



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY, 10 OCTOBER 2018**
Time: **2.00 PM**
Venue: **COUNCIL CHAMBER - CIVIC CENTRE, DONCASTER ROAD, SELBY, YO8 9FT**
To: **Councillors J Cattanach (Chair), D Peart (Vice-Chair), L Casling, I Chilvers, J Deans, R Musgrave, R Packham, P Welch and D White**

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. Suspension of Council Procedure Rules**

The Planning Committee is asked to agree to the suspension of Council Procedure Rules 15.1 and 15.6(a) for the committee meeting. This facilitates an open debate within the committee on the planning merits of the application without the need to have a proposal or amendment moved and seconded first. Councillors are reminded that at the end of the debate the Chair will ask for a

proposal to be moved and seconded. Any alternative motion to this which is proposed and seconded will be considered as an amendment. Councillors who wish to propose a motion against the recommendations of the officers should ensure that they give valid planning reasons for doing so.

5. Minutes (Pages 1 - 12)

To confirm as a correct record the minutes of the Planning Committee meeting held on 5 September 2018.

6. Planning Applications Received (Pages 13 - 14)

- 6.1. 2017/1052/FUL - Red House Farm, Main Street, Skipwith, Selby (Pages 15 - 42)
- 6.2. 2018/0800/FUL - Quarry Drop, Westfield Lane, South Milford, Leeds (Pages 43 - 56)
- 6.3. 2018/0579/FUL - 215 Weeland Road, Knottingley (Pages 57 - 78)
- 6.4. 2018/0642/FUL - The Bungalow, 31 Lumby Hill, Monk Fryston (Pages 79 - 94)
- 6.5. 2018/0697/OUTM - Land at former airfield, Lennerton Lane, Sherburn in Elmet (Pages 95 - 108)
- 6.6. 2015/1405/OUT - Request for a Deed of Variation to Section 106 agreement dated 25 May 2017 seeking a reduction in the proportion of affordable housing to be provided within scheme for up to 45 dwellings approved under references 2015/1405/OUT (outline) at Selby Road, Camblesforth (Pages 109 - 112)

G. Marshall

Gillian Marshall, Solicitor to the Council

Dates of next meetings (2.00pm) Wednesday, 7 November 2018
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Enquiries relating to this agenda, please contact Victoria Foreman on 01757 292046 or vforeman@selby.gov.uk.

Recording at Council Meetings

Recording is allowed at Council, Committee and Sub-Committee meetings which are open to the public, subject to:- (i) the recording being conducted with the full knowledge of the Chairman of the meeting; and (ii) compliance with the Council's protocol on audio/visual recording and photography at meetings, a copy of which is available on request. Anyone wishing to record must contact the Democratic Services Officer on the above details prior to the start of the meeting. Any recording must be conducted openly and not in secret.

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Agenda Item 5



Minutes

Planning Committee

Venue: Council Chamber - Civic Centre, Doncaster Road, Selby, YO8 9FT

Date: Wednesday, 5 September 2018

Time: 2.00 pm

Present: Councillor J Cattanach in the Chair

Councillors D Peart (Vice-Chair), I Chilvers, J Deans, M Jordan and P Welch and D White.

Officers Present: Martin Grainger, Head of Planning, Ruth Hardingham, Planning Development Manager, Kelly Dawson, Senior Solicitor, Andrew Martin, Principal Planning Officer, Fiona Ellwood, Principal Planning Officer, Rebecca Leggott, Planning Officer, James Broadhead, Planning Officer and Victoria Foreman, Democratic Services Officer.

Press: 0

Public: 20

14 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Robert Packham, Liz Casling and Richard Musgrave.

Councillor Stephanie Duckett was in attendance at the meeting as a substitute for Councillor Packham.

Councillor Debbie White was in attendance at the meeting as a substitute for Councillor Musgrave.

Councillor David Buckle was in attendance at the meeting as a substitute for Councillor Casling.

15 DISCLOSURES OF INTEREST

There were no disclosures of interest.

16 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chair welcomed a number of new Planning Officers to the meeting. He also thanked the Principal Planning Officer, Andrew Martin, and the Senior Solicitor, Kelly Dawson, for their contributions to the work of the committees, as this was their last committee.

The Chair also informed the Committee that an officer update note had been circulated.

The Committee noted that the order of the agenda had been adjusted to reflect the number of public speakers registered in relation to each application. The order of business would therefore be as follows:

1. 2018/0059/FUL – The Orchard, Garman Carr Lane, Wistow
2. 2018/0541/COU – Unit 4, Swordfish Way, Sherburn in Elmet
3. 2016/1077/FULM – Staynor Hall, Bawtry Road, Selby
4. 2017/1295/FULM – Turnhead Farm, York Road, Barlby
5. 2018/0260/FUL - Low Farm, Low Farm Road, Bolton Percy
6. 2018/0650/FUL – Land adjacent to 4 Sir Johns Lane, Sherburn in Elmet
7. 2018/0281/COU – Hillam and Monk Fryston Cricket Club, Chapel Street, Hillam

17 SUSPENSION OF COUNCIL PROCEDURE RULES

The Committee considered the suspension of Council Procedure Rules 15.1 and 15.6 (a) to allow for a more effective discussion when considering planning applications.

RESOLVED:

To suspend Council Procedure Rules 15.1 and 15.6 (a) for the duration of the meeting.

18 MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 11 July 2018.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 11 July 2018 for signing by the Chairman.

19 PLANNING APPLICATIONS RECEIVED

The Committee considered the following applications:

19.1 2018/0059/FUL - THE ORCHARD, GARMAN CARR LANE, WISTOW

Application: 2018/0059/FUL

Location: The Orchard, Garman Carr Lane, Wistow

Proposal: Erect extension to existing outbuilding (retrospective) in association with change of use from dwelling house C3b (6 residents) to Care Home C2 (8 residents)

The Principal Planning Officer presented the application which had been brought to committee because it was a minor application where 10 or more letters of representation had been received, which in the view of a Director, raised material planning considerations, and where officers would otherwise determine the application contrary to these representations.

Members noted that the application was to erect an extension to an existing outbuilding (retrospective) in association with change of use from dwelling house C3b (6 residents) to Care Home C2 (8 residents).

It was queried by Members whether, if the application was not approved by the committee, the reversion back to the current position (as a residential dwelling house that provided care for six residents) would include the extension to the existing outbuilding, which had already taken place. Officers confirmed that this would need to be investigated further.

John Hargreaves, objector, spoke in objection to the application.

Charles Clarke, Parish Council representative, spoke in objection to the application.

Eric Telford, agent, spoke in support of the application.

The Committee noted the July 2015 appeal decision from the Planning Inspectorate, which had been appended to the report, for a similar scheme in South Milford. The appeal had been allowed and costs awarded against Selby District Council.

Members agreed that there were no valid planning reasons why the application should be refused.

It was proposed and seconded that the application be approved.

RESOLVED:

To APPROVE the application subject to the conditions set out in paragraph 6 of the report.

19.2 2018/0541/COU - UNIT 4, SWORDFISH WAY, SHERBURN IN ELMET

Application: 2018/0541/COU

Location: Unit 4, Swordfish Way, Sherburn in Elmet

Proposal: Proposed change of use from B1 (light industrial) to D2 (leisure)

The Planning Officer presented the application which had been brought before Planning Committee as officers considered that although the proposal was contrary to the provisions of the Development Plan, there were material considerations which would justify approving the application.

Members noted that the application was for change of use from B1 (light industrial) to D2 (leisure).

In relation to the officer update note, it was noted that the application had been brought before the Committee for the reasons set out above, but that evidence had since been received that meant the application would comply with the relevant policy; however, as the application site was Council owned it was felt that it was appropriate for the application to still go to committee.

Lianne Lazenby, applicant, spoke in support of the application.

Members considered the application further and agreed that Condition 3, restricting use of the facility to between 16.45 and 21.00 Monday to Friday, and prohibiting use at weekends or bank holidays, should be removed in its entirety.

It was proposed and seconded that the application be approved.

RESOLVED:

To APPROVE the application subject to the conditions set out in paragraph 6 of the report, apart from Condition 3, which should be removed in its entirety.

19.3 2016/1077/FULM - STAYNOR HALL, BAWTRY ROAD, SELBY

Application: 2016/1077/FULM

Location: Staynor Hall, Bawtry Road, Selby

Proposal: Erection of 37 residential dwellings with associated highways infrastructure (Phase 3F)

The Principal Planning Officer presented the application; Members noted that the application was previously considered by the Planning Committee on 6 June 2018 where it had been resolved to grant planning permission subject to no objections following the further consultation, a section 106 agreement and conditions. However, it was considered that the application should be brought before Planning Committee for clarification of the earlier resolution in respect of the affordable housing provision, which was to be provided on and off-site.

Members noted that the application was for the erection of 37 residential dwellings with associated highways infrastructure (Phase 3F).

A question relating to the adoption of roads on the Staynor Hall development was raised by Members; officers confirmed that this was a Highways matter and was not related to the application under consideration, but that it could be looked into separately.

It was proposed and seconded that the application be approved.

RESOLVED:

To APPROVE the application subject to:

i. the conditions set out in the 6 June 2018 committee report; and

ii.a section 106 agreement based upon the heads of terms set out in Appendix C to the 5 September 2018 committee report.

19.4 2017/1295/FULM - TURNHEAD FARM, YORK ROAD, BARLBY

Application: 2017/1295/FUL

Location: Turnhead Farm, York Road, Barlby

Proposal: Proposed residential development (partial re-plan of approval 2013/0478/FUL) for twenty-seven

dwellings with associated infrastructure

The Principal Planning Officer presented the application; Members noted that the application was to be determined by the Planning Committee as officers considered that although the environs of the site were already under development through previous consents, the development was not in accordance with the provisions of the Development Plan which brought it to Committee. It was considered that there were material considerations that would justify approving the application.

Members noted that the application was for a proposed residential development (partial re-plan of approval 2013/0478/FUL) for twenty-seven dwellings with associated infrastructure.

In relation to the officer update note, the Committee noted that additional comments had been received from the Council's Contracts Team Leader and County Archaeologist. Further clarification was also provided in relation to the planning obligation, amenity, surface water, landscaping and general conditions. The recommendation was also amended.

Vikki Sykes, agent, spoke in support of the application.

The Committee asked officers questions about access to the nearby allotments, and for confirmation that nature reserve areas near the western boundary of the site would remain untouched; this was confirmed by the agent during her representations to the committee.

It was proposed and seconded that the application be approved.

RESOLVED:

To APPROVE the application subject to:

i. amended conditions 2 and 12, as set out in the Officer Update Note, and paragraph 6 of the report; and

ii. an appropriate planning obligation to secure:

- 10% affordable housing to be provided off-site (included**

- within the 24 units already secured as part of earlier phases of the development);
- On and Off-Site provision of Recreational Open Space; and
- a Waste and Recycling contribution.

19.5 2018/0260/FUL - LOW FARM, LOW FARM ROAD, BOLTON PERCY

Application: 2018/0260/FUL

Location: Low Farm, Low Farm Road, Bolton Percy

Proposal: Proposed erection of a four bedroom dwelling and garage

The Principal Planning Officer presented the application which had been brought before Planning Committee at the discretion of the Head of Planning due to the issues arising out of public responses. The application was deferred from the Planning Committee meeting of May 2018 due to queries raised by an objector.

Members noted that the application was for the proposed erection of a four bedroom dwelling and garage.

It was queried by the Committee if the site in question was brownfield; officers confirmed that it was former agricultural land, not brownfield, and was also outside development limits.

In relation to the officer update note, the Committee noted that officers had not been able to verify all the letters of support that had been received; three out of the 16 had been verified. Of the letters unverified, it had been pointed out that many of the letters were in similar handwriting and said the same things. Therefore, it was difficult to say that they were genuine and so little weight, if any, should have been given to these. An additional lengthy letter of objection had also been received from a local resident.

The key points raised in the letter were addressed verbally by the case officer and are summarised below:

- Paragraph 1.3 – The wording of the paragraph was correct, the application description needed amending as the layout plans indicated a 3 bedroom dwelling with an attached garage.

- Paragraph 4.14 – Comments made in the officer report were factually correct. The simple facts were stated and no conclusion was drawn or weight given to the previous consent for the garden use. Withholding that information would be more misleading.
- Paragraphs 4.15 and 4.21 – These were officer's opinion. No change to the report proposed. The objector referred to a situation where the deteriorated state of a Heritage Asset should not be taken into account if there had been deliberate neglect of the Heritage Asset. There was no evidence that a Heritage Asset had been deliberately neglected. In this case the proposal would result in the removal of an unsightly modern agricultural building which was in a poor state of repair. The building was an open fronted corrugate sheet building as seen on the photographs.
- Paragraph 4.16 - Officer opinion – no change.
- Paragraph 4.22 - Officer opinion – no change. Previous deferrals on the scheme were due to changing approach to applications following the 5 year land supply and various court cases. This resulted in the balance of approval being one of refusal and the applicant decided to re-design the scheme to weigh the balance more in favour. Subsequent appeal decisions and case law further tightened up the Council's approach to development outside of settlements resulting in the balance tipping against this scheme.
- Paragraph 4.25 - The report was correct. The Highway Authority required that the footpath and amended plans were received on the barn conversion application to provide this. The objector said the the footpath does not lead anywhere and was not necessary beyond the driveway. However, it was not intended to lead anywhere but to provide a footpath at the front of the site for the occupants to walk into the village without walking on Low Farm Road. It would enable visitors pulling up outside the site to walk safely off road.
- Paragraph 4.26 - The objector pointed to local knowledge of problems and the Parish Council's concerns. However, if the Highway Authority did not

raise concerns there would be difficulty sustaining a reason for refusal on appeal.

- Paragraph 4.28 – The objector raised concerns of disturbance during construction, lack of amenity and referred to lack of assessment by officers. Disagreed with these points and assessment stands (it could be explained in full but the report was brief).
- Paragraph 4.31- The EA were not consulted as this was in Flood Zone 1 nor has the Council been notified by the EA that this was an area of critical drainage issues. If the Committee were to approve then conditions would be required to ensure the rate of surface water discharge met the required standards.
- Paragraph 4.33 – The paragraph was left over from previous reports and should be removed. However, SP15 was still part of the development plan.
- Paragraphs 4.37 and 4.38 - No change to the report given the applicant's response set out in paragraph 4.38.
- Paragraph 4.40 - As stated in the report, a Contamination Report was not a requirement. Following objections it was requested and the applicant agreed to provide this. Consultation had taken place and conditions were recommended.

Members noted that out of the letters of support, one had been from Bolton Percy village, and two were from Appleton Roebuck.

Jennifer Hubbard, agent, spoke in support of the application.

It was proposed and seconded that the application be refused.

RESOLVED:

To REFUSE the application for the reason set out in paragraph 7 of the report.

19.6 2018/0650/FUL - LAND ADJACENT TO 4 SIR JOHNS LANE, SHERBURN IN ELMET

Application: 2018/0650/FUL

Location: Land Adjacent to Number 4, Sir Johns Lane, Sherburn in Elmet

Proposal: Proposed erection of a two storey detached dwelling

The Principal Planning Officer presented the application which had been brought before committee as the application had been made by a District Councillor.

Members noted that the application was the proposed erection of a two storey detached dwelling.

The Committee asked officers a number of questions relating to the loss of views from neighbouring properties and the nearby heritage monuments.

Paul Kirkbride, objector, spoke in objection to the application.

Officers confirmed that should permission be granted, the commencement of work would depend on access to the main sewer being granted via the neighbouring property at 26 Croftway. In light of this, the Committee agreed that an additional condition should be added stating that sewerage arrangements are resolved before any work could commence on the development.

It was proposed and seconded that the application be approved.

RESOLVED:

To APPROVE the application subject to the conditions set out in paragraph 6 of the report and an additional condition that no development shall commence until a scheme for the disposal of foul drainage had been submitted to, and approved in writing by, the local planning authority.

19.7 2018/0281/COU - HILLAM AND MONK FRYSTON CRICKET CLUB, CHAPEL STREET, HILLAM

Application: 2018/0281/COU

Location: Hillam and Monk Fryston Cricket Club, Chapel Street, Hillam

Proposal: Change of use from D2 (assembly and leisure) to mixed use D1 (non-residential institution) and D2 (assembly and leisure) to provide a cricket pavilion

and nursery

The Planning Officer presented the application which had been brought before Planning Committee since the development was not in accordance with the provisions of the Development Plan which brought it to Committee. It was considered that there were material considerations that would justify approving the application.

Members noted that the application was for change of use from D2 (assembly and leisure) to mixed use D1 (non-residential institution) and D2 (assembly and leisure) to provide a cricket pavilion and nursery.

The Committee asked questions relating to road passing places, the suitability of use as both cricket club and nursery and nearby flood zones. Officers confirmed that the provision of passing places was not part of the application under consideration, and it was not anticipated that there would be difficulties in using the cricket club as both nursery and club house, as the two activities would be taking place at different parts of the day and week. In relation to flooding, it was explained to Members that only part of the cricket club's car park came under Flood Zone 2, not the building where the nursery would be.

In relation to the officer update note, the Committee noted that it provided clarification on paragraph 4.20 of the report which incorrectly referenced 'paragraph 104' of the 2012 NPPF. The reference should have been to paragraph 164 of the 2018 NPPF. The wording of these paragraphs was different but the message was the same, and therefore did not alter the assessment of the application.

It was proposed and seconded that the application be approved.

RESOLVED:

To APPROVE the application subject to the conditions set out in paragraph 6 of the report.

The meeting closed at 3.57 pm.

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Agenda Item 6

Items for Planning Committee

10 October 2018

Item No.	Ref	Site Address	Description	Officer	Pages
6.1	2017/1052/FUL	Red House Farm Main Street Skipwith Selby	Proposed demolition of existing buildings to provide 8 No. dwellings, garages and parking	JETY	15-42
6.2	2018/0800/FUL	Quarry Drop Westfield Lane South Milford Leeds	Section 73 application to vary Condition 04 (drawings) of approval 2010/0507/FUL for the construction of a five bedroom, three storey detached house	JETY	43-56
6.3	2018/0579/FUL	215 Weeland Road, Knottingley	Proposed redevelopment of site to form one 4-bedroom detached house	PAED	57-78
6.4	2018/0642/FUL	The Bungalow 31 Lumby Hill Monk Fryston	Partial demolition of existing bungalow and erection of 3 No detached dwellings	PAED	79-94
6.5	2018/0697/OUTM	Land at former airfield, Lennerton Lane, Sherburn in Elmet	S.73A application for outline planning approval with all matters except access reserved for the erection of 117,000 sq m (1,250,000 sq ft) of Class B1, B2 and B8 commercial floorspace without complying with Conditions 7, 9, 11, 17, 19, 29 and 38 of outline planning approval 2016/0332 granted on 10 June 2016	PAED	95-108
6.6	2015/1405/OUT	Selby Road, Camblesforth	Request for a Deed of Variation to Section 106 agreement dated 25 May 2017 seeking a reduction in the proportion of affordable housing to be provided within scheme for up to 45 dwellings approved under references 2015/1405/OUT (outline) at Selby Road, Camblesforth	RUHA	109-112

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Key

- Existing buildings to be demolished
- Existing post & rail fence
- Existing post & rail fence to be demolished
- New post & rail fence

New Trees

- Ac: Acer campestre (Field maple)
- Bp: Betula pendula (Silver birch)
- Qr: Quercus robur (Red oak)
- Sal: Sorbus aria (Whitebeam)
- Pap: Prunus avium (Wild cherry)
- Svcj: Syringa vulgaris

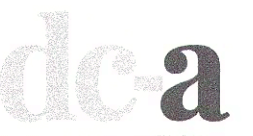
New Hedge Mix

- Crataegus monogyna (Hawthorn) 45%
- Fagus sylvatica (Euro beech) 25%
- Ilex aquifolium (Common holly) 20%
- Viburnum opulus (Guelder rose) 10%

AMENDED
DRAWING

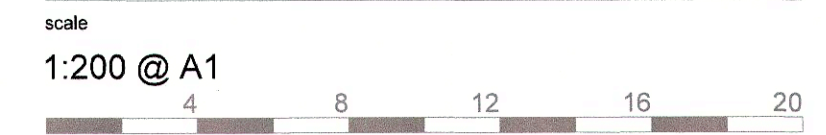
revision	date	description
P11	06.06.18	Gardens to plots 5-7 reduced
P10	04.06.18	Revised site layout & landscaping
P09	19.01.18	Revised site layout
P08	28.09.17	Scale adjusted
P07	30.08.17	Minor alterations to site layout
P06	22.08.17	Minor alterations to site layout
P05	11.08.17	Revised site layout
P04	08.02.17	Redesigned plot to suit revised site layout
P03	09.01.17	Layout updated Plots realigned around revised road layout.
P02	04.01.17	Layout updated Plots 6-8 enlarges Plot 9 removed.
P01	04.11.16	Plots 1-3 & 8 updated and floor areas revised to suit.

