



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY, 5 DECEMBER 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 - 6)

To confirm as a correct record the minutes of the Planning Committee meeting held on 7 November 2018.

6. Planning Applications Received (Pages 7 - 8)

6.1. 2018/0681/FULM - Viner Station, Roe Lane, Birkin, Knottingley (Pages 9 - 24)

6.2. 2015/1033/FUL - Land off Main Street, Hillam, Leeds (Pages 25 - 52)

6.3. 2018/0818/EIA - Gascoigne Rail Freight Interchange, Former Gascoigne Wood Mine, New Lennerton Lane, Sherburn in Elmet (Pages 53 - 106)

6.4. 2017/0701/OUT - Yew Tree House, Main Street, Kelfield, York (Pages 107 - 154)

G. Marshall

Gillian Marshall, Solicitor to the Council

<p>Dates of next meetings (2.00pm) Wednesday, 16 January 2019</p>
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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.



Minutes

Planning Committee

Venue:	Council Chamber - Civic Centre, Doncaster Road, Selby, YO8 9FT
Date:	Wednesday, 7 November 2018
Time:	2.00 pm
Present:	Councillor J Cattanach in the Chair Councillors D Peart (Vice-Chair), J Deans, R Musgrave, R Packham and P Welch
Officers Present:	Ruth Hardingham, Planning Development Manager, Yvonne Naylor, Principal Planning Officer, Jenny Tyreman, Senior Planning Officer, Sarah Morton, Solicitor and Victoria Foreman, Democratic Services Officer
Press:	0
Public:	5

26 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors L Casling, I Chilvers and D White.

Councillor D Buckle was in attendance as a substitute for Councillor L Casling.

27 DISCLOSURES OF INTEREST

Councillor R Musgrave explained that whilst he did not wish to formally declare an interest in agenda item 6.2 – Roebuck Barracks, Green Lane, Appleton Roebuck, in the name of transparency he felt it was appropriate to state that he was Ward Member for Appleton Roebuck and had had discussions with both the applicant and the objectors. Councillor Musgrave confirmed that he would be keeping an open mind until the point of decision.

28 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

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

The Committee noted that agenda item 6.1 – Ibbotsons, Mill Hill, Braegate, Colton, Tadcaster had been deferred as late representations had been received that Officers needed more time to give proper consideration to.

29 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.

30 MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 10 October 2018.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 10 October 2018 for signing by the Chairman.

31 PLANNING APPLICATIONS RECEIVED

The Committee considered the following applications:

31.1 2018/0270/OUTM - ROEBUCK BARRACKS, GREEN LANE, APPLETON ROEBUCK

Application: 2017/0270/OUTM

Location: Roebucks Barracks, Green Lane, Appleton Roebuck

Proposal: Outline application for the proposed demolition of buildings and the erection of five dwellings (Class C3) and access (all other matters reserved).

The Principal Planning Officer presented the application which had been brought before Planning Committee as 10 letters of representation had been received in support of the application and Officers would otherwise determine the application contrary to these representations.

The Committee noted that the application was an outline application for the proposed demolition of buildings and the erection of five dwellings (Class C3) and access (all other matters reserved).

Members queried with Officers the potential reduction in

built form on the site, vehicle movements relating to the site, the origins of the letters of support for the application and the ecology issues raised in the report.

Mr Tim Evans, applicant, spoke in support of the application.

Members agreed that consistency of advice from Officers in relation to the application was essential; this consistency had been maintained over the years that various applications had been submitted for the site. The Committee agreed that no special circumstances had been demonstrated by the applicants to warrant approval of the scheme and subsequent development on the green belt.

It was proposed and seconded that the application be refused.

RESOLVED:

To REFUSE the application for the reasons set out in paragraph 6 of the report.

31.2 2018/0852/FUL - 1 RAILWAY COTTAGES, HILLAM LANE, BURTON SALMON, LEEDS

Application: 2018/0852/FUL

Location: 1 Railway Cottages, Hillam Lane, Burton Salmon, Leeds

Proposal: Retrospective application for the demolition of a two storey end of terrace dwelling and the construction of a two storey end of terrace dwelling on the footprint of existing dwelling, as extended by planning permission ref. 2018/0205/HPA

The Senior Planning Officer presented the application which had been brought before Planning Committee as it was a departure from the Development Plan, but there were material considerations which Officers considered would justify approval of the application.

The Committee noted that the application was a retrospective application for the demolition of a two story end of terrace dwelling and the construction of a two storey end of terrace dwelling on the footprint of existing dwelling, as extended by planning permission ref 2018/0205/HPA.

In relation to the officer update note, the Committee

acknowledged that since the report had been written, Officers had considered it reasonable and necessary to attach a condition relating to hours of construction in the interests of the amenities of the adjacent properties, as follows:

“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.”

Members also noted that the application had been advertised for 21 days as a Departure from the Development Plan and the consultation period did not expire until 15 November 2018. Therefore, the recommendation of the application, as set out in paragraph 6.0 of the report, was amended to ask Members to take a ‘minded to’ decision for approval and to give Officers delegated authority to determine the application after the 21 day consultation period had expired, providing no new issues arose as a result of the consultation. If new issues did arise, the application would be brought back to the Committee.

Members queried the footprint of the new building and whether it would align with the building that had been demolished but also included the previously permitted extension; Officers confirmed that it would.

Mr David Jones, agent, spoke in support of the application.

It was proposed and seconded that the application be approved.

RESOLVED:

The Committee were minded to APPROVE the application subject to the conditions set out in paragraph 6 of the report and the additional condition relating to hours of construction as set out in the Officer Update Note, and delegated authority to Officers to determine the application after the 21 day consultation period had expired, provided no new issues arose as a result of the consultation; if any new

issues arose as a result of the consultation, the application would be brought back before Planning Committee.

31.3 REQUEST FOR A DEED OF VARIATION TO SECTION 106 AGREEMENT SEEKING THE PAYMENT OF A COMMUTED SUM TO BE USED TOWARDS THE PROVISION OF A CHILDREN'S PLAY AREA ELSEWHERE IN HAMBLETON IN LIEU OF THE PROVISION OF A CHILDREN'S PLAY AREA AND PLAY EQUIPMENT ON THE LAND IN RESPECT OF PLANNING APPROVAL 2005/0876/FUL FOR RESIDENTIAL DEVELOPMENT COMPRISING OF 89 (2 STOREY AND 2 1/2 STOREY) DWELLINGS AND ASSOCIATED WORKS ON 2.3 HA OF LAND, FOLLOWING DEMOLITION OF EXISTING BUILDINGS ON LAND OFF STATION ROAD

Application: 2018/1116/DOV

Location: Station Road, Hambleton

Proposal: Request for a Deed of Variation to Section 106 agreement seeking the payment of a commuted sum to be used towards the provision of a children's play area elsewhere in Hambleton in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL for residential development comprising of 89 (2 storey and 2 ½ storey) dwellings and associated works on 2.3 ha of land, following demolition of existing buildings on land off Station Road.

The Senior Planning Officer presented the application which had been brought before Planning Committee for consideration due to it being a proposal to amend the recreational open space provision agreed by Members in 2005.

The Committee noted that the application was a request for a Deed of Variation to the Section 106 agreement seeking payment of a commuted sum to be used towards the provision of a children's play area elsewhere in Hambleton in lieu of the provision of a children's play area and play equipment on the land in respect of planning approval 2005/0876/FUL for residential development comprising of 89 (2 storey and 2 ½ storey) dwellings and associated works on 2.3 ha of land, following demolition of existing buildings on land off Station Road.

In relation to the officer update note, the Committee acknowledged that since the report had been written, the amount of the commuted sum had been agreed between Officers and the applicant to be £33,737. This was in accordance with the calculations set out in the Developer Contributions Supplementary Planning Document.

Members queried where the money would be spent if not at the original site; Officers explained that the Ward Member and local Parish Council were supportive of the scheme and had indicated that they had another play area in mind which required enhancement that the commuted sum could be spent on.

It was proposed and seconded that the application be approved.

RESOLVED:

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

The meeting closed at 2.42 pm.

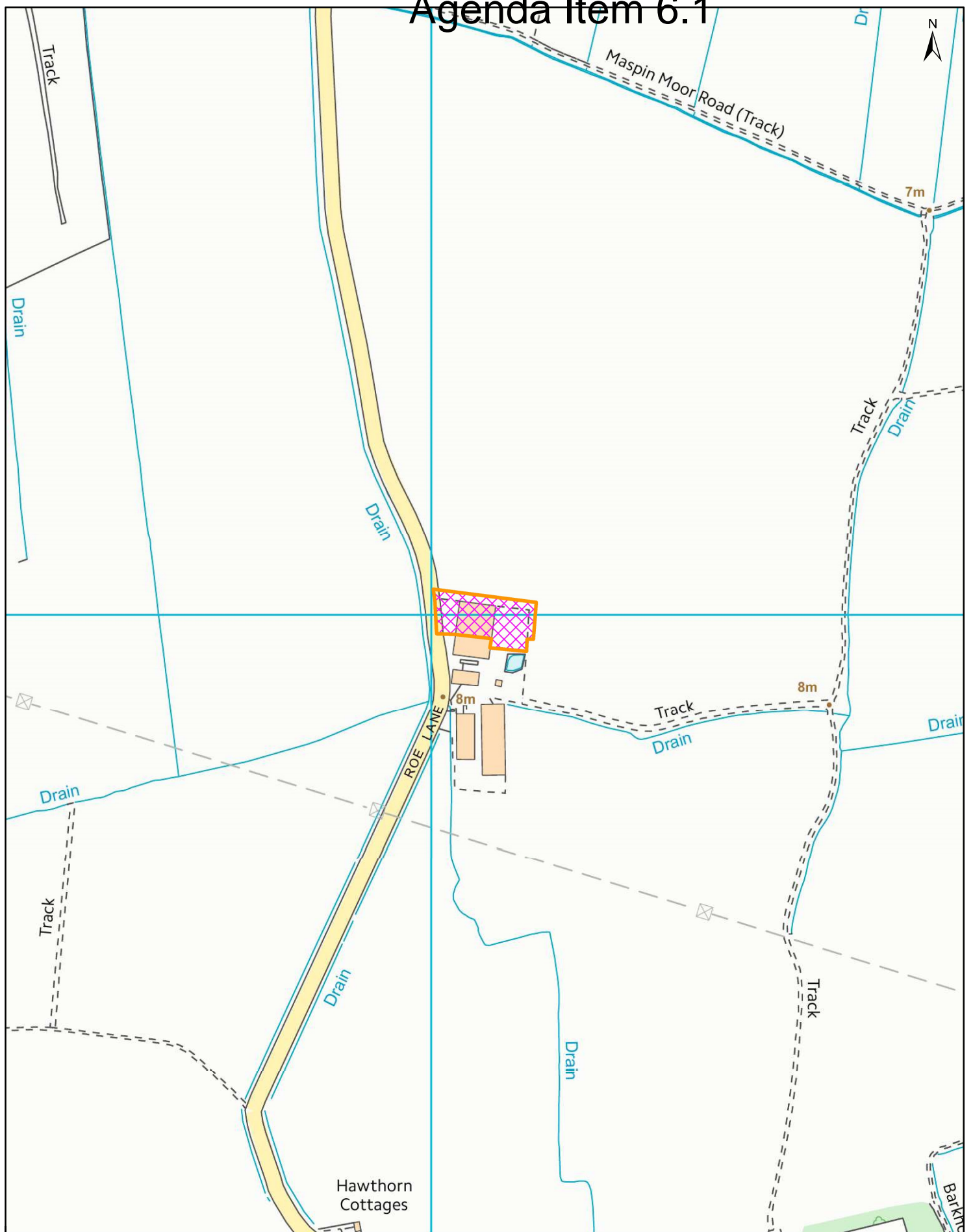
Agenda Item 6

Items for Planning Committee

5 December 2018

Item No.	Ref	Site Address	Description	Officer	Pages
6.1	2018/0681/FULM	Viner Station Roe Lane Birkin Knottingley	<p>Retrospective application for the following works:</p> <ol style="list-style-type: none"> 1. Change of use of the buildings and land from agricultural use to industrial B2 use which includes: <ul style="list-style-type: none"> • Installation and the use of 5 biomass boilers for the drying and heating woodchip; • Storage of the logs on the hardstanding; • Processing logs to woodchip; • Storage of woodchip within the buildings; • Drying the woodchip for wholesale; • Drying and using the woodchip for the heating for the proposed agricultural building under application reference number 2017/1381/FULM. 2. The improvement and replacement of a hard standing area. 3. The creation of a soil heap 'bund' along the northern boundary. 4. The installation external extractor vents and flues to the building. 5. The installation of a weighbridge. 6. The creation of a new access road. 	RUHA	9 - 24
6.2	2015/1033/FUL	Land off Main Street, Hillam, Leeds	<p>Full planning permission for the demolition of one dwelling and the residential development of 33 dwellings, means of access, layout and landscaping.</p>	FIEL	25 - 52

6.3	2018/0818/EIA	Gascoigne Rail Freight Interchange, Former Gascoigne Wood Mine, New Lennerton Lane, Sherburn in Elmet	Outline planning application with all matters (scale, appearance and layout) except access and landscaping reserved for the demolition of existing colliery buildings and construction of up to 186,000 sq m (approx. 2,000,000 sq ft) of Class B2/B8 and associated Class B1 floor space with supporting container storage area and associated buildings, trackside facilities, access and landscaping.	PAED	53 - 106
6.4	2017/0701/OUT	Yew Tree House, Main Street, Kelfield, York	Outline application for demolition of garage, farm buildings and glasshouse and erection of residential development (all matters reserved)	JETY	107 - 154



APPLICATION SITE

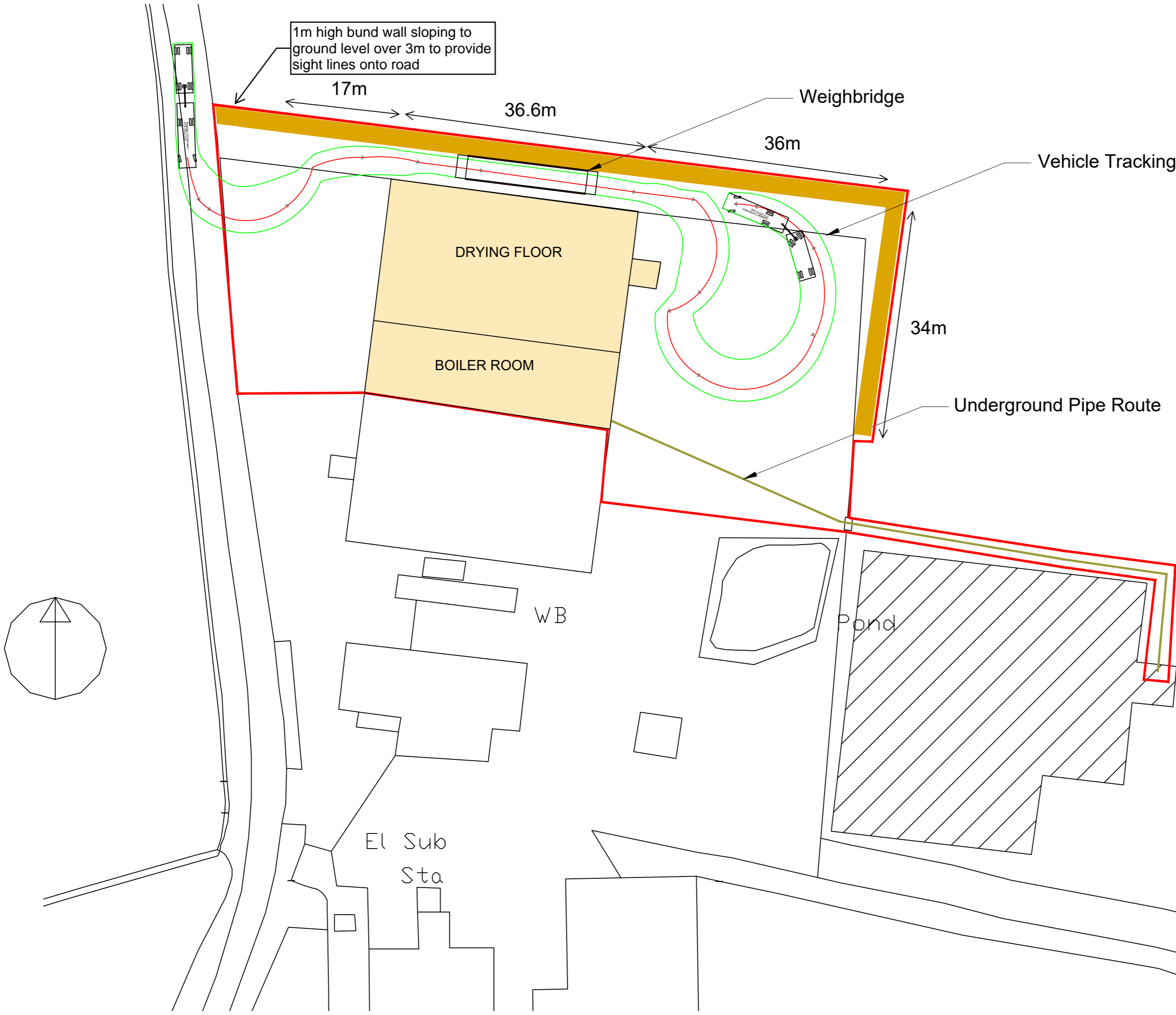
Viner Station, Roe Lane, Birkin
2018/0681/FULM

1:5,000



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AMENDED DRAWING



- Agricultural Building
- Soil Mound (Approx. 1m to 2m high by 4m wide)

Plan Title:	Woodyfuel - Viner Station
Plan Produced For:	Kris Grey
Date Produced:	09/08/2018
Scale:	1:500 @ A2

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Report Reference Number: 2018/0681/FULM

To: Planning Committee
Date: 5 December 2018
Author: Ruth Hardingham
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0681/FULM	PARISH:	Birkin Parish Council
APPLICANT:	JE Hartley Ltd	VALID DATE: EXPIRY DATE:	22 August 2018 21 November 2018
PROPOSAL:	<p>Retrospective application for the following works:</p> <ol style="list-style-type: none"> 1. Change of use of the buildings and land from agricultural use to industrial B2 use which includes: <ul style="list-style-type: none"> • Installation and the use of 5 biomass boilers for the drying and heating woodchip; • Storage of the logs on the hardstanding; • Processing logs to woodchip; • Storage of woodchip within the buildings; • Drying the woodchip for wholesale; • Drying and using the woodchip for the heating for the proposed agricultural building under application reference number 2017/1381/FULM. 2. The improvement and replacement of a hard standing area. 3. The creation of a soil heap 'bund' along the northern boundary. 4. The installation external extractor vents and flues to the building. 5. The installation of a weighbridge. 6. The creation of a new access road. 		
LOCATION:	Viner Station, Roe Lane, Birkin, Knottingley, West Yorkshire		
RECOMMENDATION:	REFUSE		

This item has been brought to Planning Committee at the decision of the Head of Planning.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located outside of the defined development limits in the open countryside. The site lies beyond but adjacent to the Green Belt on its western boundary.
- 1.2 There are currently five agricultural buildings at Viner Station which surround a concrete and mud yard which are in the immediate vicinity of the application site.

The Proposal

- 1.3 This is a retrospective application for the following works:
 1. Change of use of the buildings and land from agricultural use to industrial B2 use. However it is the opinion of officers that the description of the proposal does not accurately reflect the works that are taking place which includes:
 - Installation and the use of 5 biomass boilers for the drying and burning of woodchip;
 - Storage of the logs on the hardstanding;
 - Processing logs to woodchip;
 - Storage of woodchip within the buildings;
 - Drying the woodchip for wholesale;
 - Drying and using the woodchip for the heating for the proposed agricultural building under application reference number 2017/1381/FULM.
 2. The improvement and replacement of a hard standing area.
 3. The creation of a soil heap 'bund' along the northern boundary.
 4. The installation of external extractor vents and flues to the building.
 5. The installation of a weighbridge.
 6. The creation of a new access road.

Relevant Planning History

- 1.4 The following historical applications are considered to be relevant to the determination of this application.
 - CO/1975/21460 - Permitted - 08.04.1975 - Grain Store.
 - CO/1975/21478 - Permitted - 13.05.1975 - Re-siting Grain Store.
 - CO/1975/21479 – Permitted - 14.07.1975 - Agricultural General Purpose Store.
 - CO/1976/21480 – Permitted - 13.10.1976 - Farm Weighbridge And Weighbridge Office.
 - 2009/0393/FUL - Finally Disposed Of - 08.12.2015 - Erection of 14 No. 125 metre high wind turbines, crane hard standings, meteorological mast, temporary construction compound, tracks, cabling and associated infrastructure.
 - 2018/0290/PPP – Withdrawn – 18.05.2018 - Lawful development certificate for a proposed replacement of existing fossil fuel heaters with four biomass heat generating boilers.

There is currently an application pending for consideration Planning Reference: 2017/1381/FULM for the proposed erection of a new grain store including a

chemical store and roof mounted solar PV this will be bought to Members following the determination of this current application.

2. CONSULTATION AND PUBLICITY

County Public Rights Of Way Officer - No response received.

Yorkshire Water - No response received.

Designing Out Crime Officer – No comments to make

North Yorkshire Fire & Rescue Service - have no objection/observation to the proposed development

Selby Area Internal Drainage Board - No response received.

North Yorkshire County Council - No response received.

Parish Council – Object to the application.

Environmental Health – No objections

Highways Authority - Since initially assessing the submitted proposals and reaching their recommendation, the Local Highway Authority has taken into account the highway network width and condition and has now recommended refusal of the application.

Historic Officer – No objections

NYCC Flood Risk Officer – More information required on:

- Full drainage plan, including details of drainage from roof area.
- Details of impermeable area and calculations used to size soakaways.
- Any ground investigations and information used to determine infiltration rates.
- An exceedance flood flow plan.
- Pollution prevention proposals.
- A maintenance schedule.

Neighbour Comments

The proposal has been advertised in the press, all immediate neighbours have been informed by letter and a site notice has been erected. 31 objections have been received and one letter of support,

Objections are summarised below:

- Large vehicles and farm vehicles cause windows to rattle.
- Litter caused by the development.
- Cause ruts and damage to the highway.
- Small bridge in Birkin being damaged.
- Business too large for the village.
- Danger to walkers, walking dogs cyclists and riding horses.
- Children cannot play on the street due to the vehicles.
- It is an agricultural area not an industrial area.

- The development should be beneficial to agriculture.
- Too many HGV's, movements and inappropriate road infrastructure.
- Affect character and landscape of the area.
- Affect the Green Belt.
- Carried out works without planning permission.
- Will cause flood risk to the village.
- Nearby roads too small.
- Development will cause dust.
- No mention how by-product will be monitored and controlled.
- Too long hours of operation.
- Noise and traffic pollution.
- Increase traffic will increase potential for road accidents.
- Will have an effect on agricultural jobs in the area.
- The raw materials should be located near this type of development to reduce carbon footprint.
- Council should serve a stop notice because of harm caused by excessive noise, smoke emission and excessive HGV movements.
- The scheme has caused the loss of storage of grain capacity. New grain store unnecessary.
- Traffic speeding.

Supporting comments are:

- Applaud the change from fossil fuel to bio-mass boilers for the grain air driers and hope that this will sustain the business going forward. I run routinely on these roads and haven't noticed much HGV traffic increase. However, I would like to see pathways added to these roads, if that is possible, to separate walker/runners from the traffic.

Planning Policy – The key issues which should be addressed are:

1. The Spatial Development Strategy
2. Rural Diversification
3. Renewable Energy
4. Impact on amenity
5. Impact on the Landscape

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site is located outside the defined development limits and is located within the open countryside. Whilst the site is not located within the Green Belt, it abuts it on its western boundary.
- 3.2 The application site is located within Flood Zone 2.
- 3.3 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.

- 3.4 The development plan for 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

- 3.5 The relevant Core Strategy Policies are:

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

Selby District Local Plan

- 3.6 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. Paragraph 213 provides as follows:

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

- 3.7 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
ENV2 - Environmental Pollution and Contaminated Land
EMP8 - Conversion to Employment Use-Countryside
T1 - Development in Relation to Highway
T2 - Access to Roads

4. APPRAISAL

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

- 1) The Spatial Development Strategy
- 2) Rural Diversification
- 3) Impact on amenity
- 4) Impact on the Landscape
- 5) Highway safety and the impact on the Highway network
- 6) Protected species
- 7) Flood risk and drainage

The Spatial Development Strategy

- 4.2 Core Strategy Policy SP2 sets out the spatial development strategy for the district and states that the majority of new development will be directed towards the towns and more sustainable villages. The application site is located within the open

countryside. Policy SP2 states that development in the open countryside 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 where it will enhance or maintain the vitality of rural communities, meet rural affordable housing need, or other special circumstances.

- 4.3 The application site is located within the open countryside. The proposal involves the re-use of a grain store for the storage and processing of logs to woodchip and the installation of 5 biomass boilers. This use is considered to be a B2/B8 use for the reasons outlined in the section below. The re-use of this former grain store has resulted in the requirement for a new grain store which is the subject of a separate planning application ref. 2017/1381/FULM. On this basis, the application is considered to be an intensification of the site and which will create the need for a new building within the open countryside, which is contrary to Policy SP2 and the spatial development strategy which aims to focus the majority of new development to the district's towns and more sustainable villages.

Rural Diversification

- 4.4 Para 83 of the NPPF provides guidance with regards to supporting a prosperous rural economy and states that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas (through the conversion of existing buildings and well-designed new buildings) and the development and diversification of agricultural and other land-based rural businesses.
- 4.5 Para 84 states that policies and decisions should recognise that in order for sites to meet local business needs in rural areas, they may be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable. The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
- 4.6 Policy SP13 of the Core Strategy provides guidance with regards to the scale and distribution of economic growth and parts C and D are considered to be the most relevant. Policy SP13C states that in rural areas, sustainable development (on both greenfield and previously developed sites) which brings sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported including (inter alia) the reuse of existing buildings and infrastructure; and the diversification of agriculture and other land based rural businesses.
- 4.7 Policy SP13D requires that in all cases, development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.
- 4.8 Saved policy EMP8 also provides further guidance with relation to farm diversification and states that proposals for the conversion of rural buildings for commercial / industrial uses will be permitted subject to the following 6 criterion:

- The building is structurally sound and capable of re-use without substantial re-building
- The proposed re-use or adaptation will generally take place within the fabric of the building
- Conversion would not damage the fabric and character of a building of architectural or historic interest
- The form, bulk and general design of the building is in keeping with its surroundings
- The conversion of the building and ancillary works would not have a significant effect on the character and appearance of the area
- The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity.

4.4 In assessing the application, it is important to form a view on whether the proposal constitutes appropriate farm diversification. Despite the description of the proposal, it is the view of officers that the application proposes the change of use from agricultural to a mixed use comprising B2 General Industrial uses and B8 Storage and Distribution uses. Whilst the processing of logs to woodchip is a B2 use, when determining the overall use of the site, consideration has been given to the purpose of the 5 biomass boilers. One of the boilers is intended to heat the proposed new grain store whilst the other four boilers are being used for drying woodchip as part of the distribution process. It is on this basis that officers' consider the use of the building to combine a mix of B2 and B8 uses.

4.5 Given that the majority of the biomass boilers are for drying woodchip for distribution and sale off-site, the dominant use is considered to be B2 and B8 Storage and Distribution uses. Furthermore, the existing agricultural facility cannot sustainably farm the amount of timber that is being chipped as part this process and as such timber is being brought onto the site by haulage vehicles. The lorry movements created by this proposal are considered to be unsustainable for such a rural location given intensification of the site. On this basis, the proposal is not considered to be sustainable or appropriate in scale and type to its location, as per Policy SP13D.

4.6 It is the view of officers that it is not the intention of relevant policies in the NPPF, Core Strategy and Selby District Local Plan relating to farm diversification to allow for the intensification of sites in the open countryside and to permit the introduction of B2 /B8 uses in rural locations on this scale. Whilst farm diversification is encouraged by policy, it does not allow for inappropriate commercial / industrial development in the open countryside and does not mean that agricultural buildings can be re-used for employment purposes, regardless of their nature and intensity. The retrospective application proposes a new operation which is industrial in nature and does not directly relate to the agricultural use of the site, other than one of the biomass boilers which is proposed will heat the new grain store that is currently under consideration under planning ref. 2017/1381/FULM.

4.7 Having regard to the above, the proposal will significantly intensify the use of the site and introduce inappropriate industrial development to the open countryside. In addition the lorry movements created by this proposal are considered to be unsustainable for this open countryside location and would affect the character of this open countryside location through the intensification form the use. It is therefore considered to be contrary to policy SP13 of the Core Strategy, saved policy EMP8 of the Local Plan and paragraphs 83 and 84 of the NPPF.

Impact on amenity

- 4.8 The Environmental Health team were consulted on the application who requested the submission of an air quality assessment and noise assessment. Environmental Health were consulted on these documents and raised no objections.
- 4.9 Having regard to the above, the proposed scheme is considered not to have a detrimental impact upon air quality and noise. Due to the combination of: the orientation of the site; the size, scale and siting of the proposed scheme; and the site's distance from the neighbouring properties, the proposal is considered not to cause any significant adverse effects on the amenity of adjacent residents. The proposed scheme therefore accords with Policies ENV1 and EMP8 (6) of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Impact on the Landscape

- 4.10 The site is located in the open countryside. Whilst the application site is not located within the Green Belt, the Green Belt is located to the south and west of the site and immediately abuts it on the site's western boundary.
- 4.11 The existing buildings at Viner Station consist of different sizes, shapes and designs and the siting of flues and extractors vents vary. The retrospective external extractor vents and flues included in the application are considered to be in keeping with the character and form of flues and vents that already exist on site. The addition of these vents and flues are considered not to create clutter excessively on the buildings due to their position and siting on the building.
- 4.12 The applicant has installed a weighbridge, a feature which was historically present on the site and is considered to be commonly found in and around a farming complex. Visits to the site have revealed that logs are being stored at substantial heights which are prominent in the landscape, but the height of log storage could be conditioned if permission were granted.
- 4.13 Given that the application proposes a change of use, rather than built development, it is considered that the scheme has a negligible visual impact on the surrounding landscape when compared to the existing agricultural use and it is considered that the imposition of relevant conditions, including adherence with a landscape scheme could negate any negative impact on the landscape. It is not considered that the proposals would therefore have a negative visual impact on the adjacent Green Belt.
- 4.14 Having had regard to the above, the proposal is considered to create an intensification of the site, which on balance would not have a harmful unacceptable impact on the character and appearance of the area or encroach into the open countryside or visual impact on the adjacent Green Belt. The proposal therefore accords with Policy SP18 of the Core Strategy and advice contained within the NPPF.

Highway safety and the impact on the Highway network

- 4.15 The vehicular access for the site is from the road to the West of the site via the existing site entrance. Once on site, vehicles will be directed north and along the

area of hardstanding situated next to the northern building. They will cross the weighbridge and then proceed to the eastern hardstanding area. Once they have deposited or collected material they will then proceed to exit the site from the same route they entered by.

4.16 The applicant has stated that there is:

- Approximately 1,427 lorry transport movements per annum;
- Or approximately 27 per week;
- Or 5 per day of virgin wood deliveries to site (these movements only account for a one-way trip so will double if accounting for movements in and out of site).

4.17 NYCC Highways have been consulted on the application and initially they did not raise any objections to the proposal either singularly or cumulatively with application ref. 2017/1381/FULM. However, since this initial assessment and reaching their recommendation, the Local Highway Authority has taken into account the highway network width and condition and has now recommended refusal of the application. The Local Highway Authority recommendations were initially for conditions relating to visibility and mud of the highway on highway safety grounds. Since the original response was submitted, NYCC Highways Officers have been made aware of numerous local objections relating to an increase of large vehicles on narrow roads/through local villages. On further inspection, NYCC Highways have noted an increase of large vehicles and overrun of the verges of the public highway which can be attributed to vehicles visiting the site.

4.18 NYCC Highways Officers consider that the roads leading to the site by reason of their poor alignments/insufficient widths/poor condition and lack of footways are considered unsuitable for the traffic which would be likely to be generated by this proposal and would interfere with the free flow of traffic with consequent danger to highway users by virtue of its proximity to the public highway network. On the basis of this assessment the local highway authority recommends that this proposal is refused. It is considered that the proposals would result in a significant detrimental impact on the existing highway network and highways safety and would therefore not accord with Policies EMP8 (6), ENV1 (2), T1 and T2 of the Selby District Local Plan, Core Strategy Policy SP19 and the NPPF.

Protected species

4.18 A Preliminary Ecological Appraisal has been submitted in support of the related application ref. 2017/1381/FULM, which advises that based on the nature of the proposed development, the distance between the site and protected sites and the nature of the protected sites, means that the proposed development is not predicted to result in any significant effects on protected sites. No Habitats of Principal Importance are present at the site. None of the habitats at the site are assessed as being of value at greater than the site level. In addition to this the submitted report advises that based on the habitats present and the site location, the site is not considered likely to support a notable breeding bird assemblage, although Species of Principal Importance such as skylark potentially breed on the site in small numbers.

4.19 The submitted report states that no waterbodies potentially suitable for the breeding of great crested newts have been identified within 500 metres of the site. It is therefore considered very unlikely that great crested newts would occur at the site and no further surveys or mitigation measures for bats are considered necessary. In

addition to this it states that no evidence of badger or other notable fauna was observed at the site. Brown hare, a Species of Principal Importance in England, could potentially be present within the site on an occasional transitory basis. No further surveys or mitigation measures for other fauna are considered necessary.

- 4.20 The County Council Ecologist has been consulted on the related application 2017/1381/FULM and was satisfied that the outcome of the PEA is sufficient to determine the application in relation to ecological matters. The County Ecologist confirms that they agree with the findings of the PEA - notably, that the site is of low ecological value in terms of habitats and species which are legally protected or of principal importance.
- 4.21 As such it is considered that the proposed would not harm any acknowledged nature conservation interests and the proposed scheme therefore accord with the requirements of the Habitats Regulations 2010, Policy ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the NPPF

Flood risk and drainage

- 4.22 The application site is located within Flood Zone 2. Paragraph 164 of the NPPF states that “Applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 50. “
- 4.23 The proposed scheme is a change of use of the building and the surrounding land within the application site from an agricultural use to an industrial use and therefore is not required to pass the sequential or exception tests.
- 4.24 A FRA was submitted with the proposal providing mitigation measures as appropriate. The FRA is considered to be acceptable. It is recommended to impose a condition the development be carried out in accordance with the submitted FRA.
- 4.25 The submitted application form states that surface water will be disposed via a soakaway. The IDB and Yorkshire Water were consulted on the application and did object to the proposal.
- 4.26 The North Yorkshire Flood Risk Officer has requested further information in regards to drainage details including a full drainage plan, details of impermeable area and calculations used to size soakaways, any ground investigations and information used to determine infiltration rates, an exceedance flood flow plan, pollution prevention proposals and a maintenance schedule. This information has not yet been provided by the applicant so there are insufficient details to assess if the proposals are acceptable in regards to drainage.
- 4.27 On the basis of the above and insufficient information submitted, the proposed scheme is not considered to be acceptable in terms of flood risk and drainage and therefore does not accords with Policies SP15, SP16, SP19 of the Core Strategy, and the advice contained within the NPPF.

Legal Issues

- 4.28 Planning Acts

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

4.29 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.

4.30 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

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

5. CONCLUSION

5.1 Having regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, the proposed development would be unacceptable in terms of the spatial development strategy set out in Policy SP2 of the Core Strategy and the proposal will significantly intensify the use of the site and introduce inappropriate industrial development to the open countryside. In addition the lorry movements created by this proposal are considered to unsustainable for this open countryside location and would affect the character of this open countryside location through the intensification form the use. It is therefore considered to be contrary to Policy SP13 of the Core Strategy, saved Policy EMP8 of the Local Plan and paragraphs 83 and 84 of the NPPF.

