



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY, 16 JANUARY 2019**
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 - 8)

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

6. Planning Applications Received (Pages 11 - 14)

- 6.1. 2017/0701/OUT - Yew Tree House, Main Street, Kelfield, York (Pages 15 - 34)**
- 6.2. 2018/1123/REM - Land At Broach Lane, Kellington, Goole (Pages 35 - 48)**
- 6.3. 2018/1141/OUT - 25 Sand Lane, South Milford, Leeds (Pages 49 - 64)**
- 6.4. 2018/1108/FUL - Land To Rear Of The Lodge, 23 Selby Road, Riccall, York (Pages 65 - 80)**
- 6.5. 2018/1424/DOV - Request for Deed of Variation to Section 106 agreement dated 2 December 2015 seeking the removal of the affordable housing requirement associated with a scheme for residential development with all matters reserved approved under reference 2015/0433/OUT on land to the west of Mill Hill Cottage, Hull Road, Osgodby (Pages 81 - 88)**
- 6.6. 2018/1402/DOV - Request for a Deed of Variation to Section 106 agreement seeking a reduction in the proportion of affordable housing to be provided within scheme for up to 60 dwellings approved under references 2016/1256/OUTM (outline) at Pinfold Garth Sherburn in Elmet (Pages 89 - 96)**
- 6.7. 2018/0742/FULM - Level Crossing On Cow Lane, Cow Lane, Womersley, Doncaster (Pages 97 - 120)**
- 6.8. 2017/0872/FUL - Land At Wharfe Bank, Tadcaster (Pages 121 - 146)**
- 6.9. 2018/0743/FUL - Former Mushroom Farm, Gateforth New Road, Brayton, Selby (Pages 147 - 170)**
- 6.10. 2018/1043/OUT - 1 The Bungalow, Weeland Road, Eggborough, Goole (Pages 171 - 188)**
- 6.11. 2018/0450/FULM - Dovecote Park, Bankwood Road, Stapleton, Pontefract (Pages 189 - 206)**

- 6.12. 2018/0562/FULM - Ibbotsons, Mill Hill, Braegate Lane, Colton, Tadcaster (Pages 207 - 234)
- 6.13. 2018/0941/OUT - Castle Close, Cawood, Selby (Pages 235 - 266)

Janet Waggott

Janet Waggott, Chief Executive

<p>Dates of next meetings (2.00pm) Wednesday, 6 February 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.

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Agenda Item 5



Minutes

Planning Committee

Venue:	Council Chamber - Civic Centre, Doncaster Road, Selby, YO8 9FT
Date:	Wednesday, 5 December 2018
Time:	2.00 pm
Present:	Councillor J Cattanach in the Chair for agenda items 6.2 and 6.4. Councillor D Peart (Vice-Chair) in the Chair for agenda item 6.3. Councillors D Peart (Vice-Chair), I Chilvers, J Deans, R Musgrave, R Packham, P Welch and D White
Officers Present:	Martin Grainger, Head of Planning, Ruth Hardingham, Planning Development Manager, Fiona Ellwood, Principal Planning Officer, Paul Edwards, Principal Planning Officer, Helen Robinson, Solicitor (Weightmans LLP), Gary Bell, Principal Planning Officer, Paul Roberts, NYCC Highways
Press:	0
Public:	15

32 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor L Casling.

33 DISCLOSURES OF INTEREST

Councillor J Cattanach declared a non-pecuniary interest in agenda item 6.3 – 2018/0818/EIA – Gascoigne Wood Rail Freight Interchange, Former Gascoigne Wood Mine, New Lennerton Lane, Sherburn in Elmet, and confirmed that he would leave the meeting during consideration thereof. Councillor D Peart would chair the meeting during consideration of the item.

Councillor J Deans declared that he had been approached by the applicant for agenda item 6.4 – 2017/0701/OUT – Yew Tree House, Main Street, Kelfield, York for advice as to what was required by Officers. Councillor Deans explained he had obtained the information for the applicant as requested but

had done nothing further.

34 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chairman informed the Committee that an officer update note had been circulated in relation to agenda item 6.3 – 2018/0818/EIA – Gascoigne Rail Freight Interchange, Former Gascoigne Wood Mine, New Lennerton Lane, Sherburn in Elmet.

Members noted that agenda item 6.1 – 2018/0681/FULM – Viner Station, Roe Lane, Birkin, Knottingley would be deferred, as additional information had been received by Officers which required further consideration; as such, it would not be considered at the meeting.

35 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.

36 MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 7 November 2018.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 7 November 2018 for signing by the Chairman.

37 PLANNING APPLICATIONS RECEIVED

The Committee considered the following applications:

37.1 2015/1033/FUL - LAND OFF MAIN STREET, HILLAM, LEEDS

Application: 2015/1033/FUL

Location: Land off Main Street, Hillam, Leeds, West Yorkshire

Proposal: Full planning permission for the demolition of one dwelling and the residential development of 33 dwellings, means of access, layout and landscaping

The Principal Planning Officer presented the application which had been brought to Committee at the decision of the Head of Planning.

