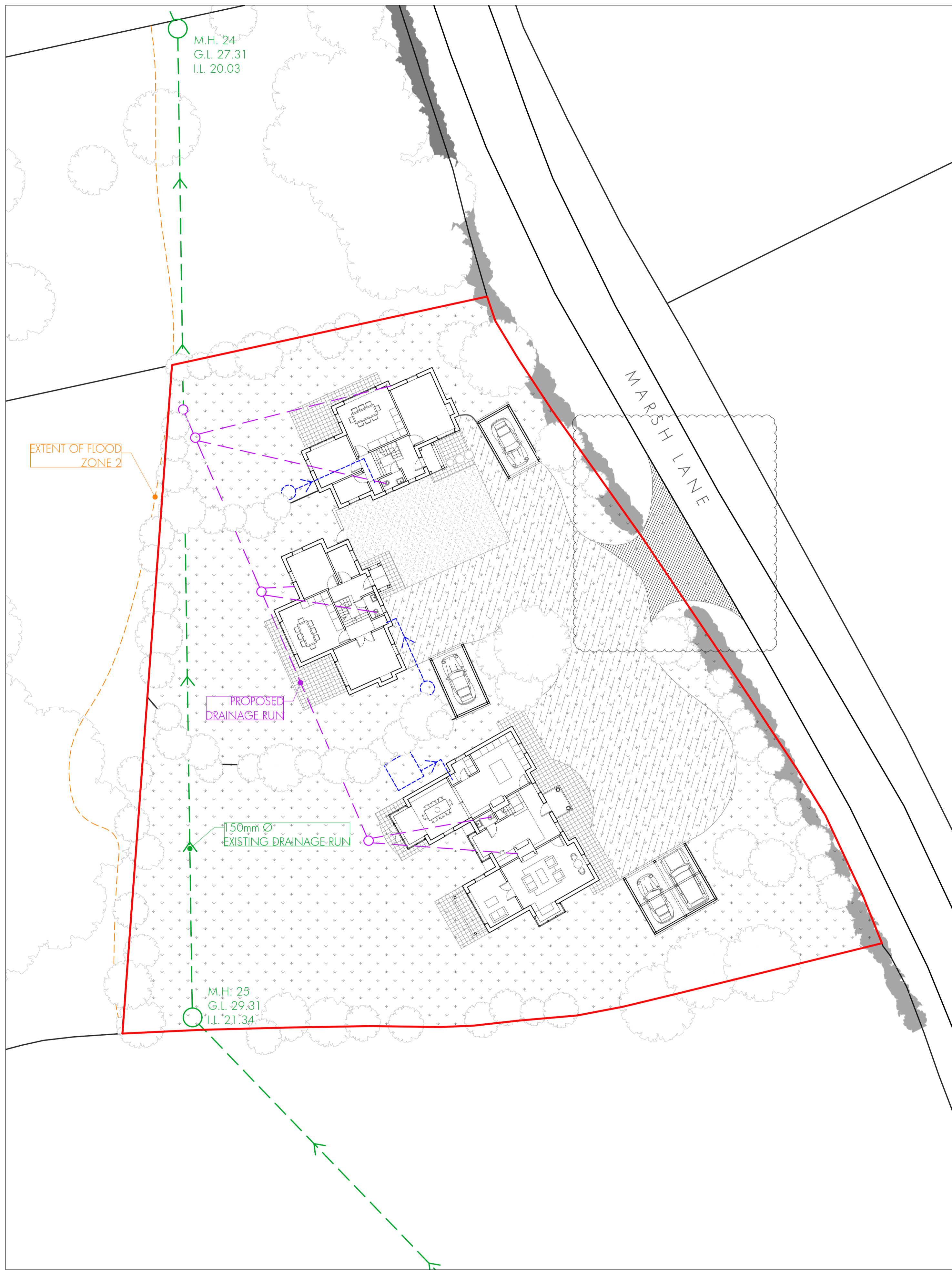


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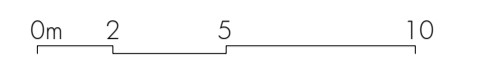
LOCATION PLAN - 1/1250



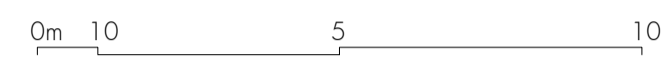
SITE PLAN - 1/200

NOTES:
 This drawing should not be scaled.
 The contractor is to verify all dimensions and conditions on site and report any discrepancies to the Architect immediately.
 This drawing is to be read in conjunction with all relevant documents and drawings
 Copyright: Neil Tomlinson Architects 2019
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SCALE BAR 1:200



SCALE BAR 1:1250



LOCATION PLAN KEY

- Flood Zone
- Chapel View property
- Chapel View residential garden land

SITE PLAN KEY

- Existing Drainage
- Proposed Drainage
- Water Resource Management (Rainwater Harvesting System)

AMENDED
DRAWING

REV	DATE	DESCRIPTION	DRN	CHKD
A	03.11.2017	CONNECTION TO MAIN DRAIN NOT NEEDED SEPTIC TANK AND DRAINAGE FIELD ADDED	EPH	NT
B	26.04.2018	RAINWATER HARVESTING SYSTEM ADDED NEW WEST LAWN AND SITE PLAN ADDED	EPH	NT
C	11.02.2019	DRAINAGE CONNECTION ALTERED FOLLOWING ADVICE FROM YORKSHIRE WATER	BSG	NT
D	05.09.2019	ENTRANCE SURFACE MATERIALS UPDATED	CC	NT
E	12.11.2019	ENTRANCE AREA UPDATED	BS	NT

KEY PLAN

**NEIL TOMLINSON
Architects**
 TELEPHONE +44 (0)20 7089 5747
 FACSIMILE +44 (0)20 7089 5748
 EMAIL INFO@NTARC.CO.UK
 WWW.NTARC.CO.UK
 HORSESHOE WHARF, 6 CLUNK STREET, LONDON, SE1 9FD

DRAWING STATUS:
FOR PLANNING
 CLIENT:
DAVID AND JULIA TOMLINSON
 PROJECT:
Land South of Chapel View, Marsh Lane, Bolton Percy

DATE	SCALE	SCALE AS INDICATED	BSG	DRN	CHKD
November '19	AS INDICATED	BSG	BSG	EPH	NT

DRAWING TITLE:
**PROPOSED
LOCATION AND SITE PLANS**

DRAWING NUMBER:
TNH002-08-20-SP-001
 REVISION:
E

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Report Reference Number: 2019/0031/FUL

To: Planning Committee
Date: 12 January 2022
Author: Yvonne Naylor (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0031/FUL	PARISH:	Bolton Percy Parish Council
APPLICANT:	Mr David Tomlinson	VALID DATE:	6th February 2019
		EXPIRY DATE:	3rd April 2019
PROPOSAL:	Proposed erection of three dwellings		
LOCATION:	Land South of Chapel View Marsh Lane Bolton Percy York		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee as the determination is limited by Part 3 (b) (vi) of the Selby District Constitution, the application is recommended for refusal, but 10 letters of support have been received.

This application was originally on Planning Committee Agenda for the 7 August 2019 but was withdrawn from Committee at the Agents / Applicants request due to them not being able to attend the meeting. Since this time the Applicants / Agent have requested time to consider the report, their case and to make further submissions which were delayed due to COVID impacts.

Additional information was received by Officers on the 1 December 2021, and this is now considered within the report. Further consultations have been undertaken based on the additional information submitted. Responses have been requested by the 15 December 2021 from neighbours, all previous objectors, and the Parish Council. Members will be updated at the committee meeting of any further comments received.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The site is at the southern edge of the village. The site currently exists as (approximately) 2,600 sqm plot of land to the west of Marsh Lane. The site currently exists as an undeveloped plot of land part of which at the southern end is utilised by for log storage. The eastern, southern and western edges of the site are bordered by hedgerow and trees.