5.2 The roads leading to the site are by reason of their poor alignments/insufficient widths/poor condition and lack of footways are considered unsuitable for the traffic which would be likely to be generated by this proposal and would interfere with the free flow of traffic with consequent danger to highway users by virtue of its proximity to the public highway network. It is considered that the proposals would result in a significant detrimental impact on the existing highway network and highways safety and would therefore not accord with Policies EMP8 (6), ENV1 (2), T1 and T2 of the Selby District Local Plan, Core Strategy Policy SP19 and the NPPF.

5.3 The applicant has failed to provide sufficient information in regards to drainage and the Council therefore cannot be satisfied that the proposals are acceptable in terms of flood risk and drainage. Therefore the proposals fail to accord with Policies SP15, SP16, SP19 of the Core Strategy, and the advice contained within the NPPF.

5.4 Other matters of acknowledged importance such as the impact on the character of the area and visual impact on the Green Belt, flood risk, residential amenity, and nature conservation are considered to be acceptable.

6. RECOMENDATION

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

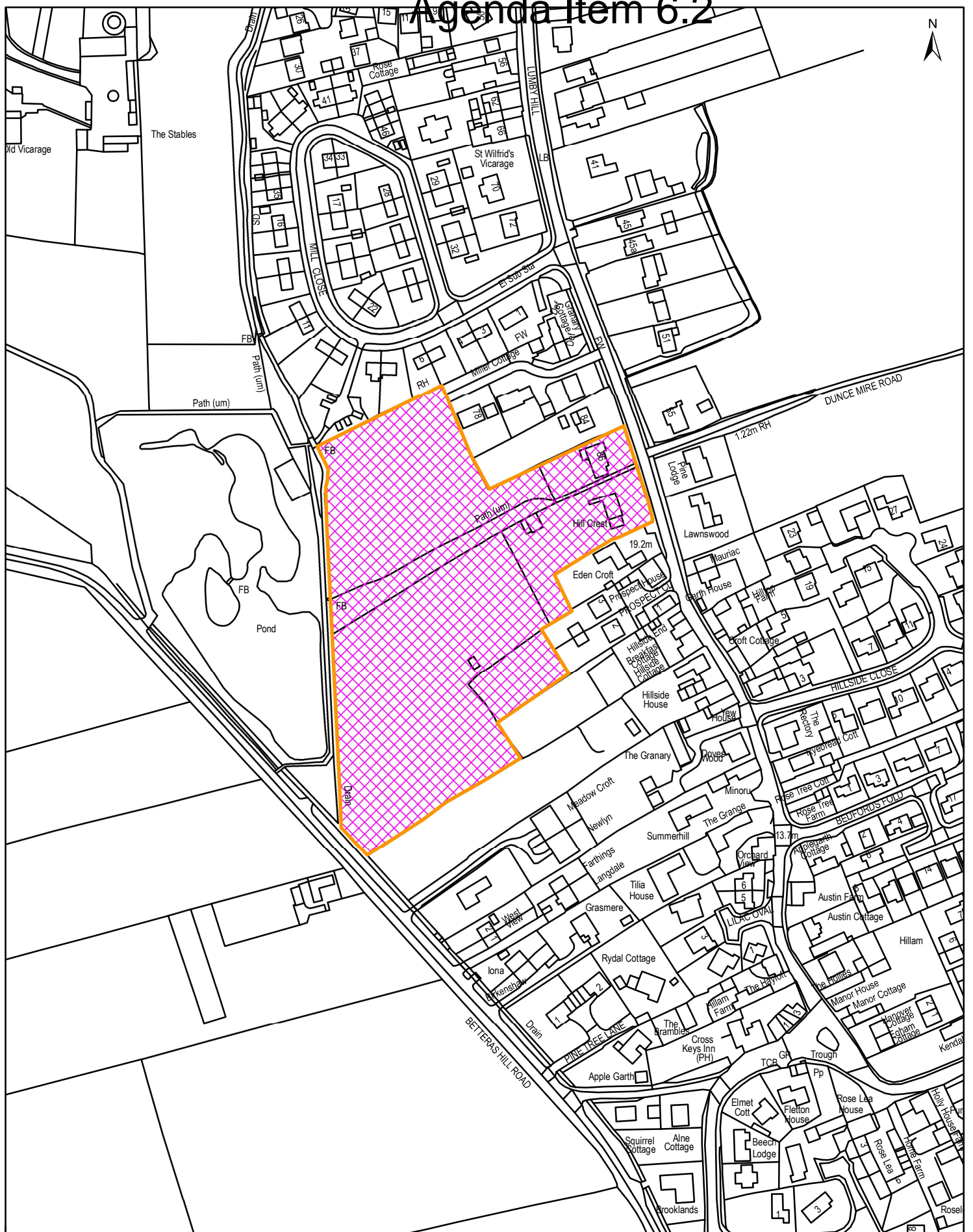
1. Having regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, the proposed

development would be unacceptable in terms of the spatial development strategy set out in Policy SP2 of the Core Strategy and the proposal will significantly intensify the use of the site and introduce inappropriate industrial development to the open countryside. In addition the lorry movements created by this proposal are considered to be unsustainable for this open countryside location and would affect the character of this open countryside location through the intensification of the use. It is therefore considered to be contrary to policy SP13 of the Core Strategy, saved Policy EMP8 of the Local Plan and paragraphs 83 and 84 of the NPPF.

2. The roads leading to the application site by reason of their poor alignments/insufficient widths/poor condition and lack of footways are considered unsuitable for the traffic which would be likely to be generated by this proposal and would interfere with the free flow of traffic with consequent danger to highway users by virtue of its proximity to the public highway network. It is considered that the proposals would result in a significant detrimental impact on the existing highway network and highways safety and would therefore not accord with Policies EMP8 (6), ENV1 (2), T1 and T2 of the Selby District Local Plan, Core Strategy Policy SP19 and the NPPF.
3. The applicant has failed to provide sufficient information in regards to drainage and the Council therefore cannot be satisfied that the proposals are acceptable in terms of flood risk and drainage. Therefore the proposals fail to accord with Policies SP15, SP16, SP19 of the Core Strategy, and the advice contained within the NPPF.

Contact Officer:

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APPLICATION SITE

Main Street, Hillam
2015/1033/FUL

1:2,500

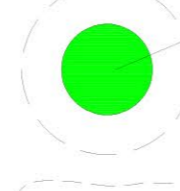
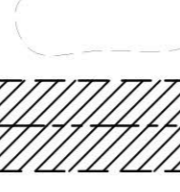
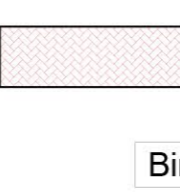

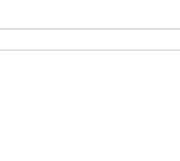


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AMENDED DRAWING



Accommodation Schedule			
House Type			Quantity
AFFORDABLE UNITS			
Pi	Pickering	3 bed semi detached	4
St	Staveley	2 bed semi detached	9
			13
OPEN MARKET UNITS			
Cax	Caxton	4 bed detached	1
Ri	Rillingham	4 bed detached	2
Pa	Pateley	4 bed detached	1
Sh	Sherburn	4 bed detached	2
Ha	Haworth	5 bed detached	4
Ba	Barrowby	5 bed detached	5
Kn	Knarborough	5 bed detached	1
Hi	Hillam Exec	5 bed detached	4
			20
			33

-  RETAINED TREE
-  ROOT PROTECTION
-  REMOVED TREE
-  DRAINAGE EASEMENT
-  BLOCK PAVING
- Bins
Bin storage area comprising hard standing, minimum area of 0.75x1.5m to accommodate 3 wheeled bin containers and box

Revision notes:		Revision:
Rev:	Date:	
A	29.11.16	Updated in line with clients comments.
B	07.12.16	Layout updated in line with land registry plans.
C	09.02.17	Updated in line with clients comments.
D	21.03.17	Ambleside replaced with 5 bed variant.
E	31.03.17	Revised topo survey overlaid, road adjacent to plots 33 & 3 corrected to suit revised new red line. Position of plots 2,3 & 21-26 amended to suit new red line position. All boundaries corrected to red line where applicable.
F	10.05.17	Walling introduced to plots 1-3, garage and access point to Hill Crest drive amended.
G	05.07.17	Collingham and Hillam housetype introduced at plots 21-25. Hill Crest garage amended.
H	30.08.17	Position of fault line amended.
J	27.10.17	POS Area indicated.
K	08.11.17	Low wall introduced to plots 1, 4, 20, 21 & 30. Additional bin storage areas shown where applicable.
L	14.11.17	Access junction position corrected.
M	28.11.17	Updated to clients resketch.
N	11.12.17	Position of plot 1 amended. Position of plot 21-25 amended north, garage to Hillcrest house moved 250mm south. Position of garages and parking to plots 27/28 amended.
P	15.01.18	Shared surface detail amended. Position of plot 29 & associated garages amended.
R	18.05.18	Housetype blocks updated in accordance with House Type Blocks Rev Y May18

Drawing Number: 01	Project: Main Street Hillam	Date: 22.11.16	
Client: Stonebridge Homes	Drawing Title: Planning Layout	Scale @ A1: 1:500	
		Revision: R	

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Report Reference Number 2015/1033/FUL (8/55/241/PA)

To: Planning Committee
Date: October 2018
Author: Fiona Ellwood (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2015/1033/FUL	PARISH:	Hillam Parish Council
APPLICANT:	Johnson Mowat Planning & Development Consultants	VALID DATE: EXPIRY DATE:	8 October 2015 7 January 2016
PROPOSAL:	Full planning permission for the demolition of one dwelling and the residential development of 33 dwellings, means of access, layout and landscaping		
LOCATION:	Land off Main Street Hillam Leeds West Yorkshire		
RECOMMENDATION:	REFUSE		

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

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The site is 2.28 HA of land on the North West side of Hillam village. The majority is outside the development limits. The south east corner lies within the Hillam Conservation Area. The site comprises almost the entire the area of land designated as safeguarded land at Hillam under Policy SL1 of the Selby District Local Plan 2005. A small strip of the southern portion of the SL would remain as it is excluded from development.
- 1.2 The land is bounded to the north by private gardens from residential properties on Mill Close, to the east by the residential properties of Main Street and to the south

by further residential properties which are accessed from Betteras Hill Road. To the west, the site is bounded by a Site of Importance for Nature Conservation (SINC) which includes a large pond. A Public Right of Way dissects the site east to west. The Site is located within Flood Zone 1.

The Proposal

- 1.3 The original submission by Redrow Homes was for 52 dwellings. The application was put on hold at the applicants request due to Geological investigations. The investigations resulted in part of the site being undevelopable. Stonebridge homes took over the application and submitted a revised scheme which reduces the number of dwellings. The proposals originally included two main street dwellings (No 86 Main Street and Hill Crest House) being demolished but now only one (No 86) to make way for the main access. The revised scheme indicates a layout with 33 dwellings within the red line area but is in fact 32 dwellings net with Hill Crest House being an existing retained dwelling. On-site open space and landscaping is proposed in the centre/west side forming a buffer between the development and the SINC (Site of importance to Nature Conservation (local designation)) to the east. The proposed development includes a mix of 2, 3 and 4 bedroom properties.
- 1.4 It is important to note that the application site doesn't comprise the whole of the allocated safeguarded site (a small portion of the southern part of the safeguarded land is excluded). The remaining small strip of land has frontage to Betteras Hill Road at the western boundary and it is not therefore 'land locked'. However, due to the fault line the anticipated capacity of this remaining area is approximately only 1 dwelling.
- 1.5 The application was again held in abeyance at the applicants request in order to provide more detailed Ecological information following consultation responses with the County Ecologist. A grass survey was required and could only be done during May to July. The results of that survey delayed the application further due to the need for a mitigation scheme for the losses and the negotiations around the proposals.

Relevant Planning History

- 1.5 The following historical applications and appeals are considered to be relevant to the determination of this application.-

PREAPP/2014/0588- (advice given on 02.03. 2015) – Pre- Application advice given on a request for residential development of circa 50 dwellings with an indicative layout plan.

SCR/2015/0004 - (EIANOT- 26.03.2015) Screening opinion requested for residential development of circa 50 dwellings. SDC considered the proposal would not comprise EIA development.

2.0 CONSULTATION AND PUBLICITY

2.1 Contaminated Land Consultants

The report is detailed, comprehensive and compliant in respect to contaminated land content. Two Standard conditions CL1 and CL5 are recommended.

2.2 NYCC Highways Canal Road

No objections to the amendments- Conditions recommended.

2.3 Public Rights Of Way Officer

Temporary closure of PROW needed during construction but the PROW will again be available to the public once the development is completed. Permanent diversion order may not be necessary.

2.4 The Environment Agency

Site is in Flood Zone 1 and the EA have no objections. No further comments.

2.5 Selby Internal Drainage Board

Guidelines given and condition recommended.

2.6 Yorkshire Water

Comments made and conditions recommended.

2.7 NY Sustainable Drainage Systems/ Flood Risk Management

Satisfied with run off rate and drainage. Minor remaining queries can be resolved through conditions.

2.8 NYCC Heritage Officer – Archaeology

Recommends condition.

2.9 Education Directorate North Yorkshire County Council

Shortfall of school places would arise and a developer contribution would be sought for primary education facilities. No contribution sought for secondary school facilities. S106 developer contribution levy if outside of CIL charging arrangements.

2.10 Environmental Health

Condition recommended in relation to construction due to the scale of the development and the potential for noise, dirt and dust.

2.11 Yorkshire Wildlife Trust

Previous relevant comments:

- An ecological design for the Green Infrastructure within the development using native species, and a fully funded long term management plan should be provided.
- Accept the SINC pond is used by anglers so is less valuable for wildlife and GCN's unlikely to be present.
- Information not yet been provided on plans for native species planting in a landscaping scheme or an ecologically sensitive lighting plan.

- Clarification on the ecological value of grassland at the site has still not been provided with species richness unaccounted for. Once there is certainty as to where or if there is more species rich grassland appropriate conditions, translocation etc. may be possible.
- Information on hedgerows at the site has also still not been provided. If found to be "important" under the Hedgerow Regulations they would need protecting through appropriately worded conditions.

Conditions recommended for protection of wildlife.

Recent response in relation to compensation proposals discussed with by developers

A very valuable contribution to our work at Barlow would be the renewal of rabbit proof fencing around meadow areas on the reserve. The fencing will protect orchids and other wildflowers and improve the floral diversity of the site. Cost of the fencing for all the meadow areas would be £8090 and administration would be £700 making a total of £8790. This would be a very specific proposal which would increase the enjoyment of the site for visitors as the footpaths are adjacent to the meadow areas. The fencing would also improve the biodiversity of the site. This would be appropriate compensation for the development at Hillam.

2.12 County Ecologist

Earlier consultations with conclusions on each issue:

Final bat survey has now been undertaken. The precautionary approach to demolition of the building and removal of the tree are supported in relation to bats.

Great Crested Newts – following the additional required amphibian report, no further survey work or specific mitigation is required for GCN, but care should be taken during any site works and should amphibians be discovered works should stop and advice sought from a licensed ecologist.

Water Voles - no objections raised but comments that the Water Vole survey was very late in the year.

Grassland- earlier comments prompted a survey of grassland during May to July 2018. Following receipt of this in summary the updated report recommends the preparation of a Biodiversity Enhancement Plan in order to prevent a significant impact upon local biodiversity. There will be a loss of an area of semi improved grassland and the hedgerows at the centre of the site. The plan should include measures to mitigate and compensate for the losses as well as providing enhancement measures. In addition the updated report recommendation is for the plan to include faunal boxes and wildlife friendly lighting which in itself will not provide compensation for the loss of grassland or the loss of hedgerows which provide a number of functions including supporting bat foraging and barn owl prey species.

Support the need for a Biodiversity Mitigation and Enhancement Plan but this must include all necessary measures to mitigate and compensate for the impacts identified. If compensation for the loss of grassland and hedgerows cannot be provided on site then the applicant will need to make provision offsite. Commitment to the provision of this compensation should be provided prior to determination.

Recent consultation response in relation to compensation proposals discussed with by developers

It is confirmed that from an ecological perspective that they are satisfied with the proposals put forward by the Yorkshire Wildlife Trust. This fencing will protect and enhance an area of species rich grassland (Sara confirmed approx. 2.7ha) which will provide a satisfactory compensation for the habitat impacts of the development, making a good contribution to biodiversity in the short and long term compared to the seeding/plug planting that was proposed on site. As Barlow Common is also a local nature reserve the biodiversity benefits can be enjoyed by a greater range of people than the area at Main Street, Hillam.

2.13 North Yorkshire Fire & Rescue Service

No objections.

2.14 Designing Out Crime Officer

Previous issues addressed. Minor issues on security of boundaries.

2.15 Rural Housing Enabler

The revised application is for 33 no. units. Policy SP9 requires 40% affordable housing on housing schemes of 10 units or above, which on this application would be 13 no. units. We continue to seek mainly 2 and 3 bed affordable homes with a tenure split for the affordable units of 30-50% intermediate sale and 50-70% rented.

2.16 Hillam Parish Council

- Affordable housing grouped together should be spread around the site.
- Queries re sewage pipe/drainage.
- Hedging would be preferable to fencing when bordering the development and properties.
- Can the Help to buy scheme be employed to give local people more chance of purchasing.
- Trees removed - should be replaced within the development.
- The more affordable homes should be mixed within the development, not all in one place.
- Retain original walls as much as possible, they are a feature characteristic of the village.
- Visibility at the road junction – some concerns.
- Query who will be responsible for the maintenance of the green/recreational space?
- Buildings should be finished in stone and render to keep in character with other village developments.
- Access/safety concerns - busy already at school drop off/pick.
- Queries re road construction materials and adoption.
- No full street view included in plans.
- Concerns over ability of power supply to support the development.
- PROW already closed as if a pre-disposed approval has been granted.
- Request construction management condition to manage traffic and hours.
- Roads should be restored to a good condition.

- Funding for local projects from this development should be considered.

2.17 Monk Fryston Parish

- Increase volume of traffic – hazard created particularly on Water Lane where there is an existing hazard at the already substandard Water Lane / A63 junction.
- Monk Fryston CofE Primary School is full and would be incapable of absorbing new pupils.
- Water Lane is only provided with footpath lighting. If a development is approved it should be upgraded to current road lighting standards to provide a safe environment to accommodate the increased road and pedestrian traffic and provide safe access to the school.

2.18 Publicity

The application was advertised by site notices, press notices and neighbour notification letters resulting in 31 letters of objection to the original scheme for 52 dwellings and a further 8 letters of objection to the revised scheme for 33 dwellings. A further 3 letters of objection were received following the most recent consultation. Comments made are summarised as follows;

Comments received from Campaign to Protect Rural England

Objection - Safeguarded land should not be released at this time.

The fields are valued by the local community for their flora and fauna and as ancient heritage. The amenity value of the area is enhanced by the presence of protected trees and a public right of way. The site provides a green oasis within the village but also acts as buffer between the built environment of the village and the area immediately to the west which clearly has importance for local nature conservation. Hillingham is unlikely to have adequate infrastructure to cater for the scale of development proposed. This indicates that some of the claims made by the applicant in relation to the requirements of the NPPF are unsubstantiated.

Grounds of Objection to revised scheme

8 letters - Note many of these comments on the original scheme and state that their objections are still relevant.

- No need for this development - 5 year supply exists.
- Other land not safeguarded is available.
- Contravenes SP2 A (c).
- Previous applications around this site have been refused by Secretary of State
- Land is still viable for agriculture.
- Adverse effects on ecology – adverse effects on Bats, toads, frogs, meadow grass, loss of trees and previous hedgerow was removed without permission.
- Detailed comments about previous hedges removed, additional trees and hedges proposed for removal and lack of mitigation measures or replacement planting.
- Boundary treatments not appropriate.
- Overlooking into adjacent gardens - loss of privacy.
- Affordable units should be better spread to create a better sense of community.
- Not keen on housing growth being met on mass on one site. More smaller sites would be better.

- Traffic risk assessment is an underestimate – there is more congestion and accidents than referred to in the report.
- Access via Betteras Road would be better.
- Access via Betteras Road should not be allowed.
- Increased flood risk.
- Current hedgerows are home to diverse range of wildlife and will be at risk due to proximity of new houses.
- Reduced scale development is still excessive.
- Query the need for more executive housing.
- Sewers at full capacity.
- PROW has already been closed.

Grounds of Objections to original scheme – 31 letters

- Overdevelopment, not suited to current size and layout of Hillam.
- Insufficient infrastructure to absorb 52 houses. This would increase the village by 15% in one go. Maximum number envisaged for Hillam was 36 in the local plan.
- Adverse impact on the Conservation Area.
- Unimaginative mass produced modern design and housing layout.
- Local services and facilities are at capacity and can't cope with extra houses.
- Road networks can't cope with the extra volume.
- The new access creates a busy junction and heightens risks of accidents occurring.
- No consideration given to improvements in sustainable forms of transport, impact of construction traffic, health implications of extra traffic, conditions for cyclists, improving current traffic issues in the locality.
- No mention in traffic statement of school drop off and pickup times.
- No provision for access from Betteras Hill Road which would greatly ease the situation.
- Queries in relation to the existing public footpath through the site and its potential loss.
- Electricity supply is regularly power cuts. Construction of a large new housing estate will exacerbate the problem.
- surface water drainage, foul drainage, telephone and broadband and roads are all struggling to cope with the existing population.
- Hedgerows and trees have been uprooted illegally (allegedly).
- Redrow Homes Yorkshire are not trusted and any proposals put forward viewed with a considerable degree of scepticism.
- Concerns that a large willow may be removed which is an ancient, longstanding nesting site for our pair of Great Spotted Woodpeckers.
- Objections to loss of open fields, the wild grasses and flowers which have established and for the quiet enjoyment of the rural area for walking/dog walking etc.
- Increased pressure from proximity of development and increased numbers of people on surrounding rural area and protected wildlife.
- Objections made to the way the planning application has been handled and consider Redrow Homes have been given more opportunity to be heard by SDC Consider residents are being kept in the dark.
- Quotes from NPPF regarding the need for planning to be a creative exercise in finding ways to enhance and improve places.
- Concerns that Selby DC, won't discuss any detail with any villagers and this contravenes the policy laid down in the National Planning Policy Framework.

- Any negotiated agreement should leave all parties feeling that a fair solution has been reached. The only way we can work together to achieve a fair and successful outcome for all is by working together in the first place.
- There is no provision of bungalows.
- Contrary to Policy.
- Loss of safeguarded land.
- Detailed comments about individual plots and effects on existing dwellings in terms of light, overlooking and loss of amenity.
- Drainage and flooding problems in the village will be exacerbated.
- Flood tanks will be built and then discharged into culverts on Betterass Hill Road. Query who will pay for the on-going maintenance of the culverts and the probable increase in house insurance for those householders bordering the development.
- The area does contain wildlife of note. Bats, foxes, hedgehogs, shrews, woodpeckers and many other birds/butterfly etc. are all frequently seen and deer have been seen on occasion.
- Scope of Ecological survey doesn't look beyond the site.
- Little employment in the village and with Poor bus and train services to the major employment centres therefore people will use their car.
- Social housing is not well mixed on the site but stuck in a row on the outer edge of the northern part of the site.
- Village does not need a new play area. It needs improvement to the existing facilities.

Grounds of Support

Support in principle since numbers reduced to 52 but detailed comments made about road safety.

- Support reduction of affordable housing from 40% to the 15 % offered.
- Support that Hillam should have some additional housing.

3.0 POLICY CONTEXT

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

The development plan 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 2013 (CS)

- 3.2 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 - Managing Housing Land Supply

SP8 - Housing Mix
SP15 - Sustainable Development and Climate Change
SP18 - Protecting and Enhancing the Environment
SP19 - Design Quality
SP9 - Affordable Housing

Selby District Local Plan 2005 (LP)

3.3 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, applications should be determined in accordance with the guidance in Paragraph 213 of the 2018 NPPF which states "existing policies should not be considered out of date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that can be given).

3.4 The relevant Selby District Local Plan Policies are:

SL1 - Safeguarded Land
ENV1 - Control of Development
H2 - Location of New Housing Development
ENV25 - Development in Conservation Areas
ENV2 - Environmental Pollution and Contaminated Land
T1 - Development in Relation to Highway
T2 - Access to Roads

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

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

3.6 Other Guidance/Policies

- Affordable Housing Supplementary Planning Document, 2013
- Developer Contributions Supplementary Planning Document March 2007

4.0 APPRAISAL

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

1. Principle of the development.
2. Character and form of the village
3. Highway Safety conditions
4. Nature Conservation, Ecology and Protected Species
5. Heritage Assets
6. Flood Risk, drainage and climate change
7. Residential Amenity
8. Contaminated land and ground conditions
9. Recreational Open space

- 10. Education Healthcare and waste recycling
- 11. Affordable Housing

The Principle of development

- 4.2 Policy SP1 of the CS outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF" and sets out how this will be undertaken.
- 4.3 Policy SP2 of the CS sets out the long term spatial direction for the District and provides guidance for the proposed general distribution of future development. The settlement hierarchy is ranked in order of the Principle Town of Selby, Local Service Centres, Designated Service Villages (DSV's) and smaller villages. The majority of development in Selby District is based on the principles of the majority of development being directed to towns Service centres and more sustainable villages. DSV's are considered to have some scope for additional residential growth to support rural sustainability.
- 4.4 Policy SP2 identifies Monk Fryston with Hillam as a DSV. Policy SP4 of the CS relates to the management of residential development in settlements and sets out the types of development which will be acceptable in principle *within* Development Limits. A small part of the application site, (around the existing dwelling to be demolished for the access) is within the development limits. However, the majority is outside but adjacent to the defined development limits (as defined in the adopted development plan) and therefore is located in open countryside.
- 4.5 Policy SP2A(c) specifically 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.
- 4.6 At the time of writing this report, the Council can confirm that they have a five year housing land supply. This cannot be a reason in itself for refusing a planning application. The applicants do acknowledge the Council have a 5 year supply but think the position is lower than stated. However, they don't provide evidence to substantiate this statement. Moreover, the Councils latest housing land supply position which was recently updated in September 2018 indicates that as of 31st March 2018 the district now has a 6.5 year deliverable supply of housing. This is an increase from the position in December 2017 of 6.2 years supply. The broad implications are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.
- 4.7 The proposal does not constitute any of the forms of development set out under SP2A(c). In light of the above policy context the proposals for residential development are contrary to Policy SP2 of the Core Strategy. Substantial weight to the conflict with the development plan (and the related conflict with the intentions of the Framework) should be given in this case. The proposal should therefore be refused unless material considerations indicate otherwise.

Safeguarded Land

- 4.8 Given the site's saved designation as safeguarded land, the main issue for consideration is whether the site should be kept free of permanent development at the present time in order to maintain the site's availability for development in the longer term.
- 4.9 Policy SL1 (Safeguarded land) is a carried forward policy from the SDLP. It states that *"...within areas of safeguarded land as defined on the proposals map, proposals for development which would prejudice long term growth beyond 2006 will not be permitted. It is intended that the release of safeguarded land, if required, will be carried out in a controlled and phased manner extending over successive reviews of the Local Plan."*
- 4.10 Paragraph 139 (c) of the 2018 NPPF confirms that when defining Green Belt boundaries plans should where necessary identify areas of safeguarded land between the urban area and the Green Belt in order to meet longer term development needs stretching well beyond the plan period. NPPF paragraph 139 (d) states that *"...Planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development"*.
- 4.11 The release of SL was intended to be undertaken in a controlled and phased manner through future Local Plan reviews. The applicants point out that the identification of housing allocations as anticipated in the Core Strategy has been delayed and no part 2 documents are currently adopted. Nevertheless Policy SL1 is fully and clearly consistent with the NPPF (para 139) and taking into account para 213 of the NPPF on weight to be attached to development plan policies, significant weight can still be afforded to this policy.
- 4.12 Other safeguarded land in the district includes the land around Sherburn. However, it is important to note that Sherburn, alongside Tadcaster is one of only two Local Service Centres(LSC) in the district and is not a DSV. Therefore it was always expected to take a greater proportion of development than the DSV's. Some of the land (Hodgsons Gate) has been released for development but it should be noted that this was on appeal at and was considered against the background of not having a 5 year housing land supply. The Inspector for the appeal decision on land to the east of the application site at Hodgson's Gate (APP/N2739/W/16/3144900 dated 06 December 2016) commented that:
- "The site was safeguarded some 11 years ago as a resource for accommodating residential growth beyond 2006. It has been kept free of permanent development all of this time and its release now reflects the changed circumstances in the District with regard to the slow delivery of new residential development to meet a new housing requirement."*
- 4.13 The Inspector concluded that in the specific circumstances, that being a lack of five year housing land supply, given its status as a parcel of a larger area of safeguarded land, it would not be necessary for the appeal site to be kept free of permanent development at the present time in order to maintain its availability for development in the longer term. The release of further safeguarded land around Sherburn is currently resisted due to the existence of a 5 year land supply, the high levels of growth that has already occurred at Sherburn and the need to retain further safeguarded land for the future plan period.

- 4.14 The Council still have a robust housing land supply and therefore the justification which existed at Hodgsons Gate in releasing safeguarded land does not exist at Hillam now. The site has not been proposed for development in any review of the current Local Plan. Since Policy SL1 of the Local Plan conforms to the NPPF the decision to release safeguarded land for housing development should be resisted, unless material considerations clearly outweigh the conflict.

Sustainability

- 4.15 In terms of sustainability the application site abuts Hillam which is a DSV in the Core Strategy. The settlement is combined with Monk Fryston which together can provide the main basic services of Primary school, store, post office and doctor's surgery. In the Council's background paper No 5 (Sustainability Assessment of Rural Settlements) 2010 it ranks 1 within the range of settlements ranked 1-4 (4 being the lowest) in terms of sustainability. It is acknowledged that this survey took place some time ago but it was and remains a useful indicator of the level of facilities within the DSV's. Therefore in terms of access to facilities and a choice of mode of transport, despite the site being located outside the defined development limits of the settlement, the site can be considered as being in a reasonably sustainable location within the district.
- 4.16 However, paragraph 12 of the NPPF makes clear that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. When a planning application conflicts with an up to date plan permission should not normally be granted.
- 4.17 Given the position with the 5 year land supply it is considered that the site should be kept free of permanent development at the present time in order to maintain its availability for development in the longer term, having regard to the requirements of local and national planning policy.

Previous levels of growth

- 4.18 CS policy SP5 designates levels of growth to each of the 3 main towns, the group of Designated Service Villages and the group of Secondary Villages based on their infrastructure capacity and sustainability. This policy sets a minimum target of 2000 for DSVs as a whole which the most recent monitoring indicates has been exceeded by completions and permissions in those settlements as a whole. The CS Policy does not set a minimum dwelling target for individual DSVs.
- 4.19 The applicants consider the 2000 dwellings for the DSV's equates to approximately 110 each when divided equally and therefore the growth for this individual DSV has not been exceeded. However, the scale of distribution of the anticipated 2000 dwellings was not apportioned to each DSV and was not envisaged to be divided equally for each DSV as suggested. There is nothing within the policy which recommends a specific approach for apportioning development to DSV's. Such an approach would constitute bad planning, as amongst the 18 DSV's there is a wide range of service and amenity provision which can be argued can support differing amounts of new development. The DSV's are also various sizes, with some having much greater populations than others. A pro rata approach would lead to over development in some DSV's resulting in a negative effect on the rural character of the smaller settlements. It can also be seen in Policy SP2A(a) that some DSV's are meant to receive more development than others:

“The following Designated Service Villages have some scope for additional residential and small-scale employment growth to support rural sustainability and in the case of Barlby/Osgodby, Brayton and Thorpe Willoughby, to complement growth in Selby.”

Splitting the 2000 dwellings on a purely pro rata basis would therefore be contrary to Core Strategy Policy SP2.

- 4.20 The Council put forward various growth options for the DSVs as part of the development of PLAN Selby in 2014 and 2015. The DSV growth options study although not adopted policy, has been recognised by inspectors in recent appeals as being the most appropriate method of apportioning growth to the various DSV's in the absence of any adopted policy. Para 32 of decision APP/N2739/W/17/3175463 states:

“I accept that the Growth Options report is part of an evidence base for the emerging Selby Site Allocations Local Plan Document and as such the weight that can be attached to it is limited. Nonetheless, it does provide some informed indication of future growth scenarios relevant to the spatial development strategy of the Core Strategy.”

Similar wording can also be found in paragraph 31 of appeal decision APP/N2739/W/17/3183958 and paragraph 37 of appeal decision APP/N2739/W/17/3181460.

- 4.21 The growth options for Monk Fryston and Hillam was indicated in this evidence base to be less than some other settlements with more services. The research indicated minimum growth options of between 0-36 dwellings for the settlement. To date, it has seen 25 gross (22 net) dwellings built since the start of the Plan Period (April 2011) and has extant approvals for 7 dwellings gross (6 net), giving a gross total of 32 dwellings (30 net). Although this is slightly under the minimum for this settlement, the total amount for DSV's across the district has now been exceeded.
- 4.22 The applicants point out that considerable growth has occurred in other DSV's since the start of the plan period except in Hillam. They provide a list of DSV's with large growth rates. However, the large growth rate in other villages was almost entirely due to PP's given when we the Council did not have a 5 year supply. This resulted in the overall growth rate being exceeded. Notwithstanding this there are many DSV villages which have not had considerable growth including Appleton Roebuck, Cawood, Byram/Brotherton, Escrick, Hemingbrough, Kellington, North Duffield - therefore it's not just Hillam.
- 4.23 Taking into account the range of growth options identified for this settlement, the scale of this individual proposal, at 32 net dwellings is not individually inappropriate to the size and role of a settlement designated as a Designated Service Village. However it must also be considered in terms of the cumulative impact it would have with the previous levels of growth in this settlement (Hillam and Monk Fryston combined) that have occurred since the start of the plan period. In this case the gross total for the plan period of 30 net dwellings when added to this individual proposal of 32 would result in a cumulative development of 62 dwellings for the settlement which is well beyond the growth option recommended.

The applicants state that no alternative sites exist for this DSV due to its Green Belt constraints. However, since the minimum target of 2000 set in Policy SP5 of the Core Strategy for the DSV's as a whole has been exceeded and the proposed development would result in the growth option identified for the individual village being significantly exceeded. It is acknowledged that only limited weight should be given to the Growth options Paper, however, there can only be limited justification given to releasing the land on the basis of limited growth in this settlement in the context of the position overall.

Deliverability

- 4.24 In terms of deliverability, the development is considered to be highly deliverable and the scheme can be implemented upon receipt of the necessary consents. The application seeks full planning permission and the developers have indicated they are ready to make a start following the grant of permission. The NPPF aim of boosting and maintaining the supply of housing is a material consideration when evaluating planning applications. An approval on this site would provide additional dwellings to the housing supply which add some weight in favour of the proposal.