The Committee noted that the application was for full planning permission for the demolition of one dwelling and the residential development of 33 dwellings, means of access, layout and landscaping.

Members sought to clarify the length of time it had taken for the application to be dealt with, as it had originally been submitted in 2015.

Richard Dossett, objector, spoke in objection to the application.

Julie Sadler, representing Hillam Parish Council, spoke in objection to the application.

Mark Johnson, agent, spoke in support of the application.

Members acknowledged that the application site comprised almost the entire area of land designated as safeguarded at Hillam under Policy SL1 of the Selby District Local Plan 2005. The Committee felt that this was an important reason for the application to be refused.

It was proposed and seconded that the application be refused.

RESOLVED:

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

37.2 2018/0818/EIA - GASCOIGNE RAIL FREIGHT INTERCHANGE, FORMER GASCOIGNE WOOD MINE, NEW LENNERTON LANE, SHERBURN IN ELMET

At this point Councillor J Cattanach vacated the Chair.

Councillor D Peart, Vice-Chair, in the Chair.

Application: 2018/0818/EIA

Location: Gascoigne Rail Freight Interchange, Former Gascoigne Wood Mine, New Lennerton Lane, Sherburn in Elmet

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

The Principal Planning Officer presented the application which had been brought to committee since the scheme of delegation required either Environmental Impact Assessment or Departure applications to come to Committee.

The Committee noted that the application was for outline planning permission 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.

In relation to the officer update note, the Committee acknowledged that additional representations had been received from the co-owners of Sherburn Aerodrome, York Ornithological Club and Samuel Smith Old Brewery. The Principal Planning Officer took Members through the representations and the Council's responses to them, as set out in the update note.

Members expressed concern over the size of the application area and the inclusion of a large amount of open agricultural land in it. Members also queried if the Council's Economic Development Framework and the Regional Transport for the North reports held any planning weight. Officers confirmed that they were material planning considerations and were thus capable of attracting some weight, the former particularly since it was adopted Council policy, but neither were a part of the development plan and thus did not attract the full weight of s.39 (6) – the presumption in favour of the development plan.

Messrs Dale Petty and Brian Bartle (at the Chair's discretion), representing objectors, spoke in objection to the application.

Stuart Natkus, agent, spoke in support of the application.

Members expressed further concerns about the application. It was felt that that Council planning policy had not been given enough weight against the level of development proposed in the application. The impact on

traffic from the proposed scheme was also of major concern to the Committee. Members were of the opinion that with more houses due to be built in Sherburn, the development of Sherburn 2 industrial park and the likelihood of future workers all continuing to commute in from outside the District, the cumulative impact on surrounding highways would be detrimental.

The Committee were also unhappy with the potential impacts on Sherburn Aero Club, a facility that many local people enjoyed and used.

Members felt that further mitigation was required to address the comments made by York Ornithological Club that a red listed bird used the site. It was the view of the Committee that material considerations were not outweighed by the benefits of the scheme, and that more weight should be given to the Core Strategy.

The Head of Planning advised Members that the Officer recommendation was clear and in the update issues raised by objectors responded to. In addition, the issues raised relating to the Aero Club could be dealt with at the reserved matters stage. Furthermore it was suggested that if Members required further clarity on points or concerns raised in the debate then the matter could be deferred and brought back to Committee. This would provide an opportunity for Officers to give further clarifications in response to Members' concerns.

Members outlined their potential reasons for refusal:

- The application went against the Council's Development Plan, namely policies SP2 and SP13.
- The use of open agricultural land for a large part of the development was felt to be excessive and was of concern to the Committee.
- The cumulative impact of housing and development on the highways network, including the numbers of potential employees for Sherburn 2 and any potential development at Gascoigne Wood, causing further pressure on the surrounding roads.
- Insufficient information on ecology and biodiversity had been provided to Members, including inadequate consideration of comments from Yorkshire Ornithological Society about a red listed bird on site.
- The impacts of the proposal on Sherburn Aero Club required further mitigation.

It was proposed and seconded that the matter be

deferred, with Members being minded to refuse the application. Officers were requested to undertake further research and obtain more information to strengthen the reasons for refusal set out above, before bringing it back to the Committee.

A vote was taken on the proposal and was carried.

RESOLVED:

- i. That consideration of the application be DEFERRED, with Members minded to refuse the application for the following reasons:
 - The application went against the Council's Development Plan, namely policies SP2 and SP13.
 - The use of open agricultural land for a large part of the development was felt to be excessive and was of concern to the Committee.
 - The cumulative impact of housing and development on the highways network, including the numbers of potential employees for Sherburn 2 and any potential development at Gascoigne Wood from outside of the District, would cause further pressure on the surrounding roads.
 - Insufficient information on ecology and biodiversity had been provided to Members, including inadequate consideration of comments from Yorkshire Ornithological Society about a red listed bird on site.
 - The impacts of the proposal on Sherburn Aero Club required further mitigation.
- ii. That Officers undertake further research and obtain more information to strengthen the reasons for refusal set out above, before bringing the matter back to Committee.