The Proposal

- 1.2 Full planning permission is sought for 3 dwellings utilising a shared single access to serve all 3 plots from Marsh Lane. There would be one 4-bedroom house and two 3 bedroom 'cottages'. Two would face the Lane whilst the third would be positioned facing into the site with side elevation to the lane. Parking and turning areas would be provided within the site and each dwelling would have gardens to the side and rear.
- 1.3 The site arrangement is stated by the applicant to be reminiscent of the 'loose courtyard plans' of the traditional small farmstead with the proposed building cluster intended to respect the linear development of buildings along Marsh Lane whilst also adopting the irregularity of some open space and some building elements slightly set back from this line to give an overall broken linear form, in keeping with the rural grain of buildings within the Lane.
- 1.4 The materials are intended to reflect the local vernacular chosen with walls of 'York Handmade Old Clamp' brickwork, roof tiles in red clad interlocking pan tiles with red clay half round ridge tiles and the use of Green Oak framing and featherboard for the garaging and porches alongside white painted box sash windows. In addition, the submitted information confirms that the driveways and yard would generally be pea shingle gravel with York Stone patios and pathway detailing.

Relevant Planning History

- 1.3 Application Number: 2017/0411/FUL (Alt Ref: 8/78/122/PA) for the erection of three dwellings at the same site was refused by the Council following Committee consideration in January 2018 for the following reasons:
- 01 The proposal for 3 dwellings is not considered to be appropriate to the size and role of Bolton Percy, a settlement, which is secondary Village in the Core Strategy. There are already extant approvals on smaller sites for a total of 9 dwellings and capacity for further residential development already exists in the village. The expansion of the village beyond the development limits would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. The proposal does not fall within any of the categories of development set out in Policy SP2 (c) would therefore conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth.
- 02 The site is outside the development limits of Bolton Percy and the proposed scheme does not fall within any of the acceptable forms of development included in Policy SP2 (c) of the CS. It would be a substantial encroachment into a Greenfield site in the open countryside and would not represent a natural rounding off to the settlement. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village.

- 03 The layout and form of the development would not reflect the existing layout and form of nearby development and would result in a harsh urban appearance dominated by frontage hardstanding and parking areas which would be at odds with the existing form, layout and character with the other dwellings on Marsh Lane due to position and scale of the dwellings and the singles access with scale and position of the hard standing at the front of the site.

The decision notice was dated the 10 January 2018 and the decision was not challenged by the Applicants via an Appeal.

2. CONSULTATION AND PUBLICITY

2.1 **Bolton Percy Parish Council** – note that their comments are the same as on the earlier application (2017/0411/FUL), comments summarised as follows:

- The proposal is on Greenfield site and is outside the village envelope. This could set a precedent for future developments.
- The access road to the site is a narrow single-track lane with no passing places, with no line of site for oncoming traffic.
- The already problems with sewage in this area still applies. Sewage overflowing from manholes which these properties would have to be connected. These manholes are situated behind the properties on Marsh Lane and overlook the Ings, which floods when the River Wharfe is high, and can stand there for many weeks.
- If this development goes ahead there would be major problems with site vehicles/deliveries getting to site which would involve them parking on this narrow lane to unload, thus blocking it to residents and emergency vehicles.
- this is not an appropriate style of development and out of character with the other properties in this rural lane, and with the size and number of bedrooms would dominate the landscape.
- the number of extra cars which would have to use this quiet lane, including deliveries of oil etc. (minimum of 6 and possibly more) which will be required in this rural village.

2.2 **SDC Development Policy** - Have advised that that the application should be considered against both the saved policies in the adopted 2005 Selby District Local Plan (SDLP) and the 2013 Selby District Core Strategy (CS). The key issues which should be addressed are:

- Impact on the Council's Housing Land Strategy
- The Principle of Development
- Previous Levels of Growth and the Scale of the Proposal
- Relation of the Proposal to the Development Limit
- Impact on Nature Reserve

Further comments were sought from SDC Development Policy in relation to the additional information on the site and the arguments that the site is previously developed land. In response the Development Policy Officer confirmed that “Regardless of how this issue is determined in the decision, this consideration is not material to the principle of development (as admitted by the applicant in their supplementary statement) and so does not change the Planning Policy Team's advice on this application”.

2.3 **Yorkshire Water** – advised that if planning permission is to be granted, the following conditions should be attached in order to protect the local aquatic environment and YW infrastructure:

- separate systems of drainage for foul and surface water on and off site in the interest of satisfactory and sustainable drainage;
- No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority to ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the foul sewer network.

It is noted in their response that from the submitted planning application surface water is proposed to be drained to SUDs, so Yorkshire Water assumes that surface water will not discharge to public sewer as such development of the site should take place with separate systems for foul and surface water drainage. The separate systems should extend to the points of discharge. Foul water domestic waste should discharge to the 150 mm diameter public foul sewer recorded in crossing the site.3. On the Statutory Sewer Map, there is a 150 mm diameter public foul sewer recorded to cross the site. It is essential that the presence of this infrastructure is taken into account in the design of the scheme. However, in this instance, due to the pipe's small diameter YWS would look for a "build over" to be controlled by Requirement H4 of the Building Regulations 2000 and no protective condition is required. A proposal by the developer to alter/divert a public sewer will be subject to YW requirements and formal procedure in accordance with Section 185 of the Water Industry Act 1991.

2.4 **Ainsty Internal Drainage Board** – confirmed that the site sits close / within the Boards District and assets adjacent to the site include The Foss and Town Field Dyke; noting that these watercourses are known to be subject to high flows during storm events. Confirmed would wish to see a sustainable design solution to drainage to mimic surface water flows and that consideration should be given to whether the surface water arrangements from the site are to connect to a public or private asset (watercourse or sewer) before out-falling into a watercourse or, to outfall directly into a watercourse in the Board area.

Also note that the applicant should be advised that the Board's prior consent is required for any development including fences or planting within 9.00m of the bank top of any watercourse within or forming the boundary of the site. Any proposals to culvert, bridge, fill in or make a discharge to the watercourse will also require the Board's prior consent.

Recommends use of a conditions that requires drainage works to be agreed in consultation with the Internal Drainage Board and this scheme thus to be implemented before the development is brought into use.

Also note a series of criterion to be considered in designing these systems and for the testing of soakaways, in the interest of ensuring a satisfactory means of drainage and to reduce the risk of flooding

2.5 **Natural England** –advised that based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts

on statutorily protected sites or landscapes. Natural England's advice on other natural environment issues is set out below Bolton Percy Ings Site of Special Scientific Interest Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

- 2.6 **NYCC Ecology** – Initial comments on the application raised concerns in terms of the age of the assessment and the structure of the report. So, although it was accepted that the site was probably of low value ecologically there is a need for an updated assessment and clearer defined mitigation / conclusions within the Report to define between recommendations necessary to ensure compliance with planning policy and more generic good practice guidance.

Following receipt of an updated Ecology Report prepared by (Wold Ecology, dated May 2019, the County Ecologist advised that “In terms of protected species, a small population of Great Crested Newt (GCN) is known to occur in a pond about 170 metres north of the nearest boundary of the application site. The ecology report concludes that whilst there is a small risk of encountering individual newts on the application site, the proposed development would not compromise the viability of the local GCN population. Moreover, adherence to a Method Statement included within the ecology report would minimise risks to individuals of this species. This revises a previous assessment which concluded that a European Protected Species licence would be required; we understand this is due to a review of the distances involved, which changes the likely risk level. In relation to these conclusions” On this basis advised that:

- agree that the proposed development would not jeopardise the favourable conservation status of the local GCN population, so complies with the requirements of the Conservation of Habitats & Species Regulations 2017.
- The decision on how best to ensure compliance with the protection of individual animals under the Wildlife & Countryside Act 1981 (as amended) is ultimately a matter for the applicant to discuss with their ecological advisor. We agree that the Method Statement represents a reasonable level of effort to minimise risks.
- would still like to see a hibernaculum created to compensate for the potential loss of terrestrial habitat, though we accept that the distance between the application site and the GCN pond, together with the small size of the GCN population, reduce the potential significance of any habitat loss.
- No potential bat roosting habitat was identified within the application site and the ecology report concluded that the site "is not considered integral to the favourable population status of local bat populations". This seems a reasonable conclusion.
- The habitats present within the application site are generally of low nature conservation value and do not require compensation apart from any hedgerow removal, which should be compensated for by a proportionate amount of native-species planting, either within the proposed development or off-site. This is referred to in the ecology report, but we are unclear how this requirement has been incorporated into the design of the scheme.