Impacts of the Development

Character and form of the settlement

- 4.25 Core Strategy Policy SP18 aims to protect the high quality and local distinctiveness of the natural and man-made environment. The site is mostly located in the countryside and outside of Development Limits. From PLAN Selby evidence on the sensitivity of the landscape to development it is considered that the overall landscape assessment parcel for the area to which the application relates is of high sensitivity to development, with the settlement fringe considered of high quality.
- 4.26 The site is currently open undeveloped grass land with hedgerows and trees. It slopes down away from the village development boundary and abuts a SINC. This consists of a large pond surrounded by established trees and hedgerow. A small part of the south east corner of the site falls within the village conservation area. The proposal would significantly change the current open character of the site. In this respect the development would be reduce the high quality of the settlement fringe.
- 4.27 It is considered that the SL area is strongly defined and remains a potentially valid location for future development with a western edge clearly limited by the pool features and is bounded to the south, east and north by residential development. The overall area of the SL at 2.6ha is not disproportionate in scale to the overall settlement.
- 4.28 The site is bounded by residential development on three sides to the north, east and South. Furthermore, both the SINC and Betteras Road to the west and south west form a natural boundary within which, given the physical extent of the existing settlement, the development of this site would naturally round off this side of the village albeit to a large scale. Similar development at depth from the main road frontage already exists within the village and therefore this scheme would not be inconsistent with the form and character of developments already established in the village. Furthermore, the layout proposed includes a substantial buffer of public open space between the new housing and the SINC to the west which would form a new softer landscaped edge to this part of the settlement. If the development were

to proceed, it is considered that it would create a new boundary on this west side of the settlement which would be durable permanent and defensible since it would be surrounded on three sides by existing development and with public open space graduating to the boundary of a SINC to the west. The site is relatively enclosed and screened from the wide countryside with limited views afforded from the south west. As such a new permanent visual edge to the settlement could be maintained for the future.

- 4.29 In terms of the layout, the amended layout plan is a significant improvement on the previous scheme for 57 dwellings. The dwellings are spread across a smaller part of the site with open space and longer gardens on the west side. Only one dwelling on the main street frontage is now to be removed with Hill Crest House, an individual detached dwelling, now being retained.
- 4.30 Amendments have been sought to the layout, the design and the materials in order to achieve a development which contributes positively and which would be more in keeping with the form and character of the area. These relate to the design of Plot one fronting the main street, the retention and use of stone wall frontages, more use of stone materials to reflect the original character of the village, improvements to the layout and arrangement and position of some of the dwellings. The revised layout is considered broadly acceptable and is a significant improvement over the original scheme submitted.
- 4.31 It is considered that the proposal would form a new defensible boundary to the settlement. As such it is considered that although there would be some harm to the quality of the settlement fringe, the revised scheme provides a development which is more in character with the existing village and rounds off the village providing a new durable defensible boundary edge for the future. Overall there is both a positive and a negative effect. However, the harm to the sensitivity of the settlement edge is considered to be outweighed in this case by the positive benefits to the character and form of the settlement as described above
- 4.32 The scheme would not therefore result overall in a materially harmful impact on the character, form and setting of the village and would not conflict with the aims of Policies SP1, SP18 and SP19 of the Core Strategy, ENV 1 of the Local Plan or with the NPPF.

Heritage Assets

- 4.33 A small part of the south-eastern section of the site falls within the Hillam Conservation Area, a designated heritage asset, and as such redevelopment proposals will potentially impact directly and indirectly, upon the heritage significance of the Area. No other designated heritage assets are considered to fall within sufficient proximity to the site to give rise to potential impacts upon setting. The part of the site that is in the Conservation Area is a small portion of open field to the rear of existing dwellings.
- 4.34 In accordance with the NPPF paragraph 189 the Local Planning Authorities require the applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The Planning (Listed Building and Conservation Areas) Act 1990 requires that, with respect to any buildings or land in a Conservation Area, special attention be paid to the desirability of preserving or enhancing the character or appearance of the area.

- 4.35 The applicant has provided the results of an archaeological geophysical survey. The results did not suggest a significant concentration of archaeological feature that would preclude development. The Heritage Officer from NYCC is now satisfied that a condition imposed to require archaeological recording would be acceptable.
- 4.36 The Heritage statement submitted with the application sets out that the Hillam Conservation Area was designated by the Council in 1969 with subsequent boundary revision in 2002. This revision removed the majority of the agricultural fields falling within the site from the Conservation Area. One area, formerly an enclosed paddock or orchard, to the rear south-west of Prospect House, was retained within the Area and this is the part that falls within the south-east corner of the site.
- 4.37 The boundaries of the Conservation Area largely follow the linear form of the historic village as it extends along Main Street and Chapel Street. Views within and out from the Conservation Area tend not to be expansive and are enclosed by surrounding residential estate development. Visual connectivity with the surrounding countryside from public vantage points is similarly constrained although more extended views are available at from Chapel Street at the western and eastern edges of the Area. These elements are positive contributors to the setting of the Conservation Area although elsewhere setting is largely neutral. The application site forms part of the wider historic agricultural setting of the village although its visual contribution, from currently public vantage points within the Conservation Area, is not prominent. The land itself is enclosed to its western and southern boundary by tall hedgerows and tree belt with residential development on Mill Close visible to the north. The two properties falling within the site are of inter-war and later 20th century construction and, whilst reflective of prevailing architectural styles at the time, hold limited heritage interest and make no substantive contribution to the setting of the Area.
- 4.38 The proposed development will remove an element of the agricultural setting of the Conservation Area which holds a degree of evidential value in illustrating the agrarian foundation of settlement. The land itself makes no substantive contribution as open space, for example as a public focal point or in facilitating significant views, and is largely enclosed and isolated from the village centre. As such its contribution to the significance of the Conservation Area is limited.
- 4.39 Overall it is concluded that the proposals would not result in the loss of a key element contributing to the significance of the Conservation Area. It will however marginally diminish the historic agricultural setting of the area. The loss of this area is offset to a small degree by the provision of an area of open space within the layout which will be of public benefit and which will be visible from the main access on Main Street.
- 4.40 It can be concluded that the proposals would give rise to harm to the Heritage Assets, which is less than substantial. In these circumstances paragraph 196 of the NPPF makes clear that this harm should be weighed against the public benefit of the proposal. In the event that housing was required on this site then the benefits of the housing provision and the affordable housing provision would be considered to outweigh this harm. The benefits of a small amount of public open space within a village which already has open space provision is not sufficient benefit by itself to offset the harm. However, where adequate housing provision exists within the district then the harm is not outweighed by any public benefits of further housing

provision and the development would conflict with Policies ENV1 of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF

Highway Safety conditions

- 4.41 Access to the site would be via the Main Street in Hillam. One dwelling between number 84 Main Street and the dwelling Hill Crest House would be demolished to make way for a new access. The scheme originally proposed the demolition of Hill Crest House. However, this is now to be retained in this revised proposal. A footpath would be provided along the access linking in to the main street. The housing would be arranged around two cul-de-sacs. A PROW runs through the site from east to west linking to a footpath running alongside the pond. The footpath would need to be temporarily closed during the construction phase but the route would be maintained within the proposed development. It would into therefore be adversely affected in the longer term.
- 4.42 The Highway authority is satisfied with the revised layouts and raises no objections subject to the imposition of suitable conditions. Having had regard to the above it is considered that the scheme is acceptable and would not harm road safety conditions in accordance with Policies ENV1(2), T1, T2 and T7 of the Local Plan and the NPPF.

Nature Conservation, Ecology and Protected Species

- 4.43 The site slopes down to the west towards a large pond which is a SINC. A group of trees surrounds the northern section of this pond. A Phase 1 Habitat Survey was submitted with the original application and updated reports looking at GCN's, Water Vole, Bats and the Grassland species have been received.
- 4.44 It is now accepted the SINC pond is less valuable for wildlife due to its use by anglers. As such it is unlikely that GCN's will be present. Yorkshire Wildlife Trust consider conditions to ensure that the pond is not negatively affected by the development are still essential. Updated surveys on Water Voles have been received also on the presence of GCN on other nearby ponds and no specific concerns are raised. The most recent Bat survey does not raise any issues and the County Ecologist advises the standard precautionary approach to demolition of the building within the site and removal of the tree.
- 4.45 In relation to the hedgerows, concerns were raised when the application was first submitted that hedgerows had been removed. However, no evidence has been provided on whether these were 'important' under the Hedgerow Regulations. Trees and hedgerows along the western boundary would be retained. The opportunity exists to plant new hedging as part of the boundaries to the scheme as part of a landscaping scheme. Details can be conditions for subsequent approval.
- 4.46 The updated extended Ecological survey and grass survey earlier this summer resulted in concerns regarding the loss of an area of semi improved grassland and the hedgerows at the centre of the site. It was advised that there was a need for a Biodiversity Mitigation and Enhancement Plan to include all necessary measures to mitigate and compensate for the impacts identified. If compensation for the loss of grassland and hedgerows cannot be provided on site then the applicant was advised to make provision offsite. Commitment to the provision of this compensation needed to be resolved prior to determination.

- 4.47 The initial response was to provide a new area of grassland on site as informal open space to mitigate for the loss. However, this was considered unsatisfactory because the public access to the site would likely lead to damage to species and regular need to keep these areas mown and tidy for use by nearby residents.
- 4.48 As such the applicants have discussed possible options with the County Ecologist and with the Yorkshire Wildlife Trust (YWT). Since on-site mitigation has not proved possible, a scheme for off-site mitigation has been explored. A contribution to pay for an off-site scheme has been considered which would make a very valuable contribution to the work of the YWT at Barlow Common Nature Reserve. This would be for the renewal of rabbit proof fencing around meadow areas on the reserve. The fencing will protect orchids and other wildflowers and improve the floral diversity of the site. Cost of the fencing for all the meadow areas would be £8090 and administration would be £700 making a total of £8790. This would be a very specific proposal which would increase the enjoyment of the site for visitors as the footpaths are adjacent to the meadow areas. The fencing would also improve the biodiversity of the site and help to increase the long term survival of meadow species.
- 4.49 Without adequate mitigation the loss of the grassland and hedgerows would lead to unacceptable harm to ecological interests. As mitigation cannot be provided on site, offsite mitigation in this way would overcome the harm and meet all of the 6 tests required for planning conditions as set out in Para 55 of the NPPF. As it is a financial contribution a S106 is the most appropriate way to secure the payment and meets the tests set out in para 56 of the NPPF.
- 4.50 It is concluded that this scheme would be appropriate Ecological Mitigation and compensation for the loss of semi improved grassland and hedgerow at Hillam as it would enable a larger area of meadow to thrive which is of wider public benefit. The developer would, under the terms of the S106, pay the money to Selby DC upon commencement of the development. SDC would then be bound under the S106 to ensure the money is used towards the agreed scheme. YWT would apply to SDC to release the funds for the project. A condition should be imposed to ensure the recommendations of the Ecological Assessments are adhered to.
- 4.51 Subject to the above conditions and the satisfactory completion of the S106, the scheme can be considered to be acceptable and compliant with ENV1 of the Local Plan, SP18 of the Core Strategy and with the NPPF.

Flood Risk, drainage and climate change

- 4.52 The application site is located in Flood Zone 1, which comprises land assessed as having a less than 1:1000 annual probability of flooding. It is therefore low risk and is considered to be at a low probability of flooding.
- 4.53 The application is accompanied by a Flood Risk Assessment which examines potential flood risk as above and considers the options for Surface water drainage and Foul water drainage. The Environment agency, Yorkshire Water and the IDB raise no objections subject to a series of conditions and informative which are attached.
- 4.54 The Flood Risk Management officer required further information which has now been provided. They have been re-consulted and recent response recommends conditions.

4.55 The scheme can be considered to provide acceptable drainage and to be in accordance with Policy SP15 of the Core Strategy and Policy ENV1 of the Local Plan.

Residential Amenity

4.56 One of the core planning principles of the NPPF is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. The key considerations in respects of residential amenity are considered to be the potential of the proposal to result in overlooking, overshadowing and overbearing.

4.57 The layout plan is a significant further improvement over the previous scheme. The distance and relationship between the proposed dwellings and existing properties is acceptable with more than the required minimums. The layout plan demonstrates that a satisfactory standard of residential amenity which respects the amenity for current occupants can be achieved. A satisfactory standard of amenity for the proposed dwellings is also demonstrated. Full planning permission is sought and therefore it is considered appropriate to impose a condition limiting the number of dwellings on the site so that these are not increased through revisions.

4.58 Comments have been received raising concerns over the noise and disturbance from construction. However, the construction phase of the development is a temporary situation and does not affect the planning considerations for the permanent development of the site. However, a construction management plan (by condition) which would help to alleviate the worst harm arising from the impacts of the site construction and to protect the amenity of local residents. The Environmental Health and Highway Authority both recommend the imposition of a condition to control the impact of noise, vibration, dust and dirt on existing residential properties and traffic and parking associated with the construction.

4.59 It is therefore considered that an appropriate scheme could be designed which would ensure that no significant detrimental impact is caused to existing residents through overlooking, overshadowing or creating an oppressive outlook in accordance with Policy ENV1(1) of the Local Plan and the NPPF.

Contaminated land and ground conditions

4.60 The Council's Contamination Consultant (WPA) was consulted and considered that the submitted Phase 1 Investigation comprehensively meets the requirements of good practice. Standard conditions CL1 and CL5 are advised.

4.61 The proposals, subject to conditions would therefore be acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

Recreational Open space

4.62 Policy RT2(b) states that for schemes of more than 10 but less than 50 dwellings there are four options for the provision of recreational open space and that these are subject to negotiation. The applicants have indicated that they will provide an area of recreational open space compliant with the required open space requirements.

- 4.63 In terms of the general provision of the ROS land, the position within the site and the quantum of space provided is acceptable. It meets the requirements of RT2 in terms of the amount of land provided. The area will be in the centre of the site providing an open landscaped area which will link in with the PROW. The details of the laying out, planting and landscaping could be covered by a condition.
- 4.64 The Parish Council have raised questions about future maintenance. However, it is understood this would be managed by an appropriate body and made available for residents of the site and the village as a whole.
- 4.65 It is considered that subject to a Section 106 agreement to secure the on-site provision of Recreational Open Space and its future maintenance, the proposals are appropriate and accord with Policies RT2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

Affordable Housing

- 4.66 Policy SP9 states that the Council will seek to achieve a 40/60% affordable/ general market housing ratio within overall housing delivery. In pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings.
- 4.67 The policy goes on to state that the actual amount of affordable housing to be provided is a matter for negotiation at the time of a planning application, having regard to any abnormal costs, economic viability and other requirements associated with the development. The applicants have agreed to the provision of 40% AH at this stage in accordance with Policy SP9.
- 4.68 The Selby District Council Strategic Housing Market Assessment 2009 has identified a need for both 2 and 3 bedroom affordable homes with a required tenure split of 30-50% Intermediate and 70-50% Rented. The Section 106 agreement would secure up to the 40% provision on site and would ensure that a detailed Affordable Housing Plan is provided setting out the size and tenure mix. However, a different mix may be considered if it has been agreed in principle with an identified Registered Provider (RP) partner. The outline scheme proposes a total of 33 no. units, and as such our Core Strategy requires a contribution of up to 13 units. The applicants have agreed to this level of provision which could be secured by way of a Section 106 agreement.
- 4.69 The applicants consider that the 40% Affordable Housing provision would be a material consideration weighing in favour of the proposal. No other planning consents with AH has been granted for this settlement. However, no current need has been identified for Hillam and there is nothing to indicate a greater need in Hillam than in other DSV's or that this DSV has less provision than others. The applicants say that demand exist from registered providers in Hillam. However, this does not justify overriding the spatial strategy for the district since demand may exist everywhere and there is no comparison to show any greater demand here than any other location. The applicant provides information to demonstrate that affordability rates are higher in Hillam than in other villages. However, the figures provided show higher prices for the larger houses but average prices for smaller semi-detached dwellings. Also the figures provided are house sales that have occurred and are not based on average house values for the village as a whole

- 4.70 The proposals are therefore considered acceptable with respect to affordable housing provision having had regard to Policy SP9 of the Core Strategy subject to the completion of a Section 106 agreement.

Education Healthcare and waste recycling

- 4.71 Policies ENV1 and CS6 of the Local Plan and the Developer Contributions Supplementary Planning Document set out the criteria for when contributions towards education, healthcare and waste and recycling are required. However, education is now covered by CIL. The education authority say that additional primary school places would be needed as a result of the development and prior to CIL a contribution would be sought.
- 4.72 With respect to Waste and Recycling, a contribution of £65 per dwelling would be required and this would therefore be secured via Section 106 agreement.
- 4.73 Since the applicant has agreed to make appropriate contributions by way of section 106 towards re-cycling facilities the proposals comply with policies ENV1 and CS6 of the Local Plan, Policy SP19 of the Core Strategy and the Developer Contributions SPD with respect to developer contributions.

5.0 CONCLUSION

- 5.1 The proposal would be the release of a large Greenfield site outside of development limits. It would therefore conflict with the fundamental aims of Policies SP1 and SP2 and SP5 of the Core Strategy which should be afforded substantial weight.
- 5.2 The proposal does not constitute any of the forms of development set out under SP2A(c). The development would be contrary to Policy SP2 of the Core Strategy. Substantial weight to the conflict with the development plan should be given. The proposal should therefore be refused unless material considerations indicate otherwise.
- 5.3 The site is safeguarded land which has been set aside from the Green Belt and has been considered as suitable for future development beyond the 2006 plan period. There is no specific time period for a review, only that it should take place through a future Local Plan Review. The Core Strategy deals with Green Belt issues and Policy SP3 replaced all the SDLP Green Belt policies although it did not replace the Safeguarded Land policy. That is because, as the Inspector noted in his report:

“It is the role of this Core Strategy to set out the factors that will govern any Green Belt boundary reviews that are deemed necessary at the SALP stage.”

The existing SDLP SL1 policy is site specific and identifies the sites and protects them from development and still stands (until replaced or deleted by a future plan). The process of reviewing SL as part of a LP review has been clear at Selby but has not yet reached the stage where it is considered appropriate.

- 5.4 The existing Selby District Local Plan Policy SL1 is site specific and identifies the sites and protects them from development and still stands (until replaced or deleted by a future plan). Moreover, the Council still has a robust 5 year housing supply. The decision to release safeguarded land for housing development should therefore be resisted. If it was to be released now, at a time when the Council does have a 5

year supply, then the Green Belt itself could become threatened at a time when it does not.

- 5.5 It is acknowledged that the site is in a reasonably sustainable location and it is acknowledged that a development of this scale would help make a positive contribution to the overall sustainability of local services and facilities and would enhance the vitality of the rural community. However, paragraph 12 of the NPPF makes clear that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. When a planning application conflicts with an up to date plan permission should not normally be granted.
- 5.6 The case put forward by the applicants that Hillam has had very little growth and have not met the 'apportioned' quantum of housing envisaged for the DSV's is not correct. The overall level of development for the DSV's envisaged in CS Policy SP5 has been exceeded. Moreover, the cumulative level of development for the DSV taking into account previous completions and permissions with the proposed development would exceed the growth option advised for the DSV. As previously indicated growth options have limited weight but provide the best guide and have been acknowledged as such in recent appeal decisions. The other sites in the settlement mentioned in the growth levels are mainly within the settlement. For the same reason, little weight can be attributed to the lack of alternative sites due to the village being surrounded by Green Belt.
- 5.7 The fact the Council now has a 5 year land supply does not mean that all applications should be refused. There is a need to continue to maintain that supply. This provision of 32 houses which would contribute to the supply is a factor providing some weight in favour of the proposal. Similarly the 40 % Affordable Housing provision amounting to 13 units in the village would be a positive benefit especially since no other planning consents with AH has been granted for this settlement. However, for the reasons stated in the report this does not justify overriding the spatial strategy for the district. Overall it is concluded that the benefits of the housing and AH provision are not so significant in this location to provide justification to set aside the conflict with the development plan.
- 5.8 In terms of the impacts of the proposal, no specific harm is identified in terms of the impact of the development on the Character and appearance of the area, Highway Safety, Flood Risk, Residential Amenity, Recreation, Contamination and Waste Recycling. In terms of Ecology, harm is identified but the applicants have provided an acceptable compensation package to mitigate the loss. In terms of Heritage Assets, the harm is considered to be 'less than substantial'. In these circumstances the NPPF makes clear that this level of harm should be weighed against the public benefits of the proposal which have not been proven to be provided in this case. As such the development would conflict with Policies ENV1 of the Selby Local Plan, Policies SP18 and SP19 of the Selby Core Strategy and the NPPF in this respect.
- 5.9 It is therefore concluded that the weight in favour from the housing provision does not outweigh the other conflicts with the development plan and the harm to the spatial strategy for the district. It is therefore considered that material circumstances do not exist which is sufficient to outweigh the conflict with the development plan and the application should therefore be refused.

6.0 RECOMMENDATION

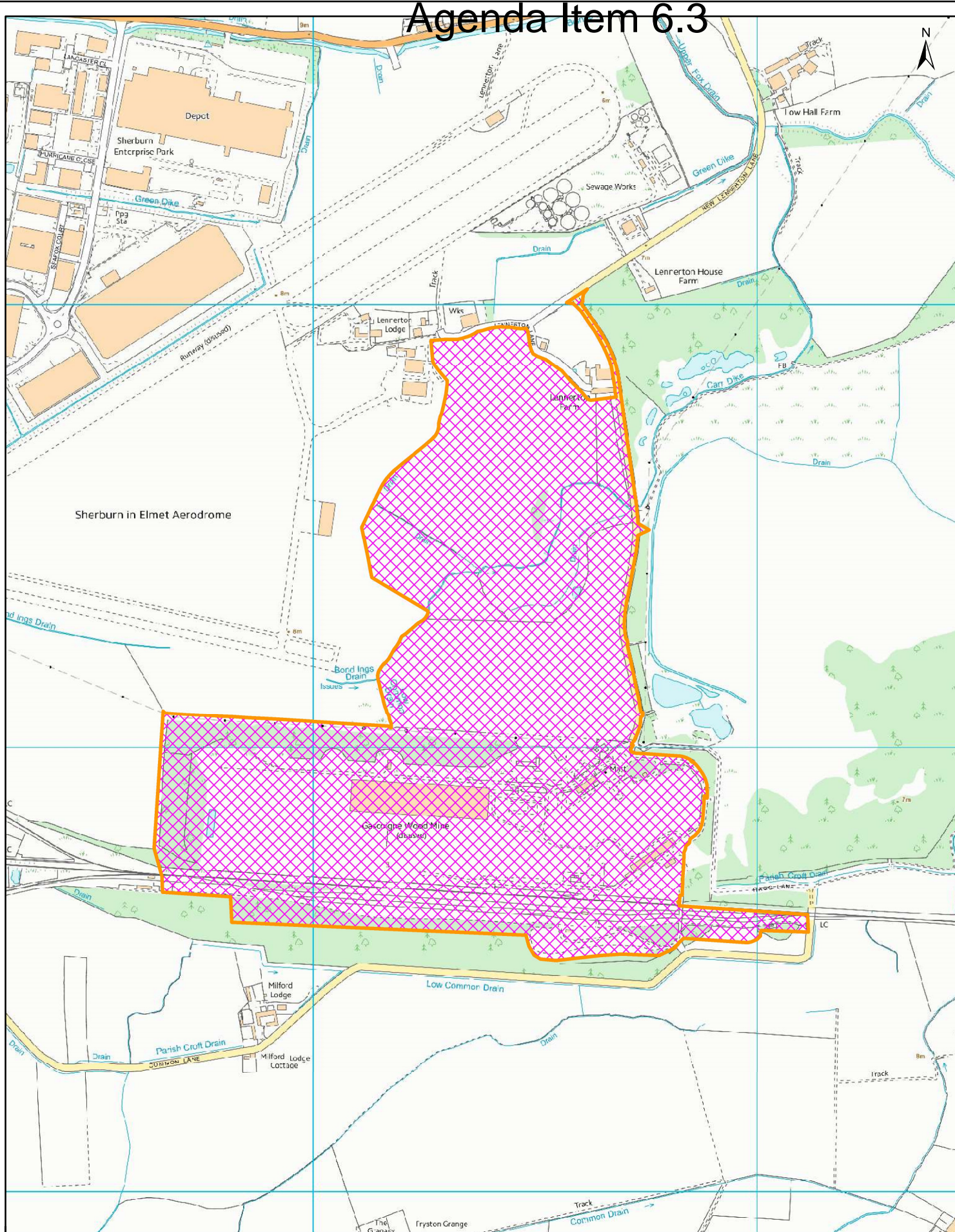
That the application be REFUSED for the following reasons;

- 01 The site is Safeguarded Land as identified in the Selby District Local Plan 2005 and the release of any safeguarded land, if required, should be carried out in a controlled and phased manner extending over successive reviews of the Local Plan. As such the site should be kept free from permanent development at the present time in order to maintain its availability for development in the longer term. The release of this safeguarded land at Hillam at a time when the Council have a robust housing land supply and where the target for housing in DSV's has been exceeded would conflict with the requirements of the Policy SL1 of the Local Plan, Policies SP2 and SP5 of the Selby District Core Strategy and with the NPPF and could lead to encroachment into the Green Belt should further housing land be needed in the future.
- 02 The Designated Service Settlement of Hillam/Monk Fryston already has extant approvals on smaller sites for a total of 31 dwellings and capacity for growth therefore already exists in the village and the minimum target for DSVs in the district has been exceeded by completions and permissions in those settlements as a whole. The development would therefore result in a level of expansion of the settlement which would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. There are no other material considerations which in the opinion of the Local Planning authority outweigh the conflict with Policies SP1, SP2, SP4, and SP5 of the Core Strategy and with the NPPF.
- 04 The proposed development would give rise to harm to the Heritage Assets, which is less than substantial. Since adequate housing provision exists within the District then the harm is not outweighed by any wider public benefits due to the provision of housing or any other public benefit. The development would therefore conflict with Policy SP18 of the SDCS LP and with the NPPF.

Contact Officer:

Fiona Ellwood, Principal Planning Officer
fellwood@selby.gov.uk

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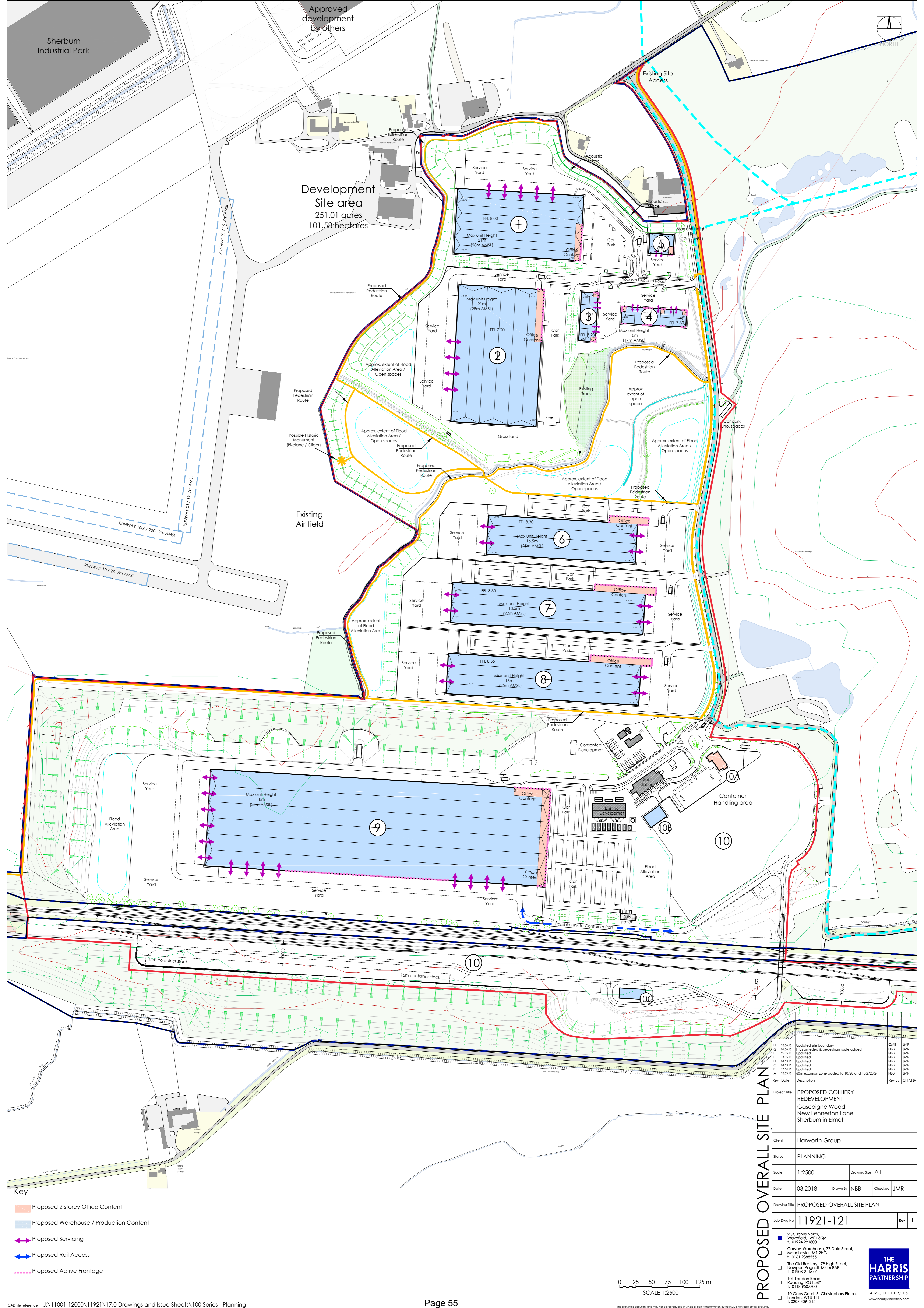
APPLICATION SITE

Gascoigne Wood, Lennerton Lane, Sherburn in Elmet
2018/0818/EIA

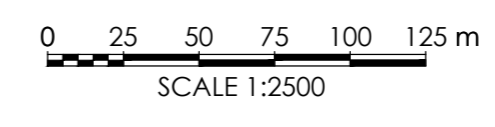
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- Key**
- Proposed 2 storey Office Content
 - Proposed Warehouse / Production Content
 - Proposed Servicing
 - Proposed Rail Access
 - Proposed Active Frontage



PROPOSED OVERALL SITE PLAN

Rev	Date	Description	Rev By	Chkd By
H	26.04.18	Updated site boundary	CMB	JMR
G	04.04.18	FFL's amended & pedestrian route added	NBB	JMR
F	25.03.18	Updated	NBB	JMR
E	14.03.18	Updated	NBB	JMR
D	02.03.18	Updated	NBB	JMR
C	02.03.18	Updated	NBB	JMR
B	17.02.18	Updated	NBB	JMR
A	28.01.18	40m exclusion zone added to 10/28 and 10G/28G	NBB	JMR

Project Title	PROPOSED COLLIERY REDEVELOPMENT Gascoigne Wood New Lennerton Lane Sherburn in Elmet		
Client	Harworth Group		
Status	PLANNING		
Scale	1:2500	Drawing Size	A1
Date	03.2018	Drawn By	NBB
		Checked	JMR
Drawing Title	PROPOSED OVERALL SITE PLAN		
Job/Dwg No	11921-121	Rev	H

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Report Reference Number: 2018/0818/EIA

To: Planning Committee
Date: 5 December 2018
Author: Paul Edwards (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0818/EIA	PARISH:	South Milford Parish Council
APPLICANT:	Harworth Group PLC	VALID DATE: EXPIRY DATE:	17 July 2018 2018 16 October 2018 Extension of time agreed through a PPA
PROPOSAL:	Outline planning application with all matters (scale, appearance and layout) except access and landscaping reserved for the demolition of existing colliery buildings and construction of up to 186,000 sq m (approx. 2,000,000 sq ft) of Class B2/B8 and associated Class B1 floor space with supporting container storage area and associated buildings, trackside facilities, access and landscaping.		
LOCATION:	Gascoigne Rail Freight Interchange Former Gascoigne Wood Mine New Lennerton Lane, Sherburn in Elmet		
RECOMMENDATION:	That Committee is: Minded to Approve this application and it is referred to the Secretary of State under the 2009 Consultation Direction, and Subject to the application not being called-in for determination by the Minister, authority is delegated to the Planning Development Manager to grant the application subject to the detail of this report and the full recommendation below.		

This application is to be considered by the Planning Committee since the scheme of delegation requires either Environmental Impact Assessment or Departure applications to come to Committee.

1. Introduction and Background

Procedural

- 1.1 This is an Environmental Impact Assessment outline planning application that is accompanied by an environmental statement under the provisions of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The Regulations transpose a European Directive which prohibits the granting of permission for development which is likely to have a significant effect upon the environment unless an environmental impact assessment (EIA) has been carried out. The process of environmental impact assessment includes the preparation of an environmental statement (ES); public consultation on the proposals; examination by the planning authority of all of the information including consultation responses; the authority coming to a reasoned conclusion of those significant effects and the integration of that reasoned conclusion into the decision on whether to grant consent.
- 1.2 A Screening Opinion was issued by this Council dated 19 March 2018 (2018/0228) which determined that this proposal would constitute EIA development. The issues of significance that the ES should address were identified as Transport and Access, Noise and Landscape / Visual impacts. The EIA Regulations also require both a description of the reasonable alternatives studied by the developer and reasons for the options chosen; together with a study of the cumulative effects from the development combined with other proposed or permitted schemes in the area to be considered which, acting together may generate elevated levels of effects.
- 1.3 An EIA application has specific publicity and consultation requirements and a minimum 16-week determination period. This application is the subject of a Planning Performance Agreement (PPA) which is an agreed process covering pre-application engagement, resourcing, project aims and timescales such that the determination period is, by agreement, taken out of the statutory 16-week period.
- 1.4 The Town and Country Planning (Consultation)(England) Direction 2009 in the otherwise now cancelled Circular 02/09 defines categories and sizes of application that, should the authority wish to approve, must be referred to the Secretary of State to give him the opportunity to 'call-it-in' for his own determination. Major development outside of town centres to which this Direction applies is for retail, leisure or office use in excess of 5,000 sq m and which is not in accordance with one or more provisions of the in force development plan. The Direction does not refer to Class B2 or B8 floorspace specifically but since the application is recommended for approval and includes some Class B1 office use in an out of town location, the application should be referred to the Minister if Committee are minded to approve it. The full recommendation below reflects this.
- 1.5 The Planning Act 2008 defines projects that are Nationally Significant Infrastructure Projects (NSIPs) and which go through a different development consent procedure defined in the 2008 Act since NSIPs do not require 'planning permission'. Applications proposing an NSIP are determined by the relevant Minister through a process operated by the Planning Inspectorate and generally types of NSIP fall into the categories of energy, transport, water, waste water and waste. Rail Freight Interchanges (RFI) are a specific category of NSIP and the **construction** (my emphasis) of an RFI – a facility for the transfer of goods between railway and road (or any other form of transport) – is an NSIP to which the 2008 Act applies if the land on which the RFI is situated is at least 60 ha in area or the effect of an

alteration is to increase by at least 60 ha the area of land on which the RFI is situated.

- 1.6 The application does not propose the construction of a RFI since the entire rail and transfer facilities are already in place. This application proposes 186,000 sq m of new floorspace which shall be linked to the RFI and thus since a RFI is not being constructed nor altered, it does not fall into the category of an NSIP.