37.3 2017/0701/OUT - YEW TREE HOUSE, MAIN STREET,

KELFIELD, YORK

Application: 2017/0701/OUT

Location: Yew Tree House, Main Street, Kelfield, York, North Yorkshire

Proposal: Outline application for demolition of garage, farm buildings and glasshouse and erection of residential development (all matters reserved)

The Planning Development Manager presented the application which had been brought back to committee following consideration at the 10 January 2018 meeting, where Members had 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”.

The submission of a presence or absence survey of all accessible watercourses within 500m of the application site had also been required in order for the Local Planning Authority to assess the impact of the proposed development on European Protected Species (specifically Great Crested Newts).

The Committee noted that the application was an outline application for the demolition of garage, farm buildings and glasshouse and erection of residential development (all matters reserved).

Members acknowledged that since the application was previously brought before Committee in January 2018 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 had been dismissed by the Planning Inspectorate.

Members queried if any additional consultation responses had been received since the matter had last been considered by the Committee; Officers confirmed that additional comments had been received from the County Ecologist and the Conservation Officer, but that no further neighbour objections had been received.

Officers confirmed that should permission be granted for the application, more detailed reserved matters would

need to come back to Committee for further approval.

Melissa Madge, agent, spoke in support of the application.

Members discussed the application further and were of the opinion that contrary to the Officer recommendation, outline permission should be granted for the scheme.

Members gave a number of reasons for granting permission; they felt that the visual appearance of the site and village would be improved, there would be social, economic and environmental benefits including maintaining a vibrant community in the village, a number of residents had expressed their support for the scheme, including the local ward Member for Kelfield, and that a similar scheme had recently been granted in Skipwith.

It was proposed and seconded that the application be refused.

An amendment to the refusal motion was proposed and seconded that the Committee were minded to approve the application, and to ask Officers to come back to Committee with suitably worded conditions to limit the number of properties on the site to the number proposed in the outline application.

A vote was taken on the amendment and it was carried.

A vote was then taken on the substantive motion.

RESOLVED:

The Committee were minded to APPROVE the application, and asked Officers to bring back to Committee suitably worded conditions to limit the number of properties on the site to the number proposed in the outline application.

The meeting closed at 4.25 pm.

Planning Committee

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

1. The reports are taken in the order of business on the agenda, unless varied by the Chairman. The Chairman may amend the order of business to take applications with people registered to speak, first, so that they are not waiting. If the order of business is going to be amended, the Chairman will announce this at the beginning of the meeting.
2. There is usually an officer update note which updates the Committee on any developments relating to an application on the agenda between the publication of the agenda and the committee meeting. Copies of this update will be situated in the public gallery and published on the Council's website.
3. People wishing to speak at Planning Committee cannot hand out documentation to members of the Committee. Photographs may be handed out provided that a minimum of 20 copies have been delivered to the Council by 12 noon on the last working day prior to the meeting. You can contact the Planning Committee members directly. All contact details of the committee members are available on the relevant pages of the Council's website: <https://democracy.selby.gov.uk/mgCommitteeDetails.aspx?ID=135>
4. Each application will begin with the respective Planning Officer presenting the report including details about the location of the application, outlining the officer recommendations and answering any queries raised by members of the committee on the content of the report.
5. The next part is the public speaking process at the committee. The following may address the committee for **not more than 5 minutes each**:
 - (a) The objector
 - (b) A representative of the relevant parish council
 - (c) A ward member
 - (d) The applicant, agent or their representative.

NOTE: Persons wishing to speak on an application to be considered by the Planning Committee should have registered to speak with the Democratic Services Officer (contact details below) **by no later than 3pm on the Monday before the Committee meeting (this will be amended to the Tuesday if the deadline falls on a bank holiday).**

6. Seating for speakers will be reserved on the front row. Anyone registered to speak (e.g. Ward Members and those speaking on behalf of objectors, parish councils, applicants/agents or any other person speaking at the discretion of

the Chairman) should sit on the reserved front row of the public seating area. This is for ease of communication between the committee and the speaker, should any issues need to be clarified later in the proceedings; it is not an opportunity to take part in the debate of the committee.

7. Each speaker should restrict their comments to the relevant planning aspects of the proposal and should avoid repeating what has already been stated in the report. The meeting is not a hearing where all participants present evidence to be examined by other participants.
8. Following the public speaking part of the meeting, the members of the committee will then debate the application, consider the recommendations and then make a decision on the application.
9. The role of members of the planning committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons in accordance with the statutory planning framework and the Council's planning code of conduct.
10. For the committee to make a decision, the members of the committee must propose and second a proposal (e.g. approve, refuse etc.) with valid planning reasons and this will then be voted upon by the Committee. Sometimes the Committee may vote on two proposals if they have both been proposed and seconded (e.g. one to approve and one to refuse). The Chairman will ensure voting takes place on one proposal at a time.
11. This is a council committee meeting which is open to the public; however, there should be no disruption from the audience while the committee is in progress. Anyone disrupting the meeting will be asked to leave by the Chairman.
12. Recording is allowed at Council, committee and sub-committee meetings which are open to the public, subject to:
 - a. The recording being conducted with the full knowledge of the Chairman of the meeting; and
 - b. 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 using the details below prior to the start of the meeting. Any recording must be conducted openly and not in secret.
13. The arrangements at the meeting may be varied at the discretion of the Chairman.