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project
Red house farm, Skipwith

drawing
Proposed site plan



job number	date	status	drawing number	revision
1613	19.01.18	Planning	105	P11

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Report Reference Number: 2017/1052/FUL (8/11/17D/P)

Agenda Item No: 6.1

To: Planning Committee
Date: 10 October 2018
Author: Jenny Tyreman (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/1052/FUL	PARISH:	Skipwith Parish Council
APPLICANT:	Mr C B Forbes Adam	VALID DATE: EXPIRY DATE:	28 September 2017 23 November 2017
PROPOSAL:	Proposed demolition of existing buildings to provide 8 No. dwellings, garages and parking		
LOCATION:	Red House Farm Main Street Skipwith Selby North Yorkshire YO8 5SQ		
RECOMMENDATION:	APPROVE		

This application has been brought before Planning Committee as the application is a departure from the Development Plan, but there are material considerations which would justify approval of the application. In addition, more than 10 letters of representation have been received, which raise material planning considerations and Officers would otherwise recommend the application contrary to these representations.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The development limit boundary runs through the application site such that the application site is located part within the defined development limits of Skipwith, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Skipwith and is therefore located within the open countryside.

- 1.2 The application site comprises part of Red House Farm, including: a single storey brick built agricultural building to the site frontage with a covered fold yard to the rear; a range of steel framed clear span agricultural buildings; hard surfaced farm yard areas for vehicle parking and circulation amongst the existing agricultural buildings; and an area of overgrown vegetation.
- 1.3 To the north east and north west of the application site are open fields; to the east and west of the application site are neighbouring residential properties fronting Main Street from the north; to the south of the application site is Main Street, with residential properties and Park Farm fronting Main Street from the south. It is noted that there is an extant planning permission for the re-development of Park Farm (including the conversion of former agricultural buildings) to provide 14 No. dwellings, garaging, and hard and soft landscaping under planning permission reference 2014/0894/FUL, while there is a current application pending consideration for the erection of 14 No. dwellings with associated access, garages and parking at Park Farm under planning application reference 2018/0051/FULM.

The Proposal

- 1.4 The application seeks planning permission for the demolition of the existing agricultural buildings at the site and the erection of 8 No. dwellings with associated garages and parking.

Relevant Planning History

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

2. CONSULTATION AND PUBLICITY

(All immediate neighbours were informed by letter, a site notice was erected, an advert placed in the local press and statutory consultees notified)

2.1 Parish Council – Object for the following reasons:

- The current proposal is the third in a series of recent planning applications that have been brought forward by the Escrick Park Estate, for new housing development within the village and the applicants case for development follows a similar rationale i.e. the site only lies partially within the settlement limits of Skipwith but the re-development of the entire farmstead is proposed on the basis that it offers a more favourable solution than a 'mix and match' scheme of new build housing (within settlement limits) and the conversion of agricultural buildings for residential and commercial uses (outside of settlement limits). Concerns raised over the feasibility of the fall-back position.
- The proposals do not accord with the policies of the adopted development plan for Selby and the principle of the development is unacceptable. The Council can now demonstrate a five year housing land supply and development plan policies in relation to housing are therefore up-to-date. The scheme, as a whole, does not accord with the development plan, mainly due to the portion of the development which lies outside of the settlement limits for village. The application should therefore be refused, or amendments sought, in order to

reduce the scale of the proposals so they do not encroach into the open countryside.

- Skipwith is a secondary village in the settlement hierarchy for Selby and is not a sustainable location for development. The lack of service provision is highlighted in the applicant's planning statement.
- The scheme does not meet the design criteria of the adopted Village Design Statement (VDS) for Skipwith. Section 3 of the VDS relates to the layout of buildings and plots within the village and identifies the linear nature of the village, comprising 'ribbon development' with no significant back land development. The current proposal is considered to be unacceptable and a more modest scheme sought, which addresses the street frontage and excludes significant back land development.

Re-consultation following the submission of amended plans resulted in the comment that the scheme has not changed, substantially from the original submission and therefore, the reasons for objection remain.

2.2 **NYCC Highways** – Has replied with no objections.

2.3 **The Ouse & Derwent Internal Drainage Board** – No objections, subject to four conditions relating to: (1) drainage works to be agreed; (2) effectiveness of soakaways; (3) evidence of existing surface water discharge; and (4) capacity of public sewer/mains drain.

2.4 **Yorkshire Water** – No objections, subject to a condition that there shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which are to be submitted to and approved by the Local Planning Authority.

2.5 **Development Policy** – Comments provided in respect of: the Council's five year housing land supply; the principle of the development; previous levels of growth and the scale of the proposal; the relation of the proposal to the development limit boundary; and the strategic countryside gap.

2.6 **Environmental Health** – No objections.

2.7 **Urban Designer** – There would appear to be potential for this site to develop more contextually than it is through the use of more link attached properties harking after typical farmyard aesthetics and would avoid the overly suburban design solution with poor amenity as currently submitted.

Following the submission of amended plans: No comments.

2.8 **Conservation Officer** – Provides an assessment of significance and impact assessment. Recommends the scheme is revised and reduced in size and depth and advises the site should reflect the former agricultural layout, such as an organic layout loosely set around an area of hardstanding rather than three rows of houses. Considers that at present the development is over development of the site and the development would not reflect the local distinctiveness of the area.

Following the submission of amended plans: No comments.

2.9 **HER Officer** – No objections.

2.10 **Landscape Architect** - The current application is not satisfactory since it does not adequately protect landscape character and the setting of Skipwith village. Further consideration should be given to the alignment of the northeast boundary to maintain the existing field pattern and to include screen planting to maintain visual separation with existing properties near School Farm and the Village Hall (strategic gap). Gardens should not be extended more than necessary into open countryside. Fenced boundaries should be designed to maintain a rural appearance. Screen planting should include locally occurring native tree species. There are existing trees on the site and the development should take these into account.

Following the submission of amended plans: Satisfied with the adjusted alignment and treatment of the north east boundary; however, the north west boundary now shows the existing 1.2m post and rail fence retained and new mixed hedgerow. Unless there is good reason, the existing hedgerow and boundary trees should be protected and retained. The proposed site plan indicates proposed tree and hedgerow species. Further planting information is needed but this could be requested by a suitable landscaping condition. Soft works details should include planting plans; written specification (including soils and soil depths, cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers / densities where appropriate; implementation programme.

2.11 **Contaminated Land Consultant** – No objections, subject to four conditions relating to: (1) investigation of land contamination; (2) submission of a remediation scheme; (3) verification of remedial works; and (4) reporting of unexpected contamination.

2.12 **Waste and Recycling Officer** – Collection vehicles will not access private drives or use them for turning. It is noted that a bin presentation point has been included at the entrance to the development. The presentation point must allow for unobstructed access to containers and waste collection vehicles should be able to gain access to within 10 meters. The presentation point must be large enough to accommodate 2 x 240 litre wheeled bins per property one week and 3 x 55 litre kerbside recycling boxes per property the following week. In this case the presentation point will need to accommodate containers for plots 4 to 9. Plots 1 to 3 will present their waste to the front of their properties. As there are more than 4 properties, the developer will be required to purchase the waste and recycling containers for this development.

2.13 **Public Rights of Way Officer** – No response within statutory consultation period.

2.14 **North Yorkshire Bat Group** – No response within statutory consultation period.

2.15 **Neighbour Summary** – All immediate neighbours have been informed by letter, a site notice has been erected and an advert placed in the local press. Nine letters of representation have been received as a result of this advertisement, all of which object to the application, with concerns raised in respect of: (1) the location of the proposed development outside the defined development limits of Skipwith; (2) the

need for the proposed dwellings; (3) the Council can demonstrate a five year supply of deliverable housing and therefore development should not be allowed outside the defined development limits; (4) the lack of infrastructure to support the proposed development; (5) the proposed development is considered to have more visual impact than the conversion of the existing buildings; (6) the proposal is not in-keeping with the Village Design Statement; (7) this is the last remaining farm within Skipwith village, all others have been developed, therefore the agricultural heritage of the village will be lost; (8) the visual impact of the proposed development on the character and appearance of the area; (9) impact of the proposals on residential amenity in terms of overlooking and loss of privacy; (10) loss of trees; (11) highway safety issues from increased numbers of vehicles; (12) noise and disruption from construction works; (13) no site notice has been erected; (14) any new development should acknowledge the limited services available.

Following the submission of amended plans, six further letters of representation were received, all of which object to the application. Four of these were from previous objectors, maintaining their objections, two of these were from new objectors. Additional concerns were raised in respect of: (1) the impact of the proposals on nature conservation and protected species; (2) the impact of the proposals on drainage.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The development limit boundary runs through the application site such that the application site is located part within the defined development limits of Skipwith, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Skipwith and is therefore located within the open countryside.
- 3.2 The application site is part located within the Skipwith Strategic Countryside Gap.
- 3.3 The application site is located within an archaeology consultation zone and within the setting of a listed building.
- 3.4 The application site comprises potentially contaminated land arising from agriculture/nurseries.
- 3.5 The application site is located within Flood Zone 1, which has a low probability of flooding.

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

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

Selby District Core Strategy Local Plan

3.7 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
- SP18 – Protecting and Enhancing the Environment
- SP19 – Design Quality

Selby District Local Plan

3.8 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, the guidance in paragraphs 212 and 213 of the NPPF noting that the NPPF should be taken into account in determining applications, and that existing policies should not be considered out of date simply because they were adopted prior to the publication of the NPPF and that due weight should be given to them according to their degree of consistency with the Framework, so the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.

3.9 The relevant Selby District Local Plan Policies are:

- SG1 – Strategic Countryside Gaps
- ENV1 – Control of Development
- ENV2 – Environmental Pollution and Contaminated Land
- RT2 - Open Space Requirements for New Residential Development
- CS6 - Developer Contributions to Infrastructure and Community Facilities
- T1 – Development in Relation to the Highway Network
- T2 – Access to Roads

Other Policies and Guidance

3.10 Affordable Housing Supplementary Planning Document, February 2014

3.11 Developer Contributions Supplementary Planning Document, March 2007

3.12 Skipwith Village Design Statement, December 2009

4. APPRAISAL

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

- The Principle of the Development & the 'fall-back'
- Strategic Countryside Gap
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity

- Impact on Highway Safety
- Impact on Heritage Assets
- Impact on Archaeology
- Flood Risk and Drainage
- Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing
- Recreational Open Space
- Waste and Recycling
- Other Issues

The Principle of the Development

- 4.2 The comments of the Parish Council and neighbouring properties are noted regarding the principle of the development.
- 4.3 The development limit boundary runs through the application site such that the application site is located part within the defined development limits of Skipwith, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Skipwith and is therefore located within the open countryside.
- 4.4 Policy SP2A(b) of the Core Strategy states that “Limited amounts of residential development may be absorbed inside Development Limits of Secondary Villages where it will enhance or maintain the vitality of rural communities and which conform to the provisions of Policy SP4 and Policy SP10”. Policy SP4 (a) of the Core Strategy states that, in Secondary Villages, “conversions, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built up residential frontages, and conversion/redevelopment of farmsteads” will be acceptable in principle.
- 4.5 An amended proposed site plan (drawing no. 105 P11) has been submitted with the application which demonstrates that the application site would accommodate eight dwellings. Plots 1-4 fall within the defined development limits of Skipwith and these plots on their own would constitute the “conversion/redevelopment of farmsteads in accordance with Policies SP2A(b) and SP4(a) of the Core Strategy. However, the remainder of the application site projects to the north beyond the defined development limit of Skipwith into the open countryside. As such, the proposal taken as a whole would not constitute “conversion/redevelopment of farmsteads” in accordance with Policies SP2A(b) and SP4(a) of the Core Strategy, as part of the site would lie outside the defined development limits of Skipwith, within the open countryside.
- 4.6 Policy SP2A(c) of the Core Strategy states that “Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.”

- 4.7 The part of the site which lies outside the defined development limits of Skipwith, within the open countryside, does not meet Policy SP2A(c) as it is not for rural affordable housing needs and there are no special circumstances.

The ‘fall-back’

- 4.8 It is established case law that if an applicant can demonstrate a ‘fall-back’ position, this may constitute a material consideration to be taken into account in determining the application. A ‘fall-back’ is an existing consent which is capable of being implemented irrespective of the decision on this current application. Under *Mansell v Tonbridge And Malling Borough Council [2017] EWCA Civ 1314*, which concerned the redevelopment of a site of a large barn and a bungalow to provide four dwellings, Lindblom LJ confirmed the legal considerations in determining the materiality of a fall-back position as a planning judgement were: (1) the basic principle is that for a prospect to be a “real prospect”, it does not have to be probable or likely: a possibility will suffice; (2) there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand.
- 4.9 Amended plans have been submitted during the course of the application which demonstrate the application site could accommodate eight dwellings with associated garages and parking. The amended proposed site plan (drawing no. 105 P11) demonstrates Plots 1-4 fall within the defined development limits of Skipwith, while Plots 5-8 fall outside the defined development limits of Skipwith. The application has been supported by a Planning Statement dated September 2017 which set out “all of the modern buildings, whether lying inside or outside the Development Limit, are capable of re-use for policy-compliant commercial purposes and also, within the constraints of current legislation, opportunities exist to convert these buildings – or parts thereof – to residential development to provide up to five dwellings as permitted development. Subject to commercial use(s) of the buildings not giving rise to unacceptable traffic movements or causing detriment to surrounding residential properties, a combination of residential and commercial use(s) within the application site would also be policy compliant”.
- 4.10 However, the applicants consider the comprehensive re-development of the farmstead as a whole would be more appropriate to the site and to the locality, rather than this form of piecemeal development.
- 4.11 The Town and Country Planning (General Permitted Development) (England) Order 2015 (Class Q of Part 3 of Schedule 2) allows for the conversion of agricultural buildings – or parts thereof – to residential development to provide up to 5 dwellings, with a maximum residential floor space of 865 square metres (which can be made up from a combination of larger and smaller dwellinghouses), subject to a prior approval application. This is the potential ‘fall-back’.

- 4.12 Plots 1-4 applied for fall within the defined development limits and these plots on their own would constitute the “conversion/redevelopment of farmsteads” in accordance with Policies SP2A(b) and SP4(a) of the Core Strategy. In relation to plots 5-8 applied for outside the defined development limits, it could be possible to convert the agricultural buildings at the site – or parts thereof – to residential development to provide up to 5 dwellings, with a maximum residential floor space of 865 square metres (which can be made up from a combination of larger and smaller dwellinghouses), under permitted development, subject to prior approval application – the applicant has said (para 4.9 above) it could provide up to five by this route. The current application proposes 4 dwellings outside the defined development limits and thus there is an option which has been explored by the applicants in the event that planning permission is refused. Therefore there is the existence of a potential fall-back position which is capable of attracting weight as a material consideration. This weight is limited since the planning application in front of Committee is a more comprehensive solution on this site and is favoured by the applicant. However, Officers also consider the comprehensive re-development of the farmstead as a whole would be more appropriate to the site and to the locality, rather than this form of piecemeal development.

Strategic Countryside Gap

- 4.13 The application site is part located within the Skipwith Strategic Countryside Gap (SCG). Policy SG1 of the Selby District Local Plan states “Proposals for development affecting Strategic Countryside Gaps, as defined on the proposals map, will not be permitted where there would be an adverse effect on the open character of the countryside or where the gap between settlements would be compromised”.
- 4.14 The supporting text of Policy SG1 states “Proposals for development in these gaps would only be acceptable where there would be no risk of physical intrusion such as certain types of recreational use, or where the overall open character of the land would be enhanced through the removal of existing structures”. It goes onto state “Proposals for other forms of development, including agricultural dwellings and affordable housing, which may in other circumstances be acceptable Outside Development Limits will not normally be permitted”.
- 4.15 The proposal would involve the demolition of existing agricultural buildings at the site and the erection of 8 No. dwellings with associated garages and parking. As shown on the amended proposed site plan, drawing no. 105 P11, the proposed dwellings would not extend into the Skipwith Strategic Countryside Gap as far as the existing agricultural buildings, with the proposed development extending as far back as the south elevation of the rear-most agricultural building within the site, which would be demolished as part of the proposals. The area of land where the rear-most agricultural building is located would be utilised part for rear garden areas associated with plots 5-7 and part returned to agricultural use, as with the open fields to the north of the application site. Permitted development rights could be removed for plots 5-8 to ensure no built form within the garden areas of plots 5-8 without the need for planning permission in order to protect the strategic countryside from further development. Therefore, notwithstanding that the proposal would result in an increased number of buildings on the site, the size and positioning of the buildings would result in an improvement in relation to openness.

Therefore, the open character of this part of the countryside and the gap between settlements would be improved as a result of the proposals.

- 4.16 Having regard to the above, it is considered that on balance, the proposal would not have an adverse effect on the open character of the countryside or compromise the gap between settlements. The proposal is therefore considered acceptable in accordance with Policy SG1 of the Selby District Local Plan.

Design and Impact on the Character and Appearance of the Area

- 4.17 The comments of the Parish Council and neighbouring properties are noted regarding the impact of the proposal on the character and appearance of the area.
- 4.18 The development limit boundary runs through the application site such that the application site is located part within the defined development limits of Skipwith, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Skipwith and is therefore located within the open countryside.
- 4.19 The application site comprises part of Red House Farm, including: a single storey brick built agricultural building to the site frontage with a covered fold yard to the rear; a range of steel framed clear span agricultural buildings; hard surfaced farm yard areas for vehicle parking and circulation amongst the existing agricultural buildings; and an area of overgrown vegetation.
- 4.20 To the north east and north west of the application site are open fields; to the east and west of the application site are neighbouring residential properties fronting Main Street from the north; to the south of the application site is Main Street, with residential properties and Park Farm fronting Main Street from the south. It is noted that there is an extant planning permission for the re-development of Park Farm (including the conversion of former agricultural buildings) to provide 14 No. dwellings, garaging, and hard and soft landscaping under planning permission reference 2014/0894/FUL, while there is a current application pending consideration for the erection of 14 No. dwellings with associated access, garages and parking at Park Farm under planning application reference 2018/0051/FULM.
- 4.21 The application seeks full planning permission for the demolition of the existing agricultural buildings at the site and the erection of 8 No. dwellings with associated garages and parking.
- 4.22 In terms of the layout of the development, the amended proposed site plan (drawing no. 105 P11) demonstrates a terrace of three properties to the site frontage, with five detached and link attached dwellings to the rear part of the site set around a farm courtyard, with detached or attached garages. This gives the proposed development a farmyard aesthetic. Parking and refuse collection facilities are provided to the east of the site entrance and incorporate brickwork walls and landscaping to assimilate them into the development. This amended layout allows the site to develop contextually and follows on from the comments of the Councils Urban Designer in response to the proposed site plan as originally submitted (superseded drawing no. 105 P08). It is noted that a number of representations raise concerns with the non-linear layout of the development. It is acknowledged that the built form proposed does extend back into the site in a non-linear fashion,

contrary to the Skipwith Village Design Statement, 2009. The extent of the farmstead leads to development in depth, although it is noted that the development does not extend as far back into the site as the existing agricultural buildings, which are to be demolished as part of the proposal. There is evidence of previous development in depth within Skipwith at Blue Bell Farm and there are committee approvals for fourteen dwellings further west beyond Blue Bell Farm at Park Farm (under application reference 2014/0894/FUL) and for nine dwellings further east beyond Blue Bell Farm at North House Farm (under application reference 2016/1170/FUL) for developments in depth. Having regard to these previous approvals for development in depth at farmsteads within Skipwith, it is not considered that it would be possible to resist development in depth at the application site, subject to the scale, appearance and landscaping of the development being acceptable and not having an adverse impact on the character and appearance of the area. Furthermore, in terms of layout, it is noted that the north east boundary of the site has been realigned to maintain the existing field pattern, which is considered acceptable having regard to the layout of the development.

- 4.23 In terms of the scale and appearance of the development the application proposes a terrace of three two storey properties to the site frontage and five detached and link attached two storey dwellings to the rear part of the site set around a farm courtyard, with detached or attached garages. The submitted plans set out that the materials to be used in the external construction of the dwellings and garages would be red multi brickwork with smooth red brickwork detail for the walls and pantiles for the roofs. The scale and appearance of the development would be in keeping with development in the vicinity of the application site and is considered acceptable, subject to a condition relating to the approval of specific materials to be used in the external construction of the walls and roofs prior to commencement of development above foundation level.
- 4.24 In terms of the landscaping of the development, the amended proposed site plan (drawing no. 105 P11) a new 1.2 metre high post and rail fence and new mixed species hedge to the north east boundary and an existing post and rail fence with new mixed species hedge to the north west boundary. A number of new trees are proposed to be planted along these boundaries within the rear garden areas of the proposed dwellings. Furthermore, new mixed species hedging is proposed to the front of each dwelling, as well as to the side of Plot 1 and the front of the refuse store at the entrance to the development. New tree planting is scattered across the development. The Councils Landscape Architect is generally satisfied with the landscaping proposals, but advises that further planting information is needed regarding the proposed trees and hedgerows, which could be secured by way of a suitably worded landscaping condition. Furthermore, the Councils Landscape Architect considers that the existing hedgerow and trees to the north west boundary could be retained as part of the proposals, subject to a maintenance management plan, which could be secured by way of condition.
- 4.25 Having regard to the above, it is considered that the proposal is acceptable and would not have a significant or detrimental impact on the character and appearance of the area. The proposal is therefore considered acceptable in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF.