The Site and Context

- 1.7 The application site extends to some 101.58 ha (251 acres) of which 43 ha (106 acres) is agricultural land to the north of and outside of the bunded former Gascoigne Wood colliery site. The site is accessed via a private colliery road (7.3m wide) with a 20mph speed limit from its junction with New Lennerton Lane 0.8km to the north of the existing site entrance. The adopted New Lennerton Lane then forms a T junction with the B1222 Bishopdyke Road a further 0.6km to the north. The private colliery road defines the eastern boundary of the northern parts of the site proposed on agricultural land outside of the bunded former colliery.
- 1.8 The centre of Sherburn in Elmet is approximately 2.4km to the west of the New Lennerton Lane junction and the B1222 on its way west to Sherburn passes both the Sherburn Enterprise Park (SEP) and its extension 'Sherburn 2' (S2) (under construction) on its south side before crossing the A162 bypass into Sherburn.
- 1.9 The Sherburn Aero Club lies generally between the application site and the SEP and S2 to the north west and north and there are industrial, residential properties and a YW water treatment works to the north of New Lennerton Lane. Beyond these is a part of the former airfield runway, known as the Proving Ground but which is now part of the S2 site. To the east and north east of the application site are the mounded mine spoil disposal areas that have been grassed and restored to semi woodland, rising approximately 43 m above the relatively flat agricultural land of the application site.
- 1.10 The Selby to Leeds double tracked railway line, which connects to the East Coast Main Line at Hambleton Junction passes through the southern parts of the site, beyond which to the south of the main line are a range of rail sidings, some open land and the southern mine complex bunds up to 15m high that were created at the time that Gascoigne Wood mine was developed. A bridge over the rail tracks owned by the applicants connects the southern sidings (up to 1.3km in length) with the main body of the site.
- 1.11 The main body of the former mine, similarly surrounded by planted bunds to the north and west between 12m and 20m high contains some former mine buildings. The principal retained building is the large covered stockyard (19,510 sq m) presently used by British Gypsum and there are some smaller former workshop and stores buildings (~1,800 sq m) along the southern access road and railway boundary. The enclosed bunded area extends to some 69 ha, of which 27 ha comprises of the landscape bunds.
- 1.12 There are no statutory national or local landscape or wildlife designations on the application site. The site does not contain any protected trees and there is no Conservation Area or nearby listed buildings that are affected. In Landscape Character terms the site is practically surrounded by modified landscapes. The majority of the site is within Flood Zone 1 or 2 with the central part of the agricultural

land either side of the line of the Carr Dyke which runs generally east to west across the site, in defended Zone 3. A public footpath follows the line of the site access road from New Lennerton Lane to the site entrance and then turns east around the southern flanks of the spoil heap and the eastern application site boundary to then become Hagg Lane, crossing the railway line at the Hagg Lane level crossing to then become Common Lane. Common Lane then strikes west, skirting the southern flanks of the southern bunds to then return to South Milford some 3km to the west.

The Proposal

- 1.13 This is an outline EIA application with details of 'access' and 'landscaping' submitted as part of the proposals. The other three reserved matters of 'scale', 'layout' and 'appearance' are reserved for future submission and approval. Thus the precise number, location, scale and appearance of units, up to a maximum floorspace of 186,000 sq m (2,000,000 sq ft) of principally B2 and B8 floorspace is not in front of the authority at this time. Any outline approval will enable future 'reserved matters' applications to provide this detail and to be controlled under the terms of any outline permission. The applicant states that it is intended to be a manufacturing led facility making use of the existing unique rail infrastructure opportunity.
- 1.14 Access is shown to be via the use of the existing mine access road serving the agricultural land off its west side whilst the former colliery site and the south side of the railway are also accessed using this existing road and site entrance. The ability to link the site to linkages being sought to the north -west to S2 over third party land cannot be by positive requirement but given the intention in the Design Guidance Document, the approved layouts at any reserved matters must not prejudice those future connections that are being pursued with relevant parties. Landscaping is in respect of the defined areas of strategic landscaping around the perimeters of and within the site in order to seek to achieve wider landscape impact mitigation.
- 1.15 The application is accompanied by the following documents:
- Environmental Statement
 - Design and Access Statement
 - Design Guidance Document
 - Statement of Community Involvement
 - Transport Assessment (TA)
 - Framework Travel Plan (FTP)
 - Rail Reports (in three volumes)
 - Industrial and Logistics Market Commentary
 - Economic Benefits Statement
 - Noise Impact Assessment
 - Phase 1 Habitat survey
 - Framework Landscape and Biodiversity Management Strategy
 - Arboricultural Assessment
 - Advanced Landscape Proposals Pre-Construction Plan
 - Coal Mining Risk Assessment
 - Aviation Safeguarding Review
 - Flood Risk Assessment (FRA)(inc updated Sequential test)
 - Preliminary geo-environmental risk assessment
 - Position Statement on Existing Planning Consents

and a series of accompanying plans, drawings and photomontages including:

Indicative layout (masterplan)
Parameters Plan
Block Plan
Surface water and drainage plan

- 1.16 Since the application is in outline the intention is that specified documents and drawings (particularly the Design Guidance Document and the Parameters Plan) will become a part of any approval so that certain design and floorspace principles are established. In this way, future reserved matters applications will be required, where relevant, to be in accordance with the agreed parameters.
- 1.17 In describing the site and setting out the varying outline proposals across it, the proposal is categorised over four areas, A, B, C and D.
- Area A extends to the northern extremities of the application site to Lennerton Lane and Lennerton Farm House. The western site boundary is the Sherburn Airfield boundary and to the south is the sinuous line of the Carr Dyke.
 - Area B is all that land to the south of the dyke, with the airfield boundary to the west and the private colliery road to the east. The southern boundary of Area B is the northern limit of the bunded former colliery site
 - Area C is the entire bunded site north of the railway line, and
 - Area D is all the application land south of the railway, including the sidings, a former signalling building and the flanks of the bunds to Common Lane.

Relevant Planning History

- 1.18 The land outside of the bunded former mine is ostensibly agricultural and there is no history of any relevant applications or approvals in that part of the site.
- 1.19 The Gascoigne Wood mine was the central hub of the Selby Coalfield developed in the 1980s which was, at that time, the largest deep coal mining project in the world. All of the coal from the mines came to the surface through two drifts at Gascoigne Wood where it was treated and then distributed via the rail network. At its peak 12 million tonnes of coal per year were distributed from Gascoigne Wood through 15 trains a day - until the closure of the coalfield and of this site in 2004.
- 1.20 Application 2005/0673 for the continued use of the site and sidings was made in June 2005. This application was called-in for the Secretary of State's decision and planning permission for the 'Retention and Reuse of Suitable Buildings, car parking and infrastructure and the continued use of the rail sidings' was granted by the Minister on 13 August 2007 following a Public Inquiry held between the 5 and 12 March 2007 ('the 2007 consent')(APP/N2739/V/06/1199354) (**Appendix 2** to this Report).
- 1.21 Conditions on the permission included identification of the buildings to be retained (Condition 1), and that the defined retained B2 and B8 buildings may only be used by occupiers using the existing rail facilities on the site and their main line connections (Conditions 2 -5). Condition 8 required defined rail facilities on the north and south sidings to be retained and not removed, and for periodic checks to be

made to ensure the facilities were maintained to industry standards. Condition 7 required the demolition, within six years, of any retained building if not used wholly or mainly for rail related uses by occupiers using the rail facilities on site within five years of the date of the permission.

- 1.22 In granting permission, the Secretary of State found that the proposal was not in accordance with the development plan as a whole but that it gained most support from development plan policies that encouraged distribution of freight by more sustainable means, including rail; make the best use of existing transport networks and seek to ensure that where railway land has the prospect of re-use, that prospect is not prejudiced (para 13 the 2007 consent). The then Minister concluded that the scheme was not sustainable but in considering other material considerations gave weight to the benefits of reusing a valuable asset in the form of the railway infrastructure and that there were significant benefits in bringing the site back into industrial or distribution uses that can make use of the rail connections and foster the movement of goods by more sustainable means. Weight was given to the planning obligation to assist in promoting more sustainable means of travel and that the risk of harm of leaving unoccupied buildings would be mitigated by the condition requiring their removal in the event that they were not brought into use (para 25).
- 1.23 The Minister continued in her conclusions that the proposal would be difficult to accommodate in an urban area and would make use of existing bunds that are recognised as a valuable feature in the landscape. Overall (para 27) she considered that the benefits outweighed the conflict with the development plan and national policy and in this particular case determined that permission should be granted.
- 1.24 Subsequently, application 2011/0579 approved in October 2011 granted consent for the change of use of the retained workshops and stores for tyre recycling. It was subject to a condition that it may only be used for Class B2 and B8 purposes and then only by occupiers using the existing rail facilities. The agreed Planning Position Statement accompanying the current application records that the use was implemented but ceased in 2014. This 2011 consent supersedes the 2007 consent and since there are no requirements to demolish them, the buildings have a lawful use for tyre recycling, connected to the rail facilities.
- 1.25 It is common ground with the applicants that the other retained building from the 2007 consent, the amenity block, was demolished in 2014. It is also common ground that the large covered stockyard building used by British Gypsum has been in use since 2011 and with the material being imported to the site by rail, is in accordance with the 2007 consent.
- 1.26 There are two more recent approvals within the current application site, one for a STOR (short term operating reserve) diesel powered generating facility (2014/0017) to the east of the covered stockyard which is nearing completion and, secondly 2015/0674 for a bio-fuelled STOR power generation plant adjacent to the northern colliery boundary on the site of the former amenity building whose implementation has not commenced on site. It is understood that these operations would be unaffected by and can co-exist with the application proposals.
- 1.27 In accordance with good practice, this application has been the subject of without prejudice pre-application discussion, community engagement and consultation prior to its submission in July 2018. A series of Steering and Project Groups were

established to identify and engage partners including, amongst others, Highways, Urban design and Landscape advisors; and in drawing up the PPA.

2. CONSULTATION AND PUBLICITY

2.1 The application has been statutorily advertised by site and press notice and by letters to all adjoining properties and businesses together with those residential properties further afield but identified as 'sensitive noise receptors' in the Noise Impact Assessment report.

2.2 **South Milford Parish Council (SMPC)** supports the application since it will 'largely improve the area and provide a large number of jobs'. This support is however subject to requesting SDC taking into account the following:

- The Council request sight of or preparation of a Transport Assessment [TA] which was not available to view and the need for an assessment of the increase in lorries and cars to and from the development. SMPC has concerns that there will be a marked increase in traffic particularly HGVs – this will damage roads, create air pollution and increase congestion.
- The Parish could not see any proposals to improve road infrastructure to increase capacity and would wish to see adverse consequences addressed.
- The Council could not see the specific proposals referred to in order to improve cycle and pedestrian infrastructure and connectivity and the target 5% decrease in single driver occupancy car trips in the FTP will not be achieved without such measures.

2.3 The SMPC has since accessed the TA with assistance from officers and has commented that there do not appear to be plans to build a cycle path to provide a safe cycling route between the site, Sherburn or South Milford train stations. Thus the Parish Council maintains its comment that the full application should include the development of pedestrian and cycle routes to access the site from the stations in order to increase the numbers of commuters cycling safely, healthy living and reducing air pollution and road congestion.

2.4 **Sherburn in Elmet Parish Council** objects to the application on the grounds that the Council has concerns about:

- The road and rail capacity, particularly vehicles at night, and;
- The information provided is inadequate on ecological grounds.

2.5 **Monk Fryston Parish Council** requested that their concerns should be registered about:

- The development adding to the continual growth of traffic both through Monk Fryston village and onto the A162/A63 roundabout. In a traffic survey commissioned by the PC at the end of last year the Council says that over the 14 day period of the survey, 140,000 vehicles entered the village of which 13,000 were heavy goods vehicles.
- This development if approved, the Parish Council continues, will only add to this already unsatisfactory situation and will be yet another addition to the cumulative effect arising from additional traffic generated by the building-out of planning consents already granted.

- 2.6 **The County Highway Authority** made a number of detailed comments and raised questions on the submitted TA. At that stage it was suggested that the following are undertaken:
- A Stage 1 Road Safety Audit for 'Junction 8' (the Bishopdyke B1222/New Lennerton Lane junction).
 - A reassessment of the visibility requirements and hence of the necessary mitigation at this junction.
 - Further information and validation of the modelling at this and some other junctions and clarification of statements.
- 2.7 On the Framework Travel Plan, there were detailed comments that needed addressing relating to modal shift targets, responsibilities of the TP coordinator compared to tenants, monitoring and review, funding and resourcing.
- 2.8 Detailed junction modelling has been concluded and the final Highway Authority response has now been received. The Authority comments that the applicants' TA, in modelling trip generation and distribution includes the trips generated by other major committed developments in the Sherburn area. Since the application is in outline, the number of trips the site can generate has been based upon a worst case scenario of 100% of the floorspace going to B2. In view of this, it has been agreed with the applicant that future traffic generation will be monitored by the development to ensure that it remains within the levels assessed. The monitoring regime is proposed in the FTP and can be controlled by condition on any approval. Measures in the FTP would then be triggered in order to reduce impacts.
- 2.9 Subject to the imposition of the conditions agreed with the Highway Authority as set out in the recommendation below and the entering into of a planning obligation, to which the Highway Authority would be a party reflected also in the terms below, there are no outstanding highways objections.
- 2.10 **The County Principal Archaeologist** initially replied that the south sidings and the agricultural land had archaeological potential and requested a desk based assessment followed by geophysical investigation. Following receipt of and his consideration of the requested assessments, the Archaeologist has confirmed that there are no objections and that he has no further comments to make.
- 2.11 **The County Public Rights of Way Officer** requests an Informative on any permission to protect PROWs adjacent to the site.
- 2.12 **County Fire and Rescue** has replied that it has no objections to the application at this stage. It will, it says, make further comment when it receives its statutory building regulations consultation.
- 2.13 **The County Principal Landscape Architect** expressed concern that the development would likely have significant landscape and visual effects. It is accepted that Areas C & D would be unlikely to be adversely affected given the existing landscape and presence of bunds, subject to protection and retention. The highly visible frontage from the railway needs a good landscaping scheme to screen and a control over the height of shipping container stacking.
- 2.14 On the northern parts of the site, Areas A and B outside of the bund, he opines that this is a significant extension into the open countryside which is moderately sensitive to development. Although the spoil mound screens the northern parts from

the east and south, this part is visible from close range and from the west. On the earlier Parameters Plan, he said that the massing and heights do not relate to context and these effects are not sufficiently reduced through mitigation.

- 2.15 A tree survey, assessment and protection plan is requested for those areas affected by development and, he continues, the Design Guidance Document is not clear enough to ensure good design or sufficient mitigation.
- 2.16 The Principal Landscape Architect concluded that it was not acceptable in its current form and requested that the Design Guidance is altered to provide sufficient stand-off, reduce building mass and height substantially; with a transition in height across the site and to incorporate planting to soften and integrate. Impacts on Lennerton Lane and on residential properties need to be carefully considered and more clarification is required on phasing, the timing and scope of advanced, strategic planting and landscaping works.
- 2.17 The Design Guidance Document has since been significantly further amended and updated to reflect officer comments and concerns and is now in a form that has officer support.
- 2.18 **The County Ecologist** noted initially that a number of further surveys were still awaited and the Framework Landscape and Biodiversity Management Strategy was incomplete until they had been received. This would then enable a fuller understanding of the presence of identified protected species, the impacts upon them and the ability to then develop measures to avoid, mitigate, compensate and enhance. Permission, she concluded, should not be granted until the outstanding matters and concerns had been addressed.
- 2.19 Revised surveys and further proposals were received on 26 October and 20 November and in seeking an overall site mitigation and compensation strategy, further comments may be summarised as:
- Further bat surveys are requested pre-determination if two trees are not to be retained and enhancement measures to become a part of the masterplan.
 - Additional lighting could cause effects upon protected species and a lighting plan and full assessment should be provided before determination.
 - The presence of water vole has been confirmed; need to develop a water vole mitigation and enhancement plan; maintain/manage water quality, maintaining buffer zones around features and to secure adequate separation from key habitat features.
 - Presence of otter has been confirmed and mitigation can sensibly be included in the water vole plan.
 - In respect of the assemblage of breeding birds on the site, there is concern that the provision of retained habitats in the central parts of the site and nest boxes cannot compensate for large areas of foraging that will be lost and no consideration of the temporary impacts of displacement.
 - Specifically, the Ecologist concluded with: *“No measures for birds have yet been incorporated into the Design Guide and the Masterplan for the site so once further work has been undertaken there will be a need for these measures to be incorporated into the plans so that they can be secured. Further information is requested with regards to the indirect impacts upon birds, wintering birds and opportunities for offsite compensation and enhancement through management of land outside of the red line boundary”*.

- In conclusion, more consideration is needed in terms of mitigation, compensation and enhancement with a focus on fully demonstrating how a net gain for biodiversity will be achieved in advance of determination of this application.
- 2.20 The subsequent updates and assessments have identified those matters that may now be addressed by condition and through a necessary planning obligation. Land outside of the application site but within the (blue line) applicants' control will be the subject of additional enhancement and mitigation and subject to the incorporation of these measures into the obligation; there are now no outstanding objections.
- 2.21 **Natural England** advised that there was insufficient information with the application to enable it to determine if the agricultural land was the 'best and most versatile' (land in Grades 1, 2 and 3a) and requested a detailed Agricultural Land Classification Survey (ALC) in order for it to provide a substantive response.
- 2.22 This was prepared by the applicant and provided to Natural England on 3 October. The consultee's response is that in considering the ALC Report, the development falls outside of the scope of the requirement to consult Natural England since there would not be a loss of more than 20ha of best and most versatile agricultural land.
- 2.23 **The Yorkshire Wildlife Trust** commented initially with a holding objection that surveys were required for riparian mammals in the dikes, a full breeding bird and winter farmland bird survey and more thorough bat and great crested newt surveys. As a result of further surveys appropriate mitigation in the form of an Ecological Management Plan (EMP), a sensitive landscape management plan, Construction Environmental Management Plan (CEMP) and sensitive lighting schemes would then need to be approved by the planning authority.
- 2.24 Revised surveys were received on 26 October and the Trust has replied further. Overall the YWT says that it agrees with the County Ecologist's comments and overall conclusions (para 2.19 above). Whilst a more detailed biodiversity plan and off-site compensation were requested, the County Ecologist's updated comments and the secured solutions have now resolved these requests.
- 2.25 **The Lead Local Flood Authority (NYCC)** recommends that the documents submitted represent a reasonable approach to the management of surface water. Conditions relating to prior percolation testing relevant to the proposed SuDS, a scheme to show how flows into the watercourse(s) will be accommodated and restrictions on the rate of development flow run off, details of a scheme for surface water run off passing through interceptors and details of the maintenance and management regime of the SuDS are requested.
- 2.26 **The Environment Agency** replied that it has no objection subject to conditions. It has no objections to the submitted FRA and requests conditions on any approval relating to details of compensatory storage, contaminated land remediation strategy, verification report of the remediation strategy, unforeseen contamination, surface water and piling. It has since been agreed that a number of these requests can be addressed through a requirement by condition to proceed with the development in accordance with the submitted FRA (Condition 4).
- 2.27 **Yorkshire Water** replies that the FRA is acceptable and requests conditions relating to separate systems of foul and surface, details of surface water systems, use of interceptors and bunding for any storage tanks.

- 2.28 **The Shire Group of IDBs** has replied with a standard response that the impermeable areas of the site may be increased so the applicants will have to satisfy themselves that any surface water systems have adequate capacity to take the increased surface water from the site.
- 2.29 **The Coal Authority** has considered the applicants' Coal Mining Risk Assessment and confirms that there are coal mining features and hazards within the application site and its environs that need to be considered. The locations of the two former entries to the mine are confirmed and the Authority advises to avoid building over or close to them. In view of the indicative proposals that show a container port, the Authority concludes that an appropriate assessment of risk has been provided and has no objection to the application. The Authority requests to be consulted on any reserved matters application or should the development change.
- 2.30 **Network Rail** advises that it has no objection in principle but advises that there are requirements that must be met in relation to protection of the railway. These are outlined as including but not being limited to:
- The Hagg Lane level crossing which must be closed for operational rail safety if the site is redeveloped.
 - Use of the existing bridge over the railway.
 - Detail of future rail traffic.
 - Resolution of key issues relating to existing rail connectivity - for example signalling issues.
 - Demolition of the old rail control building on the south side of the railway.
- 2.31 In addition, in recognising that this is an outline application there are matters listed that are more appropriate to any reserved matters applications but which could be referred to in any Informatives:
- Drainage and the locations of soakaways, SuDS ponds and flow control systems; protection of existing wayleaves and assets. Locations of excavations and earthworks.
 - Fail safe use of cranes and plant.
 - Security of boundaries and method statements.
 - Agreed method statements and consultation on demolition procedures, planting, lighting and access.
- 2.32 Further clarification has been sought with both the applicants and Network Rail, particularly in respect of those requirements identified by Network Rail in para 2.30 above. The Authority's further response can now be summarised as requesting conditions relating to:
- The closure of the Hagg Lane level crossing.
 - Introduction of road vehicle incursion measures onto the bridge.
 - Planning obligation or Grampian condition to ensure progression and phasing of signalling layout issues.
- 2.33 **Police Designing out Crime Officer** has commented that the indicative design and layout from a designing out crime perspective is to be commended. Comments are offered on aspects of the design, particularly on motorcycle/ moped ground anchor points.

- 2.34 **SDC Environmental Health** in considering the applicants' Noise Impact Assessment (NIA) sought information on the rating level for plant associated with buildings. On delivery/servicing noise, colleagues agree that levels during daytime hours are acceptable but that there are significant adverse impacts during the night; and that the car park noise assessment is acceptable. HGV movements to and from the site would give moderate and major impacts and noise from such movements in night time hours would also exceed World Health Organisation guidelines along New Lennerton Lane. The overall impact from rail noise, based on capacity and frequency is considered to be negligible.
- 2.35 In conclusion a condition was requested which would limit noise from plant and machinery to not exceed background and that the authority should consider the significant adverse noise impact from HGV movements along New Lennerton Lane and connected to rail freight handling.
- 2.36 In seeking to address the latter, an independent noise consultant has been appointed and has been in dialogue and negotiation with all parties to seek methods to address, particularly, the potential effects of rail freight/container handling. The solutions that have been suggested and that are addressed in the part of the Officer Report below at para 4.36 onwards in respect of **Noise** have the agreement of the Environmental Health authority.
- 2.37 **The Sherburn Aero Club** has met with officers and the applicants to discuss the Club's concerns. The Club has objected to the application following that meeting on grounds that it summarises as:
- Safety of occupants and visitors to the proposed buildings.
 - Aircraft and pilot safety.
 - Aircraft noise affecting the proposed site.
 - Business interruption to both the Club and its tenants.
 - Present and future curtailment of the growth of tenants.
- 2.38 Whilst the Club emphasis that it wishes to work with the developer to alleviate their concerns and risks, the application does not achieve this.
- 2.39 The Club describes itself as a vitally important General Aviation (GA) airfield, the busiest in the north of England and 98% of the 40,000 to 45,000 take-off and landings per year are single engine aircraft. It is concerned that any development in close proximity to the airfield on an extension of the flight lines to and from the runway would introduce significant safety issues. The attraction of the Club to members would deteriorate should the environment be compromised in respect of safety and the continued ability to use all of their runways is vital to the viability of the Club and other aviation related businesses on the airfield. The Club is in the process of building a new hangar to hold 25 aircraft and will soon be in a position to go live on GNSS Approaches which is a new satellite based instrument landing system for the runway affected by this development and these investments will be jeopardised. The latter was partly EU funded with a view to increasing safety.
- 2.40 The Directors and staff have spent significant time and effort to secure a new 20-year lease in the furtherance of the Club's vision and business plan, the fourth consecutive lease since 1964.

- 2.41 Sherburn, it continues is a pilot training centre of regional importance, including catering for university students and commercial pilots. Significant parts of training include solo flying and the application would increase risks. Specifically, it would render runways 28/10 grass and 28/10 tarmac redundant since three buildings (in the Masterplan/ Parameters Plan) are directly on the runway approach /departure butting up to the airfield; these buildings and possible heights cause an issue since safety requires a clearly defined approach and departure corridor with horizontal and vertical margins.
- 2.42 Aircraft in such close proximity to buildings create unacceptable safety risks and noise pollution; the ability to use all runways is essential to enable safe landing and departure for single engine aircraft which, unlike large commercial aircraft are unable to cope with crosswinds and buildings in the vicinity would cause turbulence and wind shear. This is difficult for inexperienced aviators and many light aircraft would need extra room to manoeuvre for margins and changes in wind speed and direction, the Club continues. The permissions that were granted at S2 are referred to since these do not infringe the CAA rules in the CAA publication CAP 168.
- 2.43 In conclusion, the Club says that it is a fully licensed airfield with full planning permission in place. They wish to safeguard their operations in the strongest words available to them and are to consult a specialist aviation planning advisor for further advice since it believes that the safe operation of the airfield will be compromised.
- 2.44 A series of meetings and discussions have taken place to seek to find a way forward and this is further addressed below under the **Air Safety** heading at Para 4.44 onwards. Presently the Aero Club objection remains but a recommended way forward to fully consider specific effects upon the Aero Club at the reserved matters stage is set out below.

Representations

- 2.45 A total of five letters of comment/objection have been received from residents of Common Lane, South Milford; Low Garth Road, Sherburn and Milford Junction.
- 2.46 The grounds of comment from three local residents may be summarised as:
- Had been originally concerned about noise generated during and following construction, impact on air quality and wildlife and the use of Common Lane to access the site. Have been comforted following attendance at the drop-in session but would object if they are not addressed.
 - Conflicts with Green Belt policy, is the Council going to ignore its own guidance.
 - Some of the area is outside of development limits.
 - Sherburn cannot cope with the traffic/ bypass is at a standstill/ and traffic from the mine was minimal whilst it was operational. HGVs are limiting the flow of traffic along the A63 from Monk Fryston.
 - Road improvement works should be investigated to provide greater flow/ and restrictions should be placed upon access times for commercial vehicles
 - There should be restrictions on overnight rail traffic.
- 2.47 A letter from the developer of the STOR plant within the site - Precision Diesel Enterprises – asks that the agreed noise levels from their own development are considered by the potential developer and measures required in respect of that development remain that developer's responsibility.

2.48 A local agent has made representations objecting on behalf of Messrs Stoker who live close to the site and who are agricultural tenants of the agricultural parts of the site. In summary the grounds of objection and that the Panning Statement has a number of inconsistencies are:

- The site is not represented by the former coal distribution complex but the greater part of the site will be centred upon virgin, open agricultural land.
- The special circumstances that allowed the development of the mine complex were entirely related to coal distribution and thus this is far from a sustainable location, poorly served, devoid of realistic public transport connections and remote from residential settlements. The offers of additional access appear contrived; it is fundamentally an unsustainable location.
- No indication is given of how the objective of securing rail connections can be achieved and a dearth of design or research to enable effective use with a poor history of and little uptake to date.
- There is adequate land identified for economic activity across the District.
- There is no support from Policies SP2 or SP13 for doubling the developable area beyond the confines of the existing previously developed land [pdl].
- No meaningful support from Policies SP18 and SP19 in terms of Protecting the Environment or achieving Design Quality.
- The 2007 Economic Land Review is of date and its requirement for 37-52 ha over the plan period would be met here and more.
- Concern that farm land will be taken first in favour of fully utilising the pdl.
- The private road from New Lennerton Lane needs significant upgrading to bring it up to adoptable standards to address its poor condition and the noise and vibration arising from it.
- The proposed alien bunding needs reducing and a greater stand-off between existing and proposed buildings.
- The application should be refused.
- If the authority is minded to grant, conditioning is needed to ensure development starts from the rail head end before extending beyond those boundaries and that appropriate provision is made to ensure highway improvements for the corridor to the A1 junction. Any draft planning obligation should be open to public scrutiny before the application is determined.

3. SITE CONSTRAINTS AND POLICY CONTEXT

The Development Plan

- 3.1 The site is located in open countryside as defined by the Local Plan, outside of the Green Belt and without specific allocation. The application has been advertised as a Departure from the development plan. The local and national policy that is prevailing now is different to when the Minister granted the consent for the retention and reuse of buildings in 2007. The implementation of that consent has brought about another change in circumstances since with its implementation the former colliery is now clearly within the definition of 'previously developed land'.
- 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. Thus the first part of the assessment is to determine if this application complies with the development plan.

- 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:
- 3.5 SP1: Presumption in Favour of Sustainable Development. This reflects the positive approach in considering sustainable development proposals from para 11 of the NPPF. The Council, Policy SP1 says, will work proactively to find solutions so that proposals can be approved wherever possible and that improve the economic, social and environmental conditions in the area. This is linked to the three overarching objectives of planning.
- 3.6 SP2: Spatial Development Strategy. Development in the countryside will be limited to, of relevance here, the replacement or extension of existing buildings 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 local communities and in accordance with SP13; or other special circumstances.
- 3.7 SP12: Access to Services, Community Facilities and Infrastructure. The assumption behind this policy is that future development needs to be provided with the services, facilities or infrastructure that are needed by new communities to function or to make sure existing communities do not suffer as a result. Facilities implemented in connection with a development should be in place or provided in phase with development and where on site provision is not achievable or justifiable, off-site provision or a financial contribution will be sought. This includes joining up or creating Green infrastructure in addition to measures necessary to mitigate or minimise the consequences of development.
- 3.8 SP13: Scale and Distribution of Economic Growth. Policy SP2 refers to compliance with SP13 which gives support to developing and revitalising the local economy. The Policy provides for an additional 37 to 52 ha of employment land in the period up to 2027 – but it is not described as a maximum - and the precise scale and location of smaller sites...in rural areas will be informed, the Policy continues, by the Employment Land Availability Assessment and determined through a Site Allocation Local Plan.
- 3.9 To establish whether scale and type is appropriate within SP13, the SDC Authority Monitoring Report (AMR) May 2018 (period 2015-17) and the 2015 Draft Employment Land Review (ELR) provide relevant context; there is not a Site Allocations Local Plan at this time. The former shows that the Council has already granted planning permissions for employment that significantly exceeds the Core Strategy requirement of 37-52 ha (in large part due to significant employment developments at the Sherburn Industrial Estate) (total of 117ha consented since 2011).

- 3.10 The Draft ELR reaches the conclusion that the whole site (reference PS42, 115ha) is available and being actively marketed (para 3.126). However, the analysis of the market in the Sherburn functional economic area demonstrates that supply significantly exceeds identified demand and is more than adequate to meet future needs. The ELR does however caveat that the Gascoigne Wood site has the potential to meet the need for a specialist freight terminal (para 5.31). While the overall conclusions do not support the allocation of additional land in the Sherburn FEA, it recommends that a positive policy stance is taken to the regeneration of former mine sites.
- 3.11 Subs C to SP13 will support sustainable development in rural areas that brings sustainable economic growth through local employment opportunities. Whilst specific support is given to the redevelopment of existing and former employment sites (subs C.2) the application as a whole would not comply with this since part of the site is not previously developed and is open agricultural land. In all cases development should be sustainable, appropriate in scale and type to its location, not harm character and seek a good standard of amenity. The view was taken at the former Kellingley Colliery (2016/1343) that notwithstanding potential compliance with individual policies, as a whole that application was a Departure since that site is unallocated and of a significant scale in a rural location.
- 3.12 The commentary to Policy SP13 states (para 6.34) “The Council also supports the reuse of the former Gascoigne Wood mine, provided this is directly linked to the use of the existing rail infrastructure that exists at the site”. This is however not an adopted plan policy.
- 3.13 SP15: Sustainable Development and Climate Change. In order to contribute towards reducing carbon emissions and resilience to climate change, schemes as relevant here should incorporate sustainable design and construction techniques; sustainable drainage systems, protect and enhance habitats; include tree planting and minimise traffic growth through the use of, for example, Travel Plans and Transport Assessments, cycle lanes, pedestrian facilities and improved public transport.
- 3.14 SP18: Protecting and Enhancing the Environment. This Policy seeks to sustain high quality and local distinctiveness through, amongst other things, retaining and protecting features of natural interest, provide for their management and that impacts are mitigated or compensated for; produce a net gain in biodiversity, increase connectivity of Green infrastructure including networks of linked open spaces and opportunities for multi-functionality; and steer development to areas of least agricultural quality.
- 3.15 Policy SP19: Design Quality is the overarching requirement for good design as a key element to achieving sustainable development through having regard to local character, identity and context. A list of key requirements is given within the Policy which non-residential development should meet and that are reflected in other policies.

Selby District Local Plan

- 3.16 The relevant Selby District Local Plan Policies (SDLP) are:

- 3.17 ENV1: Control of Development. This is the permissive criteria based development management policy that takes account of general planning considerations in the control of development.
- 3.18 ENV2: Environmental Pollution and Contaminated Land. Seeks to prevent harm from noise, nuisance or contamination and to ensure previously contaminated sites are investigated and appropriately assessed.
- 3.19 ENV3: Light Pollution. Would permit lighting schemes were they are appropriately designed and do not detract from, for example highway safety, local amenity and character.
- 3.20 ENV12: River and Stream Corridors. The natural features of and access to river, stream or canal corridors will be protected from development.
- 3.21 EMP2: The Location of Economic Development. New development is to be concentrated in and around Eggborough, Selby, Sherburn and Tadcaster and this policy makes actual allocations in and around these and others settlements.
- 3.22 EMP9: Expansion of Existing Employment Uses. Proposals for expansion or redevelopment of existing uses outside of development limits or outside of established employment areas are supported by this policy subject to criteria. The support in Subs 4) is provided expansion onto agricultural land will not result in the loss of the best and most versatile agricultural land and that the site will be well related to existing and well screened or landscaped.
- 3.23 T1: Development in Relation to the Highway Network. Proposals are to be well related to the network and will only be permitted where it has adequate capacity and can safely serve the development, unless appropriate off-site improvements are undertaken.
- 3.24 T2: Access to Roads. The intensification of the use of an existing access would be permitted provided there is not detriment to highway safety.

4. APPRAISAL

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

- Assessment against the Development Plan.
- Other material considerations.
- Highway impact, accessibility and mitigation.
- Noise.
- Air safety.
- Loss of agricultural land.
- Landscape and visual impact/Biodiversity.
- Rail safety and operation.
- How to ensure development is truly rail related and the nature of conditions on any approval.
- Nature of any planning obligation.

Assessment against the Development Plan

- 4.2 The site is outside of settlement development limits and without allocation. There are no development plan policies specific to this site or the former colliery and the application has been advertised as a Departure.
- 4.3 In considering the development plan policies above, the extent of compliance with the Plan is a judgment of the sustainable credentials of the proposals and the extent to which the criteria in specific development management policies are met. This becomes potentially limited by the outline nature of the application since, for example, 'well designed buildings' can only be ascertained at reserved matters stage.
- 4.4 The applicants' Planning Statement identifies the key policies within the development plan affecting the application. It also notes the statement in the commentary to Policy SP13 giving support for the reuse of the Gascoigne Wood mine site for uses directly linked to the existing rail infrastructure that exists at the site (para 3.12 above).
- 4.5 Core Strategy Policies SP2 and SP13 appear to be the principal development plan policies against which to judge the principle of this application; SDLP Policy EMP9 gives similar criteria based support whilst EMP2 carries potentially less weight since these are allocations from 2008 that have generally been taken up and are superseded in age by the Core Strategy.
- 4.6 It is important to note when considering this application against policy that much of the extent of the expansion of the site is on land which does not form part of the former mine site (~43%) so, taken as a whole; the entire scheme does not fit within or comply totally with any one single policy.
- 4.7 It is considered that the relevant strand of Policy SP2 of '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 local communities and be in accordance with SP13', cannot apply to 2,000,000 sq ft of new commercial floorspace which is of a scale that is clearly unrelated to the local economy
- 4.8 Policy SP13 C supports sustainable development on greenfield sites in rural areas including the development of well-designed new buildings (also reflected in SP2). SP13 D requires that development in all cases is sustainable, appropriate in scale and type to the location, not harmful to the character of the area and to seek a good standard of amenity. The location of much of this site on agricultural land and in view of the overall scale in a countryside location is not the scale of development envisaged by this policy under a 'Rural Economy' heading so similarly this application does not comply with Policy SP13 overall.
- 4.9 Therefore when considering the development plan as a whole, the location, scale and intended use of this site is not related to the present rural economy and your officers consider that it was not the intention that Core Strategy Policies SP2 and SP13 could beg in favour of major new commercial floorspace in the open countryside. The other subject specific and relevant policies are criteria based in terms of whether, for example, a scheme can be made to be more sustainable but it must be concluded that the application is not in accordance with the development plan as a whole.