Thus, the County Ecologist advised that they “...*would not expect the proposed development to have any significant impact on Bolton Percy Ings Site of Special Scientific Interest (SSSI) due to the distance between the sites. Great Marsh is a former Site of Importance for Nature Conservation (SINC) adjoining the application site but was de-designated after it was re-surveyed in 1998, as it no longer met the*

criteria for SINC selection. The nature conservation value of the former SINC would be influenced primarily by agricultural practices and small-scale development on adjoining land would be unlikely to have a significant impact on any remaining interest”.

The County Ecologist has also noted that in the initial comments it was suggested that the Report should distinguish between recommendations necessary to ensure compliance with planning policy and more generic good practice guidance. This hasn't really been achieved. In this context they have advised that should Selby District Council be minded to grant permission for this application, recommend conditions along the following lines, based on the findings of the ecological assessment:

- The development should adhere to the Great Crested Newt Method Statement set out in section 7.8.5 of the ecology report (Wold Ecology, May 2019)
- The development should adhere to the advice provided in section 7.9 of the ecology report in relation to birds. This includes timing of vegetation clearance and provision of nest boxes.
- External lighting should not shine directly onto adjoining grassland, hedgerow and woodland habitats likely to be used by foraging bats.

2.7 Campaign To Protect Rural England (North Yorkshire) – noted objection to the application although notes acknowledges the applicant's attention to detail in this matter and welcomes the proactive approach which is in line with the principles contained in the National Planning Policy Framework. In summary the objection is noted as being on the basis that:

- This current application is therefore considered as a re-application with very little differences between the previous proposal and the current scheme
- The site is currently used by a tree surgeon for the storage of wood and as such is considered to be undeveloped
- Any historic buildings on the site - predating 1940 which were smaller in size than that considered by these proposals are considered irrelevant in planning terms. In line with policy provisions
- The proposals are within the open countryside and there is no apparent 'need' for the proposals and the proposals are therefore contrary to National and Development Plan policy
- The application site is not within the adopted development limits for Bolton Percy, therefore, is contrary to SP2. Policy SP4 details the exceptional circumstances as to when development in the open countryside would be permitted, however, the proposals do not constitute any of these circumstances as they do not relate to an economic need or established agricultural business within the vicinity, therefore, the proposal is not in conformity with Policy SP4.
- The scheme is not 100% affordable housing so it cannot be considered to be acceptable as a rural exception site.
- There is no apparent need for the development in terms of housing numbers / supply arguments
- The site is not infill development
- CPRE North Yorkshire have been contacted by members who are concerned about the access arrangements for the proposed development. The applicant has proposed to retain the existing access from the site directly from Marsh Lane and create a courtyard effect within the development site. Marsh Lane is a single-track road with designated passing points, which can lead to congestion

problems at particular times of the year. Whilst there has been no objection to the proposals on Highways Grounds, members are concerned that the approval of three large additional dwellings at this particular location will serve to increase localised issues further

- Members have contacted CPRE North Yorkshire with concerns relating to foul sewerage flooding on the site and potential risk of contamination. Concerns relate to a perceived worsening of the current situation should an additional three dwellings be approved at this location. Should they be so minded as to approve this application, the Council would need to be satisfied that these issues have been taken into account and that any health and safety issues relating to issues with sewerage have been resolved and would not lead to an increased risk to existing occupants of the village and future occupants of this site.
- Members have contacted CPRE North Yorkshire raising concerns in terms of impact on heritage assets and note that the proposal lays to the south of the existing Bolton Percy Conservation Area. There are also a number of Listed Buildings within the village which should be assessed and although it is considered that the site as proposed, will not cause a detrimental impact on the Conservation Area or other assets within winter periods and potential mitigation measures are incorporated into the design stage as required prior to determining the application
- Consider that the proposed design of the proposal is aesthetically pleasing and that the architect has paid attention to local character and styles. The fact that the proposals are seeking to accommodate the needs of future occupiers in different stages of life is welcomed. Whilst the positive merits of these should be taken into account in the planning balance,

2.8 **North Yorkshire Bat Group** – no response received.

2.9 **NYCC Highways** – recommends conditions on any consent relating to

- Private Access/Verge Crossings: Construction Requirements
- Visibility Splays of 60 metres measured along both channel lines of the major road (Marsh Lane) from a point measured 2 metres down the centre line of the access road.
- Construction Management Plan

2.10 **Contamination Consultant** – Advised that the Phase 1 Report shows that the site is currently used for the cutting and sorting of timber, with areas of burning / bonfires present onsite and an old well/ pump in the north-eastern corner. The site was previously occupied by buildings (thought to be residential properties) and ponds, but by 1950 these were no longer recorded. No landfill sites or past industrial activities are listed within 250m. The report concludes that made ground could be present due to the past use of the site, including the potential infilling of the ponds, and the more recent timber works. As such advises that there is a “low to moderate geotechnical risk and a very low contamination risk have been identified at the site” and that the “...report recommends that a Phase 2 investigation, comprising the installation of mini percussion boreholes and associated soil sampling and ground gas / groundwater monitoring, is carried out. As such although it is noted that the Phase 1 report provides a good overview of the site's history, setting and its potential to be affected by contamination. However, in my opinion the contamination risk is more likely to be moderate (rather than very low), due to the potential presence of made ground and the evidence of burning / bonfires.”

In this context a series of conditions are suggested:

- Investigation of Land Contamination Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application)
- Submission of a Remediation Scheme
- Verification of Remedial Works
- Reporting of Unexpected Contamination

2.11 **Neighbour Summary** - All immediate neighbours were informed by letter, a site notice was posted, and an advert placed in the press. The application received over 10 letters of support and submissions from a further 5 people / bodies in objection.

The comments in **objection** can be summarised as follows:

Principle of Development

- The application is the same as the 2017/0411/FUL and should be refused as in direct conflict with the Core Strategy and there have been no material changes in the strategy documents.
- The site is contrary to Policy SP2A(c) of the Core Strategy
- The Council has a 5-year housing land supply so the Core Strategy should not be ignored
- The site is outside the development limits of the village so it is not infill
- The site is rural in character and allow development on the site would set a precedent
- Housing should be directed to other places including designated service villages and there is no need for development in this rural area
- Residents have advised us that there were no houses or buildings or structure remains on the site and maps don't support any assertion that there have been
- A former occupier of Chapel House used to plough the land and plant with vegetables and potatoes
- The site is not unsightly it is rural and open countryside
- Only change since last application was considered is that there have been developments completed in the village envelope
- The development is not needed given that the Council has a 5-year housing land supply, the noted cases in the applicant's submission are not applicable
- The site is outside the development limit which was defined through a local plan process and as such this is the basis that the Council has for the definition of development limits and that should be what is used for basis for assessing the application
- The applicants have made no meaningful attempt to provide any case or evidence with regard the contribution that it may be able to make to the vitality of the rural community and compliance with Policy SP2 and SP4 of the Core Strategy
- None of the information provided by the applicants could be considered to be sufficient to either individuality or cumulatively outweigh the clear conflict with the adopted development plan

Previously Development Land

- Never seen any buildings on the site (lived in village since 1974)