Impact on Residential Amenity

- 4.26 The comments of neighbouring properties are noted regarding the impact of the proposal on the residential amenity of neighbouring properties.
- 4.27 The application site comprises part of Red House Farm, including: a single storey brick built agricultural building to the site frontage with a covered fold yard to the rear; a range of steel framed clear span agricultural buildings; hard surfaced farm yard areas for vehicle parking and circulation amongst the existing agricultural buildings; and an area of overgrown vegetation. To the north east and north west of the application site are open fields; to the east and west of the application site are neighbouring residential properties fronting Main Street from the north; to the south of the application site is Main Street, with residential properties and Park Farm fronting Main Street from the south.
- 4.28 In terms of the impact of the proposed dwelling on the residential amenity of neighbouring properties, it is considered that the layout, scale and appearance of the development is such that it would not result in any significant adverse effects on the residential amenities of any neighbouring residential properties in terms of overshadowing, overlooking or oppression. A condition could be attached removing permitted development rights for the insertion of any additional openings in the south side elevation of Plots 4 and 8 and the west side elevation of Plot 1 in the interests of the residential amenity of neighbouring properties.
- 4.29 In terms of the residential amenity of the proposed dwellings, it is noted that each of the proposed dwellings would be served by an amenity area which would provide an adequate amount of useable external amenity space. Suitable boundary treatments are proposed between each of the plots, which would provide privacy between the respective amenity areas.
- 4.30 Having regard to the above, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policy ENV1 (1) of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Highway Safety

- 4.31 The comments of the neighbouring properties are noted regarding the impact of the proposal on highway safety.
- 4.32 The proposed development would be served from a widened existing vehicular access from Main Street to the south. Plots 1-3 would each benefit from two hardstanding car parking spaces to the east of the proposed vehicular access, while plots 5-8 would each benefit from two hardstanding car parking spaces to the front of a double garage. In addition, three visitor car parking spaces would be provided within the application site. A farm yard area within the application site would provide space for turning and manoeuvring.
- 4.33 NYCC Highways has been consulted on the proposals and have not raised any objections.
- 4.34 Having regard to the above, it is considered that the proposal would be acceptable in terms of highway safety and is therefore in accordance with Policies ENV1 (2),

T1 and T2 of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Heritage Assets

- 4.35 The application has been advertised as affecting the setting of a listed building, those being the Grade II listed Skipwith Hall approximately 115 metres to the west of the application site, and the Grade II listed Village Hall and School House approximately 160 metres to the north east of the application site.
- 4.36 The Councils Conservation Officer has been consulted on the proposals and has not raised any objections in terms of the impact of the proposal on the setting of the nearby listed buildings.
- 4.37 Having regard to the above, it is considered that the proposal would not cause any harm to the setting of the nearby listed buildings in accordance with Policies SP18 and SP19 of the Core Strategy, S66 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 and the advice contained within the NPPF.

Impact on Archaeology

- 4.38 The application site is located within an Archaeology Consultation Zone. North Yorkshire County Council Heritage Services have been consulted on the application and have advised that the application site is located within the historic medieval settlement of Skipwith. However the existing farm buildings, hard standings and access would have had a severe impact on any archaeological remains should they have been present. North Yorkshire County Council Heritage Services therefore advise that it is unlikely that significant archaeological remains are present and raise no objections to the proposal.

Flood Risk and Drainage

- 4.39 The comments of the neighbouring properties are noted regarding the impact of the proposals on drainage.
- 4.40 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 4.41 In terms of drainage, the submitted application form sets out that surface water would be disposed of via mains sewer and soakaway, while foul sewage would be disposed of via main sewer. The submitted Planning Statement sets out that foul and surface water would be disposed of via main sewer. In addition, two proposed drainage layout plans have been submitted: Option A which demonstrates surface water disposal via soakaway and foul sewage disposal via main sewer (drawing no. 107 P04); and Option B, which demonstrates surface water disposal via main sewer and foul sewage via main sewer (drawing no. 108 P04).
- 4.42 The Ouse and Derwent Internal Drainage Board and Yorkshire Water have been consulted on the proposals.
- 4.43 The Ouse and Derwent Internal Drainage Board have advised that they would recommend the use of soakaways as an approach to dealing with surface water

disposal. If the soakaway is to be newly constructed the Board recommend that the applicant be asked to carry out soakaway testing, in accordance with BRE Digest 365, in order to ascertain that the soil structure is suitable for a soakaway system. Should the testing prove to be successful the applicant should then submit a design for the soakaway, for approval by the Local Planning Authority, which would fully accommodate a 1:30 year storm event with no overland run-off for a 1:100 year event plus a 20% allowance for climate change. Where a soakaway already exists the Board would recommend that the Local Planning Authority seek confirmation of its location and that the system is working effectively, and also have evidence that it is capable of handling the additional volume of water that will be generated by the site. It is not sufficient for the applicant to rely on anecdotal evidence of its past performance. Should soakaway testing prove unsatisfactory the applicant would need to reconsider their drainage strategy. The applicant has indicated that an alternative option would be the use a main sewer to dispose of the surface water from the site. The Board is aware of a Yorkshire Water surface water sewer to the south of the site in Main Street. If this is the asset the applicant intends to discharge into then the applicant should produce written evidence of the asset owners consent along with confirmation that the sewer has sufficient capacity to handle the discharge. If the applicant intends to discharge into an alternative asset it would need to be identified and the relevant permissions sought, along with confirmation that the asset has sufficient capacity to handle the discharge and where the asset ultimately discharges to. The Board would seek that, wherever discharge from the site is to enter a Board watercourse, the applicant should demonstrate that there is currently positive drainage and a proven connection to the watercourse. Where a connection is established, the Board would want the rate of discharge constrained at the "greenfield" rate (1.4 l/s/ha), plus an allowance for any "brownfield" areas any of the site which are currently impermeable (at the rate of 140 l/s/ha) less 30%. With storage calculations to accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm event. All calculations should include a 20% allowance for climate change. The Ouse and Derwent Internal Drainage Board therefore have no objections to the proposals subject to four conditions relating to: (1) drainage works to be agreed; (2) effectiveness of soakaways; (3) evidence of existing surface water discharge; and (4) capacity of public sewer/mains drain. As the first condition incorporates the requirements of the following three conditions, it would not be considered reasonable or necessary to attached the last three conditions recommended by the Ouse and Derwent Internal Drainage Board to any planning permission granted.

- 4.44 Yorkshire Water have advised that clarification is required on a number of points. Firstly, if the applicant is intending to dispose of surface water via soakaway as shown on drawing no. 107 P04, the individual attenuation tanks do not appear to outfall anywhere and therefore clarification is required as to how the surface water is to be disposed of. Secondly, if surface water is to be disposed of via main sewer as shown on drawing no. 108 P04, evidence should be submitted to show that other means of surface water disposal have been considered and why they have been discounted. Yorkshire Water promote the surface water disposal hierarchy and therefore the applicant should provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to main sewer. As a last resort curtilage surface water should discharge to the 225mm diameter public surface water sewer recorded in Main Street, restricted so as not to exceed a maximum of 1.5 (one point five) litres per

second, in line with the proposed Option B (drawing no. 108 P04). Finally, Yorkshire Water advise that the public sewer network is for domestic sewage purposes. This generally means foul water for domestic purposes and, where a suitable surface water or combined sewer is available, surface water from the roofs of buildings together with surface water from paved areas of land appurtenant to those buildings. Land and highway drainage have no right of connection to the public sewer network. The developer should contact the Highway Authority with regard to the acceptability of highway drainage proposals. Highway drainage, may however be accepted under certain circumstances. In this event, a formal agreement for highway drainage discharge to public sewer, in accordance with Section 115 of the Water Industry Act 1991, would be required. Yorkshire Water therefore have no objections to the proposals subject to a condition that 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 prior to the commencement of development.

- 4.45 Subject to the aforementioned conditions, it is considered the proposals are acceptable in respect of flood risk and drainage.

Nature Conservation and Protected Species

- 4.46 The comments of the neighbouring properties are noted regarding nature conservation and protected species.
- 4.47 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.
- 4.48 The application has been supported by an Ecological Impact Assessment undertaken by MAB Environment & Ecology Ltd, dated September 2016. The report sets out the site description as follows:

“Red House Farm is located within Skipwith village and to the north of Skipwith Common National Nature Reserve, SSSI and SAC. The farm is surrounded on three sides by residential land and backs onto fields of permanent pasture to the north. Within the wider area, land use includes arable and permanent pasture, and the nearby nature reserve contains large areas of lowland heath, deciduous woodland, scrub and a good network of ponds which offer high quality bat foraging habitat. Mature trees within close proximity to the site also offer good bat foraging habitat and the site is well connected to the surrounding landscape.”

- 4.49 The site was surveyed and report written by Rachel Midgley MCIEEM, of MAB Environment & Ecology Ltd. Section 4 of the report sets out the adopted methodology, Section 7 of the report sets out the survey results, while Section 8 of the report sets out discussion and analysis of the results. The report concludes that there are no notable or protected habitats within the application site. The majority of the site consists of disused farm buildings and hard-standing, with formal residential gardens around the existing farmhouse which are laid mainly to lawn. There is also a small patch of scrub and scattered areas of tall ruderal vegetation around buildings. The report sets out:

“Buildings on site offer low or no bat roosting potential. A bat survey in July 2016 identified a small common pipistrelle day roost within Building 1, containing 3 bats. No other roosts were identified. A further emergence survey will be required prior to work in order to confirm the status of roosting and to inform the need for a European Protected Species Licence. An outline method statement is provided within this report. Replacement crevice roosting habitat will be provided on site through the installation of professional quality bat boxes and/or integral bat bricks. There is a small GCN population (maximum count 8) within ponds within 500m of the development. Only 3 out of 8 ponds surveyed were found to support GCN (and in very low numbers). The closest breeding pond is 135m away. As the development will impact on only a very small area of suitable terrestrial habitat, impact on GCN is considered unlikely and no licence is required. Reasonable avoidance measures are proposed during works. Any vegetation clearance will need to be scheduled to avoid impact on breeding birds. A barn owl has used Building 3 as an occasional roost site but no evidence of nesting was found. The nest box currently within this building shall be relocated to a suitable location on site to ensure that habitat is still available post-development. A check should be made prior to work to confirm nesting status.”

Section 10 of the report sets out mitigation and compensation, Section 11 of the report incorporates a method statement, while Section 12 of the report puts forward recommendations for ecological enhancement.

- 4.50 Subject to a condition requiring the proposed development to be carried out in accordance with the mitigation and compensation measures, method statement and recommendations for ecological enhancement contained within the Ecological Impact Assessment undertaken by MAB Environment & Ecology Ltd, dated September 2016, 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

- 4.51 The application has been supported by a planning application form, a contaminated land screening assessment form and a Phase 1 Desk Study Report undertaken by Chevin Geoenviro Associates Ltd dated October 2017. These have been assessed by the Councils Contaminated Land Consultant who has advised the Phase 1 Desk Study Report provides a good overview of the site history, its setting and its potential to be affected by contamination. Furthermore, the Councils Contaminated Land Consultant advises that they agree with the report's recommendation that a site investigation is needed; and notes that if contamination is found, appropriate remedial action would be required to make the site safe and suitable for its proposed use. The Councils Contaminated Land Consultant therefore advises that there are no objections to the proposals subject to four conditions relating to: (1) investigation of land contamination; (2) submission of a remediation scheme; (3) verification of remedial works; and (4) reporting of unexpected contamination.
- 4.52 Subject to the aforementioned conditions, it is considered that the proposal would be acceptable in respect of land contamination in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Affordable Housing

- 4.53 Policy SP9 of the Core Strategy 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.
- 4.54 However, in the context of the West Berkshire decision it is considered that there is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. It is therefore considered that having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

Recreational Open Space

- 4.55 In respect of contributions towards recreational open space, these policies should be afforded limited weight due to their conflict with the CIL. It is considered that no direct contribution is required due to the adoption of the CIL.

Waste and Recycling

- 4.56 The amended proposed site plan (drawing no. 105 P11) shows provision of a refuse collection area to the east of the entrance to the site. The Councils Waste and Recycling Officer has been consulted on the proposals and has advised that the collection vehicles will not access private drives or use them for turning, but notes that a bin presentation point has been included at the entrance to the development. The Councils Waste and Recycling Officer has advised that the presentation point must allow for unobstructed access to containers and waste collection vehicles should be able to gain access to within 10 meters, which they would be achievable as a result of the provision of a refuse collection area as per the amended proposed site plan (drawing no. 105 P11). The Councils Waste and Recycling Officer has advised that the presentation point must be large enough to accommodate 2 x 240 litre wheeled bins per property one week and 3 x 55 litre kerbside recycling boxes per property the following week - in this case the presentation point will need to accommodate containers for Plots 4 to 8 only as Plots 1 to 3 will present their waste to the front of their properties. The refuse collection area as shown on the amended proposed site plan (drawing no. 105 P11) measures 6 metres by 4 metres and would be capable of storing the required bins on the presentation day.
- 4.57 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.

Other Issues

- 4.58 It is noted that neighbouring properties have raised concerns regarding the potential for noise and disruption during construction works. This is not a material planning

consideration which can be taken into account in the determination of this application.

- 4.59 It is noted that neighbouring properties have raised concerns that no site notice has been erected to advertise the application. The site notice was erected to the front of the site on Main Street on 27 October 2017. A further site notice was erected to the front of the site on Main Street on 29 June 2018, following the submission of amended plans.

5. CONCLUSION

- 5.1 The application seeks planning permission for the demolition of the existing agricultural buildings at the site and the erection of 8 No. dwellings with associated garages and parking.
- 5.2 The application is contrary to Policy SP2A of the Core Strategy. However, regard must be given to the fact that Plots 1-4 fall within the defined development limits of Skipwith and these plots on their own would constitute the “conversion/redevelopment of farmsteads” in accordance with Policies SP2A(b) and SP4(a) of the Core Strategy. In addition, under permitted development rights it could be possible to convert the agricultural buildings at the site – or parts thereof – to provide up to 5 dwellings (subject to prior approval). The applicant suggests a conversion under such rights to five units could be possible, while the proposal would provide 4 dwellings outside the defined development limits. Thus, some weight may be given to the potential fall-back but this weight is limited since the planning application in front of Committee is a more comprehensive solution on this site and is favoured by the applicant (para 4.10 above).
- 5.3 In all the other principal considerations, the proposed development would not have a detrimental effect on the strategic countryside gap, the character and appearance of the area, the residential amenity of the occupants of neighbouring properties, highway safety, heritage assets, archaeology, flood risk and drainage, nature conservation and protected species, land contamination, affordable housing, recreational open space, or waste and recycling.
- 5.4 On balance therefore, considering the proposal against the development plan as a whole, it is considered that the proposal is acceptable and should be approved.

6. RECOMMENDATION

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 accordance with the plans/drawings listed below:

001 P01 – Location Plan
005 P04 – Application Site Plan and Existing Site Plan
105 P11 – Proposed Site Plan
109 P00 – Visibility Splays
RHF/TS/200 – Topographical Survey
106 P04 – Street View
110 P00 – Proposed Plans Plots 1-3
103 P03 – Proposed Elevations Plots 1-3
410 P02 – Proposed Plans Plot 4
430 P03 – Proposed Elevations Plot 4
510 P04 – Proposed Plans Plot 5
430 P05 - Proposed Elevations Plot 5
431 P05 - Proposed Elevations Plot 5
610 P03 – Proposed (Ground Floor) Plans Plot 6
610 P03 – Proposed (First Floor) Plans Plot 6
630 P04 – Proposed Elevations Plot 6
631 P03 - Proposed Elevations Plot 6
710 P02 - Proposed Plans Plot 7
430 P04 - Proposed Elevations Plot 7
431 P04 - Proposed Elevations Plot 7
810 P05 – Proposed Plans Plot 8
830 P05 – Proposed Elevations Plot 8
910 P02 – Proposed Garage Plots 4 and 8

Reason:

For the avoidance of doubt.

03. No development above foundation level shall commence until details of the materials to be used in the construction of the exterior walls and roof(s) of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Only the approved materials shall be utilised.

Reason:

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

04. Notwithstanding the provisions of Class A to Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) no extensions, garages, outbuildings or other structures shall be erected within Plots 5-8 as shown on the proposed site plan (drawing no. 105 P11), other than those hereby approved, without the prior written consent of the Local Planning Authority.

Reason:

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

05. Notwithstanding the provisions of Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order (2015) (or any order revoking or re-enacting that Order) no windows and/or new openings shall be placed in the west elevation of Plot 1 or the south elevation of Plots 4 or 8 as shown on the proposed site plan (drawing no. 105 P11) without the prior written consent of the Local Planning Authority.

Reason:

In order to safeguard the rights of control of the Local Planning Authority and in the interests of the amenity of the adjoining residential properties, having had regard to Policy ENV1 of the Selby District Local Plan.

06. The dwellings hereby approved shall not be occupied until a comprehensive scheme of soft and hard landscaping and tree planting for the site, indicating inter alia the number, species, heights of planting and positions of all trees, shrubs and bushes and details for measures to protect existing trees has been submitted to and approved in writing by the Local Planning Authority. The approved scheme should thereafter be carried out in its entirety within the period of twelve months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. All trees, shrubs and bushes should be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses should be made good as and when necessary.

Reason:

To allow the Local Planning Authority to control the development in detail in order to ensure that the proposals are acceptable having had regard to the character and appearance of the area to comply with Policy ENV1 of the Selby District Local Plan and SP19 of the Selby District Core Strategy Local Plan.

07. Notwithstanding the removal of the existing hedge and provision of new hedge shown to the north west boundary as shown on the proposed site plan (drawing no. 105 P11), the existing hedge to the north west boundary shall be retained and subject to a maintenance management plan to be submitted to and approved by the Local Planning Authority prior to the occupation of the dwellings hereby approved.

Reason:

In order to ensure that the proposals are acceptable having had regard to the character and appearance of the area to comply with Policy ENV1 of the Selby District Local Plan and SP19 of the Selby District Core Strategy Local Plan.

08. No development approved by this permission shall be commenced until the Local Planning Authority in consultation with the Internal Drainage Board has approved a Scheme for the provision of surface water drainage works. Any such Scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

The following criteria should be considered:

- Any proposal to discharge surface water to a watercourse from the redevelopment of a brownfield site 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 140lit/sec/ha or the established rate whichever is the lesser for the connected impermeable area).
- Discharge from "greenfield sites" taken as 1.4 lit/sec/ha (1:1yr storm).
- Storage volume should accommodate a 1:30 yr event with no surface flooding and no overland discharge off the site in a 1:100yr event.
- A 20% allowance for climate change should be included in all calculations.
- A range of durations should be used to establish the worst-case scenario.
- The suitability of soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 or other approved methodology.

Reason:

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

09. 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. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:

- Evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
- The means by which the discharge rate shall be restricted to a maximum rate of 1.5 (one point five) litres per second.

Reason:

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

10. The development hereby permitted shall be carried out in accordance with the mitigation and compensation measures, method statement and recommendations for ecological enhancement contained within the Ecological Impact Assessment undertaken by MAB Environment & Ecology Ltd, dated September 2016, submitted with the application to the Local Planning Authority.

Reason:

In the interests of nature conservation and the protection of protected species and in order to comply with Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 of the Selby District Core Strategy Local Plan.

11. Prior to development, 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:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
 - an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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.

12. Prior to development, 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) shall be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme shall 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.

13. Prior to first occupation or use, the approved remediation scheme shall be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out shall be produced and be 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.

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

Reason:

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

15. Prior to the occupation of any dwelling, waste and recycling provision shall be provided for each of the dwellings.

Reason:

In order to comply with the Adopted Developer Contribution Supplementary Planning Document (2007).