Other material considerations

4.10 S.38 (6) (para 3.2 above) says that determination shall be in accordance with the development plan unless material considerations indicate otherwise. Where an application conflicts with the plan, permission should not usually be granted and para 12 of the Framework refers to s.38(6) that local planning authorities may take decisions that depart from an up-to-date plan but only if material considerations in a particular case indicate as such.

A: The need for new floorspace

4.11 A consideration is the significant oversupply this application would represent against the identified and evidenced requirements.

4.12 The Core Strategy provision of 37-52 ha for new allocations for employment land includes 23ha at Olympia Park and the AMR shows that 117ha of employment land has already been permitted since 2011 (para 3.9 above). Thus the quantum of floorspace to be allocated in SP13 has already been exceeded and until the Site Allocations Plan can carry some weight, SP13 A is no aid (in terms of floorspace allocation) to this application since that figure has already been exceeded. However, this 37-52ha is not mooted as a maximum figure and there are no policies to do with resisting new employment proposals once that figure is exceeded. The large expansion to Sherburn Enterprise Park – S2 (1.25 million sq ft on 35ha), for example, was first granted within the current plan period (2013/0467) in the knowledge that it exceeded the anticipated employment land requirement but was seen as a natural extension to SEP and that there were no similar suitable sites available.

4.13 That the former colliery site (57% of the application site) has a valid, extant consent for employment use that is rail related is a material consideration and any consent here would rationalise the use and bring the employment land use more up to date with a more efficient and potentially more intensive use of land. The extension outside of the former colliery is a part of the package and any support for it must be on the basis that it must be rail related. Whilst the ELR says that supply in the Sherburn area significantly exceeds demand, that is a general employment land observation rather than specifically assessing rail freight related floorspace.

4.14 Thus although any consent here will see a permission on 101ha which will almost double the current over provision of sites with consent; over half of the site already has consent and the Policy makes no distinction between types of employment use. The choice provided by a consent here and which cannot be provided anywhere else – due to its rail connectivity- is a reason to grant consent for an expansion of the existing site linked to an existing and with the potential for a national and regional freight terminal of strategic significance and which could have a longer term role meeting specific requirements beyond the plan period. The ability to ensure it is genuinely rail related and any phasing controlled accordingly is a matter for the nature of any conditions or obligation.

B: Commentary in the Plan

4.15 There are no specific policies for the former mine sites in either the SDLP or the Core Strategy. The former predated the closure of the Selby mines and is not of any real assistance whilst the latter has the commentary support for the reuse of Gascoigne Wood provided that it is directly linked to use for the rail infrastructure. This 'support' is not adopted Plan Policy but it is however specific to Gascoigne

Wood and is a material consideration in that the Plan sought to provide supporting guidance without linking it to an allocation of land. Any reuse of Gascoigne Wood was always going to be at Gascoigne Wood and the commentary supports the reuse of the existing site, provided it is truly rail related.

- 4.16 Therefore, it is a matter of planning judgement, for example, as to the extent that the Council's expressed support for the reuse of Gascoigne Wood at paragraph 6.34 of the Plan should be given weight in this context.

C: Economic Development Framework

- 4.17 Although not a part of the Development Plan, the Council's adopted Economic Development Framework 2017-2022 identifies Gascoigne Interchange as a key development site with its regionally significant rail freight infrastructure.
- 4.18 The Council's approach and based upon that Framework has been that there are a number of key development sites, including those that are unallocated but that their release for employment will provide large scale sites in locations that can link into existing and allocated employment sites and centres of population. In this way providing a wide range and choice of sites with consent gives maximum flexibility and choice.

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

- 4.19 The 2018 Framework replaces the first NPPF issued in March 2012.
- 4.20 There is a positive approach in considering sustainable development proposals in para 11 of the NPPF. This is linked to the three overarching objectives of planning although the new Framework does say that they are not criteria against which every decision can or should be judged (para 9). Decisions are to guide development towards sustainable solutions but in doing so should take local circumstances into account to reflect the character, needs and opportunities of each area.
- 4.21 Significant weight should be placed on the need to support economic growth and productivity (para 80); and be flexible to accommodate needs not anticipated in the plan (81) and recognise the specific location requirements of specific sectors (para 82). Para 83 reflects Plan Policies SP2 and SP13 by seeking expansion of all types of business growth in rural areas through...well designed new buildings. There should be recognition, the Framework continues, that sites to meet local business needs in rural areas may have to be found...beyond existing settlements and in locations that are not well served by public transport. In these circumstances (para 84), it is important to ensure development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits opportunities to make a location more sustainable. The use of pdl and sites well related to existing settlements should be encouraged where suitable opportunities exist.
- 4.22 Under the heading of promoting sustainable transport, significant development should be focused on locations which are or can be made sustainable through limiting the need to travel and offering genuine transport mode choices (para 103). Paragraph 104 emphasises the need for planning policies to provide for any large-scale transport facilities that need to be located in the area, and the infrastructure and wider development required to support their operation. Rail freight interchanges are specifically included within the definition of large scale transport facilities.

4.23 Under Habitats and Biodiversity, paragraph 175 says that when determining applications, the following principle, of relevance here, should be applied:

“a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;”

E: Other documents

4.24 The Transport for the North Enhanced Freight and Logistics Analysis Report (2018) identifies the application site as one of three in the North meeting the definition of a Strategic Rail Freight Interchange. Based upon analysis from the Northern Powerhouse Review the need for infrastructure to accommodate growth in the freight industry is demonstrated and based upon a strong multimodal freight capability. The historic northern rail freight activity was related to coal movements between ports and inland power stations and as these volumes fall there is an opportunity to utilise the released capacity to the benefit of other commodities. Growth is also expected to be driven by the movement of intermodal freight between the southern ports and the North of England. A key barrier to modal shift from road to rail for freight is a lack of intermodal terminals, and the expansion of the site would be expected to contribute to the required modal shift.

Highways impact, accessibility and mitigation

4.25 The Transport Assessment part of the ES identifies what measures will be taken to deal with anticipated impacts on the network and defines those improvements and initiatives to improve accessibility of the site to all modes of transport. Although indicative, the Masterplan confirms that layouts will take account of opportunities for pedestrian and public access into the site, particularly to the landscaped central area around the Carr Dyke as the boundary between Areas A and B and along the newly landscaped western boundary. Connections to the north, towards S2 and the committed enhancements to the public network as part of those consents can then be made at reserved matters stages. The important point is to ensure that layouts in this site do not preclude future connections.

4.26 The Highway Authority, following requests for further information and clarification, now does not raise any objections to the application and the measures proposed in both the planning obligation and the Schedule of conditions (**Appendix 1**) now have its support.

4.27 Eleven junctions within the vicinity of the application site have been surveyed, traffic count data obtained together with accident data and a survey of all existing pedestrian, cycle and public transport facilities. With the agreement of the Highway Authority and to allow flexibility of the site to react to market conditions, the ‘worst case’ Class B2 trip rate scenarios were modelled to deduce impacts on the network.

4.28 Each of the junctions was then modelled to determine their capacity and the point at which a certain quantum of floorspace on the site would trigger the need for junction improvements arising from any development, and taking account of growth from other committed developments.

- 4.29 The outcomes identified that three particular junctions would need improvement to assist capacity when certain stages of any development were reached and it is intended that these triggers are controlled by planning conditions on any approval. The three junctions are:
- The B1222/New Lennerton Lane junction (TA junction 8) with a new, east bound right turn ghost lane and visibility improvements (prior to first occupation)(Condition 10).
 - The B1222/Aviation Rd/Fenton Lane roundabout (TA junction 5) with widening on the western approach to the roundabout and roundabout widening and pedestrian refuge (prior to occupation of 15,000 sq m of B2 or equivalent B2/B8 mix)(Condition 11).
 - The B1222/A162 roundabout (TA junction 4). This is the bypass roundabout crossed by the B1222 and the principal designed mitigation is to have a major dedicated south bound lane off the roundabout so that it by-passes this junction and also incorporates a pedestrian refuge on the eastern approach. The timing for these works is to be controlled by Conditions 12 and 13.
- 4.30 This modelling takes account of the traffic growth from other developments and the improvement works to the A63/A162 Monk Fryston roundabout by others. The Highway Authority is content that this particular junction will operate within capacity as a result of this application with those improvements, so this application does not need to address that particular junction any further.

Travel Plan and Public Transport

- 4.31 In addition to the specific junction works that can be addressed on any approval by conditions which require the works to be carried out before those floorspace amounts are exceeded, the TA provides for a Framework Travel Plan (TP) to assist in reducing trips by single occupancy private car including:
- Promotion of walking, cycling and public transport.
 - Deliver target modal shift (reduction of 5%).
 - Incentivised public transport scheme.
 - Cycle to Work Scheme.
- 4.32 This would be delivered through allocation of resources and appointment of a Travel Plan Coordinator (TPC) and TP Steering Group. Funding would be provided by the applicant in the form of fees of the TPC at £10,000 per annum for the first seven years. It is best practice, and since it involves commitments to expenditure, to address Travel Plans through a planning obligation concluded before any approval.
- 4.33 There have also been ongoing discussions as to how to improve public transport connectivity to the site in the light of the wider Council aspiration to have a bus service in to Sherburn Enterprise Park and linking S2 and this application site. Options for shuttle buses from Leeds and Doncaster have also been mentioned in the TA and there is known to be a significant problem at Sherburn getting people from East Leeds in to the area.
- 4.34 In order that this application site does not act alone and since there are no planning obligations in relation to SEP or S2 to do with public transport improvements, the applicants have offered £200,000 towards public transport enhancements in the

form of a ring fenced pot. This roughly equates to estimates given to the Council to put on a bus service based around shift patterns for the existing Sherburn site and the actual mechanism and responsibilities will be the subject of ongoing negotiation and contained in any planning obligation.

Conclusions on Highways impact, accessibility and mitigation

- 4.35 The Framework advises that significant developments should be focused on locations that are or can be made sustainable (para 103). It also recognises that sites to meet local business needs (the locational restrictions of the existing rail freight interchange) may be in locations not well served by public transport.
- 4.36 Thus the Highway aspects of this application are seeking to improve accessibility and the capacity of the road network, provide opportunities for other means of access to the site and by taking advantage of other commitments nearby that link to the Bishopdyke Rd cycle network and beyond. The Travel Plan is a requirement for applications which generate significant amounts of movement.
- 4.37 Detailed Heads of Terms for a planning obligation are set out below and together with and subject to the Schedule of recommended conditions (**Appendix 1**), there would be no unacceptable impacts on highway safety and thus there are no highways reasons to resist this application.

Noise

- 4.38 The EHO comments (at paras 2.34 to 2.36 above) led to further discussions seeking to address their concern about significant noise impact associated with freight handling from the rail freight interchange. This was the only area outstanding since any noise from building plant and machinery may be dealt with by condition on any approval (recommended Condition 31). The applicants' submission of a Framework Noise Management Plan (FNMP) was to seek to deal with intermittent and impulsive container handling and stacking noise, and the likely unrestricted operation of potential freight handling from the existing sidings. This work has been the subject of assessment by an independent noise consultant and to seek and investigate ways forward.
- 4.39 SDLP Policy ENV2 would not permit proposals that give rise to unacceptable levels of noise unless satisfactory remedial or preventative measures are incorporated. The Framework advises that decisions should mitigate and reduce to a minimum potential adverse impacts. National policy is contained in the Noise Policy Statement for England (NPSE) and is centred around the aims of i) avoiding significant adverse effects upon health and quality of life and ii) mitigate and minimise adverse effects upon health and quality of life. All reasonable steps should be taken to mitigate and minimise adverse effects.
- 4.40 The outcome of further discussions and the production of the FNMP is that it is agreed that subject to compliance with that plan and the agreed conditions, any adverse impact can be minimised bearing in mind that this has to be balanced against the current operation of the rail freight interchange and the handling of goods to the site which is without restriction.
- 4.41 This mitigation has been achieved by referring to the applicants' proposed Areas A to D and the acoustic differences that will ensue between the broadly industrial Areas A and B and the reach stacker and freight handling movements that will

largely only take place in Areas C and D. Controls are proposed to ensure that cumulative impacts do not affect residential receptors as the development progresses. This is achieved by the use of strategic noise management such that each submission of incremental reserved matters proposals will be accompanied by noise data and impact assessment including development already in place or previous RMs approvals to demonstrate compliance with overall cumulative acoustic requirements.

- 4.42 It is accepted that noise in the freight handling area of intermodal container movement by reach stacker or other freight delivered by rail in this area is principally dependent upon management measures employed to reduce noise impact and the FNMP is considered critical for the effective operation of freight handling.
- 4.43 These measures are articulated in recommended conditions 28 to 31 and have been agreed with all parties.

Air safety

- 4.44 The Sherburn Aero Club (SiEAC) is a private member not for profit organisation that has been at Sherburn since 1964 on facilities that have their origins since before the First World War. The flight training school opened in 1970.
- 4.45 The NPPF makes short reference to General Aviation (GA) and on plan making says that policies should recognise the importance of maintaining a national network of GA airfields, taking account of their value in serving business, leisure, training and emergency service needs and the Government's GA Strategy.
- 4.46 The GA Strategy does not make specific reference to protecting GA airfields from neighbouring development but in the spirit that 'technology changes very quickly and in order to survive [aviation] businesses must adapt to reflect this progress - such as by improving hangar facilities or creating all-weather runways and that improvements to infrastructure at airfields are increasingly vital to their ability to survive' it appears implicit that the operational integrity and attractiveness of GA airfields should be taken into account.
- 4.47 The airfield is not a 'safeguarded aerodrome' under town planning legislation and thus there are no statutory consultation requirements with the Civil Aviation Authority (CAA) since the Direction in Circular 01/03 does not apply. There is therefore only a voluntary consultation procedure with local authorities and the operators of such aerodromes are expected to take steps to protect their locations from the possible adverse effects of development.
- 4.48 The busiest aerodromes have Public Safety Zones (PSZ's) administered by the CAA at the ends of runways where development is restricted so as to control the number of people on the ground at risk from injury in the event of an aircraft accident, Sherburn does not have PSZs.
- 4.49 The protected airspace around an airfield is represented at its lowest levels by Obstacle Limitation Surfaces. OLSs are complex sets of 3-dimensional surfaces which extend upwards and outwards from, and are more restrictive, at the ends of runways where the angle is generally 3 degrees. Developments are to be assessed to ensure that they do not infringe into any of the OLSs since this could endanger aircraft. Guidance is contained in the CAA publication known as CAP168.

- 4.50 Although the CAA has not been formally consulted, they have nevertheless been contacted and have confirmed that the Parameters Plan and the application appear to be CAP168 compliant. The lower surface of the OLS above the threshold for Runway 28/10 which points towards Area B is variously a minimum of 6m, 14m and 22m above the present indicative maximum height of 16m of the highest indicative buildings in Area B shown on the Parameters Plan. This is since the OLS inclines upwards away from the end of the runway at 75', 100' and 125' intervals. The Club has concerns that any wind shear or down drafts that may also be caused by the buildings themselves gives very little safety margins. At the 50' height from the threshold (15.24m) any subsequent buildings with a maximum 16m building height would be within only a few metres of the OLS.
- 4.51 Thus weight should be given to the Aero Club's concerns and discussions continued to seek a solution. The realignment of blocks within the Parameters Plan, for example, to align them parallel to the access road and further to the east so that there is a large service yard between buildings and the threshold at the end of the runway is being considered, this is however an outline application so it will be difficult thereafter to hold the applicants to any indicative solution.
- 4.52 Initially it was envisaged that a solution being worked up through a planning obligation was an upgrade of Runway 24 (not facing the development) at an estimated £300,000 paid for by the applicants. This would see installation of drainage and a more suitable surface (geo textile membrane) which would enable the function of 28 to be taken over by 24 which could then remove the Aero Club's objection and allow the Parameters Plan as submitted to become a part of any approval.
- 4.53 Upon legal advice it is now considered that any actual effects upon the Club cannot be properly quantified until the nature of future reserved matters proposals is known. This is since it will only be the actual presence and height of proposed buildings in particular locations which the Club will be able to specifically consider when the reserved matters are proposed in detail. Although maximum heights and areas for development are shown on the Parameters Plan, these are broad and maximum development principles and it is not known whether buildings will come forward up to the Parameters Plan limits; smaller buildings in different relationships or locations may for example not result in Aero Club objections at later stages. It would thus be wrong, and not 'reasonably related' to seek works which would remove the use of the runaway facing this development if, with the evolution of detailed building proposals they do not attract any relevant objections.
- 4.54 Thus, the offer of payment by the applicants to upgrade a runway to take over the role of the runway that may be affected by development if construction comes forward up to the maxima shown in the Parameters Plan is not necessary at this time. This is because the harm identified by the Club may not occur but would be a matter to revisit at the time of any future reserved matters negotiations and submissions.
- 4.55 Thus the Aero Club objection is still in place but it is concluded that this can properly be considered and addressed in full at the time of negotiation and submission of reserved matters application(s) in Area B.

Loss of agricultural land

- 4.56 There are 43 ha of agricultural land in Areas A and B outside of the bunded former colliery site. Policy SP18 seeks that the high quality and local distinctiveness of natural and manmade environments will be sustained by, amongst other things, steering development to areas of least environmental and agricultural quality. The NPPF advises that decisions should contribute to and enhance the natural environment by recognising the economic and other benefits of the best and most versatile land (bmv)(land in Grades 1, 2 and 3a). These grades are the most flexible, productive and efficient in response to inputs and which can best deliver future crops. Current estimates are that Grades 1 and 2 together make up ~21% of farmland in England.
- 4.57 The applicants ALC Report shows that the application site does not contain any Excellent or Very Good grades of land (Grades 1 and 2) and there is 15.6ha of Grade 3a land – about 36% of the site. The rest of the site is in Grades 3b and 4 with ~1 ha in woodland.
- 4.58 Therefore just over one third of the agricultural part of the site is Good agricultural land (the lowest of the three bmv grades) and whilst its distribution would not enable it to be protected, the bulk of the site is poorer quality which would be the preferred grades to enable development. Thus it is not considered that the loss of some best and most versatile agricultural land would be a reason for resisting this development.

Landscape, visual impact and biodiversity

- 4.59 In taking account of the Principal Landscape Architect's concerns, and addressing significant landscape and visual effects, the Parameters Plan and the Design Guidance Document have each gone through a number of revisions and reconsultation with Urban Design and County Heritage Services.
- 4.60 It is understood that the County Landscape Architect, and subject to achieving the last set of proposed revisions to the Parameters Plan and the Design Guidance Document will have no objection to the scheme provided that the following matters are addressed:
- Securing public access to those areas intended for wider public enjoyment and measures for long term maintenance and management.
 - Phasing and implementation of the advanced landscape framework works.
 - Similar phasing and implementation of the northern mitigation measures.
 - Soil management plan for the retention and reuse of top soil.
 - Detailed landscaping plans and adequate tree retention and protection measures for both the advanced planting and the plot by plot reserved matters.
 - Commitment to protect and retain the existing perimeter trees and woodland, much of which is outside of the red line but within the applicants' control (blue line).
 - Long term maintenance and management of landscaping and biodiversity.
- 4.61 The reserved matter of 'landscaping' being in front of the authority at this time was in order that strategic and mitigating planting could be designed and then controlled to be implemented earlier on in development than would normally take place. In this way and at defined triggers, the strategic landscaping and planting now designed to assist to mitigate and screen could be being implemented in advance of maybe some of the individual and incremental submissions of reserved matters that will

likely come in building by buildings or, at best, Area by Area. This would be controlled by condition. The landscaping associated with each building or plot will be required to be addressed specifically to that plot when its reserved matters are submitted.

- 4.62 The Parameters Plan has been further amended to confirm that the existing green areas outside of the application site, but in the applicants' control, will be retained.
- 4.63 Large parts of the site are screened from the east and northeast and, but for from the Selby to Leeds railway line where the bulk of new building(s) on Area C would be plain to see, also from the south by the existing bunding. The impacts to the residential neighbours to the north and north-west are to be addressed by the formation of planted bunds, acoustic fencing incorporated as part of them, sufficient planting widths stand off from the buildings and control over unit size, height and potential use. The recommended noise conditions deal with audible impacts.
- 4.64 The latest Parameters Plan breaks down the northern Area A into four smaller sub-areas with the potential for smaller unit size with fixed finished floor level and maximum building heights. Smaller unit sizes provides a mix of accommodation types to be more attractive to a wider range of potential tenants, reduces impacts on residential neighbours and gives greater space and separation between buildings by also providing a limit for the extent of buildings so that a clear separation distance is fixed. Whilst layout, scale or appearance is not in front of the authority, the Parameters Plan allows certain design criteria to be understood, controlled by condition and which any future reserved matters submission will be required to follow.
- 4.65 There is some tree clearance on the south side of the railway (Area D), to give greater handling and turning flexibility as part of the rail freight handling; the existing planted bund which mostly encloses the site beyond from the south is to be retained.
- 4.66 The final parameters for Area B will remain as proposed since matters of concern to the Club in terms of building locations, heights and orientations are not in front of this authority at this outline stage.
- 4.67 Area C, which is the site of the current covered stockyard and the bulk of the former mine site is visible from the railway line and will continue to be with a maximum building height set at 16m H. To its east is the proposed container port with maximum container heights at 15m and proposals for its screening from both the north (mine access road) and the south (rail line) are a part of the Parameters Plan and the Design Guidance Document. Any planting scheme, subject to Network Rail controls is intended to supplement the rail boundary to Area C, giving glimpses and framed views of a new building and activity behind rather than seeking to hide it away from public view since it is a major development site to act as an advertisement for economic growth.
- 4.68 The Framework Landscape and Biodiversity Management Strategy and the Arboricultural Assessment did not provide any specific landscape or biodiversity enhancement proposals prior to their revision, although the setting up of a management body through a planning obligation is referred to. The confirmed presence of European Protected Species on and in the vicinity of the site means that the application could not have been determined until the potential impact on those species and their habitats had been assessed and understood. From this an

appropriate level of mitigation, publicly accessible areas and landscape design can be progressed from a position of knowledge. Since some of the survey work was sensitive to specific times of the year, the outstanding surveys were produced after the initial objections from YWT and the County Ecologist.

- 4.69 The updated surveys include proposals for habitat creation, protection and mitigation as far as possible at this outline stage. There is recognition of the need for enhanced roost habitat for bats and a lighting strategy and reasonable avoidance measures for reptiles and amphibians are suggested to be controlled by condition. The three areas of flood mitigation along the line of the Carr Dyke are include with buffers and grassland/ wetland planting as part of the indicative masterplan; all of the watercourses are being retained and their management, it is recognised, needs to change to support water vole. Any vegetation clearance is recommended outside of the bird breeding season and there are specific references to in-built mitigation aimed at identified bird species and hedges and existing copses are to be retained where possible and subject to more detailed biodiversity enhancement proposals.
- 4.70 The Natural England and Defra guidance does suggest that planning permission may be granted subject to the imposition of conditions when the presence of protected species is known and that planning permission should have been achieved before applying for any necessary European species mitigation licence.
- 4.71 The recommended conditions based upon the content of the Parameters Plan and the Design Guidance Document, since this is an outline planning application, is the manner, together with the obligation in which advanced planting, quality landscape and design and longer term maintenance and management can be achieved. The Heads of Terms for any obligation reflect this.

Rail safety and operation

- 4.72 A number of the issues raised by Network Rail (2.31 above) can only be addressed at the time of submission of reserved matters. Those matters that the Authority indicated were 'requirements' and that should be met have been the subject of further discussions.
- 4.73 The upgrading of the railway between Manchester Victoria to Leeds and Selby/York relating to the Transpennine Route Upgrade (TRU) as part of the Great North Rail Project has already commenced with some early works underway prior to the main programme being announced by the DfT. Whilst the applicants are understood to be involved with negotiations and agreements with Network Rail unrelated to planning as part of the main programme, it had been understood that signalling and electrification was happening in any event and were not being triggered by or as a consequence of any existing or proposed use of the application site.
- 4.74 However, in seeking clarification of the nature of those relationships from Network Rail the conditions and an obligation requested by the Authority are the subject of ongoing discussion to decide if they can reasonably be controlled by any planning permission. Whilst a Grampian condition (prohibiting development authorised by the permission until a specified action has been taken by others - like the provision of infrastructure) may be imposed if there is a prospect that the actions in question will be performed within the time limit imposed by the permission, your officers do not wish to recommend unreasonable or unenforceable conditions without clear evidence that they are capable of being complied with.

7.75 This request for conditions/an obligation has come very late at the time of writing so the Committee will be updated on the conclusion of discussions.

How to ensure development is truly rail related and the nature of any conditions

4.76 The applicants are seeking as much flexibility as possible in any approval since presently this is a speculative application without any intended or known occupiers. In much the same way that the Secretary of State in 2007 concluded that although a rail related user may not be found quickly it did not mean that no user would be forthcoming, that situation is similar today as evidenced by the National Rail Freight Strategy (2016), the Northern Powerhouse Strategy (2016) and the Network Rail Freight Network Study (2016). This is an opportunity for existing infrastructure to be used to its fuller potential.

4.77 The development on open agricultural land is not compliant with policy in principle but in order to justify this scale of development in this location and in view of the oversupply in any event, the consent needs to be linked to the existing rail freight infrastructure in a similar way to the 2007 consent. This would ensure that any consent contributes to sustainable development. Although there is a justification for a fixed amount of non-rail related floorspace in order to address landscape, visual and amenity considerations, this is set at 12½% based upon the indicate layouts that address those concerns. There does however need to be a phasing control or methodology of preventing any non-rail related floorspace coming forward first since the ES suggests that development will commence from the north. This is likely to be more attractive to a potential developer or the applicant since there would be less constraint on green field development that could be more cost effective – rather than the brownfield parts of the site.

4.78 It is appropriate to vary the standard outline conditions to allow development to start in a defined phase (in this context 'Area') when the reserved matters for that phase have been approved and before other phases have come forward. The outline speculative nature of this application means that it would not be reasonable to require that development may only commence from the rail head (Area C or D) end since the order of reserved matters submissions will depend upon potential tenants or users coming forward based upon available floorspace. It is also not realistic, as might normally be the case, to seek by condition a Delivery Strategy and Phasing Plan which would then seek to specify the order of submission of reserved matters. This is not realistic since this could unduly restrict the marketing of the site or the ability of the developer to respond to specific floorspace or location requirements of potential tenants.

4.79 Thus the proposed conditions in the attached Schedule include a limit on non-rail related floorspace (Condition 6); that future reserved matters will be required to be in accordance with the Design Guidance Document and the Parameters Plan (Condition 5) and that non-rail related or associated Class B1 floorspace may not commence until a defined quanta (50,000 sq m) of rail related floorspace is committed to be developed and occupied (Condition 7). This will prevent non-rail related uses coming forward first and encourage true rail related uses in line with the overall spirit of the application.

4.80 Conditions may only be imposed on an approval if they satisfy the six tests of being necessary, related to planning, related to the development to be permitted, precise,

enforceable and reasonable in all other respects (Framework para 55). A number of the consultation responses have requested detailed information, revisions or payments in relation to, for example, lighting strategies, airfield enhancement / protection, additional drainage, flood risk or biodiversity and mitigation measures. However, until the details of the numbers, location size, shape and appearance of buildings becomes the subject of the reserved matters applications, it is not possible to foresee or require that level of detail. This is why the discussions in respect of payments to the Aero Club have been curtailed since they are rightly triggered at reserved matters. The Schedule of Conditions recommends those conditions that can reasonably be imposed on any approval.

Planning obligation

4.81 The applicants have agreed to enter into a planning obligation under s.106 of the Act to address and deal with matters that cannot reasonably be dealt with by planning condition on any approval. Parties to the agreement are identified as Harworth Estates Investments Ltd and Harworth Estates Agricultural Ltd, Sherburn Aero Club, this Council and North Yorkshire County Council. There are agricultural tenants on the land and the nature of their interest is being established to ascertain if they need to be a party to the obligation.

4.82 The current Heads of Terms are:

- Preparation and implementation of a Travel Plan as set out in the Framework Travel Plan with measures to promote sustainable travel, funding, appointment of a TPC, TP Steering Group and monitoring (£10,000 per year for the first seven years).
- Travel Plan Monitoring Contribution of £3,500 to be paid to the County Council.
- A sustainable travel enhancement contribution of £200,000 towards public transport enhancement.
- Biodiversity and enhancement plans in respect of water vole and otter extending into the applicants' 'blue land', management proposals and off site enhancement.
- Legal costs of drawing up the obligation up to £1,300.

4.83 Planning obligations may only be sought when they meet the tests set out in the 2010 CIL Regulations:

- Necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

4.84 Instructions have been given for the preparation of the obligation and the Committee will be updated on the progress of the first draft.

5. SUMMARY and CONCLUSIONS

5.1 The Act requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

5.2 The application has been considered against the development plan as a whole and in view of the scale of the proposal - notwithstanding that over half the site has an authorised use for rail related Class B2 and B8 uses - the location in the open

countryside and the inherent unsustainable location divorced from major residential centres or well connected to employment centres, the application is considered to be not in accordance with the prevailing development plan. Whilst there are no policies which clearly presume against the development, there are similarly no adopted policies specific to this use in this location and the more general development management policies are criteria based and introduce a level of judgment. It is concluded that the application gains no support from Policies SP2 or SP13 since this scale of development in the countryside is not within the spirit of those policies.

- 5.3 Therefore the assessment has considered the nature of material considerations and the environmental information that might indicate a determination other than in accordance with the plan. The site is listed in the Council's Economic Development Framework as a key development site that has regionally significant rail infrastructure and there is commentary in the Core Strategy that the Council would wish to support the reuse of the former mine, provided it was rail related. This is echoed in the Framework where sites to meet local business needs may have to be found away from settlements and where they are not well served by public transport and it recognises that rail freight interchanges may need to be in a particular area. There is some support from SDLP Policy EMP9.
- 5.4 Highways and traffic impacts have been thoroughly modelled and assessed and the outcomes have the support of the Highway Authority (paras 4.25 to 4.27). Those junctions on the network that have been identified as needing improvement will be upgraded at defined triggers of completed floorspace and controlled by condition. In order to verify the accuracy of the modelling further monitoring will be put in place as the development proceeds which will determine the trigger for the B1222/A162 roundabout major improvements to take place (Conditions 12 & 13).
- 5.5 The financial contribution towards necessary public transport improvements of £200,000 is to be addressed by a planning obligation.
- 5.6 The likely significant effects in respect of noise have been addressed in the ES and considered through consultation and the use of an independent noise consultant. The areas of the development most likely to affect residential neighbours are in relation to freight/container handling noise off the southern sidings or in the container port. A recognition of the varied noise climates in different parts of the site from different operations has led to a combination of noise control conditions to achieve specific solutions. The management of how freight is handled is the subject of a Framework Noise Management Plan, the submission, approval and monitoring of which is also controlled by condition.
- 5.7 Paragraph 4.44 of the Report onwards discusses the fears of impact of the proposal upon Sherburn Aero Club and the GA airfield. The concern and perception that the development will reduce the attractiveness and viable use of the airfield is a material consideration. The applicants had agreed to include in the proposed planning obligation that a maximum £300,000 is provided in order to upgrade another runway at the airfield to a mechanism to be agreed. It is now considered, on legal advice, that since any quantifiable impacts cannot be defined until the time of reserved matters, that will be the time when the need or otherwise for any planning obligation of this nature will be negotiated.
- 5.8 The third part of the ES considered landscape and visual impact. The concluded Design Guidance Document and Parameters Plan provide in clear documentation

the nature of the proposals and the requirements that future reserved matters applications, upon any grant of outline permission, would have to follow. The extent of what is being applied for is contained within these two documents and the fixing of the maximum extents of built areas, finished floor levels and maximum building heights, for example, have been the mechanism that have enabled landscape and visual impact to be defined, assessed and mitigated. Subject to controls that future reserved matters do not exceed those parameters and specific design guidance effects upon visual, landscape and residential amenity are defined and controlled.

- 5.9 The previous concerns from the County Ecologist have been addressed and the combination of conditions and the planning obligation has those consultees support.
- 5.10 The assessment of the current oversupply of employment land has concluded that this particular application is linked to a specific use which is not reflected in the generality of the AMR or ELR and the Economic Development Framework and the supporting commentary in the Plan are further material considerations that support this application.
- 5.11 The former colliery site has rail infrastructure that is recognised at many levels as being a unique asset to the District and the recommended conditions and obligation are capable of improving the sustainable credentials and efficiency of use of this site. This is a location specific proposal which needs to be in this position adjacent to the existing rail freight terminal and associated uses which are previously developed land. The application would not be acceptable if it was not rail linked and the recommended conditions specifically address this.
- 5.12 Therefore, in recommending that the Committee are minded to approve this application, Committee is requested to consider that the application is not in accordance with the development plan. However the environmental information and the mitigation proposals in the application will make a significant contribution towards improving the sustainable credentials of the site. The nature and extent of those material considerations therefore indicate a consideration other than in accordance with the plan. This is including since the benefits and opportunities of using the existing rail freight infrastructure, at a time when Government guidance is seeking to further facilitate a shift of freight from road to rail, in a more efficient and beneficial way than at present can be in accordance with guidance. Thus, subject to the recommended conditions and the conclusion of the planning obligation as outlined, the material considerations as set out in this report outweigh the conflict with the development plan.

6. RECOMMENDATION

- 6.1 Subject to the satisfactory conclusion of those matters that are still the subject of negotiation with Network Rail there will be a recommendation that:
- a) Committee resolves that it has considered the environmental information and that it is Minded to Approve this application subject to the terms of the planning obligation and the schedule of conditions.
 - b) Authority is confirmed to officers to refer the application to the Secretary of State under the 2009 Consultation Direction with this Committee's resolution to support it.

- c) In the event that the application is not called-in by the Minister, authority is delegated to the Planning Development Manager to approve this application upon the conclusion of the planning obligation under s.106 of the Act under the terms set out in para 4.81 above and subject to the imposition of the attached schedule of conditions. That delegation to include the alteration, addition or removal of conditions from that Schedule if amendment becomes necessary as a result of continuing negotiations and advice and provided such condition(s) meet the six tests for the imposition of conditions and satisfactorily reflect the wishes of Committee.

- d) In the event that the application is called-in for the Minister's own determination, a further report will come to Committee.

Contact Officer:

Paul Edwards, Principal Planning Officer

Appendices: Appendix 1: Schedule of recommended conditions
Appendix 2: S of S's Decision letter APP/N2739/V/06/1199354(Application 2005/0673) dated 13 August 2007

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Appendix 1: Schedule of recommended conditions

Planning Committee 5 December 2018
Application 2018/0818/EIA
Gascoigne Rail Freight Interchange

2018/0818/EIA

Required Definitions for any DN:

Area: Means in the context of this permission Areas A, B, C or D (and where the context requires sub-Areas A1, A2, A3, A4 and B1, and B2) as defined as Areas on the Parameters Plan approved as part of this approval Dwg No 11921-127 Rev H.

Rail related use: Means in the context of this decision, future occupiers of buildings on the application site using the existing rail facilities on site and their main line connections

Associated Class B1 use: Means in the context of this decision Class B1 uses which although not using the existing rail facilities have been demonstrated by the applicant to have more than a non-material relationship with other rail related uses on this site in terms of mutual supply, maintenance or servicing/administration services.