Contact

Vicky Foreman – Democratic Services Officer

Email: vforeman@selby.gov.uk

Telephone: 01757 292046

Agenda Item 6

Items for Planning Committee

16 January 2019

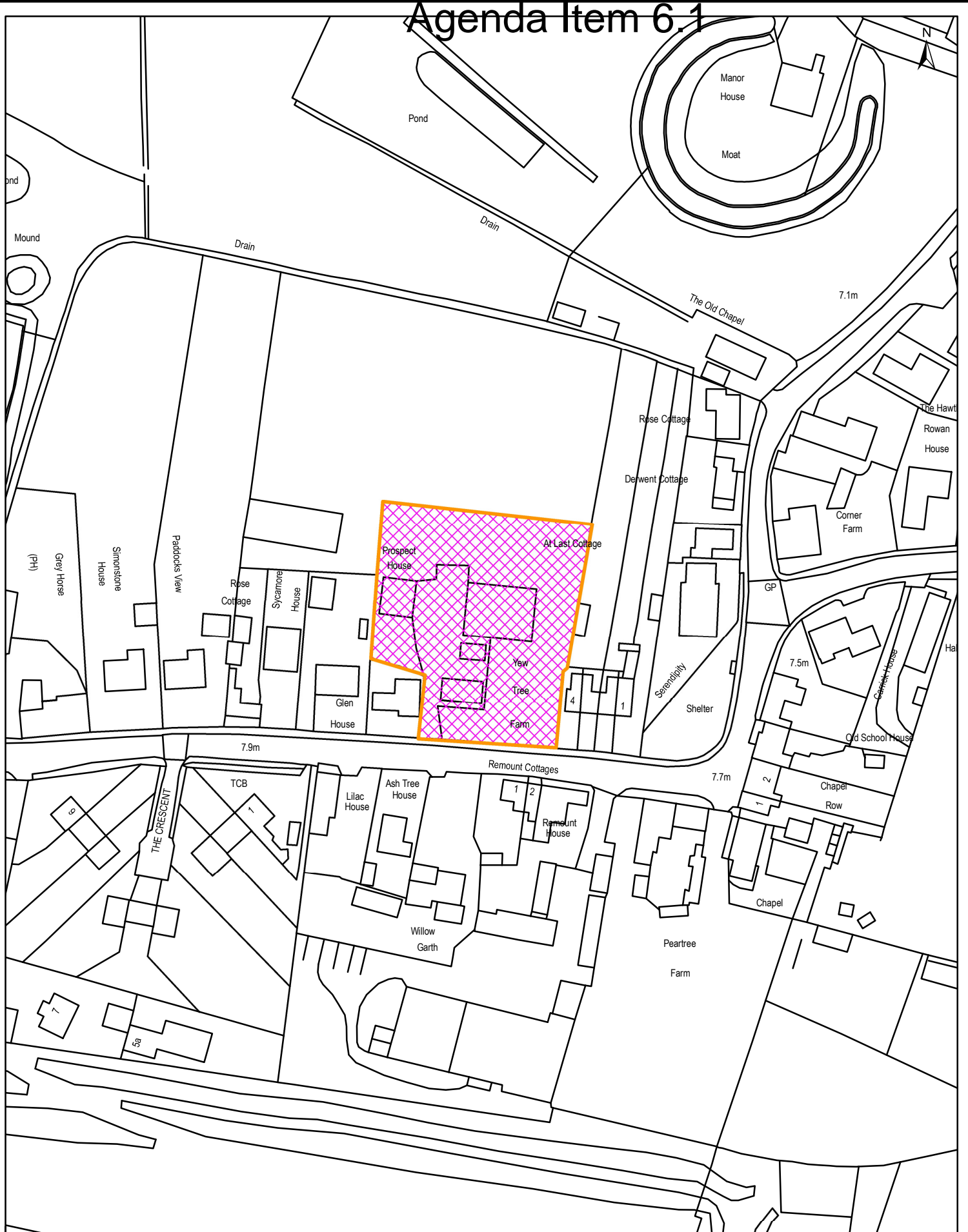
Item No.	Ref	Site Address	Description	Officer	Pages
6.1	2017/0701/OUT	Yew Tree House, Main Street, Kelfield, York	Outline application for demolition of garage, farm buildings and glasshouse and erection of residential development (all matters reserved)	JETY	15 - 34
6.2	2018/1123/REM	Land at Broach Lane, Kellington, Goole	Reserved matters application including access, appearance, landscaping, layout and scale of approval APP/N2739/W/15/3136685 (2015/0546/OUT) for erection of 3 bungalows and 1 dormer bungalow	JETY	35 - 48
6.3	2018/1141/OUT	25 Sand Lane, South Milford, Leeds	Outline application (with all matters reserved) for demolition of existing buildings and erection of a residential development	JETY	49 - 64
6.4	2018/1108/FUL	Land To Rear Of The Lodge, 23 Selby Road, Riccall, York	Proposed erection of amenity block following demolition of existing stables	LAHO	65 - 80
6.5	2018/1424/DOV	Land To The West Of Mill Hill Cottage, Hull Road, Osgodby	Request for a Deed of Variation to Section 106 agreement dated 2 nd December 2015 seeking the removal of the affordable housing requirement associated with a scheme for residential development with all matters reserved approved under reference 2015/0433/OUT on land to the west of Mill Hill Cottage, Hull Road, Osgodby	JETY	81 - 88
6.6	2018/1402/DOV	Pinfold Garth, Sherburn in Elmet	Request for a Deed of Variation to Section 106 agreement seeking a reduction in the proportion of affordable housing to be provided within scheme for up to 60 dwellings approved under references 2016/1256/OUTM (outline) at Pinfold Garth Sherburn in Elmet	YVNA	89 - 96