7. Legal Issues

7.01 Planning Acts

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

7.02 Human Rights Act 1998

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

7.03 Equality Act 2010

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

8. Financial Issues

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

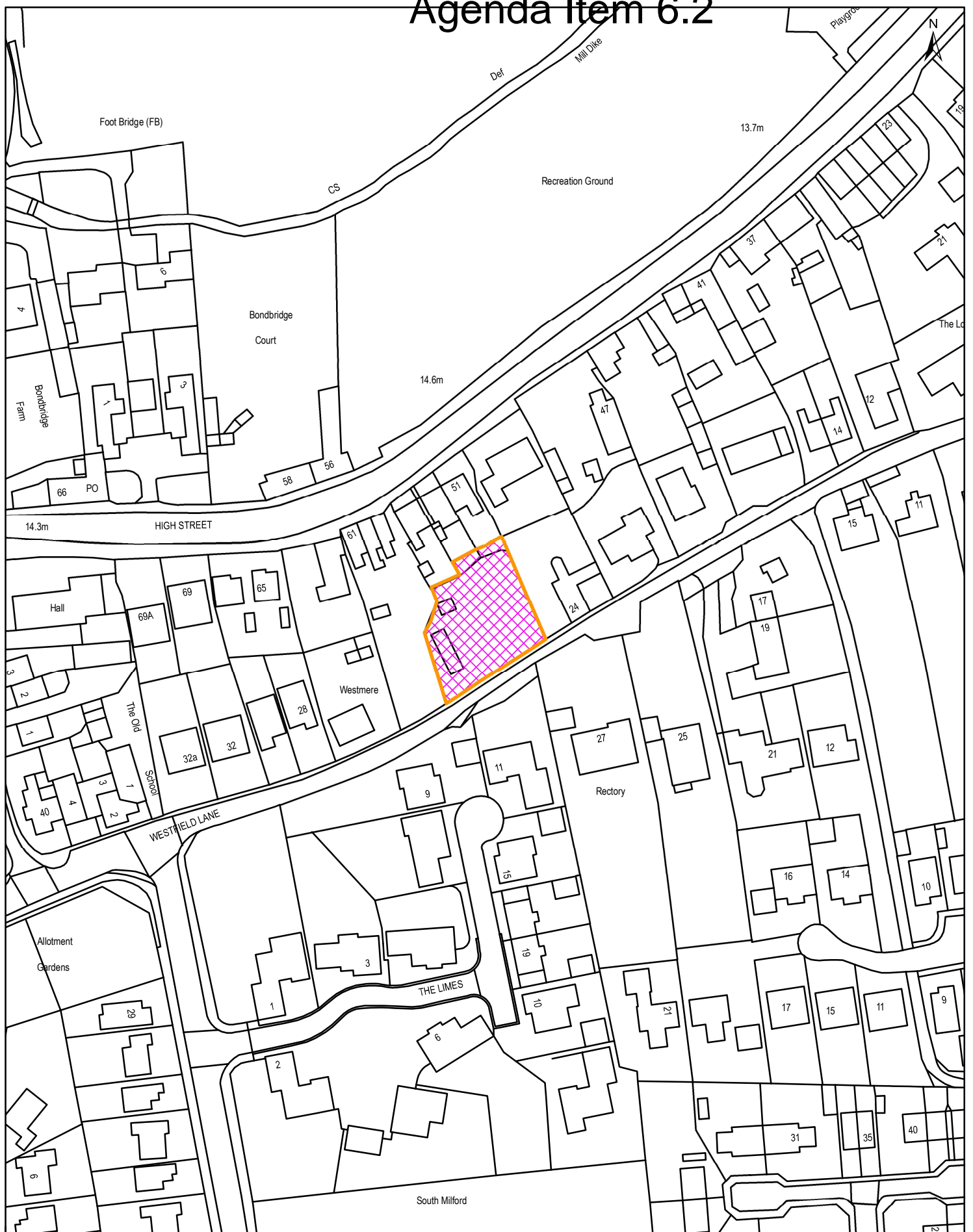
9. Background Documents

Planning Application file reference 2017/1052/FUL and associated documents.

Contact Officer: Jenny Tyreman, Senior Planning Officer

Appendices: None

Agenda Item 6.2



APPLICATION SITE

Quarry Drop, Westfield Lane, South Milford
2018/0800/FUL

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Report Reference Number: 2018/0800/FUL

Agenda Item No: 6.2

To: Planning Committee
Date: 10 October 2018
Author: Jenny Tyreman (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0800/FUL	PARISH:	South Milford Parish Council
APPLICANT:	Mr Ian Lindsay	VALID DATE: EXPIRY DATE:	30 July 2018 24 September 2018
PROPOSAL:	Section 73 application to vary Condition 04 (drawings) of approval 2010/0507/FUL for the construction of a five bedroom, three storey detached house		
LOCATION:	Quarry Drop Westfield Lane South Milford Leeds West Yorkshire LS25 5AP		
RECOMMENDATION:	APPROVE		

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

Members should be advised that the applicant has submitted an appeal for the non-determination of the application on 26 September 2018. However, this appeal is yet to be validated by the Planning Inspectorate. Members will be updated of the situation regarding the appeal at committee.

1. INTRODUCTION AND BACKGROUND

Site and Context

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

The Proposal

- 1.4 The application has been made under Section 73 of the Town and Country Planning Act 1990 and the proposal seeks to vary Condition 4 (drawings) of planning permission reference 2010/0507/FUL for the construction of a five bedroom, three storey detached house at Quarry Drop, Westfield Lane, South Milford. The changes proposed under this Section 73 application are: (1) to amend the footprint of the dwelling at ground, first floor and second floor level so the north west corner and south west corner are rounded rather than square; and (2) accordingly alter fenestration details in the west and south elevations.

Relevant Planning History

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

2. CONSULTATION AND PUBLICITY

(All immediate neighbours were informed by letter, two site notices were erected and statutory consultees notified)

- 2.1 **Parish Council** – No objection to this application, as it is a small change to the plans of the house. Note that there are two live planning permissions for the same

plot - 2010/0507/FUL and 2016/0850/FUL - both are for a 3-storey 5-bedroom house which is currently underway, but the 2016 appears to have a slightly different footprint and height, as well as conditions relating to the allowed working hours and deadline for completion, whereas the 2010 does not. Note that at the Parish Council meeting on 11 September 2018 various neighbours complained about noise disruption (including at evenings and weekends) and the duration of the construction. Note that the applicant has referred to "voluntary noise reduction measures" and suggests that these measures are explored to protect neighbouring residents' residential amenity.

2.2 **NYCC Highways** – No objections.

2.3 **Selby Area Internal Drainage Board** – No objections, subject to recommendations.

2.4 **Yorkshire Water** – No response within statutory consultation period.

2.5 **Neighbour Summary** – All immediate neighbours have been informed by letter and two site notices have been erected (one on High Street and one on Westfield Lane). Ten letters of representation have been received as a result of this advertisement, objecting to the application on the following grounds: (1) the impact of the proposals on the residential amenity of neighbouring properties in terms of noise, disturbance, privacy and light; (2) the length of time the build has been ongoing; (3) non-compliance with a working hours condition attached to planning permission reference 2016/0850/FUL and queries/requests regarding whether a working hours condition would be attached to the current application should it be approved; (4) queries/requests whether a completion date condition would be attached to any planning permission granted, as per the one attached to planning permission reference 2016/0850/FUL; (5) which planning permission is being implemented and whether the temporary living accommodation and fence to the south/east boundary benefit from planning permission; (6) vehicles blocking the highway and vehicle being parked on High Street causing highway safety issues; (7) the size of the proposed development; (8) the development not being built in accordance with the 2010 permission, having a higher roofline, greater floor area, different floor levels and different boundary treatments.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

3.1 The application site is located within the defined development limits of South Milford, which is a Designated Service Village as identified in the Core Strategy.

3.2 The application site is located within Flood Zone 1, which has a low probability of flooding.

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

3.3 The National Planning Policy Framework (July 2018) replaces the first NPPF published in March 2012. The Framework does not change the status of an up to date development plan and where an application conflicts with such a plan,

permission should not usually be granted (paragraph 12). This application has been considered against the 2018 NPPF.

Selby District Core Strategy Local Plan

3.4 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

3.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, the guidance in paragraphs 212 and 213 of the NPPF noting that the NPPF should be taken into account in determining applications, and that existing policies should not be considered out of date simply because they were adopted prior to the publication of the NPPF and that due weight should be given to them according to their degree of consistency with the Framework, so the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.

3.6 The relevant Selby District Local Plan Policies are:

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

Other Policies and Guidance

3.7 Affordable Housing Supplementary Planning Document

4. APPRAISAL

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

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

The Principle of the Development

- 4.2 The Town and Country Planning Act 1990 Section 73 allows for applications to be made to undertake development without complying with conditions attached to such an approval. Paragraph (2) of Section 73 states "On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and —
- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
- (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application."
- 4.3 As such the only consideration of this application is in relation to the conditions of the approval and the impact the proposed variation would have. Therefore key to the determination of this application is whether a new planning consent for the development with the proposed variation to Condition 4 (Drawings) of planning permission 2010/0507/FUL would be contrary to the provisions within the development plan or whether there are reasonable grounds for refusal if these conditions were not retained in their present form.
- 4.4 The previous planning permission for the construction of a five bedroom, three storey detached house at Quarry Drop, Westfield Lane, South Milford was considered acceptable under planning approval reference 2010/0507/FUL, subject to conditions and according with relevant policies in place at that time.
- 4.5 A recent appeal decision dated 6 July 2018 (appeal reference: APP/N2739/X/17/3186468) has confirmed that planning permission reference 2010/0507/FUL remains extant and the works permitted by it can be lawfully continued. The Inspector therefore issued a certificate of lawfulness in respect of the construction of a three storey, five bedroomed detached dwelling in accordance with drawings listed under Condition 4 of 2010/0507/FUL. As the permission remains extant, an application can be lawfully made under Section 73 of the Town and Country Planning Act 1990, to vary Condition 4 (Drawings).
- 4.6 Since the approval of planning permission reference 2010/0507/FUL the Selby District Core Strategy Local Plan was formally adopted by the Council at the Extraordinary meeting of the Full Council on 22 October 2013. The policies within the Selby District Core Strategy Local Plan (2013) replace a number of Selby District Local Plan (2005) policies. In addition, the National Planning Policy Framework (NPPF) was published in July 2018. Although the policy context has changed since the decision for planning approval reference 2010/0507/FUL was made, with the adoption of the Selby District Core Strategy Local Plan (2013) and the publication of the NPPF (2018), the policy position remains the same. Had the proposal been assessed against the adopted Selby District Core Strategy Local Plan (2013) and NPPF (2018), the proposal would still have been considered acceptable in principle.

- 4.7 The proposed variation of Condition 4 (Drawings) of planning permission 2010/0507/FUL incorporates the following amendments: (1) to amend the footprint of the dwelling at ground, first floor and second floor level so the north west corner and south west corner are rounded rather than square; and (2) accordingly alter fenestration details in the west and south elevations.
- 4.8 The impacts arising from these amendments are considered in the following sections of this report.

Design and Impact on the Character and Appearance of the Area

- 4.9 The original planning permission (reference: 2010/0507/FUL) assessed the proposals in respect of their design and impact on the character and appearance of the area and established that the proposals were acceptable with respect to the layout, scale, appearance and landscaping, subject to a condition relating to the approval of materials.
- 4.10 The proposed amendments would alter the footprint of the dwelling at ground, first floor and second floor level so the north west corner and south west corner would be rounded rather than square and would also alter fenestration details in the west and south elevations.
- 4.11 The proposed amendments, given their nature and design, are not considered to have any significant adverse impact on the character and appearance of the area beyond the original permission and are therefore considered to be acceptable in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of the Core Strategy Policy SP19 and the advice contained within the NPPF.

Impact on Residential Amenity

- 4.12 The original planning permission (reference: 2010/0507/FUL) assessed the proposals in respect of their impact on the residential amenity of neighbouring properties in terms of whether they would result in any adverse impacts in terms of overlooking, overshadowing or oppression and established that the proposals were acceptable with respect to the layout, scale and appearance (including fenestration details).
- 4.13 The proposed amendments would alter the footprint of the dwelling at ground, first floor and second floor level so the north west corner and south west corner would be rounded rather than square and would also alter fenestration details in the west and south elevations.
- 4.14 The proposed amendments, given their nature and design, are not considered to have any significant adverse impact on the residential amenity of neighbouring properties in terms of in terms of overlooking, overshadowing or oppression beyond the original permission and are therefore considered to be acceptable in accordance with Policy ENV1 (1) of the Selby District Local Plan and the advice contained within the NPPF in these respects.
- 4.15 A number of letters of representation have been received which raise concerns regarding the length of time that the development has been ongoing and noise and disturbance resulting from construction works impacting on the residential amenity

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

- 4.16 There are a history of permissions at the site, which have been summarised in the “Planning History” section of this report. Planning permission 2010/0507/FUL did not include any conditions restricting the hours and days that construction works could take place. However, under a subsequent planning permission, reference 2016/0850/FUL, the Local Planning Authority attached a condition restricting construction hours in the interest of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan. The applicants sought to remove this condition under application reference 2016/1190/FUL, which was refused by the Local Planning Authority on 02 December 2016 and subsequently dismissed at appeal (reference: APP/N2739/W/17/3168058) on 04 July 2017. The Inspector considered the removal of the condition restricting the hours and days that construction works could take place would harm the living conditions of nearby residents in relation to noise and disturbance in conflict with Policy ENV1 of the Selby District Local Plan.
- 4.17 In determining a Section 73 application, the Local Planning Authority can impose additional conditions beyond those proposed in the application, provided that:
- (a) The conditions imposed are ones which could have been imposed on the original grant of permission; and
 - (b) The conditions do not permit amendments which would amount to a “fundamental alteration” of the development proposed by the original application.
- 4.18 The construction of the five bedroom, three storey detached house at Quarry Drop, Westfield Lane, South Milford has been ongoing for 7-8years. Representations from adjacent properties submitted with application references 2018/0850/FUL, 2016/1190/FUL, 2017/0757/CP and the current application, along with planning enforcement complaints have highlighted harm to the occupiers of neighbouring dwellings through noise and disturbance resulting from construction works. The application site is tightly bound by residential properties, with those fronting High Street located a minimum of 10 metres away from the site boundary; No. 24 Westfield Lane to the east, located a minimum of 7 metres from the site boundary at a higher elevation; and Westmere to the west, located 18 metres from the site boundary at a higher elevation. Given the location of the site, surrounded by residential properties to all sides, the evidence of the length of time the development has been ongoing, and the representations from neighbouring properties regarding the harm to living conditions through noise and disturbance resulting from construction works, it is considered reasonable and necessary to consider whether a condition restricting construction hours should be attached to any approval of planning permission under the current Section 73 application.
- 4.19 Under appeal reference APP/N2739/W/17/3168058 the Inspector stated “a condition may be considered necessary if the effect of not having it in place or removing it would lead to significant harm”. Policy ENV1 of the Selby District Local Plan seeks to ensure a good amenity for residential occupiers, which is consistent with the advice contained within the NPPF and the PPG in relation to noise and

disturbance. The Local Planning Authority have received numerous letters of representations to planning applications at the site, along with planning enforcement complaints highlighting harm to the occupiers of neighbouring dwellings through noise and disturbance resulting from construction works. In light of this it is considered that a condition restricting construction hours would be necessary, would be relevant to planning and relevant to the development permitted in relation to the site context, evidence of complaints about working hours and there is a clear planning purpose to protect amenity in relation to local planning policy. Without a restriction on working hours there is evidence of harm to residential amenity of nearby residents. A condition relating to working hours would be enforceable because it would be possible to detect a contravention and remedy any such breach by not working outside the specified hours. Furthermore, the Inspector on appeal reference APP/N2739/W/17/3168058 considered the working hours condition, subject of that appeal, was sufficiently precise so as to have sensible meaning when read as a whole and was not uncertain. A similarly worded condition could be attached to the current application, thus the same would apply in terms of enforceability and preciseness.

- 4.20 Having regard to the above factors, the Local Planning Authority consider it prudent to attach a condition restricting construction hours to any approval of planning permission in the interests of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan. The condition is one which could have been imposed on the original grant of permission; and the condition does not permit amendments which would amount to a “fundamental alteration” of the development proposed by the original application.

Impact on Highway Safety

- 4.21 The original planning permission (reference: 2010/0507/FUL) assessed the proposals in respect of their impact on highway safety and established that the proposals were acceptable with respect to the access and layout, subject to a condition requiring the accesses to the site to be laid out and constructed in accordance with certain requirements detailed within the condition.
- 4.22 The proposed amendments do not alter the access, parking and turning areas within the application site. North Yorkshire County Council Highways have been consulted on the application and have advised that there are no local highway authority objections to the proposals. As the access has now been laid out and constructed, it is not necessary to attach any conditions to any approval of planning permission relating to the access.
- 4.23 Having regard to the above, it is considered that the proposals are acceptable in respect of highway safety in accordance with Policy ENV1 (2) of the Selby District Local Plan, Policy T1 of the Core Strategy and the advice contained within the NPPF.

Other Issues

- 4.24 There are a history of permissions at the site, which have been summarised in the “Planning History” section of this report. Concerns have been raised over which planning permission is being implemented and whether the temporary living accommodation and fence to the south/east boundary benefit from planning

permission in light of the recent appeal decision (reference: APP/N2739/W/17/3168058) granting a certificate of lawfulness in respect of the construction of a three storey, five bedroomed detached dwelling in accordance with drawings listed under Condition 4 of 2010/0507/FUL and the subsequent Section 73 application. To clarify, the applicant currently has two consents which they could implement: 2010/0507/FUL and 2018/0850/FUL. Should planning permission be granted under the current application, the applicant would have three consents they could implement: 2010/0507/FUL, 2018/0850/FUL and 2018/0800/FUL. The Local Planning Authority will be seeking to establish from the applicant which of the consents they are implementing i.e. which they are building the dwelling house under, the temporary living accommodation and the fence to the south/east boundary. The applicant could implement more than one planning permission provided that the development carried out thereunder does not render one or other of the planning permissions incapable of being implemented or physically impossible to implement.

- 4.25 Concerns have been raised over the height of the development, as currently constructed. The applicants have advised that a temporary roof is currently in situ, which does not reflect the height of the development on completion.
- 4.26 Concerns have been raised regarding construction vehicles blocking the road. Such complaints should be directed towards North Yorkshire County Council Highways for further investigation. Further, concerns have been raised regarding un-neighbourly parking on High Street. This is not a material consideration which can be taken into consideration in the determination of this application and is a separate civil matter which should be discussed between the relevant parties.

5. CONCLUSION

- 5.1 The application has been made under Section 73 of the Town and Country Planning Act 1990 and the proposal seeks to vary Condition 4 (drawings) of planning permission reference 2010/0507/FUL for the construction of a five bedroom, three storey detached house at Quarry Drop, Westfield Lane, South Milford. The changes proposed under this Section 73 application are: (1) to amend the footprint of the dwelling at ground, first floor and second floor level so the north west corner and south west corner are rounded rather than square; and (2) accordingly alter fenestration details in the west and south elevations.
- 5.2 The proposed amendments are not considered to have any significant adverse impact on the character and appearance of the area, the residential amenity of neighbouring properties in terms of overlooking, overshadowing or oppression, or highway safety beyond the original permission and are therefore considered to be acceptable in accordance with Policies ENV1 and T1 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.
- 5.3 Given the location of the site, surrounded by residential properties to all sides, the evidence of the length of time the development has been ongoing, and the representations from neighbouring properties regarding the harm to living conditions through noise and disturbance resulting from construction works, it is considered reasonable and necessary to attach a condition restricting construction hours in the interests of the amenities of the adjacent properties and having regard to Policy ENV1 of the Selby District Local Plan.

6. RECOMMENDATION

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

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

LOC 01 – Location Plan
02 – Block Plan
02 – West Elevation
03 Rev 1 – East Elevation
04 – South Elevation
08 – North Elevation
05 – Ground Floor
06 – First Floor
07 – Second Floor
12 – Plan Drawing
13 – Services Drawing

Reason:

For the avoidance of doubt.

02. Within three months of the date of this permission details of the materials to be used in the construction of the exterior walls and roof(s) of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Only the approved materials shall be utilised.

Reason:

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

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

Reason:

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

7. Legal Issues

7.01 Planning Acts

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

7.02 Human Rights Act 1998

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

7.03 Equality Act 2010

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

8. **Financial Issues**

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

9. **Background Documents**

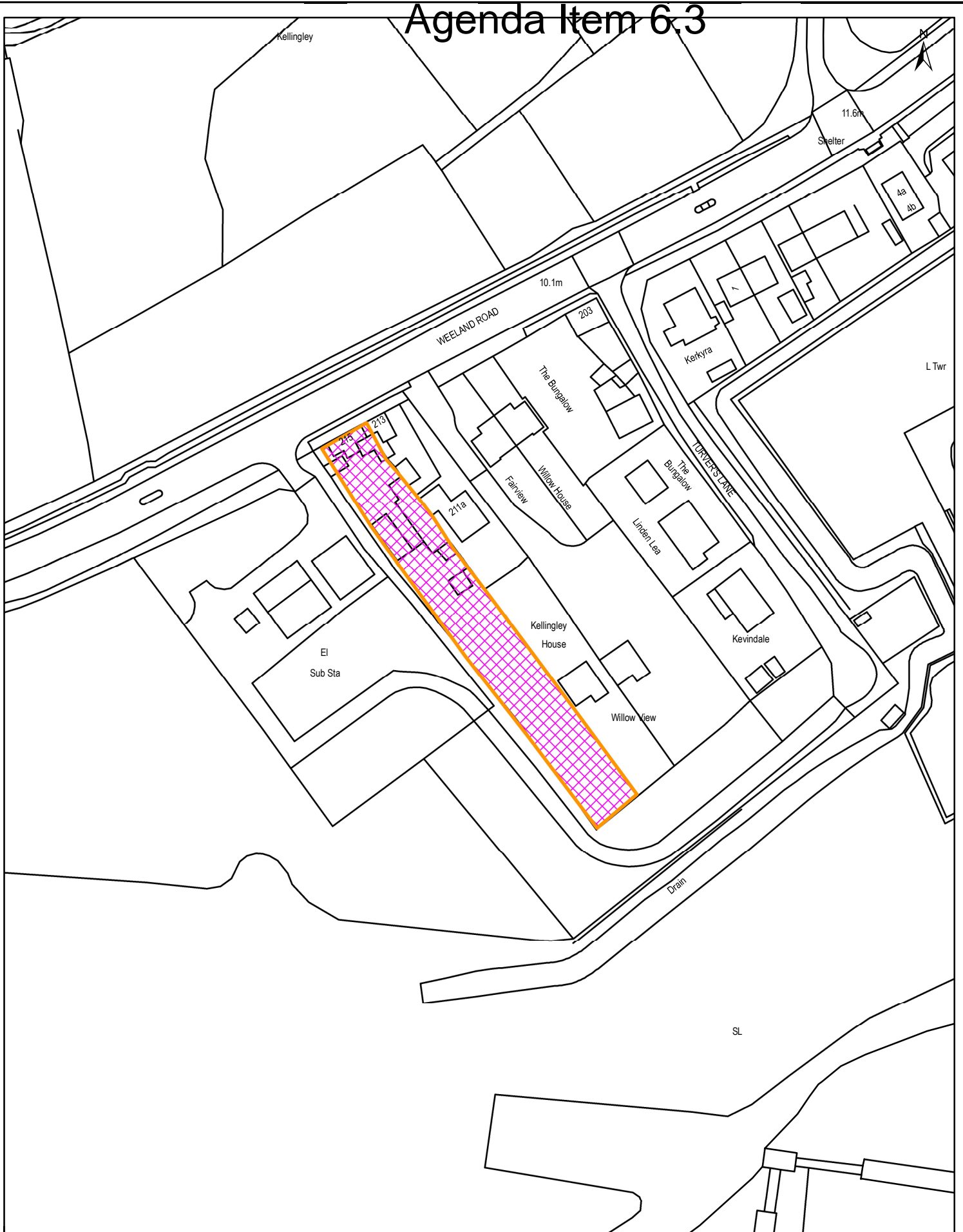
Planning Application file reference 2018/0800/FUL and associated documents.