Gascoigne mine access road: means the private unadopted access road from its junction with New Lennerton Lane to the existing gated access to Gascoigne Rail Freight Interchange owned by the applicants

Parameters Plan: Drawing No 11921-127 Rev J received by the local planning authority on 23 November 2018

Whole site outline conditions

1. No development shall commence within a particular Area until details of the appearance, layout, and scale (hereinafter called "the reserved matters") for that Area have been submitted to and approved in writing by the local planning authority.

Reason: To ensure compliance with Section 92 (5) of the Town and Country Planning Act 1990 as amended.

2. Applications for the approval of the reserved matters shall be made to the local planning authority before the expiration of ten years from the date of this permission.

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

3. The development in each of the Areas as defined shall be begun before the expiration of two years from the date of the final approval of the reserved matters for that respective Area or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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

Strict conformity

4. The development hereby permitted shall be carried out in accordance with the application dated 16 July 2018 and specifically in accordance with the associated approved plans referenced and that are not indicative:

- Scale 1:5000 (A1) Location Plan Dwg No 11921-100 Rev C
- Scale 1:5000 (A1) Green Infrastructure Parameter Plan Dwg No 26897 L12 B
- Scale 1:5000 Indicative Surface Water Drainage Strategy Dwg No 881137 10-01 P4
- Scale 1:5000 Proposed Parameter Plan Dwg No 11921-127 J
- Design Guidance Document 11921 DGD01M 22/11/18
- Amended Framework Landscape and Biodiversity Management Strategy Issue 5 October 2018
- Flood Risk Assessment dated July 2018 881137-R1(04) including updated Sequential Test 26897/LJ

Reason: To ensure that future reserved matters applications are in accordance with this outline consent and that the development is undertaken in accordance with the approved details in the interests of the character and amenities of the area in order to comply with Plan Policies SP12, SP15, SP18, SP19, ENV1, ENV12.

5. The design and submission of all reserved matters and reserved details to be submitted to discharge conditions on this outline approval shall not exceed or depart from the maximum aggregated floorspace of 186,000 sq m, maximum building heights and finished floor levels and shall substantially accord with Chapter 3 of the Environmental Statement received by the local planning authority on the 16 July 2018 and follow the general and specific proposals contained in the Parameters Plan Dwg No 11921-127 Rev j and the Design Guidance Document (11921 DGD01M) received by the local planning authority on 23 November 2018.

Reason: To ensure that the development is undertaken in accordance with the approved details, in the interests of the character and amenities of the area in order to comply with Plan Policies SP12, SP15, SP18, SP19, ENV1, ENV12, T1 and T2.

Floorspace

6. No more than a total of 12½% or 23,250 sq m of the floorspace hereby approved shall be non-Rail Related Class B2 or B8 uses or Associated Class B1 floorspace and then only to be situated in Area A.

Reason: In order to define this permission and that the majority of the new floorspace is genuinely related to and serviced from the existing and retained rail infrastructure and so that any associated floor space not related to the rail network does not have any significant traffic generation implications and negate the otherwise sustainable credentials of this development in order to comply with Plan Policies ENV1, T1 and T2.

7. No non-Rail Related or Associated Class B1 floorspace may be commenced until evidence of the entering into of contracts for the development of no less than 50,000 sq m of rail related floorspace has been submitted to and approved by the local planning authority.

Reason: In order to define this permission and to ensure that significant new floorspace that is genuinely related to and serviced from the existing and retained rail infrastructure is committed before floor space not related to the rail network may come forward in order to protect the traffic generation implications and to not negate the otherwise sustainable credentials of this development in order to comply with Plan Policies ENV1, T1 and T2.

Access Conditions

8. There shall be no commencement of highway works within each Area in relation to approved reserved matters for an individual building until the following drawings and details for that building(s) or Area 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) lining and signing
- (f) 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.

9. No building shall first be brought into use until the carriageway and any footway/footpath from which it gains access and including the pedestrian facilities along the Gascoigne mine access road to the access junction for that building 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.

10. Prior to the first occupation of any floorspace the B1222/New Lennerton Lane junction (TA junction 8) shall be improved with a new, east bound right turn ghost lane and visibility improvements generally in accordance with preliminary Dwg ref: 18032-GA-04-Rev B.

Reason: In order to ensure that the impacts of the development on the network are mitigated in accordance with the Transport Assessment and in order to comply with Plan Policies SP12, T1 and T2.

11. Prior to the occupation of 15,000 sq m of B2 or equivalent B2/B8 mix (as defined in the Transport Assessment) the B1222/Aviation Rd/Fenton Lane roundabout (TA junction 5) shall be improved with widening on the western approach to the roundabout and roundabout widening and pedestrian refuge generally in accordance with preliminary Dwg ref: 18032.GA.06.

Reason: In order to ensure that the impacts of the development on the network are mitigated in accordance with the Transport Assessment and in order to comply with Plan Policies SP12, T1 and T2.

12. Prior to the first occupation of the floorspace that cumulatively from the development will generate 212 two way pcu trips or more (in the am peak as defined in the TA) routing through the B1222/A162 roundabout (TA junction 4) that junction shall be improved to have a dedicated south bound lane off the roundabout and on

the eastern approach generally in accordance with preliminary Dwg ref: 18032.GA.05.

Reason: In order to ensure that the impacts of the development on the network are mitigated in accordance with the Transport Assessment and in order to comply with Plan Policies SP12, T1 and T2.

13. The timescale and methodology for the monitoring of traffic flows routing through TA junction 4 required by Condition 12 shall be defined by the submission of monitoring reports which shall include trip distribution and trip generation figures submitted and updated at the submission of each of the reserved matters applications following the first occupation of the first 5,000 sq m of Class B2 floorspace. The reporting criteria for which shall have previously been agreed by the local planning authority in consultation with the Highway Authority.

Reason: To define the methodology for two way pcu trip monitoring through TA junction 4 in accordance with the Transport Assessment and in order to comply with Plan Policies SP12, T1 and T2.

14. There shall be no vehicular or construction access to the site other than from the existing Gascoigne mine access road via New Lennerton Lane.

Reason: In order to ensure that the impacts of the development on the network are mitigated in order to comply with Plan Policies ENV1, T1 and T2.

15. No development shall commence within a particular Area until a Construction & Environmental Management Plan for that area to include:

- hours of construction working
- on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the highway
- on-site materials storage area capable of accommodating all materials required for the operation of the site
- details of measures for the mitigation and monitoring of effects upon identified species in the Ecological Management Plan and their protection during development
- details of any temporary or construction lighting
- Soil Management Plan
- Wheel washing facilities, and
- Construction vehicle lorry routing control
- explanation of its relationship to any previously approved Construction and Environmental Management Plans for the site

has been submitted to and approved by the local planning authority. 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 which is necessary in order to address construction management issues before works commence and in the interests of protecting the character and amenities of the area in order to comply with Plan Policies SP18, SP19, ENV1, T1 and T2.

Landscaping Conditions

16. Details of the timing for the commencement of the construction/implementation of the perimeter screen bunding, planting and acoustic fencing to the northern and western site boundaries of Area A as part of the Proposed Landscape Framework indicated on the Parameters Plan and Design Guidance Document shall be submitted for approval by the local planning authority prior to the material commencement of the first reserved matters approval in Area A. The implementation shall thereafter proceed in accordance with the approved details.

Reason: In accordance with the details of the application and to ensure the early/strategic commencement of landscaping in order to protect the amenities of the area and nearby residential properties and in the interests of the character and amenities of the area in order to comply with Plan Policies SP18, SP19 and ENV1.

17. A Landscape Management Plan, including long term design objectives, public accessibility, management responsibilities, implementation and maintenance schedules for all Proposed Landscape Framework Areas within the application site shown on the Parameters Plan and taking account of the Ecological Mitigation Compensation and Management Plan shall be submitted to and approved by the local planning authority prior to the first occupation of the first part of an Area of the development. The Landscape Management plan shall be implemented in accordance with the approved timescales.

Reason: In accordance with the details of the application and to ensure the retention and management of all landscaping and planted areas in order to protect the amenities of the area and nearby residential properties and in the interests of the character and amenities of the area in order to comply with Plan Policies SP18, SP19, ENV1 and ENV12.

18. There shall be no tree removal and no development shall commence in a particular Area until details of all trees to be removed and details of trees to be retained and measures for their protection in that area in accordance with a BS 5837 Survey have been submitted to and approved by the local planning authority. The works shall thereafter proceed in accordance with the approved details

Reason: In order to ensure for the preservation and planting of trees in accordance with s.197 of the Act and in the interests of the amenities and biodiversity of the area to comply with Plan Policies SP19, ENV1 and ENV12.

19. No development shall take place in a particular Area until full details of both hard and soft landscaping works outside of the strategic planting in the Proposed Landscape Framework for that particular Area have been submitted to and approved by the local planning authority.

Reason: Non-strategic landscaping particular to specific Areas or buildings is to be the subject of future submissions and considerations in order to ensure for the landscaping and planting of areas not covered by buildings and in order to protect the amenities of the area and nearby residential properties and in the interests of the character and amenities of the area in order to comply with Plan Policies SP18, SP19, ENV1 and ENV12.

20. All of the approved landscaping/planting works for each Area shall be carried out in accordance with the approved details within the first available planting season following the first occupation of the building hereby approved.

Reason: To ensure for the preservation and planting of trees in accordance with s.197 of the Act and in accordance with the details of the application and in the interests of the amenities of the area in order to comply with Plan Policies SP18, SP19, ENV1 and ENV12.

21. If within a period of three years from the first occupation of a particular building any tree or shrub that formed part of that building's planting scheme is removed, uprooted or destroyed or dies, another tree or shrub of the same species and size as that originally planted shall be planted at the same place within three months of that failure.

Reason: To ensure for the preservation and planting of trees in accordance with s.197 of the Act and in accordance with the details of the application and in the interests of the amenities of the area in order to comply with Plan Policies SP18, SP19, ENV1 and ENV12.

Flood Risk and Drainage

22. No development shall take place on an individual plot until a surface water drainage scheme for that Area, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved by the Local Planning Authority. The drainage strategy should demonstrate that 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
- ii. Sufficient attenuation storage for up to and including a 1 in 100 year storm, with an allowance for climate change
- iii. Details of how the design and timing for implementation of the central Flood Alleviation Zone/ Open Space has been coordinated with individual Areas taking account of the Scale 1:5000 Indicative Surface Water Drainage Strategy Dwg No 881137 10-01 P4
- 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 in order to comply with Plan Policies SP15 and ENV1.

23. No development shall commence until a scheme for the accommodation of additional flows impacting upon the watercourse network have been submitted to and approved in writing by the Local Planning Authority. The scheme shall cater for the impact resulting from the minimum 1 in 100 year return period storm event including a 40% allowance for climate change effects of creep for the lifetime of the development. No part of the development shall be brought into use until the works comprising the scheme approved under this condition have been completed.

Reason: This is a pre-commencement condition in order to protect the water environment and since it is necessary to have this information before substantial works commence to prevent the increased risk of flooding both on and off site in order to comply with Plan Policies SP15 and ENV1.

24. Surface water run-off from hardstandings (equal to or greater than 800 square metres) and/or communal car parking area (s) of more than 49 spaces must pass through an oil, petrol and grit interceptor /separator of a design that has been submitted to and approved by the Local Planning Authority and installed prior to any discharge to an existing or prospectively adoptable sewer. The approved details shall thereafter be retained at all times.

Reason: To ensure the protection of the water environment in accordance with Plan Policy ENV2.

Ecology/ Biodiversity strategy/Protected species

25. Prior to the commencement of any development an Ecological Mitigation Compensation and Management Plan shall be submitted to and approved by the local planning authority. The Plan shall include detailed measures for the protection, mitigation, compensation and enhancement required to support protected species and habitats and to ensure a net gain in biodiversity. The plan shall also include a timescale for implementation, phasing, monitoring and long term management by a

suitably competent body. The Plan shall thereafter be implemented in accordance with the approved details.

Reason: This is a pre-commencement condition in order to ensure mitigation in accordance with the Extended Phase 1 Ecological Assessment and paragraph 175 of the NPPF and Plan Policy ENV1.

26. Prior to the installation of any external and non-aviation lighting or lighting columns in an Area details of a Site External Lighting Strategy for that Area and to address mitigation of impacts upon protected species following the approved Design Guidance Document shall have been submitted to and approved by the local planning authority. All lighting units shall be installed and retained in accordance with the approved Strategy

Reason: In order that the local planning authority may be satisfied on the nature and location of any external lighting, prior to its installation in the interests of the character and amenities of the area in order to comply with mitigation in accordance with the Extended Phase 1 Ecological Assessment and paragraph 174 of the NPPF and Plan Policy ENV1.

Contamination

27. Prior to the commencement of development in each Area, a remediation strategy to deal with the risks associated with contamination of that Area shall be submitted to and approved by the Local Planning Authority. No development shall take place in that Area other than in accordance with the approved remediation strategy.

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.

28. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels water pollution and to prevent deterioration of the water quality of controlled waters, in line with paragraph 109 of the National Planning Policy Framework and Plan Policy ENV2.

Noise

29. Noise emitted from development in Areas A and B shall:

- a. not exceed the existing background level by more than +5dB(A) at any premises used for residential purposes when assessed and / or measured in accordance with BS 4142:2014.
- b. Not exceed 60dB $L_{A\text{Max}}$ at any premises used for residential purposes between 23:00 and 07:00.

Reason: In order to protect residential receptors adjacent to the site in the interests of the residential amenities of the area and the local environment in order to accord with Plan Policy ENV1.

30. 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 noise monitoring methodology and criteria that have previously been submitted to and agreed in advance by the local planning authority. The designed mitigation shall ensure that the cumulative impact of the site shall not exceed the operating noise criteria stated in Condition 30. 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: 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 previously approved phase and mitigation in the interests of the residential amenities of the area and the local environment in order to accord with local plan Policy ENV1

31. Freight or container handling within Areas C and D between the southern sidings and the Container Port will be undertaken in accordance with a Framework Noise Management Plan (FNMP) that has been submitted to and approved by the local planning authority prior to the first operation of the RFI associated with this development. The FNMP is expected to contain details of:
- The identity of the sources of particularly impulsive noise (the types of machines / mobile plant proposed to be used)
 - Proposals for the management of activities related to freight or container handling and the times of operation
 - Procedures for management of container movement within the site including the minimisation of noise from container loading and unloading, plant and equipment, operational procedures and controls on the number and type of noise sources
 - Provision of training linked to minimising noise from freight handling activities
 - Complaints handling process
 - Active noise management
 - Measures for a methodology to update the FNMP with changes in circumstances on site or triggered by the complaints procedure

Reason: In accordance with the Draft FNMP submitted with the application and in order to protect residential receptors adjacent to the site from freight handling noise in the interests of the residential amenities of the area and the local environment in order to accord with local plan Policy ENV1.

32. The cumulative noise rating level of noise emitted from the fixed buildings services plant associated with proposed units within areas A, B, C, D at the site shall be equal to or below existing background noise level at any premises used for residential purposes when assessed and / or measured in accordance with BS 4142:2014.

Reason: In order to protect residential receptors adjacent to the site in the interests of the residential amenities of the area and the local environment in order to accord with local plan Policy ENV1.

Skills/ Educations/ employment apprenticeships plan

33. No development shall commence until a Plan detailing arrangements to promote local employment and skills development opportunities related to the development has been submitted to the local planning authority. The plan must include proposals for working with the Local Enterprise Partnership and explain how the Local Enterprise Partnership has been consulted on the submitted plan. The employment and skills plan must be implemented and maintained for the duration of the construction and use of the development.

Reason: In order that the local need to retain jobs within the Selby District and support economic development is a part of this development and in order to recognise the national and local increased emphasis on increasing the use of rail freight and that the development can contribute towards that local skills shortage in accordance with.. .

Others

34. No public art or public interpretation boards shall be installed until details of their design, appearance and location have been submitted to and approved by the local planning authority.

Reason: In order that if there are proposals for interpretation of former mining/ colliery and local aviation heriatge this can be realised in accordance with the details of the application and so that the local planning authority retains control in the interests of the character and amenities of the area in order to comply with Plan Policy ENV1.

35. Details of the necessary CAA/ aviation lighting on any building shall be submitted to and approved by the local planning authority prior to its installation.

Reason: In order that the local planning authority, in consultation with the CAA may be satisfied on the nature and location of any external lighting, prior to its installation in the interests of the character and amenities of the area in order to comply with Plan Policy ENV1.

36. The new southern trackside amenity building shall not be commenced until details of its scale, appearance, layout and location have been submitted to and approved by the local planning authority.

Reason: In order that the local planning authority might retain control of the location and appearance of any new buildings on the site and to ensure compliance with Section 92 of the Town and Country Planning Act 1990 as amended.

Informative 1: for Conditions 10, 11 & 12

For the avoidance of doubt the works in the highways to realise these improvements will need to be addressed through an agreement under s.278 of the Highways Act.

Informative 2: 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 3: In respect of Condition 29*the relevant guidance is likely to be BS4142:2014 *Methods for rating and assessing industrial and commercial sound*, or any updating or revision thereof.

v.7 23/11/18

Paul Edwards



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community, opportunity, prosperity

Appeal.

13 August 2007

Mr D Armstrong-Payne
Atisreal UK
Belgrave House
Bank Street
Sheffield
South Yorkshire, S1 2DR

Our Ref: APP/N2739/N/06/1199354

SELBY DISTRICT COUNCIL PLANNING	
1 4 AUG 2007	7 SEP 2007
DATE RECEIVED & LOGGED	LAST REPLY DATE

Dear Sir,

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 77**APPLICATION BY UK COAL LTD**

**RETENTION AND REUSE OF SUITABLE BUILDINGS, CAR PARKING AND
INFRASTRUCTURE. CONTINUED USE OF RAIL SIDINGS. GASCOIGNE WOOD
MINE, LENNERTON LANE, SHERBURN IN ELMET, SELBY, LS25 6LH.
APPLICATION REF: 2005/0673/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Andrew M Phillipson BSc CEng FICE MIHT, who held a public local inquiry between the 5 and 12 March 2007 into your client's application for planning permission for the retention and reuse of suitable buildings, car parking and infrastructure and the continued use of the rail sidings, in accordance with application number 2005/0673/FUL, dated 27 May 2005.
2. Instead of being dealt with by the relevant planning authority, Selby District Council, the application was called in for decision by the Secretary of State following a direction issued, in pursuance of section 77 of the Town and Country Planning Act 1990, on 5 July 2006.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that planning permission be granted. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where indicated, and with his recommendations. A copy of the Inspector's report (IR) is enclosed. All paragraph references, unless otherwise stated, are to that report.

Procedural matters

4. After the original application was submitted, the Inspector records that UK Coal submitted a revised layout plan (IR1.4), and that this was drawn to the attention of parties at the inquiry. Like the Inspector, the Secretary of State has considered the

Andrew Lynch
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Tel:
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- Weight to be Accorded to the Existing Buildings;
- Need and Demand;
- Rail Access;
- Other matters.

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Accordance with the Development Plan

12. The Secretary of State notes that it is common ground that the site is within the countryside both literally and in policy terms and that its development for employment purposes would conflict with those policies in the RSS and the local plan which seek to direct employment development to urban areas, or urban extensions and nodes in good quality transport corridors (IR10.36). The Secretary of State has also had regard to the fact that there is no shortage of employment land available in Selby District or Sherburn in Elmet.
13. However, for the reasons set out in IR10.38 to IR10.39, the Secretary of State agrees with the Inspector that the site is located in an area identified as a first priority area for regional regeneration initiatives and, as the proposal would bring employment to the area, it would fit with that policy strand and would also fit with the strand of the RSS that encourages repair and maintenance of existing development, before allocating land for new development. The Secretary of State also agrees that the proposal would gain the most support from the development plan policies that encourage distribution of freight by more sustainable means, including rail; require development to make the best use of existing transportation networks; and seek to ensure that where railway land has the prospect of re-use, that prospect is not prejudiced. For the reasons set out in IR10.40, the Secretary of State agrees with the Inspector that, as the proposal would retain the existing bunds surrounding the site, which are generally accepted as a valuable feature in the local landscape, the proposal would be compliant with local plan policy ENV21. Overall, however, the Secretary of state concludes that the proposal is not in accordance with the development plan taken as a whole. She has therefore gone on to consider whether there are any material considerations of sufficient weight in this case that would lead her to determine it other than in accordance with the development plan.

The Fall Back

14. Like the Inspector, the Secretary of State has taken into account the implications of the restoration condition attached to the original permission for the Selby mine complex in her consideration of any fall back position. The second part of this condition gives the applicant a choice of either restoring the site to its former condition or agreeing an alternative restoration scheme with the county planning authority. For the reasons set out in IR10.18 to IR10.21, the Secretary of State agrees with the Inspector's conclusion in IR10.20 that there is no realistic prospect of the site being restored to its former condition. In particular, she agrees with the view expressed by the Inspector that as it is generally agreed that the planting on the bunds is an asset in landscape terms and should be retained, it is almost inconceivable that UK Coal would remove the bunds and then reinstate sidings and part of an airfield that would have little if any practical purpose. In her opinion, these circumstances do not constitute a true fall back position. She further agrees with the Inspector that if the present application is not successful, it is more likely that UK Coal would favour an alternative restoration scheme involving substantial retention

14 AUG 2007

7 SEP 2007

DATE RECEIVED

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Need and Demand

18. For the reasons set out in IR10.29 to IR10.33, the Secretary of State agrees with the Inspector that the evidence of need for the buildings notwithstanding this, the potential that the site affords for rail linked development has been widely recognised (IR10.33). The Secretary of State agrees with the Inspector in IR10.34 that rail linked sites of the quality that Gascoigne Wood offers are rare and whilst the market for them is limited, the Gascoigne Wood site has significant potential to support rail linked manufacture and/or distribution. Overall, the Secretary of State agrees with the Inspector that although a user who would be able to put the rail infrastructure to beneficial use together with the buildings may not be found quickly, she is not convinced that no suitable user would be forthcoming, and agrees with the Inspector that the buildings also have the potential to be adapted to a variety of uses (IR10.34).

Rail Access

19. The Secretary of State concludes, for the reasons set out in IR10.35, that the site is well located on the rail network with sidings that are able to take the longest length of train commonly used on the rail network and that are accessible from both ends. She agrees with the Inspector that concerns that sufficient train paths to service the site may not be available because of local capacity constraints on the railway network are unfounded.

Other Matters

Sustainability

20. The Secretary of State agrees with the Inspector in IR10.42 that in terms of sustainability the site is poorly located with respect to travel to work by means other than the private car. UK Coal have entered into a S106 agreement that would secure a free shuttle bus service for employees and a car sharing scheme with a "guaranteed ride home" (IR10.42). The Secretary of State agrees with the Inspector that this would go some way to compensate for the site's poor location and, as the proposal would directly foster the use of rail for the transport of goods, it should reduce the impact of moving freight in accord with the principles of sustainable distribution. The Secretary of State also agrees with the Inspector in IR10.42, that the proposal would contribute to the sustainable use of resources as it would involve the reuse of existing buildings and infrastructure, and she also agrees that the employment would be welcome in the local economy.

Highway matters

21. For the reasons set out in IR10.58 to IR10.59, the Secretary of State agrees with the Inspector that refusal of planning permission on highway safety grounds would not be justified. Visibility on the site is good and there are no obvious defects and the Secretary of State agrees with the Inspector that the lack of objection from the responsible highway authority reinforces the Inspector's conclusions on this matter (IR10.59).

Planning Obligation

22. For the reasons set out in IR10.52 to IR10.54, the Secretary of State agrees with the Inspector that the measures set out in the S106 agreement should be given

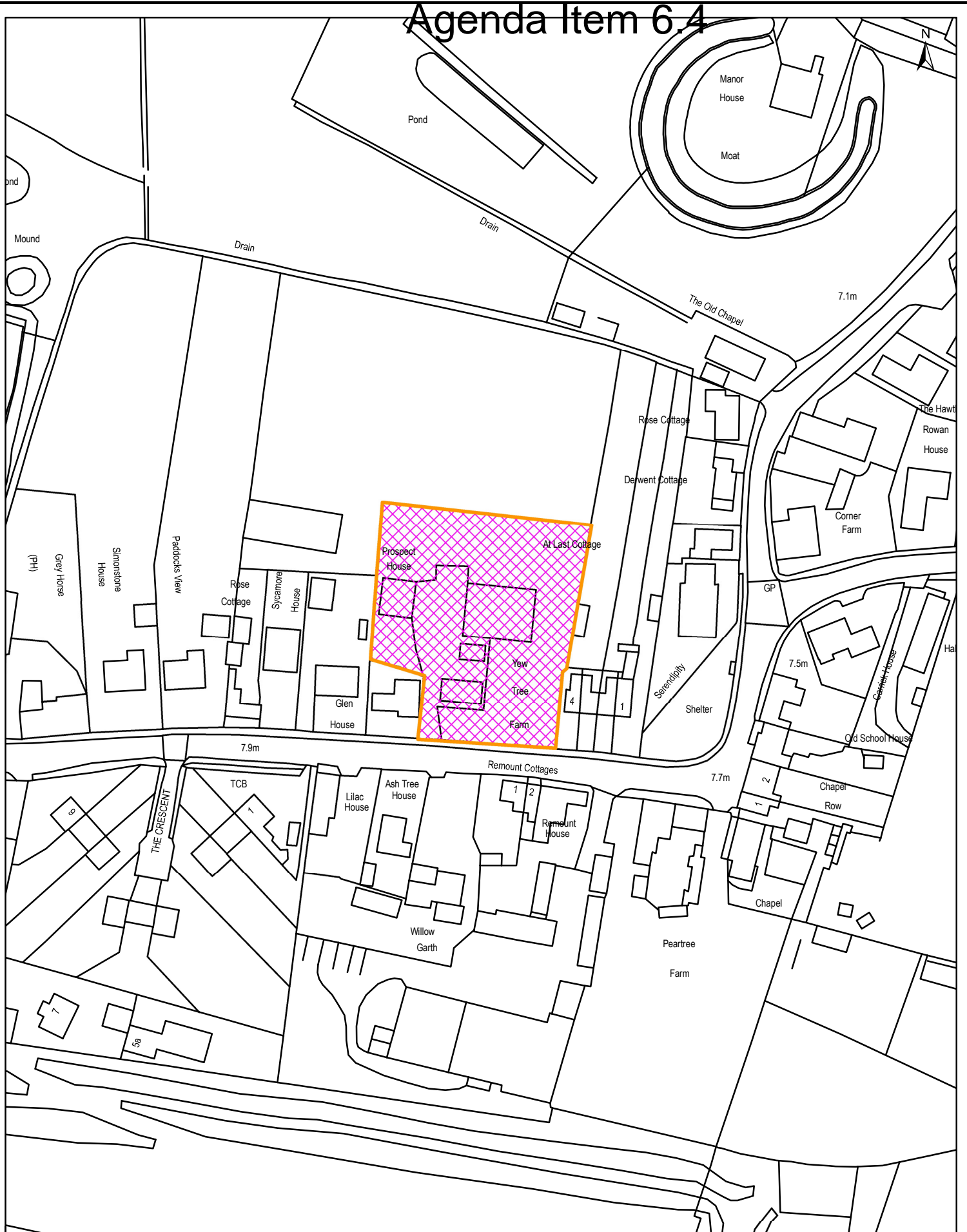
SELBY DISTRICT COUNCIL PLANNING	
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Formal Decision

28. Accordingly, for the reasons given above, the Secretary of State hereby grants planning permission for the retention and reuse of suitable buildings, car parking and infrastructure and the continued use of the rail sidings, in accordance with application number 2005/0673/FUL, dated 27 May 2005, subject to the following conditions:

1. The buildings to be retained, reused and occupied under the terms of this planning permission comprise the Workshops (Building No 1 on Drg P3GWa), Stores (Building No 2 on Drg P3GWa), Amenity Block (Building No 41 on Drg P3GWa), Covered Stockyard (Building No 51 on Drg P3GWa) and the Gate House (Building No 85 on Drg P3GWa). With the exception of the Gate House these buildings are described as the 'retained buildings'.
2. The existing Amenity Block (Building No 41 on Drg P3GWa) shall only be used for purposes within Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) and those purposes shall be ancillary to the approved uses on the site.
3. The existing Workshops (Building No 1 on Drg P3GWa) shall only be used for purposes within Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) and then only by occupiers using the existing rail facilities on site and their main line connections.
4. The existing Stores (Building No 2 on Drg P3GWa) shall only be used for purposes within Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) and then only by occupiers using the existing rail facilities on site and their main line connections.
5. The existing Covered Stockyard (Building No 51 on Drg P3GWa) shall only be used for purposes within Classes B2 or B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) and then only by occupiers using the existing rail facilities on site and their main line connections.
6. No external storage shall be permitted on site with the exception of that which is ancillary to the use of the retained buildings and railway sidings.
7. In the event that any retained building is not used wholly or mainly for rail related uses by occupiers using the existing rail facilities on site and their main line connections within 5 years from the date of this permission, it shall be demolished and removed from site no later than 6 years from the date of this permission and the site shall be restored and landscaped in accordance with a scheme (which shall include a timetable for implementation and management measures) first submitted to and approved in writing by the local planning authority.
8. The existing rail facilities comprising the north and south side rail sidings and their main line connections, signalling and control facilities and the signal box (formerly part of the Rapid Loading Station and not to exceed 12.0m in height), Coal Unloading Station and Conveyor Gantry and Walkway (Building Nos 36 (part), 40 and 66 on Drg P3GWa) shall be retained and shall not be removed. Within 2 months of the date of this permission and every 6 months thereafter the local planning authority shall be provided

Agenda Item 6.4



APPLICATION SITE

Yew Tree House, Main Street, Kelfield
2017/0701/OUT

1:1,250



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Page 109

AMENDED DRAWING

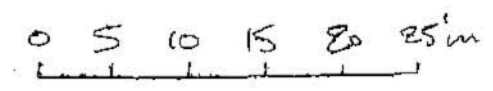
Issue Status
Planning

Drawing No.	Scale @ A3	Drawn
697/02	1:500	sj
	Date	Checked
	September 2017	

Project
**Illustrative Layout
 Residential Development
 Yew Tree Farm
 Kelfield**

Jenneson Associates Ltd
 Chartered Architect
 May Cottage
 Mill Lane
 Seaton Ross
 York YO42 4NE

JENNESON ASSOCIATES



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Report Reference Number: 2017/0701/OUT (8/14/114A/PA)

To: Planning Committee
Date: 5 December 2018
Author: Jenny Tyreman (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/0701/OUT	PARISH:	Kelfield Parish Council
APPLICANT:	Mr R Atkinson	VALID DATE: EXPIRY DATE:	22 June 2017 17 August 2017
PROPOSAL:	Outline application for demolition of garage, farm buildings and glasshouse and erection of residential development (all matters reserved)		
LOCATION:	Yew Tree House Main Street Kelfield York North Yorkshire YO19 6RG		
RECOMMENDATION:	REFUSE		

1. INTRODUCTION AND BACKGROUND

- 1.1 This application has been brought back before Planning Committee following consideration at the 10th January 2018 meeting, where Members resolved "To DEFER the application in order to give the applicant the opportunity to work with Officers to submit a revised plan more acceptable to the site boundaries and development limits". A presence or absence survey of all accessible watercourses within 500m of the application site was also required to be submitted in order for the Local Planning Authority to assess the impact of the proposed development on European Protected Species (specifically great crested newts).
- 1.2 Members should be aware that since the application was previously brought before Planning Committee, an appeal (reference: APP/N2379/W/17/3170320) in respect of an outline application (reference: 2016/0597/OUT) (with all matters reserved) for the erection of a residential development following the demolition of an existing

dwelling, garage, farm buildings and glasshouse at Yew Tree House, Main Street Kelfield has been dismissed by the Planning Inspectorate. The Inspector concluded “The proposal has failed to demonstrate that it would not have an adverse effect on protected species and their habitat or upon heritage assets. It would also fail to comply with local and national policy which seeks to reduce the need to travel by locating new development in sustainable locations. The contribution to housing, including affordable housing, and the limited economic benefits of the scheme would not outweigh this identified harm.” This appeal decision is a material consideration in the determination of the current application and is included in Appendix 2 for reference.

- 1.3 Since the 10th January 2018 resolution of Planning Committee and the 31st January 2018 appeal decision in respect of appeal reference APP/N2379/W/17/3170320, the applicant’s agent has submitted a revised location plan (drawing no. 01A) and a revised illustrative layout plan (drawing no. 697/02). These reduce the area of the application site, such that it no longer includes an area of land to the rear of Glen House, Sycamore House and Rose Cottage. This effectively removes Plot 8 which was shown on the now superseded indicative layout plan (drawing no. 697/01). Furthermore, an updated design and access statement (incorporating a heritage statement) has been submitted and a Great Crested Newt Survey (incorporating a presence or absence survey) undertaken by Astute Ecology Ecological Consultants, dated June 2018, has been submitted.
- 1.4 In addition, since the application was previously brought before Planning Committee, the revised National Planning Policy Framework (NPPF) was published in July 2018.
- 1.5 As such, Planning Committee is required to re-consider this application in light of these material changes.

2. CONSULTATION AND PUBLICITY

Since the resolution at Planning Committee on 10 January 2018 the following additional comments have been received.

- 2.1 **NYCC Ecology** – Initial response 18.09.2018: Although the proposed development would not impact on any breeding ponds, it would result in the loss of around 0.3 hectares of potential terrestrial habitat and, due to the proximity of the ponds, “It has been assessed that there is a high risk of Great Crested Newt (GCN) being disturbed, injured or killed during site clearance”. In order to assess whether the proposed GCN mitigation would meet the requirements of the Conservation of Habitats & Species Regulations 2017, it is requested that further information from the applicant regarding:

- The ownership and future management of the proposed receptor area and wildlife corridor.
- The residual impact of the development after mitigation.
- Whether the proposed mitigation would be expected to maintain the favourable conservation status of the local GCN population.

Further response following submission of additional information 05.11.2018: With regards to point (1) this is acceptable in principle and a management plan for this

area can be provided by condition. In relation to points (2) and (3) the assessment provided by the applicants Ecologist is satisfactory and the conclusion is agreed that the favourable conservation status of the species would be maintained. For completeness, it is recommended that the ecology report is updated with the assessment provided to be updated as suggested by the Ecologist.

- 2.2 **Conservation Officer** – No objections. Recommendations on size, siting and design of properties for reserved matters application.
- 2.3 **Neighbour Comments** – No further letters of representation have been received since this application was heard at the 10 January 2018 Planning Committee.

3. APPRAISAL

3.1 The main issues which require re-consideration since the application was last presented to Planning Committee are as follows:

- The Principle of the Development
- Impact on the Character and Appearance of the Area
- Impact on Heritage Assets
- Nature Conservation and Protected Species
- Impact on Archaeology
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage
- Land Contamination
- Affordable Housing
- Recreational Open Space
- Waste and Recycling

The Principle of the Development

- 3.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.
- 3.3 The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside.
- 3.4 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. Policy SP4 (b) of the Core Strategy

states that proposals for the conversion and/or redevelopment of farmsteads to residential use within development limits will be treated on their merits.