6.7	2018/0742/FULM	Level Crossing On Cow Lane, Cow Lane, Womersley, Doncaster	Proposed new access road to serve existing agricultural fields on the north-eastern side of the railway line together with the formation of a turning head adjacent to Cow Lane to allow the removal of vehicular crossing rights over Post Office Lane Level Crossing	RASM	97 - 120
6.8	2017/0872/FUL	Land At Wharfe Bank, Tadcaster	Proposed installation of a recreational raised seating area over the existing temporary bridge foundation	JETY	121 - 146
6.9	2018/0743/FULM	Former Mushroom Farm, Gateforth New Road, Brayton, Selby	Demolition of buildings and removal of concrete hard standing and redevelopment of site to create a retirement village comprising a change of use of land to site 168 residential park home caravans, temporary reception lodge, shop and sales office, community centre with meeting hall, kitchen, toilets, office, shop, outdoor terrace, village green, and provision of lakes, ponds, public and private amenity spaces, estate roads, car parking, bus laybys, refuse stores, maintenance building and yard	PAED	147 - 170
6.10	2018/1043/OUT	1 The Bungalow, Weeland Road, Eggborough, Goole	Outline application for up to 6 dwellings including access with all other matters reserved	JETY	171 - 188
6.11	2018/0450/FULM	Dovecote Park, Bankwood Road, Stapleton, Pontefract	Proposed erection of a new dry aged chiller and extension to the fat processing room and retrospective extensions to the venison lairage facility	SIEA	189 - 206
6.12	2018/0562/FULM	Ibbotsons, Mill Hill, Braegate Lane, Colton, Tadcaster	Retrospective change of use of agricultural buildings to B8 (Storage & Distribution); erection of enlarged commercial building (B8) following demolition of existing general purpose agricultural building & improvements to existing site access (New Red Line)	MACO	207 - 234

6.13	2018/0941/OUT	Castle Close Cawood Selby	Section 73 Variation of condition 21 (plans) of approval 2015/0518/OUT Proposed outline application for the residential development (access and layout to be approved all other matters reserved) for 17 dwellings with garages, creation of access road and associated public open space following demolition of existing garages at land to the north west	RASM	235 - 266
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Agenda Item 6.1



APPLICATION SITE

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

1:1,250



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Paddock View
Page 17



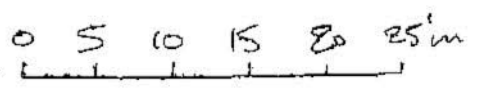
AMENDED DRAWING

Issue Status
Planning

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

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: 16 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: EXPIRY DATE:	22nd June 2017 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:	GRANT		

1. INTRODUCTION AND BACKGROUND

- 1.1 This application has been brought back before Planning Committee following consideration at the 5th December 2018 Planning Committee where Officers recommended refusal of the application but Members resolved the following:

“The Committee were minded to APPROVE the application, and asked Officers to bring back to Committee suitably worded conditions to limit the number of properties on the site to the number proposed in the outline application.”

2. CONSIDERATIONS

- 2.1 Since the 5th December Planning Committee, Officers have sought legal advice on the appropriateness of the proposed conditions limiting the number of properties at the site in the light of a recent appeal decision at Barff Lane, Brayton under

reference: APP/N2739/W/17/3185834 (copy of appeal decision and costs decision in Appendix 1). That appeal was made under Section 78 of the Town and Country Planning Act 1990 against a grant of outline planning permission subject to conditions, one of which was a condition limiting the number of properties on the site, worded as follows:

“The number of dwellings authorised by this permission shall not exceed two, and any reserved matters application(s) submitted pursuant to conditions 1 and 2 shall be limited to this maximum in total.

Reason:

“In the interests of the amenities of the adjoining residential properties, having regard to Policy ENV1 of the Selby District Local Plan.”