- Having considered the PDL Statement now submitted with the application it is noted that this case was not made previously made in anyway and the now submitted information not only misinterprets the conclusions of officers on the last application in terms of PDL / abandonment and the Officer at that stage considered that the historic development of the site does not have relevance to the assessment of the principle of development
- The definition of PDL in the NPPF relates to a visual assessment of the appearance of the site within the surrounding landscape, the attempt by the applicants to make the usability of the site relevant to this issue is incorrect application of the test and needs to be completely set aside by Officers
- In making their case the Agent has confused the difference between curtilage and planning units, and provide a dual case that the site is both developed and part of the built up area of the village - whilst also claiming the site is a “rural garden” that does not therefore form on the exclusions within the NPPF - the reference to the rural garden is not borne out by the facts as neither sites forms part of the curtilage of a lawful dwelling
- The applicants can't reasonably seek to “have their cake and eat it”, and their representations in support of both legs of their argument provide no reasonable assistance to the Officer tasked with determining the proposal
- The applicants have misinterpreted the NPPF definition and the definition of development within S55 of the Planning Act
- The Authority needs to take a view on the lawful use of the site which would require consideration of an application for Certificate of Lawful Use or Development and no such application is in place
- The PDL Statement is not a “sworn” statement and provides little new information and in reality, demonstrates more the lawful use of the site
- The remains of any physical development on the site have been almost entirely removed and erased and the site has blended with its surroundings
- There is no living memory evidence of any housing on the site

Design

- The new homes will not complement the character or enhance the streetscape
- Would suburbanise what is a genuine unspoilt narrow country lane
- The applicants implies that the development will help bridge the gap between existing houses but he has allocated the boundary of Chapel View to be extended increasing that gap and thus resulting in a flaw in his argument
- The layout does not reflect the building line / character of the area and the garages are close to the road

Ecology

- The site is a haven for wildlife and habitat
- The survey information should be updated (noted in comments pre- submission of the updated survey)

Other

- The site is not a sustainable location there is no shop / school or functioning pub in the village and the development would result in car journeys to access services.
- The development will not result in spending the village just further afield so there is no local benefit

- There are already access and congestion problems on Marsh Lane which is a single track without designated passing places and the development would increase pressure on this rural road
- The noted bus service is daytime only and there is threat of its withdrawal
- The Information supplied with the application is inadequate
- There has not been any fly tipping on the site and the submitted photos purporting to be fly tipping are actually galvanised tanks that was there to cap off an old unground well in the adjoining garden area of the adjacent property
- The Council should verify that those registering support for the scheme have indeed written the letters

The comments in **support** can be summarised as follows:

Principle of Development

- Up to the 1950's this site had residential units on it and much of the solid foundations still exist, it is not green belt and has never been agricultural – it should be considered to be brownfield
- The site has been left too long, weed ridden and untidy
- The site is previously developed land with no agricultural history it will not set a precedent for further housing
- Development will enhance the village and contribute to the vitality of the community
- Development limits don't make the site outside the village – it is a dead-end road and the site is in the township
- SDC have approved other sites outside the development limits on PDL because it was seen as sustainable development and not just because of the 5 year housing land supply
- The houses represent sustainable development for Bolton Percy

Design

- The development is well thought out and will only be an asset to the village
- The units are designed by an architect and are of a high quality

Other

- Will not impinge on sewerage system
- Highways and the IDB have supported the scheme
- Would provide much needed smaller housing in the village for people wanting to downsize and stay in the village

3 SITE CONSTRAINTS

Constraints

- 3.1 The site lies outside the development limits of Bolton Percy, a Secondary Village in the Core Strategy. To the west the land slopes sharply down towards Great Marsh which is within Flood Zone 3. However, the application site and falls within Flood Zone 1.

4 POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options took place early in 2020. Consultation on preferred options took place in early 2021. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (July 2021) (NPPF) replaced the February 2019 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 2021 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

"219...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 (SDCS) 2013

- 4.5 The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development
SP2 - Spatial Development Strategy
SP5 - The Scale and Distribution of Housing
SP9 - Affordable Housing
SP18 - Protecting and Enhancing the Environment
SP19 - Design Quality

Selby District Local Plan (SDLP) 2005

- 4.6 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
T1 - Development in Relation to Highway
T2 - Access to Roads

4.7 National Planning Policy Framework (NPPF) 2021

- 2 Achieving sustainable development
- 4 Decision making
- 5 Delivering a sufficient supply of homes
- 8 Promoting healthy and safe communities
- 9 Promoting sustainable transport
- 11 Making effective use of land
- 12 Achieving well-designed places
- 14 Meeting the challenge of climate change, flooding and coastal change
- 15 Conserving and enhancing the natural environment

Annex 1: Implementation

Annex 2: Glossary

Annex 3: Flood risk vulnerability classification

Other Policies/Guidance

- Five Year Housing Land Supply Report 2020 – 2025 (Position at 21st March 2020)
- Affordable Housing Supplementary Planning Document, 2013
- Developer Contributions Supplementary Planning Document March 2007
- National Design Guide

5 APPRAISAL

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

1. The Principle of Development on the Site for Residential Use
2. Character and form of the area and the village.
3. Highways
4. Residential amenity
5. Nature conservation and protected species
6. Flood risk, drainage and climate change.
7. Land Contamination
8. Affordable housing
9. Other Matters

Principle of Development

- 5.2 The application site is wholly outside the development limits of the settlement of Bolton Percy, which is a secondary village, the site is therefore in open countryside.
- 5.3 There is a single dwelling to the immediate north and open views to the east and west. There is a further dwelling to the south, but this is separated from the site. As such the site follows a linear form along Marsh Lane and represents a linear extension of the village beyond the existing built form.
- 5.4 At the time of writing this report, the Council can confirm that they have a five-year (7.7 years) housing land supply. The fact of having a five-year land supply cannot be

a reason in itself for refusing a planning application. The broad implications of a positive five-year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.

- 5.5 The NPPF is a material consideration and states that sustainable development is about positive growth and that the Planning System should contribute to the achievement of sustainable development. The NPPF, taken as a whole, constitutes the Government's view of what sustainable development in England means in practice for the planning system.
- 5.6 Policy SP1 of the Selby District Core Strategy Local Plan (2013) (CS) 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.
- 5.7 Policy SP2 of the CS sets out the long-term spatial direction for the district and provides guidance for the proposed general distribution of future development across the district. The settlement hierarchy is ranked on the Principal Town of Selby, Local Service Centres, Designated Service Villages and smaller villages. The CS identifies Bolton Percy as a 'secondary village'. Policy SP2 sets out that a limited amount of residential development may be absorbed inside Development Limits of secondary villages where it would enhance or maintain the vitality of rural communities, and which confirm to Policy SP4 of the Core Strategy.
- 5.8 Policy SP2A(c) states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances. The site lies outside the development limits of Bolton Percy village. The proposal does not constitute any of the forms of development set out under SP2A(c). In light of the above policy context the proposals for residential development are contrary to Policy SP2 of the Core Strategy and should be refused unless material considerations indicate otherwise.
- 5.9 The submissions made in support of the application, including those provided on the 1st December 2021, refer to the position of the applicants being that the site is previously developed land and not greenfield and reference is made to other submissions being considered or consented by the Council for development outside development limits, and confirmation that the scheme is a "Self Build" for the Applicant (Mr Tomlinson) and his two sons. Arguments have also been made that the Development Limits are out of date, that the houses will not be isolated, and that site is Flood Zone 1, previously developed and represents sustainable development.
- 5.10 In terms of the scheme being for Self-Build then the applicant has stated in his 1st December 2021 submissions that the scheme is a self-build, for the Applicant and his two sons, who wish to re-establish roots in the village where they have owned land for over 25 years. The Self Build and Custom House Building Act was brought into force in 2015. This introduced a requirement to keep a self-build and custom

housebuilding register of individuals and associations of individuals who are seeking to acquire serviced plots of land in the authority's area for their own self build and custom housebuilding. The Act requires Local Planning Authorities to give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. Such housing can be either market or affordable housing. In considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout. However, it is not considered that there is sufficient information submitted with the application to evidence the proposal complies with the relevant requirements of the Self Build and Customer House Building Act 2015, as no information over that stated above has been provided.