- 3.5 A revised location plan (drawing no. 01A) and a revised illustrative layout plan (drawing no. 697/02) have been submitted in August 2018. These show a reduced area of the application site, such that it no longer includes an area of land to the rear of Glen House, Sycamore House and Rose Cottage. This effectively removes Plot 8 which was shown on the now superseded indicative layout plan (drawing no. 697/01). The revised illustrative layout plan (drawing no. 697/02) demonstrates how the site could accommodate up to six dwellings, in addition to the existing farm house which would be retained as part of the proposals. On the revised illustrative layout plan, only plots 2 and 3 would be located within the defined development limits of Kelfield. These two units on their own would constitute “filling of small linear gaps in otherwise built up residential frontages” as they would front Main Street and are located within a small gap between the existing farm house (Yew Tree House) to the east and a terrace of dwellings to the west. The part of the development located within the defined development limits of Kelfield would also amount to the “redevelopment of a farmstead”. However, the remainder of the application site projects a substantial distance to the north beyond the frontage development within the open countryside. As such, the application site would not constitute “filling of small linear gaps in otherwise built up residential frontages” or the “redevelopment of a farmstead” wholly within the defined development limits. The proposal would therefore not be in accordance with Policies SP2A (b) and SP4 of the Core Strategy.
- 3.6 Moreover, Policy SP2A (c) of the Core Strategy states that “Development in the Countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances”.
- 3.7 The proposal would not accord with Policy SP2A(c) as it is not for rural affordable housing need and there are no special circumstances. The application should therefore be refused unless material considerations indicate otherwise.
- 3.8 The NPPF is a material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development. Paragraphs 15 to 217 of the NPPF, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.

Sustainability of the Development

- 3.9 In respect of sustainability, the site is located part within and part outside the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, where there is scope for limited amounts of residential development to be absorbed inside development limits of Secondary Villages.

- 3.10 The village of Kelfield has not been considered as part of Background Paper 5, Sustainability Assessment of Rural Settlements, Revised July 2008. This is because Kelfield is not considered to be a sustainable settlement due to its lack of local services, such as a primary school, general store, post office and doctor's surgery, which would serve the day-to-day needs of its residents and its limited access to public transport. This means that residents would be heavily dependent on the use of a private car to satisfy their day-to-day needs.
- 3.11 Under appeal reference APP/N2379/W/17/3170320, which related to an outline application (reference: 2016/0597/OUT) (with all matters reserved) for the erection of a residential development following the demolition of an existing dwelling, garage, farm buildings and glasshouse at Yew Tree House, Main Street Kelfield, the Inspector considered whether the development was in a sustainable location. The Inspector concluded that "the proposal would be contrary to the aims of sustainable development explicit in the Framework, which seek to avoid a pattern of development which leads to reliance on the private car" and acknowledged that "The proposal would allow new residents to provide some support for services in Kelfield and nearby villages. However, as such services are relatively limited, this reduces the weight I attribute to this as a benefit". Although the application site relating to the appeal decision was larger and the illustrative layout plan showed the provision of twelve dwellings, ten of which would fall outside the defined development limits (while the revised illustrative layout plan for the current proposal shows the provision of six dwellings, in addition to the existing farm house, four of which would fall outside the defined development limit) it is considered the comments of the Inspector are still relevant to the principle of the development in respect of whether the current development proposed is in a sustainable location.
- 3.12 Under appeal reference APP/N2379/W/17/3170320, the Inspector also noted the Council's concerns that the proposal would be contrary to the aims of sustainable development explicit in the NPPF, which seeks to avoid a pattern of development which leads to reliance on private car. The Inspector noted the "very limited public services" in Kelfield and the limited access to public transport in Kelfield would be "unlikely to serve the needs of most people and most future residents of the development would be largely dependent upon the private car to access work and services". The Inspector concurred with the Council's view that "larger numbers of dwellings would have a proportionate effect in relation to numbers of car trips and that this cumulative effect is a relevant consideration". In this regard the Inspector concluded that "the [appeal] proposal would contribute to a pattern of development where residents would be largely reliant upon private car and would fail to reduce the need to travel. The [appeal] proposal would allow new residents to provide some support for services in Kelfield and nearby villages. However, as such services are relatively limited; this reduces the weight attributed to this as a benefit". As such, the Inspector concluded that the appeal proposal failed to comply with Policy SP2 of the Core Strategy which seeks to focus new development within the existing settlements best placed to provide services to support new residents.
- 3.13 Officers consider the comments of the Inspector in relation to whether the appeal proposal was in a sustainable location, equally applies to the current proposal. The revised illustrative layout plan demonstrates that the majority of the development would be located outside the defined development limits of Kelfield, where in accordance with Policy SP2A (c) of the Core Strategy, development is limited to certain circumstances, with which the proposal would not comply. The proposal

would therefore not focus new development within the existing settlements best placed to provide services to support new residents and would instead contribute to a pattern of development where residents would be largely reliant upon private car and would fail to reduce the need to travel. The proposal would therefore fail to comply with Policy SP2 of the Core Strategy which seeks to focus new development within the existing settlements best placed to provide services to support new residents. The proposal would also still conflict with guidance provided in the NPPF in relation to achieving sustainable patterns of development. These are factors which weigh against the proposal in the planning balance.

Settlement Strategy, Previous Levels of Growth and the Scale of the Proposal

- 3.14 The location of the development proposal would undermine the spatial strategy for the district as set out in the Core Strategy, in particular the settlement hierarchy set out at policy SP2. The focus on Selby as a Principal Town and on Tadcaster and Sherburn-in-Elmet as Local Service Centres would not be supported by further development taking place outside of the development limits at a 'fourth tier' level (secondary villages) settlement in the hierarchy. The strategy and hierarchy aims to support and deliver economic, regeneration, social and environmental objectives for the district and was assessed as a sustainable option through the adoption of the Strategy.
- 3.15 Policy SP5 of the Core Strategy designates levels of growth to each of the 3 main towns, the group of Designated Service Villages and the group of Secondary Villages based on their infrastructure capacity and sustainability. This policy set a minimum target of 170 for Secondary Villages as a whole, this target was to be met from existing commitments only. Data taken from the 2017-2022 Five Year Housing Land Supply Report – 30th September 2017 update (which uses a base data of the 30th of September 2017) shows that this minimum target has already been substantially exceeded, with 321 homes built or with permission since the start of the plan period in April 2011.
- 3.16 Secondary Villages have exceeded their minimum target by more than 3 times. Of concern to the delivery of the District's spatial strategy is that this has occurred only 6 years into the Core Strategy plan period, with 10 years of the plan period still remaining.
- 3.17 This disproportionate level of growth in the Secondary Villages, in the fourth tier for sustainability in the Councils settlement hierarchy, undermines the Council's spatial strategy, which directs the majority of development to the Principal Town of Selby, the Local Service Centres and the Designated Service Villages.
- 3.18 Notwithstanding this level of growth in the Secondary Villages as a whole, Policies SP2 and SP4 of the Core Strategy do allow for a limited amount of housing growth within the Secondary Villages. However, the scale of this development, at up to six dwellings, is clearly well in excess of this limited scale of development that can be sustainably supported by a Secondary Village and is expected by Policies SP2 and SP4 of the Core Strategy. The proposal would therefore be contrary to Policies SP2 and SP4 of the Core Strategy.

The 'fall-back'

- 3.19 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.
- 3.20 Following consideration of the application at the 10th January 2018 Planning Committee meeting, where one of the Members questioned what could be done at the site under Class Q of Part 3 of Schedule 2 The Town and Country Planning (General Permitted Development) (England) Order 2015, the applicant's agent has submitted a revised illustrative layout plan (drawing no. 697/02), which demonstrates how the site could accommodate up to six dwellings, in addition to the existing farm house which would be retained as part of the proposals. The applicant's agent has advised that permitted development rights would now allow for up to five dwellings to be created within existing agricultural buildings, subject to a prior notification application. On this basis, and taking into account that the revised illustrative layout plan (drawing no. 697/02) shows the provision of four dwellings outside the defined development limits, the applicant's agent considers this represents a fall-back position which should be given significant weight.
- 3.21 The applicants agent is correct that 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. However, the applicant's agent has not fully considered and demonstrated how, if at all, these permitted development rights could be implemented at the application site.
- 3.22 The applicant's agent has been requested by Officers to provide further information regarding the potential fall-back position, so Officers can assess the fall-back position against the current proposals and consider the extent of the weight (if any) that could be given to this. The applicant's agent has declined to submit such further information. The applicant's agent has not demonstrated that the existing agricultural building at the site could reasonably converted to up to five dwellings under Class Q of Part 3 of Schedule 2 The Town and Country Planning (General Permitted Development) (England) Order 2015. Furthermore, Officers doubt

whether such a quantum of development could be achieved through Class Q, given the size and scale of the existing agricultural building. Notwithstanding this, the red edge boundary of the application site projects well beyond the existing agricultural building at the site and the revised illustrative layout plan (drawing no. 697/02) shows the provision of dwellings beyond the footprint of the existing agricultural building, extending further into the open countryside, which would not be favourable to any potential fall-back position which could be demonstrated in relation to the conversion of the existing agricultural building under Class Q.

- 3.23 Having regard to the above, Officers consider that no weight should be attached to a potential fall-back position under Class Q of Part 3 of Schedule 2 The Town and Country Planning (General Permitted Development) (England) Order 2015, as insufficient information has been submitted to demonstrate that such a fall-back position exists, which would be capable of being implemented irrespective of the decision on this current application, and that the current proposal would be preferable.

Impact on the Character and Appearance of the Area

- 3.27 When the application was taken to Planning Committee on 10 January 2018, Members were advised that while Officers considered an appropriate appearance, scale and landscaping of the proposed dwellings could be achieved at the reserved matters stage, which would not result in any significant adverse impact on the character and appearance of the area, Officers did not consider that an appropriate layout of the proposed dwelling could be achieved at the reserved matters stage, without having a significant adverse impact on the character and appearance of the area.
- 3.38 Since the application was previously taken to Planning Committee, a revised location plan (drawing no. 01A) and a revised illustrative layout plan (drawing no. 697/02) have been submitted. These reduce the area of the application site, such that it no longer includes an area of land to the rear of Glen House, Sycamore House and Rose Cottage. This effectively removes Plot 8 which was shown on the now superseded indicative layout plan (drawing no. 697/01). The revised illustrative layout plan (drawing no. 697/02) demonstrates how the site could accommodate up to six dwellings, in addition to the existing farm house which would be retained as part of the proposals. Plots 2 and 3 would be located to the site frontage, while plots 4-7 would wrap around the north (rear) and east side of the existing agricultural building which would be demolished as part of the proposals.
- 3.29 Furthermore, since the application was previously taken to Planning Committee, an appeal (reference: APP/N2379/W/17/3170320) in respect of an outline application (reference: 2016/0597/OUT) (with all matters reserved) for the erection of a residential development following the demolition of an existing dwelling, garage, farm buildings and glasshouse at Yew Tree House, Main Street Kelfield has been determined by the Planning Inspectorate. While the appeal was dismissed, the Inspector concluded in respect of the impact of the development on the character and appearance of the area that an appropriate layout could be secured at the reserved matters stage.
- 3.30 Under appeal reference APP/N2379/W/17/3170320, the Inspector noted that "buildings along Main Street sit close to the road with long gardens which lie

behind” and notes that “the existing pattern of development, where the built envelope sits relatively close to Main Street forms a strong frontage” such that “the size and position of the site has the potential to facilitate an incongruously suburban back land development, which could erode the strong built form evident in the wider streetscene”. Notwithstanding this, the Inspector concluded that a scheme could come forward at the reserved matters stage which continued the relatively tight urban form along Main Street, while any dwellings to the rear could be positioned close to the existing built envelope so that rear gardens extended towards the rear of the site. Taking account of the Inspectors conclusions in relation to appeal reference

3.31 APP/N2379/W/17/3170320, it is considered that an appropriate appearance, scale, landscaping and layout of the proposed dwellings could be achieved at the reserved matters stage in respect of the scheme put forward under this outline application, without having any significant adverse impact on the character and appearance of the area. The proposal is 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 and the advice contained within the NPPF.

Impact on Heritage Assets

- 3.32 The application site is located within the historic village of Kelfield and within the setting of the Scheduled Ancient Monument of Kelfield moated site and fishpond to the north.
- 3.33 When the application was taken to Planning Committee on 10 January 2018, Members were advised that Officers considered that an appropriate layout, appearance, scale and landscaping of the proposed dwellings could be achieved at the reserved matters stage, which would not result in any harm to any designated or non-designated heritage assets.
- 3.34 Under appeal reference APP/N2379/W/17/3170320, the Inspector concluded that without a meaningful assessment of the significance of the heritage assets, or any rigorous appraisal of setting, they could not be satisfied as to the extent of any harm to heritage assets and their setting. On this basis, the Inspector concluded that the proposal would fail to comply with the requirement of policy SP18 which seeks to conserve the District’s heritage assets and with guidance in the Framework which has similar aims.
- 3.35 Since the application was previously taken to Planning Committee and following the appeal decision, amended plans have been submitted (as previously detailed in this report) and the applicant’s agent has also submitted a revised design and access statement which incorporates a heritage statement. The Heritage Statement identifies heritage assets which have the potential to be affected by the proposals, provides a meaningful assessment of their significance and an assessment of the impact of the proposals on those heritage assets.
- 3.36 The application has been re-assessed by the Council’s Conservation Officer - the comments of whom are noted and agreed. The Council’s Conservation Officer reiterates that throughout the application process, the existing property at the site, known as Yew Tree House, has been identified as a non-designated heritage asset and the retention and upgrading of this property as part of the proposals is fully

supported from a conservation perspective. Under appeal reference APP/N2379/W/17/3170320, the Inspector agreed that Yew Tree House was capable of being considered as a non-designated heritage asset, and its significance should be taken into account in determining the impact of the scheme. In terms of the impact of the proposals on non-designated and designated heritage assets, the Council's Conservation Officer notes that the proposed development would impact on the setting of the non-designated and designated heritage assets. However, they conclude that if the development is well designed, respects the historic street pattern of Kelfield and contains dwellings which reflect the existing character of Kelfield, the impact could be mitigated such that the proposals would not result in any harm to any designated or non-designated heritage assets. Going forward, the Council's Conservation Officer advises that any proposed new properties at the site should be constructed using materials to match those found in the local area and the scale, form and proportions of any new properties should reflect traditional buildings. On the basis of the above, the Council's Conservation Officer raises no objections to the proposals.

- 3.36 Having regard to the above, it is considered that an appropriate layout, appearance, scale and landscaping of the proposed dwellings could be achieved at the reserved matters stage, which would not result in any harm to any designated or non-designated heritage assets in accordance with Policy ENV27 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

Nature Conservation and Protected Species

- 3.37 An Extended Phase 1 Habitat Survey undertaken by Wold Ecology Ltd, dated January 2017, was originally submitted with the application. The survey concluded that a great crested newt population was present within 500m of the application site; 500m being the range that great crested newts may travel to a terrestrial habitat and /or other aquatic breeding site. The survey set out that the terrestrial habitat within the application site is excellent for great crested newts as it provides daytime refugia, foraging area, hibernation areas and dispersal route ways. As such, the survey sets out that in order to comply with the requirements of the latest Natural England guidance, a presence or absence survey of all accessible watercourses within 500m of the application site must be undertaken. The survey should comprise four survey site visits during the period mid-March to mid-June, with at least two site visits during the period between mid-April to mid-May. As the extended phase 1 survey was undertaken outside this specific time period, a great crested newt presence/absence survey has not been completed.
- 3.38 Since the application was previously taken to Planning Committee, a great crested newt presence/absence survey has been undertaken by Astute Ecology ecological Consultants, dated June 2018. This has been assessed by NYCC Ecology, who have advised that although the proposed development would not impact on any breeding ponds, it would result in the loss of around 0.3 hectares of potential terrestrial habitat and, due to the proximity of the ponds, "It has been assessed that there is a high risk of great crested newts being disturbed, injured or killed during site clearance". In order to assess whether the proposed great crested newt mitigation would meet the requirements of the Conservation of Habitats and Species Regulations 2017, NYCC Ecology requested that further information be provided by the applicant regarding: (1) the ownership and future management of

the proposed receptor area and wildlife corridor; (2) the residual impact of the development after mitigation; and (3) whether the proposed mitigation would be expected to maintain the favourable conservation status of the local great crested newt population.

- 3.39 In response to the above comments of NYCC Ecology, the applicant's agent has advised that: (1) the ownership of the would remain with the applicant and future management of the proposed receptor area and wildlife corridor could be conditioned; (2) that given the proposed mitigation in measures in Section 6.2 of the report, the residual effects of construction of the proposed scheme on great crested newts would be reduced to the extent that they are no longer significant, and in fact may lead to a positive effect significant at the local level; and (3) that the favourable conservations status of the local great crested newt population would be maintained via the proposed mitigation measures in Section 6.2 of the submitted Ecology report.
- 3.40 NYCC Ecology have been re-consulted on the above information and have advised that the future management of the proposed receptor area and wildlife corridor can be conditioned and agree that the favourable conservation status of the species would be maintained. NYCC Ecology have recommended that for completeness, the ecology report is updated with the assessment provided to be updated as suggested by the applicant's Ecologist.
- 3.41 Subject to conditions requiring (1) the development to be carried out in accordance with the recommendations of the Extended Phase 1 Habitat Survey undertaken by Wold Ecology Ltd, dated January 2017 and the Great Crested Newt Presence/Absence Survey undertaken by Astute Ecology ecological Consultants, dated June 2018 and (2) the proposed future management of the proposed receptor area and wildlife corridor, 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.

Impact on Archaeology

- 3.42 NYCC Heritage Services have been consulted on the proposals and have advised that the application site is located within the historic village of Kelfield. The settlement is mentioned in the Domesday Book of 1086 meaning that it existed prior to the Norman Conquest. Kelfield owes much of its current layout and character to Norman planning following the Conquest. The core of the village takes the traditional form of a Main Street with property plots on either side. These will have been in semi-continuous occupation for over 1000 years. These plots take the traditional form of long rear garths and terminate at a consistent rear boundary or back lane. The application site occupies the location of several medieval property plots. NYCC Heritage Services conclude that it is unlikely for the proposals to have a significant impact on archaeological deposits, although there is some potential for damage to medieval features, particularly in less disturbed areas of the site. Therefore NYCC Heritage Services raise no objections to the proposals in terms of their impact on archaeology, subject to a condition requiring a scheme of archaeological mitigation recording is undertaken in response to the ground disturbing works associated with the proposal.

Impact on Residential Amenity

- 3.43 An indicative layout plan has been submitted with the application, which demonstrates how the site could accommodate up to six dwellings, in addition to the existing farm house which would be retained as part of the proposals. The layout, scale, appearance and landscaping of the dwellings is reserved for subsequent approval at the reserved matters stage, however, having regard to the indicative layout plan it is considered that an appropriate scheme could be achieved at the reserved matters stage to ensure that no significant adverse effects of overlooking, overshadowing or oppression between the proposed dwellings and for the existing dwellings surrounding the application site.
- 3.44 Furthermore, the Environmental Health Officer raises no objections to the proposal in terms of noise and disturbance.
- 3.45 Having regard to the above, it is considered that an appropriate scheme could be achieved at the reserved matters stage, which would not result in any significant detrimental impacts on the residential amenities of the occupiers of the existing or proposed dwellings in accordance with Policy ENV1(1) of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Highway Safety

- 3.46 The application seeks outline planning permission for residential development with all matters reserved. An indicative layout plan has been submitted with the application, which demonstrates that the existing dwelling could be served from the existing access, while two further access points from Main Street could be created to serve the proposed dwellings.
- 3.47 The comments of the Parish Council and neighbouring properties have been noted regarding the impact of the proposal on highway safety. However, NYCC Highways have been consulted on the proposals and have advised that they have no objections to the proposals at the outline stage, subject to ten conditions relating to: detailed plans of road and footway layout; construction of roads and footways prior to the occupation of the dwellings; discharge of surface water; the construction requirements of private access/verge crossings; visibility splays; pedestrian visibility splays (individual dwellings); details of access, turning and parking; the provision of approved access, turning and parking areas; the conversion of garages into habitable accommodation; and on-site parking on-site storage and construction traffic during development.
- 3.48 Subject to the aforementioned conditions, it is considered that an appropriate scheme could be achieved at the reserved matters stage which would be acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and the advice contained within the NPPF.

Flood Risk and Drainage

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

- 3.50 In terms of drainage, the submitted application form sets out that surface water would be disposed of via an existing watercourse, but does not set out how foul drainage would be disposed of. The Ouse and Derwent Internal Drainage Board and Yorkshire Water have been consulted on the proposals.
- 3.51 The Ouse and Derwent Drainage Board note that the applicants intend for surface water be disposed of via an existing watercourse, but note that no further details have been provided regarding the nature and location of the relevant watercourse. The Board advise that their preference would be to see the use of sustainable methods of surface water disposal, wherever possible, retaining the water on site. The Board notes that historically some elements of the site have been drained to a soakaway and would therefore recommend that this option be investigated for the proposed development. Should infiltration prove to be unsatisfactory for the proposed development and the applicant propose to use a discharge to a watercourse (directly or indirectly) as the method of surface water disposal, the applicant would need to demonstrate that the site already drains to that facility. Further, where discharge to a watercourse is to be used, the Board would seek that run-off from the site be constrained and that the discharge from the development is attenuated to 70% of the pre-development rate (based on 140 l/s/ha for proven connected, impermeable areas and 1.4 l/s/ha for Greenfield areas). 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. Having regard to the above, the Board have no objections to the proposal at the outline stage subject to four conditions relating to: drainage works to be agreed prior to the commencement of development; evidence of existing surface water discharge; surface water to adjacent watercourse; and testing for the effectiveness of soakaways.
- 3.52 Yorkshire Water note that a 400mm surface water sewer runs through the site, but raise no objections at the outline stage, subject to two conditions relating to: no building or other obstruction being located over or within 3.5 metres of the centre line of the public sewer running through the site; and no piped discharge of surface water from the application site until works to provide a satisfactory outfall have been completed in accordance with submitted and approved details.

Land Contamination

- 3.53 The application is supported by a Contamination Statement prepared by MM Planning. This has been assessed by the Council's Contaminated Land Consultant who raises no objections to the proposals at this stage, subject to five conditions relating to the investigation of land contamination, the submission of a remediation scheme, verification of remedial works and reporting of unexpected contamination. This is to ensure that as a minimum, a Phase 1 Desk Study is completed prior to the re-development of the site, since it has been used for agriculture and horticulture for a significant period of time, with the possibility of pesticides and other potentially contaminating substances being present on the site. Agricultural buildings have also been identified on site, which have the potential to have stored machinery, equipment and chemicals which have the potential to introduce contamination to the site.

- 3.54 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

- 3.55 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) sets out the affordable housing policy context for the District. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District.
- 3.56 However, the NPPF is a material consideration and states at paragraph 63 - "Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount". Major development is defined in Annex 2: Glossary as "For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more".
- 3.57 The application is outline; however a revised illustrative layout plan (drawing no. 697/02) demonstrates how the site could accommodate up to six dwellings, in addition to the existing farm house which would be retained as part of the proposals. Given the proposed number of dwellings is below 10 (and Officers do not consider that the site could accommodate 10 or more dwellings) and the site area is less than 0.5 hectares, the proposal is not considered to be major development as defined in Annex 2 of the NPPF. It is therefore considered that having had regard to Policy SP9 of the Core Strategy, the Affordable Housing SPD and the advice contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

Recreational Open Space

- 3.58 In respect of contributions towards recreational open space, Policy RT2 of the Selby District Local Plan should be afforded limited weight due to its conflict with the CIL. Given the scale of the proposal, it is considered that no direct contribution is required due to the adoption of the CIL.

Waste and Recycling

- 3.59 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.

4. CONCLUSION

- 4.1 The application seeks outline planning permission (with all matters reserved) for the erection of residential development following the demolition of the existing

glasshouse, agricultural buildings and garage at the site. The existing farm house (Yew Tree House) would be retained as part of the proposals.

- 4.2 The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside. The proposal would not constitute any of the types of development that area acceptable in principle under Policies SP2 or SP4 of the Core Strategy. The proposal is therefore contrary to Polices SP1, SP2 and SP4 of the Core Strategy and hence the overall Spatial Development Strategy for the District.
- 4.3 The proposal is considered to be acceptable in respect of other main issues including the impact on the character and appearance of the area, impact on heritage assets, nature conservation and protected species, archaeology, residential amenity, highway safety, flood risk and drainage, land contamination, affordable housing, recreational open space and waste and recycling in accordance with relevant policies of the Development Plan and the advice contained within the NPPF. Notwithstanding this, greater weight must be given to the proposals non-compliance with Policies SP1, SP2 and SP4 of the Core Strategy and hence the overall Spatial Development Strategy for the District.

5. RECOMMENDATION

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

01. The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside. The proposal would not constitute any of the types of development that are acceptable in principle and is therefore contrary to Polices SP2 and SP4 of the Core Strategy and hence the overall Spatial Development Strategy for the District.

6. Legal Issues

6.1 Planning Acts

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

6.2 Human Rights Act 1998

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

6.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the

conflicting matters of the public and private interest so that there is no violation of those rights.

7. Financial Issues

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

8. Background Documents

Planning Application file reference 2017/0701/OUT and associated documents.

Contact Officer:

Jenny Tyreman, Senior Planning Officer

Appendices: Appendix 1: 10th January 2018 Planning Committee Report
Appendix 2: Appeal Decision Reference APP/N2379/W/17/3170320



Report Reference Number: 2017/0701/OUT (8/14/114A/PA)
Agenda Item No:

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

APPLICATION NUMBER:	2017/0701/OUT	PARISH:	Kelfield Parish Council
APPLICANT:	Mr R Atkinson	VALID DATE:	22nd June 2017
		EXPIRY DATE:	17th August 2017
PROPOSAL:	Outline application for demolition of garage, farm buildings and glasshouse and erection of residential development (all matters reserved)		
LOCATION:	Yew Tree House Main Street Kelfield York North Yorkshire YO19 6RG		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee as it has been called in by Cllr Casling on the following grounds:

- The development would improve the visual appearance of Main Street at this point by filling in a large untidy gap and filling the street line with new and sympathetically designed properties.
- The proposal would provide economic, social and environmental benefits to the settlement in accordance with paragraph 7 of the NPPF.

In addition, more than 10 letters of representation have been received, which raise material planning considerations and officers would otherwise determine the application contrary to these representations.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside.
- 1.2 The application site comprises part of Yew Tree Farm, including the existing farm house (Yew Tree House), and the adjoining farm yard area, including four buildings: a glass and timber framed greenhouse; a single storey shed; an agricultural building; and a single storey garage.
- 1.3 To the north of the application site is agricultural land associated with Yew Tree Farm and within the same ownership as the application site. Beyond this is the Scheduled Ancient Monument of Kelfield moated site and fishpond. To the east and west of the application site is residential development to the north side of Main Street, while to the south of the application site is Main Street, with residential development to the south side of Main Street beyond.

The Proposal

- 1.4 The application seeks outline planning permission (with all matters reserved) for the erection of residential development following the demolition of the existing glasshouse, agricultural buildings and garage at the site. The existing farm house (Yew Tree House) would be retained as part of the proposals.
- 1.5 An indicative layout plan has been submitted with the application, which demonstrates how the site could be laid out to accommodate seven dwellings, in addition to the existing farm house which would be retained as part of the proposals. The indicative layout plan also demonstrates how the existing dwelling could be served from the existing access, while two further access points from Main Street could be created to serve the proposed dwellings.

Relevant Planning History

- 1.6 The following historical applications are considered to be relevant to the determination of this application.
 - An outline application (reference: 2016/0597/OUT) (with all matters reserved) for the erection of residential development following the demolition of an existing dwelling, garage, farm buildings and glasshouse was refused on 30th August 2016.

The application was refused for the following reasons:

1. The majority of the application site is located within the open countryside outside the development limits of Kelfield which is defined as a Secondary Village within the settlement hierarchy. The proposed development does not comprise any of the types of development that are acceptable in principle under Policy SP2A(c) of the Core Strategy and hence the overall Spatial Development Strategy for the District. The proposal is therefore contrary to Policy SP2A(c) and SP4 of the Core Strategy.

2. The proposed scheme is considered not to be located in a sustainable location due to the lack of facilities serving the village of Kelfield and there is an increased need for the use of a motor vehicle. The proposed scheme is considered not to be sustainable in relation to the three dimensions to sustainable development of being of an economic, social and environmental nature. The proposed scheme therefore fails to accord with Policy SP1 and Paragraph 7 and of the NPPF.
3. The location, siting and scale of the proposal would spur out significantly into the open countryside, would not result in a natural rounding off of the settlement and does not follow the existing built form within the surrounding area. The proposal would appear as an intrusive and incongruous development, divorced from and out of character with the form and layout of this part of the village. Therefore the proposals would have a significantly harmful impact on the setting of the village and the character of the area contrary to Policies SP4 and SP19 of the Core Strategy and ENV1 of the Selby District Local Plan.
4. The proposed scheme is located 37metres north from a pond and a watered moat. There are a further three ponds within 100metres to the west of the application site. The proposed scheme fails to provide sufficient information to assess the impact of the proposal on great crested newts and any other protected species on the application site. The proposed scheme therefore fails to accord with Policy ENV1 (5) of the Local Plan, Policy SP18 of the Core Strategy and the framework within the NPPF.
5. The proposed scheme has failed to provide a mechanism to secure the contribution of onsite recreation open space and therefore fails to accord with Policy RT2 b) i) of the Selby District Local Plan.
6. The proposed scheme fails to provide sufficient information to assess the impact of the proposal on the Scheduled Monument of 'Kelfield moated site and fishpond'. The proposed scheme therefore fails to accords with Policies ENV1 and ENV28 of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

This application is currently at appeal, with a hearing due to take place on 17 and 18 January 2018.

2. CONSULTATION AND PUBLICITY

(All immediate neighbours were informed by letter, a site notice was erected and statutory consultees notified)

- 2.1 **Parish Council** – No objections, but raise the following matters: 1) The two new accesses onto Main Street could have an adverse impact on road safety; 2) Separate access to plot three seems unnecessary; 3) Adequate off-street car parking should be provided within the site to accommodate all new properties.
- 2.2 **NYCC Highways** – No objections at the outline stage, subject to ten conditions relating to: detailed plans of road and footway layout; construction of roads and footways prior to the occupation of the dwellings; discharge of surface water; the construction requirements of private access/verge crossings; visibility splays; pedestrian visibility splays (individual dwellings); details of access, turning and parking; the provision of approved access, turning and parking areas; the

conversion of garages into habitable accommodation; and on-site parking on-site storage and construction traffic during development.

- 2.3 **Ouse and Derwent Internal Drainage Board** – No objections at the outline stage, subject to four conditions relating to: drainage works to be agreed prior to the commencement of development; evidence of existing surface water discharge; surface water to adjacent watercourse; and testing for the effectiveness of soakaways.
- 2.4 **Yorkshire Water** – No objections at the outline stage, subject to two conditions relating to: no building or other obstruction being located over or within 3.5 metres of the centre line of the public sewer running through the site; and no piped discharge of surface water from the application site until works to provide a satisfactory outfall have been completed in accordance with submitted and approved details.
- 2.5 **Contaminated Land Consultant** – No objections, subject to conditions relating to: investigation of land contamination; submission of a remediation scheme; verification of remedial works; and reporting of unexpected contamination.
- 2.6 **Environmental Health** – No objections.
- 2.7 **Natural England** – No comment.
- 2.8 **North Yorkshire Bat Group** - No response within statutory consultation period.
- 2.9 **Historic England** – No comment.
- 2.10 **Conservation Officer** – No objections at this stage.

The retention of the existing farm house (Yew Tree House) is fully supported. The revised indicative layout is more reflective of the agricultural and rural character of Kelfield and would blend in easier with the existing townscape. It is advised that proposed new properties are constructed using materials to match those found in the local area and that the scale, form and proportions of the new properties reflect traditional buildings.

In terms of the impact of the proposals on the Scheduled Ancient Monument, the proposals would impact upon the setting of the designated heritage asset. However, if the development is well designed, respects the historic street pattern of Kelfield and contains dwellings which reflect the existing character of Kelfield, the impact could be mitigated.

- 2.11 **HER Officer** – No objections at this stage, subject to a condition requiring a scheme of archaeological mitigation recording to be undertaken in response to the ground disturbing works associated with the proposal.
- 2.12 **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; and the relation of the proposal to the development limit boundary.

- 2.13 **Waste and Recycling Officer** – No comment.
- 2.14 **Public Rights of Way Officer** - No response within statutory consultation period.
- 2.15 **Neighbour Comments** – Twenty four letters of support, seven letters of objection and one neutral letter have been received as a result of the advertisement of the application. Objectors have raised concerns in respect of the principle of the development outside the defined development limits of a Secondary Village, the impact on heritage assets, the impact on residential amenity, the impact on highway safety and flood risk and 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 Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside.
- 3.2 The application site is located within the setting of the Scheduled Ancient Monument of Kelfield moated site and fishpond.
- 3.3 The application site comprises potentially contaminated land resulting from agriculture/nurseries.
- 3.4 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)

- 3.5 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.
- 3.6 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. 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

3.7 The relevant Core Strategy Policies are:

- SP1 – Presumption in Favour of Sustainable Development
- SP2 – Spatial Development Strategy
- SP4 – Management of Residential Development within 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

3.8 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

3.9 The relevant Selby District Local Plan Policies are:

- ENV1 - Control of Development
- ENV2 - Environmental Pollution and Contaminated Land
- ENV27 – Scheduled Ancient Monuments and Important Archaeological Sites
- 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

3.11 Developer Contributions 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
- Impact on Heritage Assets
- Impact on Archaeology
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety

- Flood Risk and Drainage
- Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing
- Recreational Open Space
- Education and Healthcare, Waste and Recycling

The Principle of the 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.
- 4.3 Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF.
- 4.4 The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside.
- 4.5 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. Policy SP4 (b) of the Core Strategy states that proposals for the conversion and/or redevelopment of farmsteads to residential use within development limits will be treated on their merits.
- 4.6 An indicative layout plan has been submitted with the application, which demonstrates how the site could accommodate up to seven dwellings, in addition to the existing farm house which would be retained as part of the proposals. On the indicative layout plan, only plots 2 and 3 would be located within the defined development limits of Kelfield. These two units on their own would constitute "filling of small linear gaps in otherwise built up residential frontages" as they would front Main Street and are located within a small gap between the existing farm house (Yew Tree House) to the east and a terrace of dwellings to the west. The part of the development located within the defined development limits of Kelfield would also amount to the "redevelopment of a farmstead". However, the remainder of the application site projects a substantial distance to the north beyond the frontage development within the open countryside. As such, the application site would not constitute "filling of small linear gaps in otherwise built up residential frontages" or the "redevelopment of a farmstead" wholly within the defined development limits. The proposal would therefore not meet Policies SP2A (b) and SP4 of the Core Strategy.
- 4.7 Moreover, Policy SP2A (c) of the Core Strategy states that "Development in the Countryside (outside Development Limits) will be limited to the replacement or

extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances”.

- 4.8 The proposal would not accord with Policy SP2A(c) as it is not for rural affordable housing need and there are no special circumstances. The application should therefore be refused unless material considerations indicate otherwise.
- 4.9 At the time of writing this report, the Council can confirm that they have a five year housing land supply. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.
- 4.10 The NPPF is a material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development, with particular emphasis on boosting significantly the supply of housing. Paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.

Sustainability of the Development

- 4.11 In respect of sustainability, the site is located part within and part outside the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, where there is scope for limited amounts of residential development to be absorbed inside development limits of Secondary Villages.
- 4.12 The village of Kelfield has not been considered as part of Background Paper 5, Sustainability Assessment of Rural Settlements, Revised July 2008. This is because Kelfield is not considered to be a sustainable settlement due to its lack of local services, such as a primary school, general store, post office and doctor’s surgery, which would serve the day-to-day needs of its residents and its limited access to public transport. This means that residents would be heavily dependent on the use of a private car to satisfy their day-to-day needs.

Settlement Strategy, Previous Levels of Growth and the Scale of the Proposal

- 4.13 The location of the development proposal would undermine the spatial strategy for the district as set out in the Core Strategy, in particular the settlement hierarchy set out at policy SP2. The focus on Selby as a Principal Town and on Tadcaster and Sherburn-in-Elmet as Local Service Centres would not be supported by further development taking place outside of the development limits at a ‘fourth tier’ level (secondary villages) settlement in the hierarchy. The strategy and hierarchy aims to support and deliver economic, regeneration, social and environmental objectives for the district and was assessed as a sustainable option through the adoption of the Strategy.