- 2.3 Under appeal reference APP/N2739/W/17/3185834, the Inspector decided that the above condition restricting the number of properties at the site was unreasonable for the following reasons:-

“Ultimately what the site can accommodate in terms of numbers will be dependent upon the layout of the site, the disposition of dwellings in relation to surrounding development, and the size and type of the dwellings proposed; all of which have been reserved for future consideration. If, at the reserved matters stage, the details fail to meet residential amenity standards, or are unacceptable for any other reason, then it would be open to the Council to refuse those details or seek amendments that may require a reduction in the number of dwellings.”

- 2.4 It is now proposed to adopt the same approach that was rejected by the Inspector under the Barff Lane appeal and which resulted in a costs award against the Council. Legal advice on adopting the same approach is that a condition restricting the number of dwellings at the site to the number proposed in the outline application would not accord with national policy guidance and the commentary in the Barff Lane appeal decision highlights its shortcomings. As the Inspector points out, if there are good planning reasons which means that the number of dwellings on site should be limited, this is a matter that can be considered at the reserved matters stage, so there is a mechanism for addressing this issue.

- 2.5 Therefore, having regard to the Barff Lane appeal decision and the above legal advice, Officers would not recommend that a condition restricting the number of dwellings at the site should be attached to any planning permission granted and the recommendation set out in Section 3 of this report does not therefore include a condition limiting the number of properties on the site to the number proposed in the outline application.

- 2.6 Notwithstanding the above, should Planning Committee decide to proceed in granting the application with a condition limiting the number of properties on the site to the number proposed in the outline application, Officers would recommend the application be approved subject to the conditions detailed in Section 3 of this report, in addition to a condition restricting the number of properties at the site with the following wording:

“Notwithstanding the provisions of the Town and Country Planning (General permitted Development) (England) Order 2015 (or any Order revoking or re-

enacting that Order), any reserved matters application(s) submitted pursuant to Conditions 1 and 2 shall include the retention of the existing dwelling at the site, known as Yew Tree House, and the total number of additional dwellings to be erected at the site shall be limited to a maximum of six.

Reason:

“To ensure that the proposal is carried out in accordance with the parameters on which the outline application has been assessed.”

3. RECOMMENDATION

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

01. Applications for the approval of the reserved matters referred to in Condition 2 herein shall be made within a period of three years from the grant of this outline permission and the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason:

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

02. Approval of the details of the (a) appearance, (b) landscaping, (c) layout, (d) scale and (e) the means of access to the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason:

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

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

01A – Location Plan

Reason:

For the avoidance of doubt.

04. No demolition/development shall commence until a Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority in writing. The scheme shall include:

- a) An assessment of significance and research questions;
- b) The programme and methodology of site investigation and recording;
- c) The programme for post investigation assessment;
- d) Provision to be made for analysis of the site investigation and recording;

- e) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- f) Provision to be made for archive deposition of the analysis and records of the site investigation;
- g) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No demolition/development shall take place other than in strict accordance with the Written Scheme of Investigation approved under this condition. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under this condition and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason:

In accordance with Section 16 of the NPPF (paragraph 199) as the site is of archaeological significance.

05. 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.

06. There shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:

- a. On-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway
- b. On-site materials storage area capable of accommodating all materials required for the operation of the site.

The approved areas shall be kept available for their intended use at all times that construction works are in operation.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.

07. No building or other obstruction including landscape features shall be located over or within 3.5 metres either side of the centre line of the public sewer i.e. a protected strip width of 7 metres that crosses the site. If the required stand-off distance is to be achieved via diversion or closure of the sewer, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken.

Reason:

In order to allow sufficient access to the public sewer for maintenance and repair work at all times.

08. No development approved by this permission shall be commenced until the Local Planning Authority in consultation with the Internal Drainage Board has approved a Scheme for the provision of surface water drainage works. Any such Scheme shall be implemented in accordance with the approved details before the development is brought into use. The following criteria should be considered:

- Any proposal to discharge surface water to a watercourse from the redevelopment of a brownfield site should first establish the extent of any existing discharge to that watercourse.
- Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140lit/sec/ha or the established rate whichever is the lesser for the connected impermeable area).
- Discharge from "greenfield sites" taken as 1.4 lit/sec/ha (1:1yr storm).
- Storage volume should accommodate a 1:30 yr event with no surface flooding and no overland discharge off the site in a 1:100yr event.
- A 20% allowance for climate change should be included in all calculations.
- A range of durations should be used to establish the worst-case scenario.
- The suitability of soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 or other approved methodology.

Reason:

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

09. The development hereby permitted shall be carried out in strict accordance with the Great Crested Newt Survey (Report Reference: AE18.144) undertaken by Astute Ecology Ltd dated June 2018, updated in December 2018 received by the Local Planning Authority on 3 December 2018.

Reason:

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

10. No development approved by this permission shall be commenced until an ecological management plan for the proposed receptor area and wildlife corridor identified in the Great Crested Newt Survey (Report Reference: AE18.144) undertaken by Astute Ecology Ltd dated June 2018, updated in December 2018, has been submitted to and approved in writing by the Local Planning Authority. The ecological management plan shall be implemented in accordance with the approved details thereafter. The content of the ecological management plan shall include the following:

- A description and evaluation of the features to be managed.
- Aims and objectives of the management.
- Appropriate management options and prescriptions.