Contact Officer: Jenny Tyreman, Senior Planning Officer

Appendices: None

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Agenda Item 6.3



APPLICATION SITE

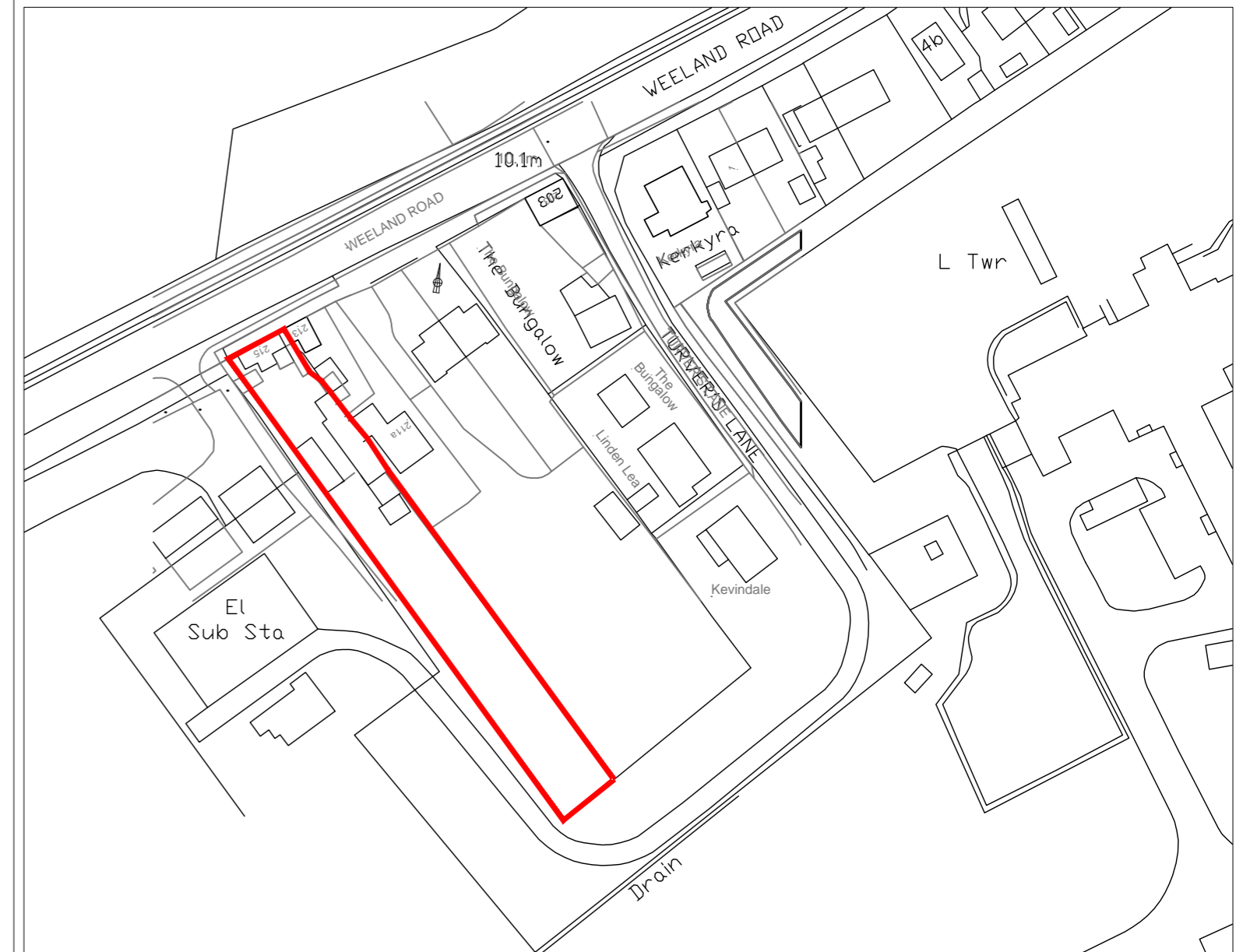
215 Weeland Road, Kellingley
2018/0579/FUL

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REV	DRAWN	DATE	DESCRIPTION

JMA ARCHITECTS

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PROJECT TITLE	- RESIDENTIAL DEVELOPMENT OF DETACHED HOUSE
	- AT 215 WEELAND ROAD
	- KELLINGLEY, SELBY, NORTH YORKSHIRE WF11 8DN
TITLE	- SITE PLAN

FILE STATUS	- PLANNING APPLICATION	SCALE	- 1:200 @ A2	DRAWN	WO	CHECKED	AJ
FILE	- D:\DRAWINGS\215 WEELAND ROAD			DATE	MARCH 2018		
PROJECT	- 1652.18032	DRAWING	- P03	REVISION			

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To: Planning Committee
Date: 10 October 2018
Author: Paul Edwards (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0579/FUL	PARISH:	Beal Parish Council
APPLICANT:	Mr & Mrs Huscroft	VALID DATE: EXPIRY DATE:	11 June 2018 6 August 2018 Extension of time agreed until 12 October 2018
PROPOSAL:	Proposed redevelopment of site to form one 4-bedroom detached house		
LOCATION:	215 Weeland Road, Knottingley		
RECOMMENDATION:	APPROVE		

This application is to be determined by the Planning Committee since the scheme of delegation requires Departure applications which are recommended to be approved to come to Committee.

1. Introduction and background

The Site

- 1.1 The application site is the building, outbuildings and extensive curtilage of a detached dwelling on the south side of the A645 Weeland Road, towards the western limits of Kellingley. The application area extends to 0.16 hectares and includes ranges of former animal sheds behind the frontage, vacant dwelling which is sited to the back of the footway with the dwelling at No.213 to the east. Access to the property is via an existing inclined vehicle crossover onto Weeland Road, to the west side and beyond are Northern Powergrid electricity substation and buildings, accessed both direct from Weeland Road and also from a rear loop road off Turver's Lane from the A645 further to the east.

- 1.2 To the rear of No.213 to the east, along the eastern application site boundary is a bungalow, 211A Weeland Road and there is a housing development behind extending to the same depth of this application site. There is then, further east, housing on Turver's Lane itself which is defined to the east by the Kellingley Colliery site.
- 1.3 In this location Weeland Road is subject to a 40mph speed limit, the derestricted national speed limit commences to the west, beyond the substation frontage and the carriageway here has a central crosshatched reservation for the right turn ghost lane for east bound traffic into Turver's Lane and a central pedestrian refuge. There are unlit footways on both sides of the road. The site is within Kellingley's settlement development limits, a secondary village– the western application site boundary to the substation is the development limit - and is washed over by the Green Belt. There is no Conservation Area, listed buildings or protected trees in the vicinity.

The proposal

- 1.4 The application seeks full planning permission for the clearance of the existing detached house and all of the curtilage buildings within the same site and ownership and their redevelopment with a detached four bedroom house. The new property would be sited behind the road frontage to allow for landscaping and parking; set back some 16m from the road frontage into the site and some 10m behind the rear elevation of the neighbour at No. 213. The existing access from Weeland Road would be reformed and two parking spaces and turning areas provided to the front of the proposal.
- 1.5 The application is supported by a design statement which includes analyses of the previous application and decision history.

Planning History

- 1.6 There have been a number of applications and pre-application enquiries for this site but the relevant planning history comes from the refusals in 2015 and 2017.
- 1.7 An application for a replacement dwelling was refused in November 2015 (2015/0998) on the grounds that the replacement dwelling was materially larger than the existing and thus it was inappropriate development and a case had not been made for very special circumstances. The appeal against this decision was dismissed by the Inspector's decision dated 8 July 2016. **Appendix A attached to this report.**
- 1.8 The 2017/0068 application was described as 'Proposed erection of replacement dwelling following demolition of existing dwelling and outbuildings' and was refused on 15 March 2017 for three reasons relating to that i) the replacement was materially larger than the existing and thus it was inappropriate development and a case had not been made for very special circumstances; ii) that there would be significant harm to the openness of the Green Belt by virtue of proposed hard standings, that the building would be on land occupied by agricultural buildings so it was not previously developed land and would sit outside the curtilage of the existing dwelling, and iii); that there would be an impact upon 211A Weeland Road due to the scale, siting and separation distance.

2 Consultation and Publicity

- 2.1 The application has been advertised as a Departure through press and site notices and all adjoining neighbours have been notified directly.
- 2.2 **NYCC Highways** – has no objections subject to the imposition of conditions relating to formation of the new/ improved access to a standard detail; provision of parking, turning areas and a Construction Management Plan.
- 2.3 **The Shire Group of Internal Drainage Boards-** comments that the application will increase impermeable areas so the applicant should ensure that any surface water system has adequate capacity to accommodate any increase in surface water from the site.
- 2.4 **Environmental Health** – requests a noise assessment to demonstrate how noise will be attenuated to specified levels as a result of traffic and industrial uses in the area.
- 2.5 The resident of 211A Weeland Road has concerns that the plans do not display dimensions and objects to the application on the grounds that they cannot ascertain the full scale of the proposal. The concerns may be summarised as:
- The house in close proximity will have a detrimental effect upon the amount of light that their property and garden receives;
 - Previous proposals have been for dormer bungalows so they are even more concerned (with this house);
 - The proximity of this house – presently at the roadside - will be in line with and within 5m of their property and are concerned about levels of privacy looking down into the property;
 - Previously welcomed the construction and demolition of existing buildings but do not understand why it has to be in line with theirs.

3. Site Constraints and Policy Context

Green Belt

- 3.1 The entire application site is within defined development limits and washed over by the Green Belt. The site history shows that there have been previous refusals for a dwelling on this site, an unsuccessful appeal in July 2016 and a further Council refusal in March 2017. The issues regarding those decisions related to whether the replacement was materially larger than that which it replaced and, in 2017, that the site was not within the existing residential curtilage, was not 'previously developed land' (pdl) and would have an impact upon the neighbour at 211A.
- 3.2 Relevant policies in respect of the principle of development in the Green Belt are Policy SP3 of the Core Strategy and NPPF (2018) paragraphs 133 to 147. The decision making process when considering proposals for development in the Green Belt is in three stages, and is as follows:

- a. It must be determined whether the development is inappropriate development in the Green Belt. The NPPF and Local Plan set out the categories of inappropriate development.
 - b. If the development is appropriate, the application should be determined on its own merits unless there is demonstrable harm to interests of acknowledged importance, other than the preservation of the Green Belt itself.
 - c. If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which outweigh the presumption against it.
- 3.3 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 3.4 Exceptions to new buildings being inappropriate include, of relevance here, from the NPPF para 145:
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
 - e) limited infilling in villages; and
 - g) limited infilling or the partial or complete redevelopment of previously developed land...
- 3.5 The applicants' case is that the application site has only ever been used as the same unit and that the application site combined is previously developed land.
- 3.6 The definition of 'previously developed land' from the new Framework is:
- "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." Exclusions to this definition include, of relevance here, "land that is or was last occupied for agricultural or forestry buildings;" and "land in built up areas such as residential gardens..."
- (NPPF p.70)
- 3.7 The applicant's statement that the site includes an existing house and agricultural buildings does not demonstrate that the land is previously developed and thus there is no support to the application not being inappropriate from subsection g) to the Framework's para 145 above.
- 3.8 The site is wholly within settlement development limits and has residential development on most sides, albeit on the edge of the settlement and the substation land and buildings to the west provide further development and containment. Neither 'limited' nor 'infilling' are defined in the Framework, the Planning Practice Guidance or the local plan but the site is between and surrounded by existing built development and thus will not result in any additional encroachment outside the existing confines of development. Therefore the application can justifiably be

regarded as 'limited infilling' to accord with subsection e) of para 145 of the NPPF highlighted above.

- 3.9 The final possible exception to inappropriate development is whether the replacement is not materially larger. The applicants say that the proposed dwelling is 203 square meters of floorspace compared to the combined floorspace of the existing house and all of the outhouses and agricultural buildings at 309 square meters. There is no doubt that the combined floorspace or volume of all of the buildings to be demolished is greater than the new building, but this becomes academic since the proposal has already been found to be 'not inappropriate' by virtue of it being 'limited infilling' (para 3.8 above).
- 3.10 Once the application has been found to be 'not inappropriate', there is no requirement in para 145 of the new Framework to consider openness or the purpose of including land within it. Thus the application complies with Policies SP2 and SP3 and with the Framework and can continue to be assessed on its own merit against the development plan.

Development Plan

- 3.11 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.

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

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

Selby District Core Strategy Local Plan

- 3.13 The relevant Core Strategy Policies are:

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Development Strategy
SP3	Green Belt
SP4	Management of Residential Development in Settlements
SP15	Sustainable Development and Climate Change
SP18	Protecting and Enhancing the Environment
SP19	Design Quality

- 3.14 The relevant Selby District Local Plan Policies are:

ENV1	Control of Development
ENV2	Environmental Pollution and Contaminated Land
T1	Development in Relation to Highway

4. APPRAISAL

- 4.1 The main issues to be taken into account when assessing this application, having established that the development is not inappropriate in the Green Belt, are:
1. Principle of Development
 2. Local amenity and preserve and enhance local character (from Policy SP4)
 3. Impact upon residential amenity

Principle of Development

- 4.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the new NPPF.
- 4.3 Kellingley is a Secondary Village and Policy SP2 would support limited amounts of residential development inside development limits where it will enhance or maintain the rural community and conform to Policies SP3 (Green Belt), SP4 and SP10.
- 4.4 It is considered, above, that Policy SP3 is complied with and Policy SP4A permits replacement dwellings and, in all cases, development is to protect local amenity and preserve and enhance local character. Policy SP10 is not relevant since it relates to rural exception sites.
- 4.5 Thus subject to compliance with the specific requirements below, the development of one replacement dwelling is acceptable in principle.

Local amenity, preserve and enhance local character

- 4.6 The character of this part of Kellingley is of development on this south side of Weeland Road at the settlement edge with open agricultural land around buildings and businesses to the north side. Although the initial impression is of ribbon residential development, in fact the grain of development on this south side extends to some depth with Turver's Lane serving properties behind the main road frontage to the east. Between the application site, Turver's Lane and the former colliery, are further cul de sacs of development including 211A adjoining to the east and then a court of three large detached properties nearing completion further south.
- 4.7 The length of the application site is thus not out of character with the depth of development elsewhere on this south side. The location of the footprint is not dissimilar to the neighbour to the east at 211A. Thus and bearing in mind that this is at the settlement edge, the siting of the building within the plot will better assimilate with this edge of settlement character since the set back from the road frontage assists in giving a softer, graduated edge to the settlement being partway between the neighbour, No 213 and the electrical substation compound which is set further back from the road frontage.

- 4.8 As a vacant, near derelict dwelling which is not contributing to character or vitality at the moment and which has basic amenities only accessible from outside of the main house in the single storey lean-to extensions; the opportunity to clear both the vacant house and the deteriorating buildings to the rear will be of benefit to the settlement character to comply with Policies SP2 and SP4.

Impact upon Residential Amenity

- 4.9 The new property would be set behind the rear face of 213 to the east such that there would be an oblique ~10m separation. There is an existing two storey rear extension to this side of the rear of No 213 such that any effects in that direction are limited. There is also a gated access between the curtilages of Nos 215 and 213 here and the proposed layout will provide for this. It is understood that this is since there is vehicular access and private right of way from the application site through the rear garden of No 213. This is a private arrangement and not controlled by planning legislation but its existence allows, due to this access and taking account of the extension, lesser separation distances.
- 4.10 The other neighbour is the detached bungalow (211A) off the private access to the east such that its side flank wall is against and parallel to the application site boundary. The proposed two storey blank flank wall of the application house would be sited some 1.5m off this boundary, overlapping with rear wall of the attached garage at No. 211 which has a window in it. The remainder of the bungalow will have no new development against this flank wall or its boundary and will benefit from the removal of the present pig shed along this boundary which is presently some 17m long.
- 4.11 Having assessed the relationship to No 211A from inside this property's rear garden, the rear elevation of the proposal is some 9m forward of the rear elevation of the neighbouring bungalow such that any views from rear upper floor windows will be both oblique and limited.
- 4.12 Bearing in mind the locations of the existing outbuildings to be cleared, your officers believe that this proposed siting on the plot is the best in order to protect the amenities of both neighbours and Policy ENV1 will be satisfied.

Other Issues

- 4.13 A noise assessment has not been requested since this is not necessary for development that complies with the development plan in locational terms. It would be unusual to seek noise assessment for properties just because they are on a road frontage and where the commercial development proposed to the south is likely to have its own noise controls to protect amenity. Conditions that are necessary on any approval relate to formation of the access, provision of parking, landscaping and contaminated land and it would be reasonable to withdraw permitted development rights to preclude any new openings in the east facing flank wall to protect neighbours in that direction. A Construction Management Plan condition is not necessary since these would not normally be sought on schemes for one property due to the limited build period and, in this instance the site is so large there is adequate space off and away from the highway to make such a condition unnecessary. Materials are specified with the application so similarly, a materials condition is not necessary.

Legal Issues

4.14 Planning Acts:

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

4.15 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.

4.16 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.

Financial Issues

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

5. Conclusion

5.1 This is a replacement dwelling in the terms of Policy SP4 and 'limited infilling' within settlement development limits according to Green Belt guidance. The siting of the footprint has been carefully negotiated to seek a graduated edge-of-settlement feel, set back from the road frontage and to protect the amenities of residents. The neighbour to No 211A will experience some relief with the removal of adjacent sheds and the siting is such that there will be no direct views into its rear garden. The proposed infilling development within the Green Belt is not inappropriate and thus, subject to the conditions set out below, it is recommended that this application may be approved.

6. Recommendation

6.1 This application is recommended to be APPROVED subject to the following conditions and reasons:

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

Reason:

To ensure compliance with Section 91 of the Town and Country Planning Act 1990 as amended.

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

Site Plan – Dwg No 1652.18032-P03
Demolition Drawings - Dwg No 1652.18032-P04
Elevations - Dwg No 1652.18032-P02
Floor Plans - Dwg No 1652.18032-P01
Drainage – Dwg No 1652.18032-P05

Reason:

For the avoidance of doubt.

3. No development shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site have been submitted to and approved by the local planning authority:
 - A site investigation scheme, based on the desk study to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - The results of the site investigation and the detailed risk assessment referred to in and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The strategy shall be implemented as approved.

Reason:

This is a pre-commencement condition since the history of the site and the former uses result in there being a reasonable likelihood of land contamination and it is thus necessary to undertake an investigation before any other material works commence in order 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.

4. The dwelling hereby approved shall not be first occupied until details of all proposed landscaping and planting, including the specie, stock size on planting, planting densities and proposals for management and maintenance have been submitted to and approved by the local planning authority.

Reason:

In accordance with the details of the application and in order to ensure for the preservation and planting of trees in accordance with s.197 of the Act and to

protect the residential amenities of existing and proposed residents and the Green Belt.

5. The approved planting shall be implemented during the first available planting season following the substantial completion of the property hereby approved.

Reason:

In accordance with the details of the application and in order to ensure for the preservation and planting of trees in accordance with s.197 of the Act and to protect the residential amenities of existing and proposed residents and the Green Belt.

6. The dwelling hereby permitted shall not be first occupied until surface water drainage works have been carried out in accordance with details which shall have been submitted to and approved in writing by the local planning authority.

Reason:

In order to ensure for the provision of surface water drainage

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no new openings shall be inserted in the first floor north east facing flank wall of the approved dwelling.

Reason:

In order to enable the Local Planning Authority to retain control over future alterations to the property in the interests of safeguarding the residential amenities and privacy of neighbours, in accordance with local plan Policy ENV1.

8. The dwelling hereby approved shall not be occupied until the new crossing of the highway verge has been constructed in accordance with Standard Highway Authority Detail number E6.

Reason:

In order to ensure the provision of a satisfactory means of access to serve the site in the interests of vehicle and pedestrian safety and convenience to accord with local plan Policy T2.

9. The dwelling hereby approved shall not be first occupied until the parking, turning and manoeuvring areas have been constructed and made available for use in accordance with approved Dwg No 1652.18032-P03.

Reason:

In order to ensure the provision of a satisfactory parking and turning areas to serve the site in the interests of vehicle and pedestrian safety and convenience to accord with local plan Policy T2.

Informative: In respect of Condition 8, the standard detail is contained within the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council.