- 5.11 In some circumstances permission has been granted for small sale development outside of development limits, including pockets of greenfield land which project beyond the development limits. However, these have generally been in more sustainable locations such as Designated Service Villages where a number of other site specific or historic factors in addition to the sustainability of the location or the physical characteristics have additionally contributed towards the justification. However, in all cases the overriding consideration and starting point for determination is the development plan policy, which comprises of the saved policies of the Local Plan and the Core Strategy. In terms of the emerging Local Plan and a potential opportunity to review development limits, at the present time this is at an early stage and such little weight can be afforded to any progressing policy approach. The saved policies of the Local Plan and the Core Strategy remain the adopted development plan for the area for the purposes of Section 38(6) of the Town and Country Planning Act. This site lies outside the development limits of a secondary village for which significant weight has been attached. Bolton Percy is one of the smallest and least sustainable settlements within the district and as such in the absence of any other material considerations which attract significant weight. Officers are of the view that the development plan, the settlement strategy and the housing supply is up to date and as such the proposal is unacceptable.
- 5.13 In terms of the Development Limits, it is acknowledged that these were defined a number of years ago and whilst as part of the review of updating the existing Core Strategy the Development Limits will be reviewed, there is currently no indication of how and the methodology which will take place. Moreover, changes to the plan are not yet completed and it is still in the early stages with any changes being finalised in 2023 and therefore do not carry any weight at this time. There is nothing within the NPPF which suggests that the definition of settlement boundaries is no longer a suitable policy response to managing development and that such policies are out of date. Whilst there are recent developments which have gone beyond the defined settlement boundaries, each case has been determined on its individual merits including the two referred to, where circumstances, in the officers' view are materially different to this application. These do not bind the Council to approve this application and each application is to be considered on its own merits.
- 5.14 Whilst Officers accept there is a need to be minded of other recommendations and decisions, every case is assessed on its merits and against the Development Plan and taking full account of its context and characteristics and the associated material considerations. Although the case at Skipwith is noted, every case is assessed on its merits against the development plan it is not considered that the scheme for Marsh Lane should be simply supported off the back of another decision even if some characteristics of the site are similar. In addition, Appeal Decisions for

dwellings outside the development limits of Secondary Villages have been dismissed on the basis of sustainability and accessibility to services, facilities and employment. As mentioned in paragraph 5.12 above Bolton Percy has limited facilities and services and is classed as one of the smallest settlements. Officers are therefore of the view that the settlement is one of the least sustainable and the approach is consistent with the aforementioned appeal decisions.

- 5.15 Having considered the arguments made by the Applicants, it is the view of Officers that the development of the site, is contrary to the development plan there are no material considerations that would outweigh this and provide justification to deviate from this position.
- 5.16 The site is outside the Development Limits of Bolton Percy and would extend development beyond that defined in the Local Plan, would encroach into open countryside and its development is contrary to SP2 and it represents an unacceptable form of development.

Impact of the Development on the character and form of the area and the village

- 5.17 Residential development in the village is contained within very clear and defined boundary limits set by the extent of the existing housing which flanks both sides of Marsh Lane on the south side of the village. Marsh Lane is narrow and rural in character. The existing housing development extends further south on the west side of the lane than the east in a ribbon form of dwellings fronting the road. Beyond the last house known as Chapel View there are no further dwellings and the narrow lane beyond this point is characterized by high hedges on either side enclosing open undeveloped land. The land on the west of the lane slopes sharply down away from the road towards a Site of Nature Conservation (SINC) which encompasses the Marsh areas along the Foss. On the East side of Marsh Lane, the last house is Wheat Croft beyond which is the open pastoral setting to the village which is part of the wider agricultural landscape round the village.
- 5.18 The proposed development would result in a substantial visual change in the landscape context as a result of the projection of the development into the currently undeveloped site. Due to its size and position it would not represent a natural rounding off. It would represent a further ribbon extension of the dwellings beyond Chapel View projecting the development of the village even further south into this rural lane. Moreover, there would be a gap between the application site and the development limits which are drawn close to the side elevation of Chapel View. There is no clear boundary to the side garden of Chapel View with shrub planting to the side leading out to a large area of mown grass merging in with this application site. As such there would be an intervening parcel of land outside of the development limits for which the land use is unclear.
- 5.19 It is noted that there are further dwellings to the south including Green Acres, and Sunnyside (a pair of semi-detached dwellings) and Town End Farm. However, these are well beyond the development limits of the village and are sporadic isolated dwellings in the countryside. This development would expand the settlement southwards, creating an additional block of development encroaching and jutting out into the rural open countryside location beyond the development limits at this southern end of the village. There is hedgerow to the road frontage and to the southern boundary of the application site. However, there are no clearly defined boundaries on the north or west sides. The proposal would create a new

harsh urban development within a substantial open area of land which would not create a new logical or defensible edge to the settlement.

- 5.20 In terms of the layout, a single access is proposed onto Marsh Lane. Whilst this meets Highway requirements it results in a layout which is dominated by a substantial single joint area of hardstanding and parking at the front. This would create a harsh appearance at odds with the existing form, layout and character with the other dwellings on Marsh Lane which have individual accesses with small areas of hardstanding and landscaped front gardens.
- 5.21 The applicants' comments are noted that the site arrangement is reminiscent of the 'loose courtyard plans' of the traditional small farmstead with the proposed building cluster intended to respect the linear development of buildings along Marsh Lane whilst also adopting the irregularity of some open space and some building elements slightly set back from this line to give an overall broken linear form, in keeping with the rural grain of buildings within the Lane. However, overall, the development is considered to be a harmful encroachment into undeveloped rural land beyond the development limits of the village.
- 5.22 The applicants have submitted information in support of the application referencing historical maps and noting comments from long standing residents of the area. However, the historical development on the site as shown on the maps provided do indicate the presence of two small buildings with small curtilages which bear no comparison to the extent of development now proposed or the extent of the curtilage area now proposed. Moreover, these buildings have long since gone and the site has reverted back to land defined as 'greenfield'.

The NPPF defines previously developed land as:

'...land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.'

Officers are of the view that the land is therefore not previously developed land, as such the historic buildings have no relevance to the assessment of the principle of development.

- 5.23 Overall, it is considered that the development, due to its scale, location and extent would be a substantial encroachment into open countryside and does not represent a natural rounding off to the settlement. Moreover, the layout form and design of the scheme would not reflect the existing character layout and form of development in the village. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village contrary to the aims of Policies SP1, SP18 and SP19 of the SDCSLP, ENV 1 of the SDLP and with the NPPF.

Impact on Highway Safety

- 5.24 Policies ENV1 (2), of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements. Policy T1 of the Local Plan relate to consideration of the highways impacts of development. Policy T1 notes that development should be well related to existing highways networks and will only be permitted where existing roads have adequate capacity otherwise off-site highways works may be required.
- 5.25 The scheme shows a single access from Marsh Lane which then serves the dwellings and NYCC Highways raise no objections to the scheme subject to a series of conditions.
- 5.26 Having had regard to the above it is considered that the scheme is acceptable in terms of highway safety and the impact on the road network. Paragraph 111 of the NPPF states that:

'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'

The proposal is therefore considered to be acceptable in respect of the local and national planning policies.

Impact on Residential Amenity

- 5.27 Policy ENV1 (1) requires that the District Council take account of:

"The effect upon... the amenity of adjoining occupiers".

It is considered that policy ENV1 (1) of the Selby District Local Plan should be given significant weight as one of the core principles of the NPPF is to ensure that a good standard of residential amenity is achieved in accordance with the emphasis within the NPPF. In addition, Policy ENV2A states that:

"Proposals for development which would give rise to, or would be affected by, unacceptable levels of noise, nuisance, contamination or other environmental pollution including groundwater pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme."

- 5.28 One of the twelve core planning principles of the NPPF is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. The key considerations in respects of residential amenity are considered to be the potential of the proposal to result in overlooking, overshadowing and overbearing.
- 5.29 The layout plan is spacious with adequate levels of privacy and amenity provided for future occupants without impacting on the living conditions of the occupants of nearby dwellings. The distance between the proposed dwellings and existing properties is more than the required minimum.
- 5.30 It is therefore considered that the scheme is an appropriate design with respect to residential amenity which would ensure that no significant detrimental impact is

caused to existing residents through overlooking, overshadowing or creating an oppressive outlook in accordance with policy ENV1(1) of the Local Plan and the NPPF.