- 4.14 Policy SP5 of the Core Strategy designates levels of growth to each of the 3 main towns, the group of Designated Service Villages and the group of Secondary Villages based on their infrastructure capacity and sustainability. This policy set a minimum target of 170 for Secondary Villages as a whole, this target was to be met from existing commitments only. Data taken from the 2017-2022 Five Year Housing Land Supply Report – 30th September 2017 update (which uses a base data of the 30th of September 2017) shows that this minimum target has already been substantially exceeded, with 321 homes built or with permission since the start of the plan period in April 2011.
- 4.15 Secondary Villages have exceeded their minimum target by more than 3 times. Of concern to the delivery of the District's spatial strategy is that this has occurred only 6 years into the Core Strategy plan period, with 10 years of the plan period still remaining.
- 4.16 This disproportionate level of growth in the Secondary Villages, in the fourth tier for sustainability in the Councils settlement hierarchy, undermines the Council's spatial strategy, which directs the majority of development to the Principal Town of Selby, the Local Service Centres and the Designated Service Villages.
- 4.17 Notwithstanding this level of growth in the Secondary Villages as a whole, Policies SP2 and SP4 of the Core Strategy do allow for a limited amount of housing growth within the Secondary Villages. However, the scale of this development, at up to 7 dwellings, is clearly well in excess of this limited scale of development that can be sustainably supported by a Secondary Village and is expected by Policies SP2 and SP4 of the Core Strategy.

Impact on Heritage Assets

- 4.18 The application site is located within the historic village of Kelfield and within the setting of the Scheduled Ancient Monument of Kelfield moated site and fishpond to the north.
- 4.19 The application has been supported by a Design and Access Statement, which incorporates a Heritage Statement. The statement acknowledges that the proposal has the potential to affect heritage assets, namely the non-designated heritage asset of the existing farm house (Yew Tree House) and the designated heritage asset of the Scheduled Ancient Monument of Kelfield moated site and fishpond to the north. In terms of the impact of the proposals on the Scheduled Ancient Monument, the statement sets out that it is not visible in private views from the site or public views from the Main Street, due to intervening buildings, hedgerows and tree cover. The statement also sets out that the separation distance between the application site and the Scheduled Ancient Monument would be 35-40 metres. The statement concludes that having regard to the above factors, the proposal would have significantly less than substantial harm on the setting of the Scheduled Ancient Monument. In terms of the impact of the proposals on the existing farm house, the statement sets out that the applicants do not consider that building to be of historic interest. The statement sets out that the building is constructed of local brick similar to many of the traditional houses in Kelfield and the wider area and considers there are other better maintained examples of this style of dwelling elsewhere. The statement also sets out that the existing farm house has undergone various modernisations and therefore retains little of its original internal features. It

is the applicant's opinion that refurbishing the dwelling to bring it to a good standard would not be viable, however, no further information has been provided in terms of viability. The statement concludes that despite the above factors, the existing farm house would be retained as part of the proposals at the request of the Local Planning Authority.

4.20 The application has been assessed by the Council's Conservation Officer. The comments of the Council's Conservation Officer are noted and agreed. In terms of the assessment of significance, the Council's Conservation Officer sets out "Kelfield is considered to be an historic settlement, it is mentioned in the Domesday Survey of 1086 as Chelchefelt and its layout is considered to have existed since to this period with a main street with long plots to either side. To the north of the application site is Kelfield Moated site and fishpond which dates from the 13th Century. The application site contains the 19th Century farm house and 20th Century farm buildings to the rear. Through the application process, the property, Yew Tree House has been identified as a non-designated heritage asset. A non-designated heritage asset can be a building, monument, site, place, area or landscape identified as having a degree of significance. It is considered that this building has architectural value in terms of its aesthetic value, it has a positive external appearance which contributes to the street scene and adds to the character of Kelfield. With regards to the setting of the nearby designated heritage assets, the NPPF states that setting contributes to significance and setting does not depend on views only. The heritage statement within the design and access statement focusses purely on the views and the distance between the application site and the scheduled monument. There may be an historical relationship between the application site and the scheduled monument." In terms of impact assessment, the Council's Conservation Officer notes that the application seeks outline planning permission for residential development with all matters reserved. In terms of the potential impact of the proposals on the Scheduled Ancient Monument of Kelfield moated site and fishpond to the north, the Council's Conservation Officer notes that the proposed development would impact on the setting of the designated heritage asset. However, they conclude that if the development is well designed, respects the historic street pattern of Kelfield and contains dwelling which reflect the existing character of Kelfield, the impact could be mitigated. In terms of the existing farm house (Yew Tree House), the retention of this non-designated heritage asset is fully supported from a Conservation perspective. Furthermore, the Council's Conservation Officer notes that the revised indicative layout is more reflective of the agricultural and rural character of Kelfield and would blend in with the existing townscape. Going forward, the Council's Conservation Officer advises that any proposed new properties at the site should be constructed using materials to match those found in the local area and the scale, form and proportions of any new properties should reflect traditional buildings.

4.21 Having regard to the above, it is considered that an appropriate layout, appearance, scale and landscaping of the proposed dwellings could be achieved at the reserved matters stage, which would not result in any substantial harm to any designated or non-designated heritage assets in accordance with Policy ENV27 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

Impact on Archaeology

4.22 NYCC Heritage Services have been consulted on the proposals and have advised that the application site is located within the historic village of Kelfield. The settlement is mentioned in the Domesday Book of 1086 meaning that it existed prior to the Norman Conquest. Kelfield owes much of its current layout and character to Norman planning following the Conquest. The core of the village takes the traditional form of a Main Street with property plots on either side. These will have been in semi-continuous occupation for over 1000 years. These plots take the traditional form of long rear garths and terminate at a consistent rear boundary or back lane. The application site occupies the location of several medieval property plots. NYCC Heritage Services conclude that it is unlikely for the proposals to have a significant impact on archaeological deposits, although there is some potential for damage to medieval features, particularly in less disturbed areas of the site. Therefore NYCC Heritage Services raise no objections to the proposals in terms of their impact on archaeology, subject to a condition requiring a scheme of archaeological mitigation recording is undertaken in response to the ground disturbing works associated with the proposal.

Design and Impact on the Character and Appearance of the Area

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

4.24 The application site comprises part of Yew Tree Farm, including the existing farm house (Yew Tree House), and the adjoining farm yard area, including four buildings: a glass and timber framed greenhouse; a single storey shed; an agricultural building; and a single storey garage.

4.25 To the north of the application site is agricultural land associated with Yew Tree Farm and within the same ownership as the application site. Beyond this is the Scheduled Ancient Monument of Kelfield moated site and fishpond. To the east and west of the application site is residential development to the north side of Main Street, while to the south of the application site is Main Street, with residential development to the south side of Main Street beyond. Residential properties within the immediate vicinity of the application site comprise a mixture of two storey terraced, semi-detached and detached dwellings. Furthermore, materials used on residential properties within the vicinity of the application site vary, but predominantly consist of a mixture of red brick and rendered properties with pantile roof tiles of varying colours.

4.26 The application seeks outline planning permission for residential development with all matters reserved. Notwithstanding this, an indicative layout plan has been submitted with the application, which demonstrates how the site could accommodate up to seven dwellings, in addition to the existing farm house which would be retained as part of the proposals. The indicative layout shows infill development to the front of the site, a range of linked dwellings resembling converted farm buildings to the rear of the site, with a detached farmhouse on the footprint of the existing glasshouse to the rear of the site.

- 4.27 Having had regard to the indicative layout plan and the surrounding context it is considered that an appropriate appearance, scale and landscaping of the proposed dwellings could be achieved at reserved matters stage to ensure that the proposed development would not have a significant adverse impact on the character and appearance of the area.
- 4.28 Notwithstanding the above in terms of the appearance, scale and landscaping of the proposed dwellings, in terms of the layout of the proposed dwellings, the proposal would inevitably result in backland development, which would not follow the existing linear pattern of built form to the north side of Main Street and would project significantly from the dwellings fronting the north side of Main Street. Furthermore, the layout of the proposed dwellings would encroach out into the open countryside, would not result in a natural rounding off of the settlement and would not have an appropriate relationship to the existing development to the North side of Main Street. It is therefore considered that an appropriate layout of the proposed dwellings could not be achieved at the reserved matters stage without having a significant adverse impact on the character and appearance of the area.
- 4.29 Having regard to the above, while it is considered that an appropriate appearance, scale and landscaping of the proposed dwellings could be achieved at the reserved matters stage, which would not result in any significant adverse impact on the character and appearance of the area, it is not considered that an appropriate layout of the proposed dwelling could be achieved at the reserved matters stage, without having a significant adverse impact on the character and appearance of the area. The proposal would therefore be contrary to 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

- 4.30 An indicative layout plan has been submitted with the application, which demonstrates how the site could accommodate up to seven dwellings, in addition to the existing farm house which would be retained as part of the proposals. The layout, scale, appearance and landscaping of the dwellings is reserved for subsequent approval at the reserved matters stage, however, having regard to the indicative layout plan it is considered that an appropriate scheme could be achieved at the reserved matters stage to ensure that no significant adverse effects of overlooking, overshadowing or oppression between the proposed dwellings and for the existing dwellings surrounding the application site.
- 4.31 Furthermore, the Environmental Health Officer raises no objections to the proposal in terms of noise and disturbance.
- 4.32 Having regard to the above, it is considered that an appropriate scheme could be achieved at the reserved matters stage, which would not result in any significant detrimental impacts on the residential amenities of the occupiers of the existing or proposed dwellings in accordance with Policy ENV1(1) of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Highway Safety

- 4.33 The application seeks outline planning permission for residential development with all matters reserved. An indicative layout plan has been submitted with the application, which demonstrates that the existing dwelling could be served from the existing access, while two further access points from Main Street could be created to serve the proposed dwellings.
- 4.34 The comments of the Parish Council and neighbouring properties have been noted regarding the impact of the proposal on highway safety. However, NYCC Highways have been consulted on the proposals and have advised that they have no objections to the proposals at the outline stage, subject to ten conditions relating to: detailed plans of road and footway layout; construction of roads and footways prior to the occupation of the dwellings; discharge of surface water; the construction requirements of private access/verge crossings; visibility splays; pedestrian visibility splays (individual dwellings); details of access, turning and parking; the provision of approved access, turning and parking areas; the conversion of garages into habitable accommodation; and on-site parking on-site storage and construction traffic during development.
- 4.35 Subject to the aforementioned conditions, it is considered that an appropriate scheme could be achieved at the reserved matters stage which would be acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and the advice contained within the NPPF.

Flood Risk and Drainage

- 4.36 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 4.37 In terms of drainage, the submitted application form sets out that surface water would be disposed of via an existing watercourse, but does not set out how foul drainage would be disposed of. The Ouse and Derwent Internal Drainage Board and Yorkshire Water have been consulted on the proposals.
- 4.38 The Ouse and Derwent Drainage Board note that the applicants intend for surface water be disposed of via an existing watercourse, but note that no further details have been provided regarding the nature and location of the relevant watercourse. The Board advise that their preference would be to see the use of sustainable methods of surface water disposal, wherever possible, retaining the water on site. The Board notes that historically some elements of the site have been drained to a soakaway and would therefore recommend that this option be investigated for the proposed development. Should infiltration prove to be unsatisfactory for the proposed development and the applicant propose to use a discharge to a watercourse (directly or indirectly) as the method of surface water disposal, the applicant would need to demonstrate that the site already drains to that facility. Further, where discharge to a watercourse is to be used, the Board would seek that run-off from the site be constrained and that the discharge from the development is attenuated to 70% of the pre-development rate (based on 140 l/s/ha for proven connected, impermeable areas and 1.4 l/s/ha for Greenfield areas). 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. Having regard to the above, the Board have no objections to the proposal at the outline

stage subject to four conditions relating to: drainage works to be agreed prior to the commencement of development; evidence of existing surface water discharge; surface water to adjacent watercourse; and testing for the effectiveness of soakaways.

- 4.39 Yorkshire Water note that a 400mm surface water sewer runs through the site, but raise no objections at the outline stage, subject to two conditions relating to: no building or other obstruction being located over or within 3.5 metres of the centre line of the public sewer running through the site; and no piped discharge of surface water from the application site until works to provide a satisfactory outfall have been completed in accordance with submitted and approved details.

Nature Conservation and Protected Species

- 4.40 An Extended Phase 1 Habitat Survey undertaken by Wold Ecology Ltd, dated January 2017, has been submitted with the application. The survey concludes that a great crested newt population is present within 500m of the application site; 500m being the range that great crested newts may travel to a terrestrial habitat and /or other aquatic breeding site. The survey sets out that the terrestrial habitat within the application site is excellent for great crested newts as it provides daytime refugia, foraging area, hibernation areas and dispersal route ways. As such, the survey sets out that in order to comply with the requirements of the latest Natural England guidance, a presence or absence survey of all accessible watercourses within 500m of the application site must be undertaken. The survey should comprise four survey site visits during the period mid-March to mid-June, with at least two site visits during the period between mid-April to mid-May. As the extended phase 1 survey was undertaken outside this specific time period, a great crested newt presence/absence survey has not been completed.
- 4.41 The applicants have been advised that a presence or absence survey of all accessible watercourses within 500m of the application site must be undertaken at the outline application stage. However, the applicants have not submitted such a survey and consider such a survey could be conditioned and undertaken at a later stage.
- 4.42 In this respect, it is noted that the species protection provisions of the Habitats Regulations contain three "derogation tests" which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which could harm a European Protected Species. For development activities this licence is normally obtained after planning permission has been obtained. The three tests are that:
- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
 - there must be no satisfactory alternative; and
 - favourable conservation status of the species must be maintained.
- 4.43 Woolley v Cheshire East Borough makes it clear that, notwithstanding the licensing regime, a Local Planning Authority must also address these three tests when deciding whether to grant planning permission for a development which could harm a European Protected Species. A Local Planning Authority, failing to do so, would be in breach of Regulation 3(4) of the 1994 Regulations, which requires all public

bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions. Natural England consider it essential that appropriate survey information supports a planning application prior to determination and do not regard the conditioning of ecological surveys to a planning consent as an appropriate use of planning conditions.

- 4.44 Having regard to the above, in the absence of a presence or absence survey of all accessible watercourses within 500m of the application site, there is insufficient information for the Local Planning Authority to assess the impact of the proposed development on European Protected Species (specifically great crested newts). The proposal is therefore contrary to Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, the advice contained within the NPPF and The Conservation of Habitats and Species Regulations 2010.

Land Contamination

- 4.45 The application is supported by a Contamination Statement prepared by MM Planning. This has been assessed by the Council's Contaminated Land Consultant who raises no objections to the proposals at this stage, subject to five conditions relating to the investigation of land contamination, the submission of a remediation scheme, verification of remedial works and reporting of unexpected contamination. This is to ensure that as a minimum, a Phase 1 Desk Study is completed prior to the re-development of the site, since it has been used for agriculture and horticulture for a significant period of time, with the possibility of pesticides and other potentially contaminating substances being present on the site. Agricultural buildings have also been identified on site, which have the potential to have stored machinery, equipment and chemicals which have the potential to introduce contamination to the site.
- 4.46 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

- 4.47 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

- 4.48 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

- 4.49 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.

Legal Issues

4.51 Planning Acts

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

4.52 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.

4.53 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

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

5. CONCLUSION

5.1 The application seeks outline planning permission (with all matters reserved) for the erection of residential development following the demolition of the existing glasshouse, agricultural buildings and garage at the site. The existing farm house (Yew Tree House) would be retained as part of the proposals.

5.2 The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside. The proposal would not constitute any of the types of development that area acceptable in principle under Policies SP2 or SP4 of the Core Strategy. The proposal is therefore contrary to Policies SP2 and SP4 of the Core Strategy and hence the overall Spatial Development Strategy for the District.

5.3 In terms of the layout of the proposed dwellings, the proposal would inevitably result in backland development, which would not follow the existing linear pattern of built form to the north side of Main Street and would project significantly from the dwellings fronting the north side of Main Street. Furthermore, the layout of the proposed dwellings would encroach out into the open countryside, would not result in a natural rounding off of the settlement and would not have an appropriate relationship to the existing development to the North side of Main Street. It is therefore considered that an appropriate layout of the proposed dwellings could not be achieved at the reserved matters stage without having a significant adverse impact on the character and appearance of the area. The proposal would therefore be contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF.

- 5.4 In the absence of a presence or absence survey of all accessible watercourses within 500m of the application site, there is insufficient information for the Local Planning Authority to assess the impact of the proposed development on European Protected Species (specifically great crested newts). The proposal is therefore contrary to Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, the advice contained within the NPPF and the advice contained within the NPPF and The Conservation of Habitats and Species Regulations 2010.

6. RECOMMENDATION

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

01. The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside. The proposal would not constitute any of the types of development that are acceptable in principle and is therefore contrary to Policies SP2 and SP4 of the Core Strategy and hence the overall Spatial Development Strategy for the District.
02. The proposal would inevitably result in backland development, which would not follow the existing linear pattern of built form to the north side of Main Street and would project significantly from the dwellings fronting the north side of Main Street. Furthermore, the layout of the proposed dwellings would encroach out into the open countryside, would not result in a natural rounding off of the settlement and would not have an appropriate relationship to the existing development to the North side of Main Street. It is therefore considered that an appropriate layout of the proposed dwellings could not be achieved at the reserved matters stage without having a significant adverse impact on the character and appearance of the area. The proposal is therefore be contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF.
03. In the absence of a presence or absence survey of all accessible watercourses within 500m of the application site, there is insufficient information for the Local Planning Authority to assess the impact of the proposed development on European Protected Species (specifically great crested newts). The proposal is therefore contrary to Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, the advice contained within the NPPF and the advice contained within the NPPF and The Conservation of Habitats and Species Regulations 2010.

Contact Officer: Jenny Tyreman

Appendices: None

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Appeal Decision

Hearing held on 17 January 2018

Site visit made on 17 January 2018

by A Jordan BA Hons MRTPI

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

Decision date: 31 January 2018

Appeal Ref: APP/ N2739/W/17/3170320

Yewtree House, Main Street, Kelfield, York, YO19 6RG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Richard Atkinson against the decision of Selby District Council.
- The application Ref 2016/0597/OUT (18/14/114/PA), dated 20 April 2016, was refused by notice dated 30 August 2016.
- The development proposed is demolition of existing dwelling, garage, farm buildings and glasshouse and erection of residential development.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is made in outline form, with all matters reserved. The submitted plans comprise a location plan (ref Atkinson 01) and an indicative site plan (ref Atkinson 02), which shows a layout for 12 dwellings, with access towards the eastern end of the frontage.
3. A unilateral undertaking relating to the provision of affordable housing and providing a contribution toward waste and recycling has been submitted in support of the appeal. Following the Ministerial Statement of November 2014¹ these matters would only be required if the development comprised more than 10 dwellings. Nonetheless, the presence of the agreement indicates that the appellant wishes the potential for the scheme to provide more than 10 dwellings to be considered. As access and layout are reserved matters I have taken the layout plan as an illustration of potential future development only.

Main Issues

4. The main issues for the appeal are:
 - The effects of the proposal on heritage assets;
 - The effect of the proposal on protected species;
 - Whether the development is in a sustainable location, having regard to local and national policies which seek to reduce the need to travel;

¹ Ministerial Statement of November 2014 setting out national policy on Section 106 which should be read alongside the National Planning Policy Framework.

- The effects of the proposal on the character and appearance of the area;
- Whether the proposal would make appropriate provision for on-site recreational open space;

Reasons

Background

5. The parties confirmed at the hearing that they were not in dispute in relation to housing land supply matters. The Council consider that they have 6.2 years of available housing land. I have been provided with no evidence to dispute this and so have proceeded on that basis.
6. Planning law indicates that applications for planning permission must be determined in accordance with the development plan, unless material considerations, which include the *National Planning Policy Framework* (the Framework), indicate otherwise. The development plan for the area is made up of the *Selby District Core Strategy* (Core Strategy) and the *Selby District Local Plan* (Local Plan). The Local Plan predates the Framework.
7. Policy SP1 of the Core Strategy outlines the presumption in favour of sustainable development explicit in the Framework. Policies SP2 and SP4 set out a spatial strategy for development which seeks to reduce the need to travel by focusing the majority of new development in larger settlements and allowing only limited development in smaller order settlements with fewer services. Policy SP2 allows for limited infilling in villages within settlement boundaries and seeks to restrict new dwellings in open countryside to those categories of development which relate to the reuse or replacement of existing buildings or which relate to the rural economy. This reflects guidance in the Framework, which is specifically referred to in the supporting text to the policy, and which refers to the need to resist isolated new dwellings in the countryside.
8. Policy ENV1 of the Local Plan seeks to achieve good quality development which takes account of the character of the surrounding area, the capacity of local services, and the effects of the proposal on local wildlife and archaeological or other features important to the character of the area. Policy RT2 relates to the provision of recreational open space (ROS) within new development. Policy SP4 seeks development within villages which is sensitive in scale and form to the character of the village. These aims are consistent with guidance in the Framework which seeks high quality design and a good standard of amenity for future occupiers of development.
9. SP19 of the Core Strategy seeks to achieve high quality design which has regard to local character. Policy SP18 aims to protect the high quality and local distinctiveness of the natural and man-made environment, including heritage assets. ENV28 relates to proposals which may affect sites of possible archaeological interest and requires that in such cases an assessment is submitted as part of a planning application and used to determine the most appropriate course of action. These policies reflect the core principles of the Framework which seek to reflect the different roles and character of different areas and to recognise the intrinsic beauty of the countryside. The Framework also seeks to contribute to conserving and enhancing the natural environment and to conserve heritage assets in a manner appropriate to their significance.

The Effects of the Proposal on Heritage Assets;

The Scheduled Ancient Monument

10. The site lies to the south of Kelfield Moated Site and Fishpond which is a Scheduled Ancient Monument (SAM). The Council and Historic England consider the appeal site to be within the setting of the SAM. The appellant disputes this and contends that there are no clear views of the SAM from the appeal site and that, as such, the development is not considered to impact upon the setting of the heritage asset.
11. The Framework defines the setting of a heritage asset as the surroundings in which a heritage asset is experienced. Setting is not fixed and may change as the asset and its surroundings evolve. I noted on site that the SAM was clearly visible from the rear of the appeal site in a north easterly direction, along with existing structures and buildings which make up the dwellings along Moor End and Main Street. Having regard to the guidance in the Framework, I am therefore of the view that the appeal site forms part of the wider setting of the SAM.
12. The Framework advises that in determining applications applicants should be required to describe the significance of any heritage assets affected, including the contribution made by their setting. It also advises that significance can be harmed through development in its setting. Aside from a copy of the listing, and an assessment of the visibility of the asset in public views and in views from the site, which I have found to be flawed, the proposal is not accompanied by any meaningful assessment of the significance of the SAM or the contribution the setting of the asset might make to that significance.
13. The application is made in outline form. As the proposal is for residential development, and a large extent of the appeal site is visible from the asset, it is reasonable to assume that additional built development on site could be visible within the setting of the asset. An indicative plan shows the rear of the site being used as garden land, but this is indicative only and I cannot conclude with any certainty from the information before me what the extent of built form on site would be. I note that Historic England have expressed particular concerns in this regard.

Yewtree House

14. The proposal also comprises the demolition of the existing farmhouse. The parties dispute whether this should be considered to be a non-designated heritage asset. Though the building does not appear to have been formally identified as such, and I have been provided with no formal assessment of its significance, I note that Historic England consider it to be a building of character which possibly pre-dates 1840. On this basis it is clearly capable of being considered as a non-designated heritage asset, and its significance should be taken into account in determining the impact of the scheme. The appellant has advised that the building is in a poor state of repair and is of limited interest apart from its age, although this evidence is largely circumstantial as neither party has provided a considered assessment of the building.
15. It appears to me that despite the need for repair, and notwithstanding the functional appearance of the farm buildings around it, the traditional appearance of Yewtree House makes a positive contribution to the streetscene. Without details of what would replace it I cannot conclude that its loss would be

justified in this case. I take into account that the demolition of the building could occur after Prior Notification, however, as I have no convincing grounds to conclude this might occur independently of a planning application for redevelopment, I give no weight to this matter.

Archaeology

16. The site is identified by the County Archaeologist as being of high archaeological potential, with the potential for Medieval and possibly Anglo-Saxon remains. The appellant has indicated that the current use has uncovered nothing of archaeological interest but without any formal assessment I give no weight to this view. The appellant has suggested that a condition for such works to be carried out before development commences on site would be a suitable means of ensuring this evaluation takes place and would enable any mitigation to be carried out. I am also mindful of guidance within Planning Practice Guidance which suggests that only a very small proportion of sites will require detailed assessment.
17. Furthermore, I have not been advised that archaeological interests would preclude development altogether, and the layout of any scheme has not yet been determined. It would therefore be acceptable in this case to carry out appropriate surveys prior to any decision relating to layout and I am therefore satisfied that this matter does not weigh against the proposal.

Conclusion on Heritage Assets

18. In coming to a view in relation to heritage assets, I have considered the need for a proportionate approach, and that the information required in support of a development should be no more than is necessary to reach an informed decision. The Framework also recognises that heritage assets are irreplaceable and that great weight should be given to an asset's conservation. The more important the asset, the greater the weight should be. It advises that SAMs should be considered alongside Grade I and II* listed buildings as heritage assets of the highest significance.
19. I take account of the fact that permission has been granted for albeit smaller scale development within the setting of the SAM in recent years. Whatever the circumstances of such development, it does not in my view provide sufficient justification for not adopting a precautionary approach in this case.
20. Therefore, having particular regard to the potential effects of the proposal on Kelfield Moated Site and Fishpond, I must adopt a precautionary approach. I cannot be satisfied as to the extent of any harm without a meaningful assessment of the significance of the assets, or any rigorous appraisal of setting, and without being assured of the scale, form or location of development which would take place. I therefore wholly concur with the Council that without this, I cannot conclude that the public benefits of the scheme would outweigh any harm to the significance of the designated heritage asset. The proposal also fails to justify the loss of Yewtree House.
21. On the first matter I therefore conclude that although the proposal would not conflict with Policy ENV28, it would nonetheless fail to comply with the requirement of policy SP18 which seeks to conserve the District's heritage assets and with guidance in the Framework which has similar aims.

The Effect of the Proposal on Protected Species

22. The appellant has submitted a phase I habitat survey which indicates that 2 ponds within 500m of the site are known habitats for Great Crested Newts. A further pond has also been identified as being a likely habitat. The presence of a European protected species is therefore a material consideration in this appeal.
23. The Framework seeks to minimise the impact of development on biodiversity by adopting a precautionary approach to schemes where the effects of development may impact on protected species or their habitats. It states that if significant harm resulting from a development cannot be avoided, (through locating on an alternative site with less harmful impacts) adequately mitigated or, as a last resort, compensated for, then planning permission should be refused. It goes on to state that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats. Proposed development on land within or outside a protected site, likely to have an adverse effect on such a site should not normally be permitted.
24. The appellant's ecologist has advised that a phase II habitat survey is necessary to establish the presence or absence of protected species on the site. This should comprise 4 survey visits, of which 2 should occur between mid-April and mid-May. The survey is necessary to comply with the requirements of Article 16 of the EC Habitats Directive, and with the guidance of Natural England. Case Law² also indicates that in granting permission the decision maker must be assured that there is a reasonable likelihood of a License for the works being granted by Natural England.
25. Without a phase II survey I cannot conclude that a licence would be likely to be granted, as I am unable to ascertain the extent of any harm that the development may cause. It would not be appropriate to impose a condition requiring further survey work, as this presupposes that mitigation or compensation would be acceptable in principle, rather than avoidance. I therefore cannot accept the appellant's view that additional surveys are unnecessary at outline stage and could be carried out prior to the approval of reserved matters.
26. On the second matter I therefore conclude that the proposal has failed to demonstrate that it would not have an adverse effect on protected species and their habitat. It would therefore conflict with policies SP18 of the Core Strategy and Local Plan Policy ENV1, which together seek to retain, protect and enhance wildlife habitats and with the guidance in the Framework which has similar aims.

Whether the Development is in a Sustainable Location

27. The Council consider that the proposal would be contrary to the aims of sustainable development explicit in the Framework, which seek to avoid a pattern of development which leads to reliance on the private car. Kelfield has very limited public services, with only a public house and a village hall. A local bus service runs throughout the day providing links to Selby and York via Cawood which would provide some access to education, shopping and employment in local higher order settlements. However, given the frequency

² Wooley vs Cheshire East Borough Council and Millenium Estates Limited [2009] EHC 1227 (admin).

of services it is unlikely that this would serve the needs of most people and most future residents of the development would be largely dependent upon the private car to access work and services.

28. I take into account that car trips from the site to Selby would be relatively short by rural standards. I also take into account that the flat terrain would be attractive for those seeking to travel by bike. The appellant has commented that if the site was smaller, and so fell within the village envelope, it would not conflict with policy SP2 of the Core Strategy, which allows for limited infilling within development limits, and that this should reduce the weight attributed to any argument relating to sustainable location. However, I concur with the Council's view that larger numbers of dwellings would have a proportionate effect in relation to increased numbers of car trips and that this cumulative effect is a relevant consideration. In this regard the proposal would contribute to a pattern of development where residents would be largely reliant upon the private car and would fail to reduce the need to travel. The proposal would allow new residents to provide some support for services in Kelfield and nearby villages. However, as such services are relatively limited, this reduces the weight I attribute to this as a benefit.
29. Accordingly on the third matter I conclude that the proposal would fail to comply with policy SP2 of the Core Strategy which seeks to focus new development within the existing settlements best placed to provide services to support new residents. It would also conflict with guidance in paragraph 37 of the Framework which seeks to achieve a sustainable pattern of development. This weighs against the proposal in the planning balance.

Character and Appearance

30. The site lies in the centre of Kelfield. The village exhibits a mix of architectural styles, with some attractive traditional buildings making up the wider streetscene. Buildings along Main Street sit close to the road with the long gardens which lie behind only evident in views from open land to the rear. The site comprises the existing farmhouse and the collection of agricultural outbuildings behind. It is clearly agricultural in character and although the farm buildings on site are functional in form, they nonetheless appear in keeping with the rural character of the wider area.
31. Taking into account the existing pattern of development, where the built envelope lies relatively close to Main Street and forms a strong frontage, I have some sympathy for the view of the Council, that the size and position of the site has the potential to facilitate an incongruously suburban backland development, which could erode the strong built form evident in the wider streetscene. However, I share the view of the appellant, that a scheme could be implemented which continued the relatively tight urban form along the Main Street. It would also be possible to position any dwellings to the rear close to the existing built envelope so that rear gardens extended towards the rear of the site. Furthermore, whilst I accept such a layout would have a domesticating effect on land which lies outside the built envelope of the village, it would nevertheless replicate the form of development on either side of the site and would not appear incongruous in this context, or have a marked visual effect of the character of the countryside in this location.
32. I have already expressed my concerns in relation to heritage assets, to which a higher test applies. Notwithstanding this, in considering in this case whether

future development could be comfortably assimilated into the existing village fabric, I am of the view that an appropriate layout could be secured at reserved matters stage. On the fourth matter I therefore conclude that the site could accommodate an acceptable form of development which would not impact on the established character of the village. Accordingly, I find no conflict with Policies SP4 and SP19 of the Core Strategy which together seek development which is sensitive in scale and form to the character of the village, or with guidance in the Framework, which has similar aims.

Whether the proposal would make appropriate provision for on-site recreational open space;

33. Policy RT2 relates to the provision of recreational open space (ROS) within new development and requires that for schemes of more than 10 buildings ROS is provided either on-site, off-site within the locality, off-site elsewhere, or a financial contribution is made to enable provision elsewhere. The Council are of the view that on-site provision should be provided in this case. The appellant has no objection to the principle of such provision, but considers that taking into account the outline nature of the scheme, this matter could be dealt with by way of a planning condition. The Council have concerns as to whether a condition would facilitate appropriate maintenance.
34. If such a condition was sufficiently precise, and required a management plan which set out management responsibilities and maintenance requirements for the identified area, it could meet the tests in paragraph 204 the Framework. Such a management plan need not necessitate the use of a planning obligation, and so would not conflict with guidance in the Planning Policy Guidance. Accordingly, on the fifth matter I find no conflict in principle with policy RT2 of the Local Plan.

Other Matters

35. The proposal would increase the quantity and choice of accommodation in the district. Notwithstanding that housing land supply is not a matter in dispute at this appeal, the provision of housing is nonetheless a benefit of the scheme which accords with the impetus for housing growth explicit in the Framework and to which I attribute significant weight. The proposal is accompanied by a Unilateral Undertaking (UU) which would facilitate the provision of affordable housing on site at a level of 40% of the total number of units, with a tenure split of 30-50% shared ownership and 50-70% rented.
36. The UU commits to providing affordable housing regardless of the number of dwellings. The WMS³ states that for schemes of 10 dwellings or less, affordable housing cannot be required. However, the WMS does not prevent it being provided and its provision is a benefit to which I attribute significant weight.
37. The proposal would bring short term economic benefits during construction and this carries some limited weight. The financial contributions derived from Council Tax, the Community Infrastructure Levy and the Unilateral Undertaking⁴ are all largely required to mitigate and provide services to the

³ Ministerial Statement of November 2014 setting out national policy on Section 106 which should be read alongside the National Planning Policy Framework.

⁴ The Unilateral Undertaking would provide for a tariff style contribution for all development, contrary to the requirements of the WMS. As there is no basis for seeking such a contribution, in the case of developments of less than 10 dwellings such financial contributions cannot be taken into account in the planning balance.

development proposed, and are therefore a neutral factor. The proposal would help sustain local services, but the weight attributed to this as a benefit is limited by the lack of services locally.

38. The effect of the proposal on highway safety was a concern for some residents. The access point shown on the plan is indicative only. The highways officer has indicated that 2.4 by 45m splays are required at the entrance. Based on my observations on site and noting the width of the available frontage and the presence of a footpath to the front, I see no reason why an appropriate access could not be facilitated. I therefore give no weight to this matter. I also note concerns have been raised in relation to the potential effects of the proposal on residential amenity. Given that the scheme is outline form, bearing in mind the size of the site, I see no reason why development could not be accommodated on site without compromising the living standards of adjoining occupiers. Furthermore, taking into account the potential to implement sustainable drainage systems on site to limit future run-off, which could be secured by condition, I do not share the concerns of some residents in relation to the drainage of the site.
39. The appellant's appeal submission indicates that having regard to the Council's concerns in relation to layout and accessibility to local services, the appellant would be willing to accept a condition restricting the number of units on site. However, such a restriction would not respond to concerns in relation to protected species and heritage assets and so this matter does not alter my conclusions above.

Conclusion

40. The proposal has failed to demonstrate that it would not have an adverse effect on protected species and their habitat or upon heritage assets. It would also fail to comply with local and national policy which seeks to reduce the need to travel by locating new development in sustainable locations. The contribution to housing, including affordable housing, and the limited economic benefits of the scheme would not outweigh this identified harm.
41. Therefore, having regard to all other matters raised, the appeal is dismissed.

Anne Jordan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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Rachael Barlett	2RB Planning
Richard Atkinson	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Richard Welch BA (Hons) MPlan MRTPI	Selby District Council
Richard Wood BA (Hons) BPI MRTPI	Selby District Council
Simon Eades	Selby District Council
Ann Rawlinson	Selby District Council
John Hunter of Counsel	for Selby District Council

DOCUMENTS SUBMITTED AT THE HEARING:

1. Proposed condition relating to recreational open space.

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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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