- Preparation of a management schedule.
- Details of monitoring and remedial measures.

Reason:

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

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

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

Reason:

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

12. Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) shall be prepared and is subject to the approval in writing of the Local Planning Authority, if required following the investigation and risk assessment undertaken in relation to Condition 12. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

4. Legal Issues

4.1 Planning Acts

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

4.2 Human Rights Act 1998

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

4.3 Equality Act 2010

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

5. Financial Issues

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

6. Background Documents

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

Contact Officer: Jenny Tyreman, Senior Planning Officer

Appendices:

Appendix 1 - Appeal Decision and Costs Decision Reference
APP/N2739/W/17/3185834

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Appeal Decision

Site visit made on 23 January 2018

by **Nigel Harrison BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th January 2018

Appeal Ref: APP/N2739/W/17/3185834

DJ Motors, 5a Barff Lane, Brayton, Selby, YO8 9ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr David Sanderson and Mr John Eccles against the decision of Selby District Council.
 - The application Ref: 2017/0675/OUT dated 12 June 2017 was approved on 14 August 2017 and planning permission was granted subject to conditions.
 - The development permitted is outline permission (with all matters reserved) for a residential development following demolition of existing vehicle repair garage.
 - The conditions in dispute are Nos 3, 4 and 10.
 - Condition 3 states that: *The development shall be carried out in accordance with the plans/drawings listed below: LOC-01 Location Plan; 02 – Indicative layout Plan.*
 - The reason given for condition 3 is: *For the avoidance of doubt.*
 - Condition 4 states that: *The number of dwellings authorised by this permission shall not exceed two, and any reserved matters application(s) submitted pursuant to conditions 1 and 2 shall be limited to this maximum in total.*
 - The reason given for condition 4 is: *In the interests of the amenities of the adjoining residential properties, having regard to Policy ENV1 of the Selby District Local Plan.*
 - Condition 10 states that: *Notwithstanding the provisions of the Town and Country Planning (General permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), any garage(s) shall not be converted into domestic accommodation without the granting of appropriate planning permission.*
 - The reason given for condition 10 is: *In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interests of safety and the general amenity of the development.*
-

Decision

1. The appeal is allowed and the planning permission Ref: 2017/0675/OUT for residential development following demolition of existing vehicle repair garage at DJ Motors, 5a Barff Lane, Brayton, Selby, YO8 9ER granted on 14 August 2017 by Selby District Council, is varied by deleting conditions 3, 4 and 10 and substituting for condition 3 the following condition:

The development hereby permitted shall be carried out in accordance with the following approved plans: LOC01 – Location Plan.

Application for Costs

2. An application for costs was made by Mr David Sanderson and Mr John Eccles against Selby District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - i) Whether condition 3 is reasonable or necessary in the context of an outline application for residential development with all matters reserved.
 - ii) Whether condition 4 is reasonable or necessary having regard to the living conditions of the occupiers of the adjoining residential properties.
 - iii) Whether condition 10 is reasonable or necessary in the interests of highway safety and the general amenity of the development having regard to the adequacy of the parking provision to serve the development.

Reasons

4. Outline planning permission was granted on 14 August 2017 for residential development following demolition of the existing vehicle repair garage on the site. The permission was subject to 19 conditions in total and the appeal has been made specifically in relation to conditions 3, 4 and 10.
5. Paragraph 206 of the *National Planning Policy Framework* (the Framework) states that conditions should only be imposed where they are necessary, relevant to planning and the development permitted, enforceable, precise and reasonable in all other respects. I have also taken into account the advice on conditions set out in the Government's *Planning Practice Guidance* (PPG).

Condition 3

6. The appellants say condition 3 is unreasonable, as it requires the development to be carried out in accordance with an illustrative layout plan which accompanied the application. This plan is clearly labelled as being an indicative layout plan for illustrative purposes only and shows how three dwellings could be accommodated on the site. PPG paragraph 004 states that where details have been submitted as part of an outline application, they must be treated by the Local planning Authority as forming part of the development for which the application is made. However, this does not apply where (as here) the applicant has made it clear that the details have been submitted for illustration purposes only. In any event, this condition would be unenforceable in that it directly conflicts with condition 4, which states that the number of dwellings authorised by the permission should not exceed two.
7. In its statement of case the Council concedes that this plan should not have been included within condition 4 as all matters are reserved for subsequent approval. I agree and therefore substitute a new condition 3 which refers to the location plan only and omits reference to the indicative plan.

Condition 4

8. The appellants say restricting the number of dwellings to two at the outline stage severely limits the options for the site, adding that what the site can accommodate in terms of numbers should be determined as part of the detailed design. The appellants also say that a higher number of smaller properties need have no greater footprint than two larger detached dwellings, and would make better use of this accessible brownfield site.