Nature Conservation and Protected Species

- 5.31 Policy ENV1(5) states that proposals should not harm acknowledged nature conservation interests or result in the loss of open space of recreation or amenity value, or which is intrinsically important to the character of the area. These policies should be given significant weight as they are consistent with the NPPF. Protected Species are protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of a protected species is a material planning consideration.
- 5.32 The application site is not on or near a formal designated protected site. However, it is in close proximity to a locally designated SINC. An Ecology Report has been submitted with the application dated May 2019 and it is accepted that the site is of low ecological value by the County Ecologist with defined mitigation.
- 5.33 The County Ecologist has also advised that they would not expect the development to have any significant impact on the Bolton Percy SSSI due to the distance to the site and given the Great Marsh (following reassessment) is no longer a SINC and any impact would be unlikely to have any significant impact. As such the County Ecologist has noted no objection and advised the Council that the development if supported should be required to adhere with the GCN Method Statement at Section 7.8.5, section 7.9 in relation to birds and that all external lighting should not shine onto the adjoining grassland, hedgerow or woodland habitats likely to be used as foraging bats.
- 5.34 On balance it is considered that the Applicants have demonstrated to the satisfaction of the consultees that the impacts on protected species and habitats subject to appropriately worded conditions should Members resolved to grant permission contrary to officer recommendation.

Flood Risk, Drainage and Climate Change

- 5.35 Relevant policies in respect to drainage, climate change and flood risk include Policy ENV1(3) of the Local Plan and Policies SP15 and SP16 of the Core Strategy.
- 5.36 The application site is located in Flood Zone 1, which comprises land assessed as having a less than 1:1000 annual probability of flooding. It is therefore low risk and is considered to be at a low probability of flooding.
- 5.37 Although there are local objections and concerns about local flooding, the application is accompanied by a Flood Risk Assessment which examines potential flood risk as above and considers the options for Surface water drainage and Foul water drainage. The scheme would attenuate surface water flows to restrict the flow of water to greenfield rate. Yorkshire Water and the IDB raise no objections subject to a series of conditions and informative which could be attached.
- 5.38 In terms of climate change then the Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate meet 8 criteria set out within the policy. Having had regard to the nature and scale of the

proposal, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria of SP15 (B) of the Core Strategy. Therefore, having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.

- 5.39 It is considered that, should Members resolve to grant permission contrary to officer recommendation, subject to appropriately worded conditions the scheme would be acceptable and accord with the aforementioned local and national policies in terms of flood risk, drainage and climate change.

Land Contamination

- 5.40 Relevant policies in respect of land contamination include Policy ENV2 of the Selby District Local Plan and Policy SP19 “Design Quality” of the Core Strategy
- 5.41 The Council’s Contamination Consultant has reviewed the submitted information and has advised that the Phase 1 Report shows that the site is currently used for the cutting and sorting of timber, with areas of burning / bonfires present onsite and an old well/ pump in the north-eastern corner. The site was previously occupied by buildings (thought to be residential properties) and ponds, but by 1950 these were no longer recorded. No landfill sites or past industrial activities are listed within 250m. They have also noted that the report concludes that made ground could be present due to the past use of the site, including the potential infilling of the ponds, and the more recent timber works. As such advises that there is a “low to moderate geotechnical risk and a very low contamination risk have been identified at the site” and that the “...report recommends that a Phase 2 investigation, comprising the installation of mini percussion boreholes and associated soil sampling and ground gas / groundwater monitoring, is carried out”. In this context although it is noted that the Phase 1 report provides a good overview of the site's history, its setting and its potential to be affected by contamination there is likely to be moderate (rather than very low), due to the potential presence of made ground and the evidence of burning / bonfires and a series of conditions are suggested.
- 5.42 The proposals, subject to conditions would therefore be acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy should Members resolve to grant planning permission contrary to officer recommendation.

Recreational Open Space

- 5.43 Policy RT2 of the Selby Local Plan deals with the provision of recreational open space and this should be afforded significant weight in addition to the Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and the NPPF. However, as Policy RT2 only requires recreational open space to be provided for schemes of 5 or more dwellings, no provision is required in respect of the proposal as it does not meet this trigger point. The application would therefore be acceptable without a contribution for recreational open space and is therefore in accordance with Policies RT2 of the Local Plan, Policy SP9 of the Core Strategy and the NPPF.

Affordable Housing

- 5.44 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Housing Document (SPD) sets out the affordable housing policy context for the district.
- 5.45 Core Strategy Policy SP9 states that for schemes of less than 10 units or less than 0.3ha, a fixed sum will be sought to provide affordable housing within the district.
- 5.46 The NPPF is however a material consideration and states at paragraph 64 that
- “Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”*
- Major development’ is defined in Annex 2: Glossary as “For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more”
- 5.47 The application proposes three dwellings and as such is not a major development. It is therefore considered that having had regard to Policy SP9 of the Core Strategy, the Affordable Housing SPD and the national policy contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing as it does not meet the trigger point.

Other Matters arising from Consultations

- 5.48 A series of other issues have been raised in comments on the application. These are assessed in the following section.
- 5.49 Objectors have noted that the applicants should be making a submission for a Certificate of Lawfulness for the scheme. No submission is before the Council for such a certification and therefore although these comments are noted this is not for consideration.
- 5.50 Objectors have questioned the status of the statement by the Applicants on the PDL status of the site, noting reference to this being a “sworn statement”. The PDL Supporting Statement was submitted in support of the application and as such has been accepted as part of the case in support of the application and there is no requirement for a sworn statement.

6 CONCLUSION

- 6.1 The site is outside the development limits of Bolton Percy and the proposed scheme does not fall within any of the acceptable forms of development included in Policy SP2 (c) of the CS. It would be a substantial encroachment into land defined as greenfield within the open countryside and neither can be considered as representing a natural rounding off to the settlement. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village.
- 6.2 Moreover, the layout and form of the development would not reflect the existing layout and form of nearby development and would result in a harsh appearance at odds with the existing form, layout and character with the other dwellings on Marsh

Lane due to position and scale of the dwellings and the singles access with scale and position of the hard standing at the front of the site.

- 6.3 The expansion of the village beyond the development limits would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. The proposal does not fall within any of the categories of development set out in Policy SP2 (c) would therefore conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth. Whilst the NPPF sets out the Government's objective of boosting the supply of homes, this is significantly outweighed by the reasons as set out in this report. Officers are of the view that the proposal is not sustainable development and is contrary to the Selby Development Plan.

7 RECOMMENDATION

This application is recommended to be **REFUSED** on the following grounds:

- 01 The proposal for 3 dwellings is not considered to be appropriate to the size and role of Bolton Percy, a settlement, which is secondary Village in the Core Strategy. The expansion of the village beyond the development limits would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. The proposal does not fall within any of the categories of development set out in Policy SP2 (c) would therefore conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth.
- 02 The site is outside the development limits of Bolton Percy and the proposed scheme does not fall within any of the acceptable forms of development included in Policy SP2 (c) of the CS. It would be a substantial encroachment of a greenfield site in the open countryside and would not represent a natural rounding off to the settlement. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village contrary to policy SP2 and paragraph 174 of the NPPF.
- 03 The layout and form of the development would not reflect the existing layout and form of nearby development and would result in a harsh urban appearance dominated by frontage hardstanding and parking areas which would be at odds with the existing form, layout and character with the other dwellings on Marsh Lane due to position and scale of the dwellings and the singles access with scale and position of the hard standing at the front of the site contrary to policies SP1, SP18 and SP19 of the Selby District Council Core Strategy, policy ENV 1 of the Selby District Council Local Plan and Chapter 12 of the NPPF.

8 Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9 **Financial Issues**

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

10 **Background Documents**

Planning Application file reference 2019/0031/FUL and associated documents.