Case Officer: Paul Edwards, Principal Planning Officer

Appendices: Appendix A - Inspector's appeal decision 215 Weeland Rd (/3142755) dated 8 July 2016

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Appeal Decision

Site visit made on 26 May 2016

by M Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 July 2016

Appeal Ref: APP/N2739/W/16/3142755
215 Weeland Road, Kellingley, Selby, WF11 8DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs S Huscroft against Selby District Council.
 - The application Ref 2015/0998/FUL, dated 3 September 2015, was refused by notice dated 24 November 2015.
 - The development proposed is a replacement dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. There has been a recent Court of Appeal judgement of 11 May 2016 in respect of *Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441*. In this case, the Secretary of State successfully appealed against the judgment of the High Court of 31 July 2015. The judgement has clarified that the policies in the Written Ministerial Statement as to the specific circumstances where contributions for affordable housing and tariff-style planning obligations should not be sought from small scale and self-build development, must once again be treated as a material consideration in development management and development plan procedures and decisions, and in the exercise of powers and duties under the Planning Acts more generally.
3. I am mindful that the Council had highlighted within its appeal statement that a contribution towards affordable housing would be required for a replacement dwelling, in accordance with Policy SP9 of the Selby District Core Strategy 2013 (the Core Strategy), and that the appellant had agreed in principle during the course of the planning application to pay the affordable housing contribution. However, whilst the Council had also indicated the intention to review their position in respect of the judgement and the impact on the requirement of affordable housing contributions, no further correspondence has been forthcoming on the matter. Nevertheless, I am satisfied on the basis of the judgement that there would no longer be a requirement for the appellant to make provision for an affordable housing contribution in this circumstance.

Main Issues

4. The main issues are:

- whether the proposed development would amount to inappropriate development for the purposes of the National Planning Policy Framework ('the Framework') and development plan policy;
- the effect on the openness of the Green Belt and the purposes of including land within it;
- if the development is deemed inappropriate, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

5. The existing appeal site accommodates a single detached two-storey rendered brick dwelling, with the curtilage to the rear accommodating existing outhouses, which it is indicated are to be demolished. The existing dwelling is situated on a main road, with further residential properties to the east, an electricity sub-station to the west, and land and development associated with Kellingley Colliery further to the south. The application site is indicated to be in a generally poor state of repair, which on the basis of my observations, is an assessment with which I would not disagree. The appeal site is indicated to be 'washed over' by the Green Belt.

Whether inappropriate development

6. Paragraphs 87-89 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and "very special circumstances" will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Subject to a number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt.
7. The listed exceptions in paragraph 89 of the Framework include the replacement of a building, provided that the new building is in the same use and is not materially larger than the one it replaces. In this instance, both the Council and appellant have directed me to this exception as a basis for assessment, with it accepted that the use of the replacement building would be consistent with that of the existing dwelling. The appellant has indicated on the submitted floor plans that the replacement dwelling would be 29% larger in terms of its volume, whilst the Council has approximated the increase volume as being 32.59%. However, whilst I have had regard to the difference between the two calculated figures, the Council has indicated that its conclusion on the materiality of the increase is based upon previous case law stating that an increase of volume in excess of 10% would be judged as the maximum for a replacement dwelling. On this basis, and being mindful of the absence of an explanation as to the methodology for the Council's calculations, I have adopted the appellant's figures.
8. The appellant has refuted the Council's assertion that an increase of 10% is reasonable as a basis for the size of a replacement dwelling, and has challenged the applicability of the case law which the Council has referred to in this instance on the basis that it would have been site-specific. In this respect,

I am mindful that the Council has not directed me specifically to the case law in question, or a policy basis within the Development Plan which seeks to define the extent of a material increase in the context of a replacement dwelling within the Green Belt. Nevertheless, I note that the appellant has conceded within the Grounds of Appeal that "*the proposed development is materially larger than the existing dwelling to be replaced...*", which in the context of assessing whether development in the Green Belt would be inappropriate, is a conclusion with which I would agree.

9. As a consequence, I am satisfied that the proposed development would not accord with any of the exceptions for new buildings in the Green Belt set out at paragraph 89 of the Framework, and I therefore attach substantial weight to the harm arising due to the inappropriate nature of the development. In this respect, the proposal would also be contrary to Policy SP3 of the Core Strategy, which the Council has cited as comprising its position related to development in Green Belts, and where additional restrictions would be applicable to development in line with the Framework.

The effect on the Green Belt and the purposes of including land within it

10. Paragraph 79 of the Framework identifies that openness and permanence are the two essential characteristics of Green Belts, whilst paragraph 80 highlights that the Green Belt serves five purposes, including checking the unrestricted sprawl of large built-up areas; preventing neighbouring towns from merging into one another; safeguarding the countryside from encroachment; preserving the setting and special character of historic towns; and assisting in urban regeneration by encouraging the recycling of derelict and other urban land.
11. The Council has not highlighted any conflict with the five purposes as set out at paragraph 80, and on the basis of my observations on site, I would agree with this conclusion. However, whilst I have also had regard to the Council's conclusion that as a consequence of the appeal site being surrounded by residential development that there would not be *a materially adverse effect on the openness of the Green Belt*, given that the replacement dwelling would be materially larger in volume, there would be a limited permanent loss of openness to the land within the Green Belt, contrary to the essential characteristics of the Green Belt set out at paragraph 79 of the Framework.

Other considerations

12. I have identified that the proposal would amount to inappropriate development in the Green Belt, and the presumption against inappropriate development would mean that this harm alone attracts substantial weight. The development would also have a limited adverse effect on the openness of the Green Belt, and would therefore be contrary to the essential characteristics of the Green Belt as set out in the Framework.
13. The Council has indicated that it is unable to demonstrate a 5 year supply of deliverable housing sites, although I am mindful that the replacement of the existing dwelling would for all intents and purposes merely maintain the existing *status quo* in respect of housing supply. However, whilst the Council has indicated as a consequence of its housing policies being out-of-date that proposals should be considered against paragraph 14 of the Framework and the presumption in favour of sustainable development, I note that this is unless specific policies in the Framework indicate development should be restricted. In

this respect, footnote 9 identifies land designated as Green Belt to be one of the exceptional criteria. Furthermore, I am mindful that paragraph 34 of the chapter on Housing and Economic Land Availability Assessment within national Planning Practice Guidance (the Guidance) states that *in decision-taking, unmet housing need (including for traveller sites) is unlikely to outweigh harm to the green belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the green belt.* I do not therefore consider that the absence of a 5 year supply of deliverable housing sites has any significant bearing on the decision-taking.

14. I have also carefully considered the appellant's contention that the proposed replacement dwelling would be of a sympathetic design, character and form in the context of existing development within the area. In this respect, I note that the Council does not dispute that the proposed dwelling would be in keeping with the character, scale and design of the surrounding residential development. I would agree with these conclusions. However, whilst I agree that that the development would also not represent an isolated dwelling and would have the potential to enhance the vitality of the community, I am mindful that it is not the principle of a replacement dwelling within the Green Belt which is at dispute.
15. The appellant has indicated that the dwelling is in need of replacement to allow a family home as it would not be viable to undertake the conversion and renovation. However, I have not seen any compelling or persuasive evidence that the only viable prospect for the continued use and occupation of the site would be by allowing a replacement dwelling of the size proposed to accommodate a family. This is not a matter which would therefore provide any significant weight in support of the proposals.
16. I have noted the Council's conclusions in respect of land contamination, nature conservation, flood risk, drainage and climate change, and that there would not be any adverse impacts on the living conditions of other existing occupiers in the area, or highway safety. However, these would be neutral factors and would not weigh in support of the proposal.
17. The appellant has cited other development in the vicinity, with particular reference made to recently completed housing schemes located to the south-east of the site, as well as development to the rear of 211 Weeland Road, and at the neighbouring property, 213 Weeland Road.
18. I note that the permissions for the housing schemes pre-date the publication of the Framework and the updating of national Green Belt policy, being approved between 2003 and 2009. However, overall the evidence and detail submitted in support of these cases as having set a precedent is extremely limited, and whilst I would accept some apparent locational similarities, in the absence of any detailed context I have limited my determination of this appeal to the basis of my own observations and the evidence placed before me.
19. I have also noted the Council's response to the observation over extensions to the neighbouring property at 213 Weeland Road, and that there are no records of permissions for extensions having been granted. As a consequence, this would not provide an established basis for comparison.

Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations

20. I have identified that the scheme would amount to inappropriate development in the Green Belt, and the presumption against inappropriate development means that this harm alone attracts substantial weight. The development would also have a limited adverse effect on the openness of the Green Belt, and would therefore be contrary to the essential characteristics of the Green Belt as set out in the Framework.
21. Notwithstanding the harm identified above, I have had careful regard to the contended benefits of the development as advocated by the appellant, but do not conclude that these would carry any more than limited weight in favour of the proposals. As a consequence, these would not be sufficient to clearly outweigh the harm to the Green Belt and other harm. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

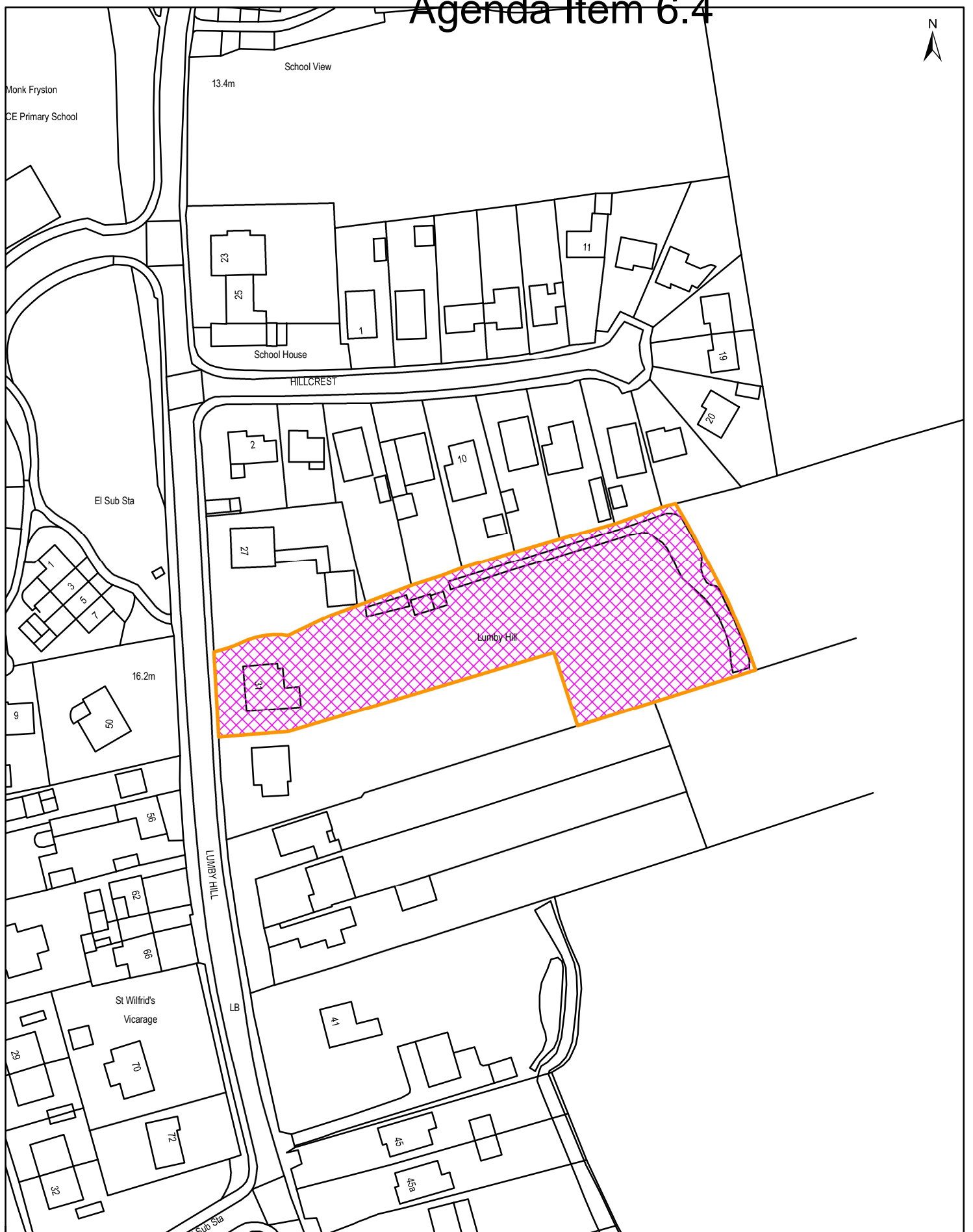
Conclusion

22. For the reasons above, and having regard to all matters before me, the appeal must be dismissed.

M Seaton

INSPECTOR

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APPLICATION SITE

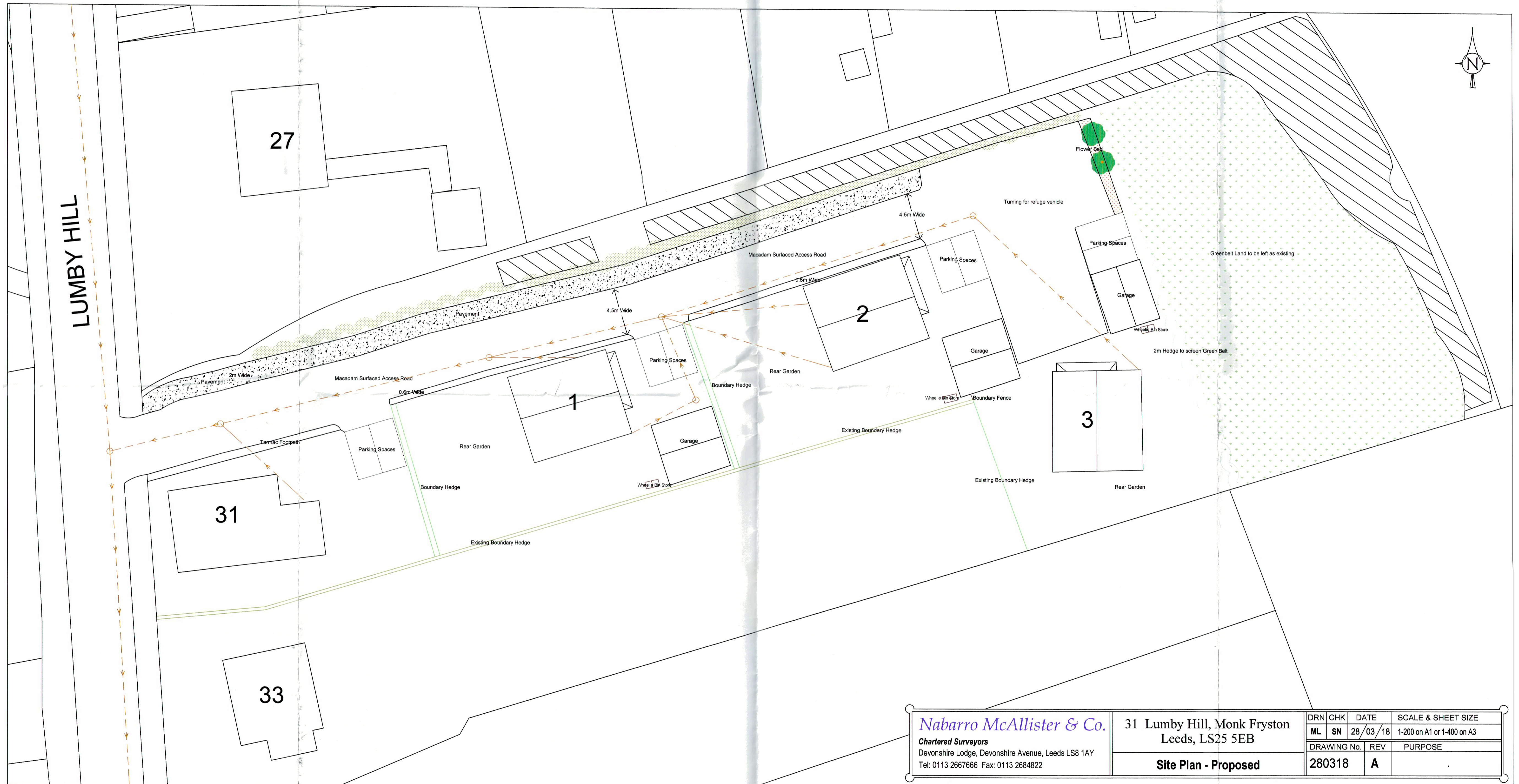
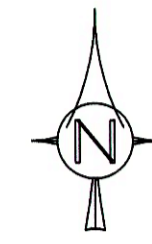
The Bungalow, 31 Lumby Hill, Monk Fyston
2018/0642/FUL

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BUSINESS SUPPORT
 - 4 JUN 2018
 RECEIVED



Nabarro McAllister & Co.		31 Lumby Hill, Monk Fryston Leeds, LS25 5EB		DRN	CHK	DATE	SCALE & SHEET SIZE
Chartered Surveyors		Devonshire Lodge, Devonshire Avenue, Leeds LS8 1AY Tel: 0113 2667666 Fax: 0113 2684822		ML	SN	28/03/18	1:200 on A1 or 1:400 on A3
Site Plan - Proposed				DRAWING No.	REV	PURPOSE	
				280318	A		

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Report Reference Number 2018/0642/FUL

Agenda Item No: 6.4

To: Planning Committee
Date: 10 October 2018
Author: Paul Edwards (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0642/FUL	PARISH:	Monk Fryston Parish Council
APPLICANT:	Ms Helen Ripley	VALID DATE: EXPIRY DATE:	11 June 2018 6 August 2018
PROPOSAL:	Partial demolition of existing bungalow and erection of 3 No detached dwellings		
LOCATION:	The Bungalow 31 Lumby Hill Monk Fryston		
RECOMMENDATION:	APPROVE		

This application is to be determined by the Planning Committee since it is a revision of a scheme that was refused by Committee in March 2018 and since the negotiated changes have led to an officer recommendation for approval, it is right that this comes before Committee.

1. Introduction and background

The Site

- 1.1 The application site includes the detached dwelling at No.31 and its rear garden. The site is the entire existing curtilage which lies to the east of the dwelling on land that slopes from the roadside to the east. The northern perimeter of the site is enclosed by a quarry wall with houses situated to the north on Hillcrest. The southern perimeter has a hedge that separates the site with No. 33. The eastern part of the site lies within the Green Belt and the quarry edge here forms the eastern application site boundary.
- 1.2 The application site is on the east side of Lumby Hill, to the south of Hillcrest, in the 30mph speed limit. The site is not in Monk Fryston's Conservation Area and there

are no protected trees or listed buildings in the vicinity. The eastern settlement development limits, beyond the rear curtilages of development facing Lumby Hill and Main Street (Hillam) also defines the Green Belt Boundary.

The proposal

- 1.3 The application seeks full planning permission for the erection of three detached houses with detached garages within the garden of the host dwelling including modifications to the side (north elevation) of this host property and the creation of a smaller garden for this dwelling.
- 1.4 An access road would be constructed from Lumby Hill to serve each of the dwellings with a turning area for refuse vehicles to the front of plot 3.
- 1.5 The application is accompanied by
 - Planning Statement
 - Design & Access statement
 - Contaminated Land Information
 - Bat Survey & Report
 - Phase 1 Habitat Survey Report
 - Highways Statement
 - SuDS assessment

Planning History

- 1.6 The Committee will recall its consideration of an application on this site for five properties (2016/1254) which was refused in line with recommendation at your March 2018 Committee. The reasons for refusal related to:
 - Inappropriate scale of development on a greenfield site contrary to Policy SP4A
 - Harm to the character and appearance of the village due to layout, design and inadequate provision of garden space, contrary to Policies ENV1 and SP19
 - The effects of Plot 5 upon the neighbour at No.35 which would be overlooked.
- 1.7 A series of without prejudice negotiations have taken place since that refusal that has led to this resubmission that has reduced the proposal down to three dwellings. In the meantime the March 2018 refusal has gone to appeal.

2 Consultation and Publicity

- 2.1 The application has been advertised as a Departure through press and site notices and all adjoining neighbours have been notified directly.

2.2 NYCC Highways

The Authority has replied with no objections subject to standard conditions relating to formation of the access before any other works take place; no access into the site until visibility splays of 45m x 2.4m are provided and no development until a Construction Management Plan has been submitted to and approved by the planning authority.

2.3 **Yorkshire Water**

No objections have been received subject to standard surface water conditions.

2.4 **Shire Group of Internal Drainage Boards**

The Group has replied with a standard response that the application will increase the impermeable area and the applicant will need to ensure that surface water systems have capacity to accommodate surface water discharge.

2.5 **Environmental Health**

SDC Environmental Health has replied that it has no objections.

2.6 The occupier of 10 Hillcrest has replied to say it doesn't fully address the concerns raised last time and still objects on grounds of:

- The existing rock face adjacent to Hillcrest is not 30m H as stated in the DAS
- Disagrees there will be no impact on Hillcrest if the access road results in land movement
- Thought that a quarry next door would reduce chances of houses being built nearby
- Roofs would still be visible, pollution and noise during construction, vehicles from family sized houses would create noise
- Air pollution if solid fuel heating is available

3. **Site Constraints and Policy Context**

Constraints

- 3.1 The majority of the application site is within defined development limits with that part of the site located within the Green Belt outside of development limits. The proposed development would all take place within the development limits and the area of land within the Green Belt would remain undeveloped but for a possible underground infiltration basin, separated from the proposal by a planted hedge that could be controlled by condition on any approval. The precise drainage solution will depend upon further on-site investigation but presently the applicant is intending a SuDS based design. The application site is located within Flood Zone 1.
- 3.2 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.
- 3.3 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.

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

- 3.4 The National Planning Policy Framework (July 2018) replaces the first NPPF published in March 2012. The Framework does not change the status of an up to date development plan and where an application conflicts with such a plan, permission should not usually be granted (paragraph 12). This application has been considered against the 2018 NPPF.
- 3.5 In addition, given that this application has been resubmitted following an earlier refusal; the extent to which those previous reasons for refusal are addressed in whole or in part is a relevant part of the planning history and a material consideration in terms of consistent decision making.

Selby District Core Strategy Local Plan

- 3.6 The relevant Core Strategy Policies are:

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Development Strategy
SP3	Green Belt
SP4	Management of Residential Development in Settlements
SP15	Sustainable Development and Climate Change
SP18	Protecting and Enhancing the Environment
SP19	Design Quality

- 3.7 The relevant Selby District Local Plan Policies are:

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

Supplementary Planning Documents

- 3.8 Monk Fryston Village Design Statement Aug 2011.

4. APPRAISAL

- 4.1 The main issues to be taken into account when assessing this application are:
1. Principle of Development
 2. Green Belt
 3. Design and impact on the character and appearance of the area
 4. Impact upon residential amenity
 5. Extent to which previous reasons for refusal are addressed

Principle of Development

- 4.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy

Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the new NPPF.

- 4.3 Monk Fryston/Hillam is a Designated Service Village (DSV) which has some scope for additional residential (Policy SP2) subject to Policy SP4.
- 4.4 Policy SP4A permits appropriate scale of development on greenfield land which includes garden land. The previous scheme for five was considered to be out of scale and the March Committee report opined that a reduction to four units would give more space around dwellings. Scale is to be assessed in relation to density, character and form of the local area and although this is development of length it is influenced by the length of this existing curtilage and the similar length of the Hillcrest development to the north. There is also development of depth further to the south on this eastside of Lumby Hill/Main Street at, for example Hillside Close.
- 4.5 It is considered that this revised scale of development down to three units is now appropriate in principle and can comply with Policy SP4.

Green Belt

- 4.6 Relevant policies in respect of the principle of development in the Green Belt are Policy SP3 of the Core Strategy and NPPF (2018) paragraphs 133 to 147. The application site includes land within the Green Belt but the area for development would be separated from the Green Belt by a planted hedge. Inside of the Green Belt and beyond settlement development limits would be the probable engineering works to provide an underground infiltration basin based upon the desire to adopt sustainable drainage principles, subject to further survey.
- 4.7 The decision making process when considering proposals for development in the Green Belt is in three stages, and is as follows:
 - a. It must be determined whether the development is inappropriate development in the Green Belt. The NPPF and Local Plan set out the categories of inappropriate development.
 - b. If the development is appropriate, the application should be determined on its own merits unless there is demonstrable harm to interests of acknowledged importance, other than the preservation of the Green Belt itself.
 - c. If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which outweigh the presumption against it.
- 4.8 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 4.9 Engineering operations are defined as not inappropriate (NPPF para 146) provided they preserve openness and do not conflict with the purposes of Green Belt. Thus the works are not inappropriate by definition and the quarry wall to the east provides a distinct natural boundary and change of slope to the edge of the site and intersects Green Belt land. A public footpath located to the south east of the site provides views toward the site and it is largely screened. Trees and planting are visible on the

perimeters of the quarry with only houses at Hillcrest and The Crescent visible in the distance. The eastern edge of the developed part of the site has a proposed new hedge to be planted, that may be controlled by condition.

- 4.10 The limited works within the Green Belt are not inappropriate and will have no impacts upon the character or amenities of the area. It is thus considered that the proposal would accord with Policies SP2 and SP3 of the Core Strategy and Section 13 of the NPPF.

Design and impact on the character and appearance of the area

- 4.11 The layout is one of alteration and part demolition to the existing frontage property (No.31) to make way for a new access road along the northern site boundary. Although this is a new application to be dealt with on its merits, it is reasonable to assess the application against the previous reason for refusal to determine to what extent those reasons have been addressed. The new access road now would serve three rather than the previous five. Plots 1 and 2 are then in line behind No.31 on the south side of this access with Plot 3 in the south east corner of the site where the applicant's land wraps around behind the end of the neighbour's garden (No 33) to the south and thus abuts the curtilage boundary of No 35.

- 4.12 The separation distances between Plots 1 and 2, each other and the retained property (No 31) are all in excess of general standards and the plots are spacious. There is a significant hedge along the southern boundary and although No.33 is elevated higher than No.31, the overall layout of this part of the site is not considered to be at odds with the wider character and appearance of this east side of Lumby Hill/Main Street. Adequate garden spaces are being provided to address that part of the second reason for refusal on the unsuccessful scheme earlier this year.

- 4.13 Plot 3 is within that area where the application site expands in width to run behind the bottom of the garden of No.33. The third reason for refusal referred to concern in respect of the former Plot 5 which had been proposed in this same general area. Specifically it referred to rear first floor windows overlooking No.35's garden to the south. In terms of siting as a function of layout and character, the reduction from five properties down to three has seen a reorientation of the third plot such that it is angled with respect to the neighbour's southern boundaries. This is not dissimilar to aspects of the layout of Hillcrest development to the north and where there are limited rear garden lengths.

- 4.14 The overall layout is now significantly more spacious than the layout for five plots and it is considered that this is a more appropriate scale with better separation. The principle of backland development cannot be resisted as a matter of principle since this would be contrary to the NPPF and this layout would, it is considered, not harm the character or appearance of the area.

Impact upon Residential Amenity

- 4.15 The previous scheme attracted four neighbour objections and whilst that is no real measure, it is considered that the revision might be more acceptable to near neighbours. There are no effects upon existing properties on Hillcrest to the north due to separation distances, intervening boundaries, planting and changes in levels.

- 4.16 Although the host property will experience some impact; separation distances between it and Plot 1, and likewise Plot 1 and 2 to neighbours are all acceptable and there are adequate parking provisions within plots for both existing and proposed.
- 4.17 The particular residential amenity issue to be addressed was that impact of former Plot 5 upon the neighbour to the south, No.35. Previously the gabled rear elevation of that plot was parallel to the boundary, some 5m away, with four first floor bedroom windows facing towards that boundary. Plot 3 in this location has been angled so it is not parallel with the southern boundary and the first floor elevation now only has a single bedroom window. Other bedroom windows have been relocated to the flank elevations. This boundary has significant planting on the neighbouring property's side of the boundary and it is thus considered that there are no longer significant neighbour amenity concerns in respect of No.35.
- 4.18 Any planning approval will need a removal of permitted development rights condition on Plot 3 to prevent any new openings being inserted into this rear elevation in the future without the need for permission. However, subject to this, it is concluded that any impacts upon neighbour amenity are acceptable to comply with SDLP Policy ENV1.

Extent to which previous reasons for refusal are addressed

- 4.19 It is good practice when an application is a 'resubmission' following a recent refusal (that is now at appeal) to not introduce issues that should have been addressed first time around. There have been no material changes in planning circumstances but for the new NPPF and this scheme that seeks to address the previous reasons for refusal is as a result of the duty to approach decisions in a positive and creative way in seeking solutions.
- 4.20 The scale of the development, with the reduction from five plots down to three has addressed the SP4 scale issue and the reduced density and repositioning of plots would create a development that is not out of character with other tandem or backland development elsewhere in the vicinity. Although this is a matter of judgment, it is considered that the first two reasons for refusal have been addressed with this revised scheme.
- 4.21 The nature of boundary treatments and the change to the design and orientation of proposed Plot 3, it is considered, addresses that third reason for refusal which was specific to that relationship.
- 4.22 The appeal that is underway is against the refusal for five and this will be defended by your officers based upon those reasons for refusal. Any approval here will establish the principle of development but will not undermine those previous reasons for refusal.

Other Issues

- 4.23 Those matters relating to, for example, contamination, surface water disposal, and options for bat roosting alternatives may be dealt with by standard conditions on any approval. This is reflected in the recommended conditions below.
- 4.24 The conditions requested by the highway authority to do with site access and visibility are recommended to be imposed subject to amended drafting. This is in order to

meet the six tests and as part of good practice in seeking to agree draft conditions with the applicant and for formal agreement of any pre-commencement conditions; revisions have been made to allow their imposition. On the requested Construction Management Plan condition, these would not normally be sought on small, less than ten schemes due to the more limited build period and, in this instance the site is so large there is adequate space off and away from the highway to make such a condition unnecessary.

Legal Issues

- 4.25 Planning Acts: This application has been determined in accordance with the relevant planning acts.
- 4.26 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.
- 4.27 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.

Financial Issues

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

5. Conclusion

- 5.1 The scheme is in a sustainable location within a DSV where new housing development would be supported subject to appropriate scale. This scheme for three new dwellings is considered to be of an appropriate scale with no adverse effects upon neighbours and the character and appearance of the settlement is not harmed. The proposed limited engineering development within the Green Belt is not inappropriate and thus, subject to the conditions set out below, the approval of this application, which has overcome the previous reasons for refusal, is recommended.

6. Recommendation

- 6.1 This application is recommended to be APPROVED subject to the following conditions and reasons:
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason:

To ensure compliance with Section 91 of the Town and Country Planning Act 1990 as amended.

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

Red line site location plan LOCO1

Site Plan –Proposed 280318 A
House Detail Dwg No 25/10/17 – Rev B
Bungalow Elevations Existing Dwg No 30-06-16
Bungalow Elevations Proposed Dwg No 30-06-16-1
Existing Bungalow Floor plan Dwg No 05-05-16
Proposed Bungalow Floor Plan Dwg No 30-06-16-2
Existing and Proposed levels Dwg No 06-10-17
Existing and Proposed levels – Alternate Dwg No 30-05-18
Scale 1:100 Garage Designs

Reason:

For the avoidance of doubt.

3. No development shall take place in respect of Plot 3 and the roadway associated with it until a site investigation based upon the desk study to provide information for a detailed contaminated assessment of the risk to all receptors that may be affected, including those off site; the results of the site investigation and the detailed risk assessment referred to in and options for appraisal and remediation giving full details of the remediation measures required and how they are to be undertaken have been submitted to and approved by the local planning authority. The strategy shall be implemented as approved.

Reason:

The history of the site and the former uses result in there being a reasonable likelihood of land contamination and it is thus necessary to undertake an investigation in order 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.

4. No dwelling hereby approved shall be first occupied until details of all proposed landscaping and planting, including the specie, stock size on planting, planting densities and proposals for management and maintenance have been submitted to and approved by the local planning authority.

Reason:

In accordance with the details of the application and in order to ensure for the preservation and planting of trees in accordance with s.197 of the Act and to protect the residential amenities of existing and proposed residents and the Green Belt through the planting and retention of the proposed hedging.

5. The approved hedge planting shall be implemented in accordance with the approved specifications during the first available planting season following the substantial completion of the plot to which it relates.

Reason:

In accordance with the details of the application and in order to ensure for the preservation and planting of trees in accordance with s.197 of the Act and to

protect the residential amenities of existing and proposed residents and the Green Belt through the planting and retention of the proposed hedging.

6. None of the dwellings hereby permitted shall be first occupied until surface water drainage works have been carried out in accordance with details which shall have been submitted to and approved in writing by the local planning authority.

Reason:

In order to ensure for the provision of surface water drainage

7. None of the dwellings hereby permitted shall be first occupied until a scheme for the provision of bat boxes to provide bats roosting alternatives has been implemented in accordance with a scheme that has previously been submitted to and approved by the local planning authority.

Reason:

In accordance with the details of the application and to comply with the proposals in the approved Bat Survey and Report.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no new openings shall be inserted in the first floor south facing elevation of the approved dwelling on Plot 3.

Reason:

In order to enable the Local Planning Authority to retain control over future alterations to the property in the interests of safeguarding the residential amenities and privacy of neighbours, in accordance with local plan Policy ENV1.

9. The first dwelling hereby approved to be occupied shall not be occupied until the site access has been formed with 6m radius kerbs and a minimum carriageway width of 4.5m and that part of the access road extending 6m into the site has been constructed to Standard Highway Authority Detail A1.

Reason:

In order to ensure the provision of a satisfactory means of access to serve the increased numbers of dwellings in the interests of vehicle and pedestrian safety and convenience to accord with local plan Policy T2.

10. The first dwelling hereby approved to be occupied shall not be occupied until visibility splays providing clear visibility of 45m measured along both channel lines of Lumby Hill from a point measured 2.4m down the centre line of the access have been provided.

Reason: In order to ensure the provision of a satisfactory means of access to serve the increased numbers of dwellings in the interests of vehicle and pedestrian safety and convenience to accord with local plan Policy T2.

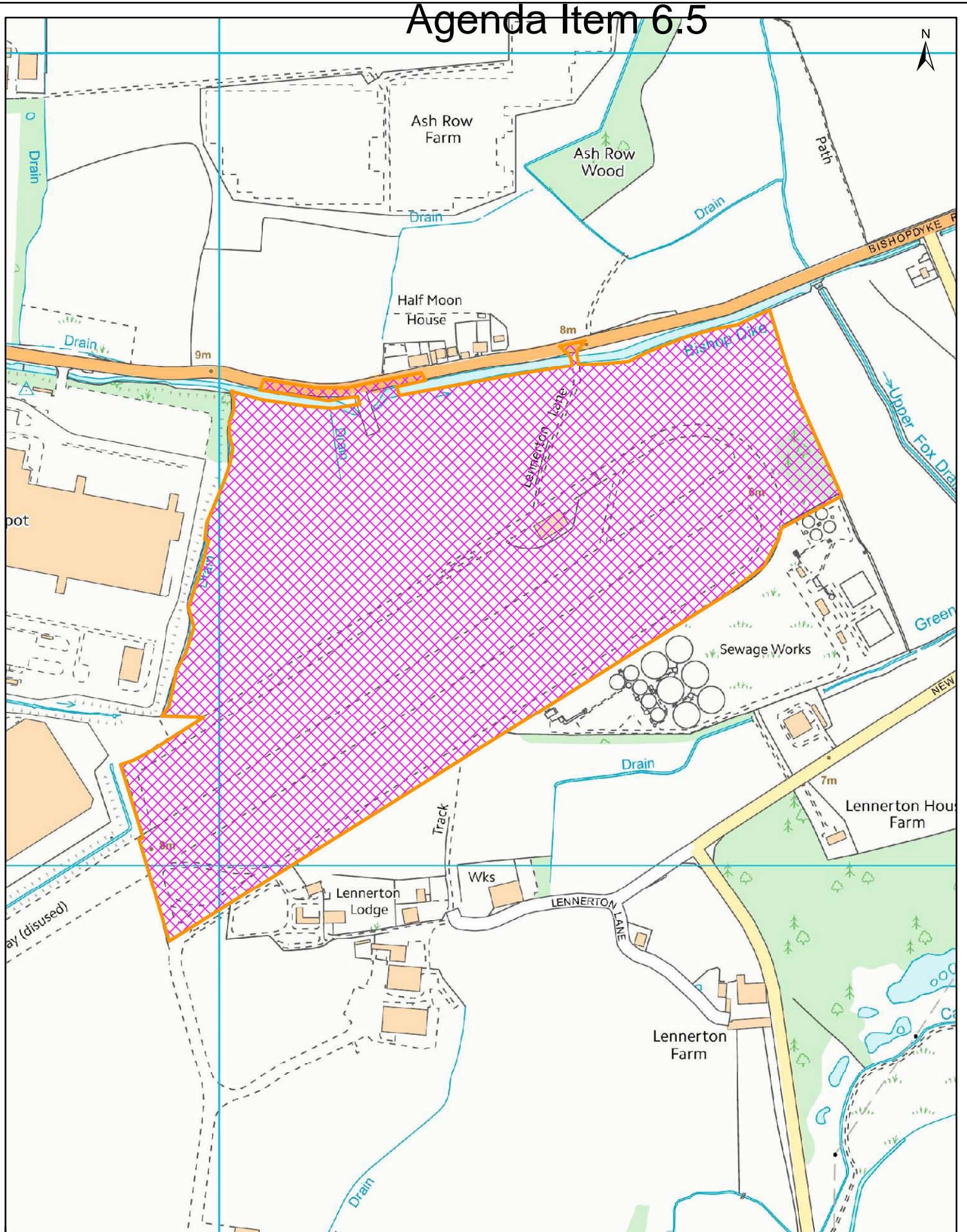
Informative: In respect of Condition 9, the standard detail is contained within the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council.

Case Officer Paul Edwards, Principal Planning Officer

Appendices: None

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Agenda Item 6.5



APPLICATION SITE

Former Airfield, Lennerton Lane, Sherburn in Elmet
2018/0697/OUTM

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Report Reference Number: 2018/0697/OUTM

Agenda Item No: 6.5

To: Planning Committee
Date: 10 October 2018
Author: Paul Edwards (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0697/OUTM	PARISH:	Sherburn in Elmet Parish Council
APPLICANT:	Bishopdyke Enterprises Ltd	VALID DATE: EXPIRY DATE:	20 June 2018 19 September 2018 Extension of time agreed until 19 October 2018
PROPOSAL:	S.73A application for outline planning approval with all matters except access reserved for the erection of 117,000 sq m (1,250,000 sq ft) of Class B1, B2 and B8 commercial floorspace without complying with Conditions 7, 9, 11, 17, 19, 29 and 38 of outline planning approval 2016/0332 granted on 10 June 2016		
LOCATION:	Land at former airfield, Lennerton Lane, Sherburn in Elmet		

This application is to be determined by the Planning Committee since the scheme of delegation requires Departure applications which are recommended to be approved to come to Committee. Although there are three previous approvals (in outline) for this development on this site there is no discretion in the Scheme of Delegation for this instance even where work has lawfully commenced under the previous consent(s). Thus this application has to be determined by Committee and it is considered that there are material considerations that would justify approving the application.

1. Introduction and Background

The Site and Context

- 1.1 The application site is the land known as 'Sherburn 2' (S2) and comprises of ~35 hectares (86.5 acres) on the south side of the B1222 Bishopdyke Road, immediately to the east of the Sherburn Enterprise Park. The site is outside of development limits and thus in the open countryside. The northern part of the site up to the Bishop Dyke and Bishopdyke Road is agricultural land whereas the

southern part is the north eastern extension of the former airfield, now no longer in use as such and which had been used for vehicle testing.

The Proposal

- 1.2 A s.73 application, in this case now a 73A application, is an application to continue a use/ development without complying with condition(s) on a previous consent.
- 1.3 The result of a successful s.73 application is to create a whole new permission and an applicant/ developer then has the option to implement either of them, provided that they can do so lawfully taking account of any pre-commencement conditions. The 'original' consent is not altered and neither is it revoked or superseded (c/f *Pye and North Cornwall*). The Council does not have the ability to revisit the principal unless there have been material changes in planning circumstances and if the existing condition(s) should remain, the s.73 should be refused. The authority is not however bound to only look at the condition(s) that the applicant has identified but can revisit, remove or add any other necessary conditions on any new approval.
- 1.4 The applicant seeks consent for a variation of conditions as identified in the description above. This is to enable the first phase Reserved Matters building application that has now been submitted (2018/0764) to be enabled to commence on site without having to address all other whole-site or pre-commencement conditions.

Relevant Planning History

- 1.5 2013/0467/OUT Outline approval for 1,250,000 sq ft of B2/B8 floorspace including the creation of a new bridge access and site infrastructure works was granted on 4 February 2014 with a ten year and two year time limit. It included a four-way planning obligation dated 3 February 2014 which provided for the approved Framework Travel Plan (TPF) and Travel Plan Monitoring Fee such that prior to the occupation of each building the owner will prepare and agree with the County Council a detailed travel plan for that building in accordance with the TPF. If certain triggers are met the owner will model the Sherburn signal junction and provide the results to the County Council. If certain other conditions are triggered a consultant will be appointed to prepare a personalised travel plan scheme.
- 1.6 2014/1235/ was a s.73 new outline to 'vary' 2013/0467 granted on 12 February 2015 again with ten year limit for RMs. This was principally to enable the installation of the new bridge access in order to access the site and to phase some of the whole site conditions.
- 1.7 2016/0332 was a s.73 new outline to 'vary' 2014/1235. Determined by Committee on 1 June 2016 with ten years for RMs 'from the grant of 2013/0467'...keeping it in line with original outline so that s.73 is not being used to extend the life of the consent (i.e. all RMs by Feb 2024). There is a Deed of Variation dated 8 June 2016 which is supplemental to the original February 2014 obligation.
- 1.8 This therefore is the fourth outline and the third s.73 to create a new outline consent and will need a further Deed of Variation.