Contact Officer:

Yvonne Naylor (Principal Planning Officer)

ynaylor@selby.gov.uk

Appendices: None



List of Planning Applications Determined Under Delegated Powers
 The following Planning Applications have been determined by officers under the scheme of Delegation

Application Number	Applicant	Location	Proposal	Decision and Date	Case Officer
2020/0841/HPA	Mr David Armstrong	25 Coupland Road Selby YO8 3GE	Alteration and extension to existing conservatory.	PERMITTED 3 Dec 2021	Josh Turner
2020/0972/DOC	Bellway Homes Limited - Yorkshire Division	Brownfield Site 2 Leeds East Airport Busk Lane Church Fenton Tadcaster North Yorkshire	Discharge of conditions 3 (materials), 10 (flooding), 11 (drainage), 24 (energy) & 26 (landscape ecology management plan) of approval 2019/0325/FULM Proposed erection of 124 dwellings with open space and associated infrastructure following demolition of existing buildings	CONDITION DECISION 25 Nov 2021	Diane Holgate
2020/1315/DOC	Bellway Homes Limited - Yorkshire Division	Brownfield Site 2 Leeds East Airport Busk Lane Church Fenton Tadcaster North Yorkshire	Discharge of conditions 04 (landscaping), 05 (landscaping), 25 (noise), 28 (remediation), 32 (electric vehicle charging points) & 33 (broadband) of approval 2019/0325/FULM Proposed erection of 124 dwellings with open space and associated infrastructure following demolition of existing buildings	CONDITION DECISION 25 Nov 2021	Diane Holgate
2021/0221/S73	Mr & Mrs R Wooddall	Greenacres Garth Green Lane Cliffe Selby North Yorkshire YO8 6PG	Section 73 application to remove condition 07 (agricultural occupancy) of planning permission 8/17/106A/PA Proposed erection of one detached dwelling on land granted on 29 October 1991	REFUSED 3 Dec 2021	Irma Sinkeviciene

Application Number	Applicant	Location	Proposal	Decision and Date	Case Officer
2021/0231/DOC	Bellway Homes Ltd - Yorkshire Division	Brownfield Site 2 Leeds East Airport Busk Lane Church Fenton Tadcaster North Yorkshire	Discharge of conditions 12 (highways), 14 (highways works), 15 (Highway mitigation provision), 18 (surface water) and 19 (existing access) of approval 2019/0325/FULM Proposed erection of 124 dwellings with open space and associated infrastructure following demolition of existing buildings	CONDITIONS PART DISCHARGED 25 Nov 2021	Diane Holgate
2021/0291/S73	Sedamyl UK Ltd	Sedalcol UK Ltd Denison Road Selby North Yorkshire YO8 8EF	Section 73 application to vary condition 02 (approved drawings), Condition 03 (Materials), Condition 04(Flood Risk), Condition 06 (Construction Management Plan), Condition 07 (Noise), Condition 11 (Tree Protection) and Condition 12(Landscaping) of approval 2019/1355/FULM Proposed expansion of the production capacity of the existing agri-processing site, including new wheat intakes and storage, glucose plant, additional distillation and fermentation, additional starch and gluten production, carbon dioxide collection and associated utilities and services granted on 16 September 2020	PERMITTED 22 Nov 2021	Yvonne Naylor
2021/0589/HPA	Mr Michael Hill	Ridgeway Low Road Kellington Selby North Yorkshire DN14 0NJ	Installation of new vehicular access	PERMITTED 2 Dec 2021	Ellis Mortimer
2021/0593/FUL	BP Oil UK Limited	Southlands SF Connect Low Street South Milford Selby North Yorkshire LS25 5AS	Proposed installation of 2no. electric vehicle (EV) charging bays and associated works, lighting, retaining wall and associated electrical connections and infrastructure.	PERMITTED 6 Dec 2021	Ellis Mortimer

Application Number	Applicant	Location	Proposal	Decision and Date	Case Officer
2021/0671/HPA	Mr & Mrs Atkinson	The Coach House School Lane Bolton Percy Tadcaster North Yorkshire YO23 7AD	Retention of log and bin store to side, satellite dish to rear elevation, increased area of paving to the rear of the house, increase in size of parking area to front, part conversion of garage to habitable room and erection of outbuilding	PERMITTED 30 Nov 2021	Bethany Harrison
2021/0740/HPA	Mr & Ms Marriott	10 North Field Way Appleton Roebuck Selby North Yorkshire YO23 7EA	Demolition of carport and garage and construction of two-storey front and side extensions	PERMITTED 26 Nov 2021	Bethany Harrison
2021/0775/HPA	Mr Maddison & Miss Davies	30 Highfield Crescent Barlby Selby North Yorkshire YO8 5HD	Erection of single storey rear extension to kitchen area, to create a dining room, utility and bedroom	PERMITTED 25 Nov 2021	Josh Turner
2021/0832/HPA	Ms Helen Carter	1 The Chapel Millgate Selby North Yorkshire YO8 3JZ	Installation of boiler flue to outside wall - gable end	PERMITTED 30 Nov 2021	Josh Turner
2021/0970/ADV	CP Media	A19 / A163 Roundabout Market Weighton Road Barlby Selby North Yorkshire	Advertisement consent for 3 non illuminated signs	PERMITTED 29 Nov 2021	Jac Cruickshank
2021/1006/HPA	Mr & Mrs Clayden	11 Grange Road Tadcaster North Yorkshire LS24 8AL	First floor extension to form a new bedroom	PERMITTED 6 Dec 2021	Bethany Harrison

Application Number	Applicant	Location	Proposal	Decision and Date	Case Officer
2021/1010/HPA	Dean Hunter	10 Baffam Gardens Brayton Selby North Yorkshire YO8 9AY	Erection of two storey rear extension with alterations to fenestrations	PERMITTED 1 Dec 2021	Josh Turner
2021/1028/FUL	Selby Educational Trust	Carlton-In-Snaith Cp School Town End Avenue Carlton Selby North Yorkshire DN14 9NR	Retention of 2 No prefabricated classroom units (Units Z386 and 1155/1157) for a further 6 years (retrospective)	PERMITTED 29 Nov 2021	Hannah Blackburn
2021/1056/HPA	Jonathan Stather	17 Great Close Cawood Selby North Yorkshire YO8 3UG	Demolition of existing conservatory, erection of single storey rear extension, re-roof of existing extension and conversion and alteration of garage to form additional living accommodation	PERMITTED 1 Dec 2021	Josh Turner
2021/1065/FUL	Andrew MacDonald	Strome House Garthends Lane Hemingbrough Selby North Yorkshire YO8 6QW	Erection of 1 No 4 bed detached dwelling on land to the west of Strome House	REFUSED 23 Nov 2021	Jac Cruickshank
2021/1086/FUL	Mr Eliot Grant	Siddle Farm Selby Road Monk Fryston Leeds North Yorkshire LS25 5ER	Conversion of derelict outbuilding to ancillary accommodation comprising garaging, workshop, studio and storage	REFUSED 3 Dec 2021	Hannah Blackburn
2021/1140/TPO	Mrs Sheila Adamson	1 Beckwith Gardens Riccall Selby North Yorkshire YO19 6SX	Crown lifting of lowest branch and prune, shape and thin to 1 No Beech tree covered by TPO 5/1980	PERMITTED 3 Dec 2021	Jac Cruickshank

Application Number	Applicant	Location	Proposal	Decision and Date	Case Officer
2021/1168/HPA	Michelle Kay	The Tower Highmoor Leeds Road Tadcaster North Yorkshire LS24 9NE	Single storey front extension with roof terrace	PERMITTED 7 Dec 2021	Bethany Harrison
2021/1175/MAN2	St Francis Group	Eggborough Power Station Selby Road Eggborough Selby North Yorkshire DN14 0BS	Minor amendment of approval 2019/1343/EIA Hybrid application for demolition of part of the former power station and ancillary buildings and its redevelopment (i) access into the site, internal roads, employment units, car parking, drainage infrastructure and landscaping and (ii) outline for the scale of redevelopment of the remainder of the site for employment floorspace, proposed buildings with ridge being between 9.5 metres and 24.5 metres, car parking, drainage infrastructure and strategic landscaping	PERMITTED 29 Nov 2021	Gareth Stent
2021/1185/HPA	Mr & Mrs Moxon	22 Sandfield Terrace Tadcaster North Yorkshire LS24 8AW	Single storey rear extension	PERMITTED 2 Dec 2021	Bethany Harrison
2021/1187/DOC	Renewable Energy Systems Ltd (RES Ltd)	Land Off New Road Drax Selby North Yorkshire	Discharge of condition 10 (highways) of approval 2020/1357/FULM Development of an energy storage facility including battery storage containers; substations; power conversion systems; transformers and associated switchgear; HVAC equipment; communications and grid compliance equipment; temporary construction compound; CCTV; fencing; infrared lighting; access, drainage and landscaping works and associated development	CONDITION DECISION 30 Nov 2021	Hannah Blackburn