2. CONSULTATION AND PUBLICITY

- 2.1 **Sherburn Parish Council** has replied that it has no objection to the (cycle/PROW) route being available and free from obstruction until an alternative is provided.
- 2.2 **Monk Fryston Parish Council** has replied with no comments or observations.
- 2.3 **Police Designing out Crime Officer** has no issues with this variation, no other comments to make.
- 2.4 **County Principal Archaeologist** has replied that the existing outline already has archaeology conditions so there are no comments to make on this variation.
- 2.5 **County Public Rights of Way Officer** requests an Informative to protect PROWs across the site.
- 2.6 **County Fire and Rescue** has no comments to make presently but may comment in detail on access and water supplies at the detailed stage
- 2.7 **North Yorkshire County Council Highway Authority** says there are no objections to the proposed variation and the conditions attached to the Highway Authority recommendation are still appropriate. The new conditions on any approval here have been shared with the Highway Authority.
- 2.8 The application has been advertised as a Departure through press and site notices and all adjoining neighbours have been notified directly. No neighbour representations have been received.

3. SITE CONSTRAINTS AND POLICY CONTEXT

- 3.1 The site is located outside the defined development limits of Sherburn without allocation and is therefore defined as open countryside by the Local Plan. The application has been advertised as a Departure from the development plan. The site does not contain any protected trees and there is no Conservation Area or local listed buildings that are affected. There are no statutory or local landscape designations. The majority of the site is situated within Flood Zone 1 with part of the north eastern corner being in Flood Zones 2 and 3.
- 3.2 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.
- 3.3 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.

Selby District Core Strategy Local Plan

3.4 The relevant Core Strategy Policies are as follows:

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

Selby District Local Plan

3.5 The relevant Selby District Local Plan Policies are:

ENV1: Control of Development
ENV2: Environmental Pollution and Contaminated Land
EMP3: Renewal of Industrial and Business Commitments
EMP9: Expansion of Existing Employment Uses in Rural Areas
ENV28: Other Archaeological Remains
T1: Development in Relation to Highway Network
T2: Access to Roads
T7: Provision for cyclists

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

3.6 The 2018 National Planning Policy Framework replaces the first NPPF which was issued in March 2012.

3.7 The application does not accord with the development plan; however this site has had outline consent for significant employment floorspace since 2014 which is not reflected in the Plan. The Framework's presumption in favour of sustainable development means that where there are no plan policies, or policies most important for determining the application are out of date, to grant permission unless, amongst other things, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (para 11).

3.8 The existing consent and the lack of any specific allocation for what is now a committed site is such a material consideration as envisaged in s.38(6).

3.9 In addition, the adopted Economic Development Framework 2017-2022, although not a part of the development plan, identifies S2 as a key development site with outline planning permission for 1.25m sq ft in place and ".its enormous potential to grow the Selby District economy" (Priority 1).

4. APPRAISAL

4.1 The development has been lawfully commenced with the installation of the culverted bridge crossing into the site from Bishopdyke Road and so the question on this application is quite narrow in terms of this s.73A application. The PPG now says, in addition to the Framework guidance on the six tests for the imposition of conditions (new para 55): "In deciding an application under section 73, the local planning

authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application”.

- 4.2 The advantage of a s.73 application is that there is also an opportunity for conditions to be brought up to date with good practice, remove duplications and unlawful tailpieces and take account that some of the off-site highway works have been provided.
- 4.3 The application does not comply with the locational policies in the development plan for economic development, being on an unallocated site outside of development limits. The key question is whether a new planning permission may be issued with different conditions to those on 2016/0332; since the alternative if those conditions should remain (para 1.3 above) would be to refuse this application.
- 4.4 The principal change in planning circumstances since the 2016 consent is the revised NPPF issued this July. That significant weight should be placed on the need to support economic growth remains a part of the guidance and that decisions should help create conditions in which business can invest, expand and adapt (para 80). In the context of a rural economy, there is a recognition that sites to meet local business and community needs may have to be found adjacent to or beyond existing settlements and in locations that are not well served by public transport. It will thus be important (new para 84 continues) to ensure development is sensitive to its surroundings; it does not have unacceptable impacts on local roads and exploits opportunities to make it more sustainable.
- 4.5 This application accords with the presumption in favour of sustainable development (Policy SP1). Although a Departure from the Plan, the spatial development strategy would support development in the countryside, which would contribute towards and improve the local economy (Policy SP2) and Policy SP13 similarly would support sustainable economic growth that is appropriate in scale and type to its location; whilst not harming the character of the area and giving a good standard of amenity – reflected in the Framework. The site is adjacent to the existing Sherburn Enterprise Park and the character and scale of development will not be dissimilar to the employment areas that already exist.
- 4.6 The identification of this site in the Economic Development Framework as a site to grow the local economy is further support for this development in this location.
- 4.7 Furthermore, the existing consent which has been lawfully commenced is a significant material consideration in favour of this application.

Planning obligation

- 4.8 The obligation dated 3 February 2014 will need a variation and the applicants have confirmed that a draft is being prepared to be ready in time for Committee. The applicants say that they would wish any new outline to be issued as soon as possible after Committee due to the need to seek to agree the Phase 1 approval consequently.

5. CONCLUSION

- 5.1 This application site is a significant committed employment site which has a lawful commencement and three previous outline permissions for 1.25 million sq ft of

floorspace. The matter of the principle is established and the primary consideration on this application is more to do with the nature of conditions on any approval (c/f para 4.1 above).

- 5.2 The recommended conditions will ensure that the development can be sensitive to its surroundings and continue to necessarily address the details through the imposition of the reserved matters and other detailed conditions set out in the recommendation below.

6. RECOMMENDATION

- 6.1 That, this application is recommended to be APPROVED subject to delegation being given to Officers to complete the Deed of Variation to the original Section 106 agreement and the conditions attached below:

- 1. Approval of the details of the (a) appearance, (b) landscaping, (c) layout and (d) scale (*hereinafter called 'the reserved matters'*) on any part of the site shall be obtained from the local planning authority in writing before the commencement of development on that part of the site for which approval is sought.

Reason: This is an outline permission and these matters have been reserved for the subsequent approval of the local planning authority, and as required by Section 92 of the Town and Country Planning Act 1990.

- 2. Applications for the approval of the reserved matters for all parts of the site referred to in Condition No.1 herein shall have been made before 4 February 2024 and the development to which this permission relates, on that part of the site, shall have begun not later than the expiration of two years from the final approval of the reserved matters pertaining to that part of the site or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

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

Location Plan	1695 116
Proposed Site Plan	1695 200 Rev F
Proposed Site Access Amendments	P8576-GA-02_REV F
Indicative Diversion Easement Plan	1695 128 Rev A
Indicative A63 Junction Improvements	P8576-GA-01-D
Cycleway Works Proposed Route	SK300 D
Ecological Appraisal dated February 2013 and letter dated 30 August 2013 by Brooks Ecological	
Flood Risk Assessment dated February 2013 by Alan Wood and Partners	

Reason: For the avoidance of doubt

- 4. No development shall commence in relation to approved reserved matters for an individual building/phase until the following drawings and details have been submitted to and approved in writing by the local planning authority in relation to that building:

- (1) Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:
 - (a) the proposed highway layout including the highway boundary
 - (b) dimensions of any carriageway, cycleway, footway, and verges
 - (c) visibility splays
 - (d) the proposed buildings and site layout, including levels
 - (e) accesses and driveways
 - (f) lining and signing
 - (g) traffic calming measures
 - (h) all types of surfacing (including tactiles), kerbing and edging.
- (2) Full highway construction details including:
 - (a) 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
 - (b) cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
 - (c) kerb and edging construction details
- (3) Details of all proposed street lighting.

The development of each individual plot shall thereafter only be carried out in full compliance with the approved drawings and details.

Reason: In accordance with policies ENV1, 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.

5. No phase or part of the development to which this permission relates shall be brought into use until the carriageway and any footway/footpath from which it gains access has been 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.

Reason: In accordance with Policies ENV1, T1 and T2 of the Local Plan and to ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of prospective users of the highway.

6. No part of the development shall be brought into use until details of a programme to secure the permanent closure of the existing access onto Bishopdyke Road other than for emergency vehicles and by farm traffic serving the site and for access provision to TMD Friction until such time as alternative access provision for these on site activities has been submitted to and approved by the local planning authority.

Reason: In accordance with Policies ENV1, T1 and T2 of the Local Plan and in the interests of highway safety.

7. No more than 4,700 sq m (50,000 sq ft) of floorspace hereby approved shall be occupied before the design drawings and safety audits have been prepared for the works to widen the approach arms and roundabout at the A162/A63 junction and a

programme for the implementation of the scheme have been submitted to and approved by the local planning authority.

Reason: In accordance with Policies ENV1, T1 and T2 of the Local Plan and to ensure that the details are satisfactory in the interests of the safety and convenience of highway users.

8. There shall be no access or egress by construction vehicles between the application site and the public highway other than by using the newly formed culverted access onto Bishopdyke Road.

Reason: In accordance with Policies ENV1, T1 and T2 of the Local Plan and in the interests of the safety and convenience of highway users.

9. The development shall not be brought into use until the following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority:
 - a. Provision of a combined footway/cycleway and crossing points as shown on Drawing No. SK300 D.

Reason: In accordance with Policies ENV1, T1 and T2 of the Local Plan and in the interests of the safety and convenience of highway users.

10. No development shall commence in respect of each of the approved reserved matters phases until a Construction Management Plan to include hours of construction working, on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway, on-site materials storage area capable of accommodating all materials required for the operation of the site, mitigation and monitoring in respect to the construction works relating to that part of the site including any construction works to its access. The approved plan shall be implemented throughout the construction phase of that part of the site to which the plan relates.

Reason: This is a pre-commencement condition for each phase since it is necessary to have this information before substantial works commence and in accordance with Policies ENV1, T1 and T2 of the Local Plan and in the interests of highway safety and the general amenity of the area.

11. No development shall take place within a phase until measures to divert or otherwise formally close the sewers and water mains that are laid within that phase have been implemented in accordance with details that have been submitted to and approved by the local planning authority.

Reason: This is a pre-commencement condition for each phase since it is necessary to have this information before substantial works commence in the interests of satisfactory and sustainable drainage and to maintain the public water supply.

12. No development shall take place on an individual plot or phase until details of the proposed means of disposal of foul water drainage including details of any balancing works and off-site works have been submitted to and approved by the local planning authority.

Reason: This is a pre-commencement condition for each phase since it is necessary to have this information before substantial works commence to ensure that the development can be properly drained.

13. No development shall take place on an individual plot until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall also include:

- i. A maximum surface water discharge rate equating to 1.4l/s/ha for the developed site (27l/s)
- ii. Sufficient attenuation storage for up to and including a 1 in 100 year storm, with an allowance for climate change
- iii. details of oil interceptors prior to being discharged into a watercourse
- iv. Details of how the scheme shall be maintained and managed after completion.

Reason: This is a pre-commencement condition for each phase since it is necessary to have this information before substantial works commence to prevent the increased risk of flooding, both on and off site.

14. Prior to the commencement of development on an individual plot details of a scheme of archaeological investigation to provide for:
- (i) The proper identification and evaluation of the extent, character and significance of archaeological remains within an individual plot;
 - (ii) An assessment of the impact of the proposed development on the archaeological significance of the remains, and
 - (iii) proposals for the preservation in situ, or for the investigation, recording and recovery of archaeological remains and the analysis and publishing of the findings

shall have been submitted to and approved in writing by the local planning authority. The works shall thereafter proceed in accordance with the approved details.

Reason: This is a pre-commencement condition for each phase since it is necessary to have this information before substantial works commence since site is of archaeological importance.

15. Applications for the approval of the Reserved Matters for any part of the site referred to in Condition Nos 1 and 2 shall be carried out in accordance with the design specifications set out in the letter, dated 19 September 2013, from Sherburn Aero Club Ltd to Iain Bath Planning and as shown on drawing no. 1695 127.

Reason: In the interests of aviation safety.

16. No development shall take place on an individual phase until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site have been submitted to and approved in writing by the local planning authority:
- A site investigation scheme, based on the desk study to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - The results of the site investigation and the detailed risk assessment referred to in and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The strategy shall be implemented as approved.

Reason: This is a pre-commencement condition for each phase since it is necessary to have this information before substantial works commence in order to take account of the potential contamination of the site in order to comply with local plan Policy ENV1.

17. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the previous condition, 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 in accordance with the condition 26.

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.

18. The Reserved Matters to be submitted for each phase of the site pursuant to Conditions 1 and 2 shall include a Noise Impact Assessment in line with relevant guidance in force at the time* and pre-agreed noise monitoring methodology and criteria** in order to protect residential receptors adjacent to the site such that the need for mitigation can be designed for each building/phase as the site develops taking account of the previous approved phase and mitigation. The designed mitigation shall ensure that the cumulative impact of the site shall not exceed 5dB above the pre-agreed noise criteria. All works which form part of the approved scheme for each phase shall be completed before any part of that phase is first occupied and shall thereafter be retained and maintained as such.

Reason: To protect the residential amenities of the area and the local environment from adverse impacts in order to accord with local plan Policy ENV1.

19. The B2 use of the site shall not exceed 30% of the 117,000 sq m (1,250,000 sq. ft) gross floor space hereby permitted.

Reason: In the interest of highway safety as the highway impacts of the development have been assessed on the basis that B2 use of the site shall not exceed 30% of the 117,000 sq m (1,250,000 sq. ft) gross floor area.

Informative 1: The existing Public Right of Way which crosses the access to the site must be protected and kept clear of any obstruction at all times until such time as any alternative route has been provided and confirmed under an Order made under the Town and Country Planning Act 1990.

Informative 2: In respect of Condition 18 *The relevant guidance is likely to be BS4142:2014 *Methods for rating and assessing industrial and commercial sound*, or any updating or revision thereof.

Informative 3: In respect of Condition 18 **The pre-agreed noise criteria at nearby sensitive receptors is agreed as follows:

NSR	Address	Day (dB _{LA90,1hour})	Night (dB _{LA90,15mins})	Rating Level Criteria (dB)
1	Lennerton House Farm, Lennerton Lane	TBC	TBC	TBC
2	West End Lodge, Lennerton Lane	TBC	TBC	TBC
3	Bishopdyke Road	TBC	TBC	TBC

Contact Officer: Paul Edwards, Principal Planning Officer

Appendices: None

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Agenda Item 6.6



Report Reference Number: 2015/1405/OUT

Agenda Item No: 6.6

To: Planning Committee
Date: 10 October 2018
Author: Ruth Hardingham, Planning Development Manager
Lead Officer: Ruth Hardingham, Planning Development Manager

Title: Request for a Deed of Variation to Section 106 agreement dated 25 May 2017 seeking a reduction in the proportion of affordable housing to be provided within scheme for up to 45 dwellings approved under references 2015/1405/OUT (outline) at Selby Road, Camblesforth

This matter has been brought to Planning Committee for consideration due to it being a proposal to reduce the percentage of on-site affordable housing from the 40% agreed by Members in 2015.

Summary:

The applicant intends to develop out an approved scheme for 45 houses on land at Selby Road, Camblesforth, which was granted outline planning permission in May 2017. A section 106 agreement in association with that consent requires, amongst other things, 40% of the total number of dwellings to be provided as affordable housing. However, having now undertaken a detailed appraisal, the applicant finds that the agreed level of provision would render the scheme unviable and would stall the development. It is therefore seeking a deed of variation to reduce the provision of affordable housing to a level where the scheme can proceed unhindered to completion. The applicant's initial submission proposed 0% affordable housing (0 units), but after further negotiation it is now proposing 22.22% (10 units). The tenure split would be split circa of 70/30 between affordable rent and intermediate.

Recommendation:

That the request for a Deed of Variation be approved subject to delegation being given to Officers to complete a Deed of Variation to the original Section 106 agreement to reduce the overall provision of affordable housing to 22.22%, with tenure split circa of 70/30 between affordable rent and intermediate. This variation shall be time limited for a period of 3 years from the date of the decision.

Reasons for recommendation:

To establish a level of affordable housing consistent with maintaining the viability of this scheme, thereby allowing it to proceed unhindered to completion and securing its contribution to the District's 5-year supply of housing.

1. Introduction and background

- 1.1. Outline planning permission for residential development of this site was granted in May 2017 (under reference 2015/1405/OUT) and was subject to a section 106 agreement which (amongst other things) secured the on-site provision of 40% affordable housing in accordance with Core Strategy policy SP9. This level of provision was not contested at the time and no viability arguments were advanced by the landowners.
- 1.2. In May 2018 the applicant requested a deed of variation to reduce the housing obligation supported by a Viability Appraisal together with sales comparisons. The appraisal submitted was based on a mix of 45 dwellings as the applicant would expect the Council to seek as part of any RMA submission. The appraisal was completed based on a 0% affordable housing contribution and gave profit levels below the normal 20% benchmark (namely 15.35% Profit on GDV and 18.14% Profit on Cost).
- 1.3. A deed of variation is an agreement between the parties to a Section 106 agreement to alter its terms. There would be no right of appeal to the Secretary of State if the Council refused the applicant's request, but we should nevertheless act reasonably and determine the proposal in the context of the planning policies and other material considerations that apply to the delivery of affordable housing.

2. Policy context

- 2.1. The pre-amble to Core Strategy policy SP9 acknowledges that securing 40% affordable housing is a "*challenging target*" and that provision from this source will be heavily dependent upon economic circumstances and the health of the private housing market at any one time. It is also acknowledged that "*to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, should enable the development to be deliverable.*"
- 2.2. The Growth and Infrastructure Act 2013 inserted Sections 106BA, BB and BC into the 1990 Town and Country Planning Act. These sections introduced a new application and appeal procedure for the review of planning obligations on planning permissions which related to the provision of affordable housing. These sections were repealed in April 2016, but the appeal decisions that emerged from this process provide some useful insights. And the associated Government guidance - *Section 106 affordable housing requirements: Review and appeal* – continues to have relevance where, as in this case, the request for a Deed of Variation is seeking the same objective. The introduction to the 2013 guidance sets the broad context for reviewing Section 106 agreements:

“Unrealistic Section 106 agreements negotiated in differing economic conditions can be an obstacle to house building. The Government is keen to encourage development to come forward, to provide more homes to meet a growing population and to promote construction and economic growth. Stalled schemes due to economically unviable affordable housing requirements result in no development, no regeneration and no community benefit. Reviewing such agreements will result in more housing and more affordable housing than would otherwise be the case.”

3. Assessment

- 3.1. The initial viability appraisal presented by Jennions and Co showed that (without any affordable housing factored in) the scheme would return a profit equivalent to 15.35% of revenue. Therefore Jennions therefore concluded that the scheme can be regarded as marginally viable, even more affordable housing is factored in. On this basis, they conclude that the affordable housing provision should be reduced to zero in order to aid deliverability of the scheme.
- 3.2. David Newham, the Council’s independent expert on viability has considered the applicant’s assessment and concluded that having run a policy compliant scheme incorporating various appraisal inputs the scheme returns a land value significantly below the agreed figure of £450,000. On this basis, it is agreed by David Newham that the scheme is unable to support the full affordable provision of 40%. It was also concluded that the scheme would be able to viably deliver 11 affordable housing units (equivalent to 24.44% of the total dwellings) with a tenure split circa of 70/30 between affordable rent and intermediate.
- 3.3. In response to this the applicant provided a rebuttal and through subsequent negotiations between the two parties agreement was reached that 10 affordable units equating to 22.22% would be a reasonable figure. Officers accept this view.

4. Legal/Financial Controls and other Policy matters

Legal Issues

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

Financial Issues

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

Impact Assessment

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

5. Conclusion

5.1. The 45 houses proposed in this development represent a valuable contribution to the Council's current 5-year housing supply and it is important that the scheme is implemented as soon as possible. Negotiations have taken place and on the basis of the applicant's submitted viability appraisal David Newham concurs that a 40% contribution is unsustainable, but considers that the development could support a contribution of 22.22%. Officers also accept this view.

5.2. When Section 106 BC was in force it ensured that if an Inspector were to modify an affordable housing obligation on appeal, that modification would remain valid for 3 years. The associated Government guidance states:

"If the development is not completed in that time, the original affordable housing obligation will apply to those parts of the scheme which have not been commenced. Developers are therefore incentivised to build out as much of their scheme as possible within 3 years. It will not be sufficient to commence one part of the development to secure the revised affordable housing obligation for the whole scheme. If developers are concerned about the viability of their scheme at the end of the 3 years, they can seek to modify the agreement again. This could be done through voluntary renegotiation or by making a new application [to the local planning authority]."

"This 3 year period, and the need to secure as much development as possible in that period, should incentivise developers to build out. Local planning authorities may wish to make similar time-limited modifications or conditions when considering an application ..."

5.3 Therefore given the above Officers agree that it is reasonable to reduce the affordable levels to 22.22% and ensure that this variation shall be time limited for a period of 3 years from the date of the decision.

6. Background Documents

6.1. Outline planning permission ref. 2015/1405/OUT

Contact Officer:

Ruth Hardingham, Planning Development Manager

Agenda Annex

Glossary of Planning Terms

Community Infrastructure Levy (CIL):

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

Curtilage:

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

Environmental Impact Assessment (EIA):

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

National Planning Policy Framework (NPPF):

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

Permitted Development (PD) Rights

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

Previously Developed Land (PDL)

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

Planning Practice Guidance (PPG)

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

Recreational Open Space (ROS)

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

Section 106 Agreement

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

Site of Importance for Nature Conservation

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

Site of Special Scientific Interest (SSI)

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

Scheduled Ancient Monument (SAM):

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

Supplementary Planning Document (SPD)

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

Tree Preservation Order (TPO):

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

Village Design Statements (VDS)

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



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