Application Number	Applicant	Location	Proposal	Decision and Date	Case Officer
2021/1208/DOC	Mr Jim Stoyles	Holly Lodge Back Lane Osgodby Selby North Yorkshire YO8 5HS	Discharge of Condition 07 (drainage) of approval 2019/1121/FUL Demolition of existing bungalow and replacement with 2 No. new build 3 bedroom, detached dormer bungalows with integral garages	CONDITION DECISION 25 Nov 2021	Gareth Stent
2021/1212/HPA	Mr Craig Lee	42 Fox Lane Thorpe Willoughby Selby North Yorkshire YO8 9NA	Demolition of existing garage, erection of ground and first floor extensions and alterations to existing dwelling.	PERMITTED 3 Dec 2021	Ellis Mortimer
2021/1214/TCA	Mr & Mrs Duggan	The Gables The Green Stillingfleet Selby North Yorkshire YO19 6SF	Application for consent to fell 3No Sycamore trees (T1, T2 & T3) in the conservation area	PERMITTED 29 Nov 2021	Jac Cruickshank
2021/1220/HPA	Mr and Mrs Hitchcock	Northbank House Ouston Lane Tadcaster North Yorkshire LS24 8DP	Single storey rear extension and revised fenestration to the house and dormer extension to the annexe	PERMITTED 6 Dec 2021	Bethany Harrison
2021/1223/HPA	Mr & Mrs R Teal	5 Abbots Gardens Cawood Selby North Yorkshire YO8 3TF	Alterations and extensions including single storey rear extension	PERMITTED 3 Dec 2021	Jac Cruickshank
2021/1247/DOC	Daniel Gath Homes Ltd	Red House Farm Main Street Skipwith Selby North Yorkshire YO8 5SQ	Discharge of condition 13 (contamination) of approval Section 73 application to vary condition 02 (approved plans) of planning permission reference 2017/1052/FUL proposed demolition of existing buildings to provide 8no. dwellings, garages and parking granted on 11 October 2018	CONDITION DECISION 1 Dec 2021	Mandy Cooper

Application Number	Applicant	Location	Proposal	Decision and Date	Case Officer
2021/1279/TCA	Mr John Heselden	Saxton House Milner Lane Saxton Tadcaster North Yorkshire LS24 9QG	Application for consent to remove over hanging branches to 1no Beech tree within the conservation area	PERMITTED 23 Nov 2021	Will Smith
2021/1285/MAN2	Orion Homes Ltd	23 Ryther Road Cawood Selby North Yorkshire YO8 3TR	Non material amendment of 2017/0177/FULM Proposed residential development of 0.78 Ha to provide 23 no. dwellings with ancillary infrastructure, access road, parking spaces and garages	PERMITTED 6 Dec 2021	Fiona Ellwood
2021/1292/MAN2	Mr Ian Preston	The Hall Cottage North Milford Lane North Milford Tadcaster North Yorkshire LS24 9DQ	Non material amendment of 2017/0124/HPA Proposed two storey rear extension, insertion of roof lights to the rear elevation, window to the front elevation, front porch extension, alterations to the exiting driveway, the erection of a double garage and the conversion of existing Dovecote to provide additional living accommodation	PERMITTED 3 Dec 2021	Mandy Cooper
2021/1327/MAN2	Bradshaw And Griffiths Properties Ltd	Beech Tree Gables Main Road Burn Selby North Yorkshire YO8 8LJ	Non material amendment of 2012/0111/FUL Erection of 3 No. detached dwellings on land at	PERMITTED 30 Nov 2021	Yvonne Naylor
2021/1345/DOC	Mr Michael Wilkinson	Meadow Croft Sweeming Lane Little Fenton Selby North Yorkshire LS25 6HF	Discharge of condition 04 (contamination verification report) of approval allowed on appeal APP/N2739/W/17/3171586 Proposed alteration and change of use of the existing agricultural barn to form two residential dwellings	CONDITION DECISION 1 Dec 2021	Mandy Cooper

Application Number	Applicant	Location	Proposal	Decision and Date	Case Officer
2021/1351/TELB	Openreach	Brayton Lane Brayton Selby North Yorkshire	Installation of 1 No 9m light pole	TELECOMMUNICATIONS - NOT REQUIRED 30 Nov 2021	Josh Turner
2021/1420/TNO2	Mr Whitefield	Saxon Holme Coldhill Lane Saxton Tadcaster North Yorkshire LS24 9TA	Five day notice to fell 1No Acer tree covered by TPO 5/2016	PERMITTED 23 Nov 2021	Bethany Harrison
2021/1437/TNO2	Mr Adam Cooper	9 All Saints Grove Whitley Selby North Yorkshire DN14 0GP	Five day notice to fell 2no Crab Apple Trees covered by TPO 16/2006	REFUSED 3 Dec 2021	Hannah Blackburn
2021/1450/TNO2	Mr Roger F Mortimer	Tara Cottage 7 Fostergate Cawood Selby North Yorkshire YO8 3TA	Five day notice to fell 1 No Alder (T10) covered by TPO 1/1973	PERMITTED 1 Dec 2021	Jac Cruickshank
2021/1451/TNO2	Alex Barraclough	5 Mayfield Court Barlow Selby North Yorkshire YO8 8ED	Five day notice to remove 1 No Laburnum covered by TPO No 11/1985	PERMITTED 1 Dec 2021	Jac Cruickshank
2021/1472/TNO2	Cawood Parish Council	Cawood Sports Field Maypole Gardens Cawood Selby North Yorkshire	Five day notice to fell 1no Ash tree covered by TPO 1/1973	REFUSED 7 Dec 2021	Jac Cruickshank

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 2021-22



John Cattanaach, Chair (C)
Cawood and Wistow
 01757 268968
jcattanaach@selby.gov.uk



Mark Topping (C)
Derwent
mtopping@selby.gov.uk



Keith Ellis (C)
Appleton Roebuck & Church Fenton
 01937 557111
kellis@selby.gov.uk



John Mackman, Vice-Chair (C)
Monk Fyston
 01977 689221
jmackman@selby.gov.uk



Ian Chilvers (C)
Brayton
 01757 705308
ichilvers@selby.gov.uk

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Don Mackay (SI&YP)
Tadcaster
 01937 835776
dbain-mackay@selby.gov.uk



Charles Richardson (C)
Carlton & Camblesforth
crichardson@selby.gov.uk



Robert Packham (L)
Sherburn in Elmet
 01977 681954
rpackham@selby.gov.uk



Paul Welch (L)
Selby East
 07904 832671
pwelch@selby.gov.uk

Substitute Councillors



Chris Pearson (C)
Hambleton
01757 704202
cpearson@selby.gov.uk



Richard Musgrave (C)
Appleton Roebuck & Church Fenton
07500 673610
rmusgrave@selby.gov.uk



Tim Grogan (C)
South Milford
tgrogan@selby.gov.uk



David Buckle (C)
Sherburn in Elmet
01977 681412
dbuckle@selby.gov.uk



John McCartney (SI&YP)
Whitley
01977 625558
jmccartney@selby.gov.uk



Keith Franks (L)
Selby West
01757 708644
kfranks@selby.gov.uk



Stephanie Duckett (L)
Barby Village
01757 706809
sduckett@selby.gov.uk



John Duggan (L)
Riccall
jduggan@selby.gov.uk

(C) – Conservative (L) – Labour (SI&YP) – Selby Independents and Yorkshire Party Group