9. In response, the Council considers that due to the shape and size of the site and its relationship to neighbouring properties, it could not accommodate three dwellings without adversely affecting the living conditions of neighbouring occupiers in terms of overlooking and/or overshadowing. However, I find it would be inappropriate and unreasonable to make such a judgement without full details of the site layout being available to inform such an opinion.
10. PPG paragraph 018 says it is best practice for local planning authorities to agree proposed conditions with an applicant before a decision is taken, and the Council says the appellants confirmed in prior discussions that they would be agreeable to a condition restricting the number of dwellings. However, having read the relevant correspondence, I note that the appellants say a condition restricting dwelling numbers to two would only be acceptable if the alternative was refusal of the application.
11. Ultimately what the site can accommodate in terms of numbers will be dependent upon the layout of the site, the disposition of dwellings in relation to surrounding development, and the size and type of the dwellings proposed; all of which have been reserved for future consideration. If, at the reserved matters stage, the details fail to meet residential amenity standards, or are unacceptable for any other reason, then it would be open to the Council to refuse those details or seek amendments that may require a reduction in the number of dwellings.
12. For these reasons I consider the condition fails the tests of being necessary or reasonable. Nor would be enforceable as it conflicts with the requirement in condition 3 for the development to comply with the indicative plan.

Condition 10

13. Condition 10 relates to the removal of permitted development rights for the conversion of garages into domestic accommodation, and the Council says it was attached at the request of the Highway Authority.
14. PPG paragraph 016 makes it clear that conditions restricting the future use of a development through removal of permitted development rights will rarely pass the test of necessity, and should only be used in exceptional circumstances. Indeed, the Council now accepts that at the outline stage it is not known whether the proposed dwellings would benefit from garages or not, and that on reflection should not have been imposed. In line with the above guidance I agree that such a condition cannot be justified as part of an outline application with all matters reserved. It is not necessary, reasonable, or relevant to the development permitted.

Conclusion

15. Therefore, having regard to all other matters raised, I have concluded that the appeal should succeed, and the permission is varied by deleting conditions 3, 4 and 10. For the avoidance of doubt and in the interests of proper planning I have imposed a new condition 3 which refers solely to the submitted location plan.

Nigel Harrison

INSPECTOR



Costs Decision

Site visit made on 23 January 2018

by Nigel Harrison BA (Hons) MRTPI

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

Decision date: 24th January 2018

Costs application in relation to Appeal Ref: APP/N2739/W/17/3185834 DJ Motors, 5a Barff Lane, Brayton, Selby, YO8 9ER

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr David Sanderson and Mr John Eccles for a full award of costs against Selby District Council.
 - The appeal was against the decision of the Council to grant subject to conditions planning permission for a residential development following demolition of existing vehicle repair garage: Ref: 2017/0675/OUT, approved on 14 August 2017.
 - The conditions in dispute are Nos 3, 4 and 10.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Mr David Sanderson and Mr John Eccles

2. The application was made in writing.

The response by Selby District Council

3. The Council's response was made in writing.

Reasons

4. Paragraph 030 of the *Planning Practice Guidance* (PPG) advises that irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expenses in the appeal process.
5. Paragraph 032 says an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. It explains that costs may include the time spent by the appellant in preparing for the appeal, including the use of consultants to provide technical advice. A full award of appeal costs means the party's whole costs for the statutory process, including the preparation of the appeal statement and supporting documentation. It also includes the expense of making the costs application.
6. Paragraph 049 sets out those circumstances where an award of costs may be made against a local planning authority. These include imposing conditions which are not necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects, and thus

do not comply with the guidance in the *National Planning Policy Framework* (the Framework).

7. I shall now consider the application in relation to the disputed conditions.

Condition 3 and Condition 10

8. As explained in my decision, I considered that condition 3, requiring the development to be carried out in accordance with the submitted illustrative layout plan, and condition 10, relating to the removal of permitted development rights for the conversion of garages, were incorrectly applied and failed to meet the tests in the Framework and PPG.
9. In its statement of case the Council, on reflection, accepted that these conditions should not have been attached to the outline permission and could have been attached at the reserved matters stage, if necessary. As such, the Council says it has not unreasonably defended these conditions at the appeal stage. However, whilst correct, this has not prevented the appeal being made in the first instance. Consequently, the appellants have incurred unnecessary and wasted expense in preparation of the appeal statement, including the appointment of a planning consultant, and the expense of making the costs application.

Condition 4

10. With regard to this condition, which restricts the number of dwellings permitted, I accept that even at the outline stage, the Council needs to satisfy itself that an appropriate scheme could come forward at the reserved matters stage. I also accept that the Council has set out its position why it considers such a condition to be necessary –namely the shape and size of the site and its relationship to neighbouring dwellings. However, as will be seen from my decision, what the site can accommodate in terms of dwelling numbers is to a large extent dependant on the layout of the site and the type and size of dwellings proposed; all of which matters have been reserved for future consideration.
11. If, at the reserved matters stage, the details fail to meet residential amenity standards, or are unacceptable for any other reason, then it would be open to the Council to refuse those details or seek amendments that may (or may not) require a reduction in the number of dwellings. For these reasons it will be seen from my decision that I found that the condition failed the tests of being necessary or reasonable, and therefore the appellants have incurred unnecessary and wasted expense in the preparation of the appeal statement and making the costs application.

Summary

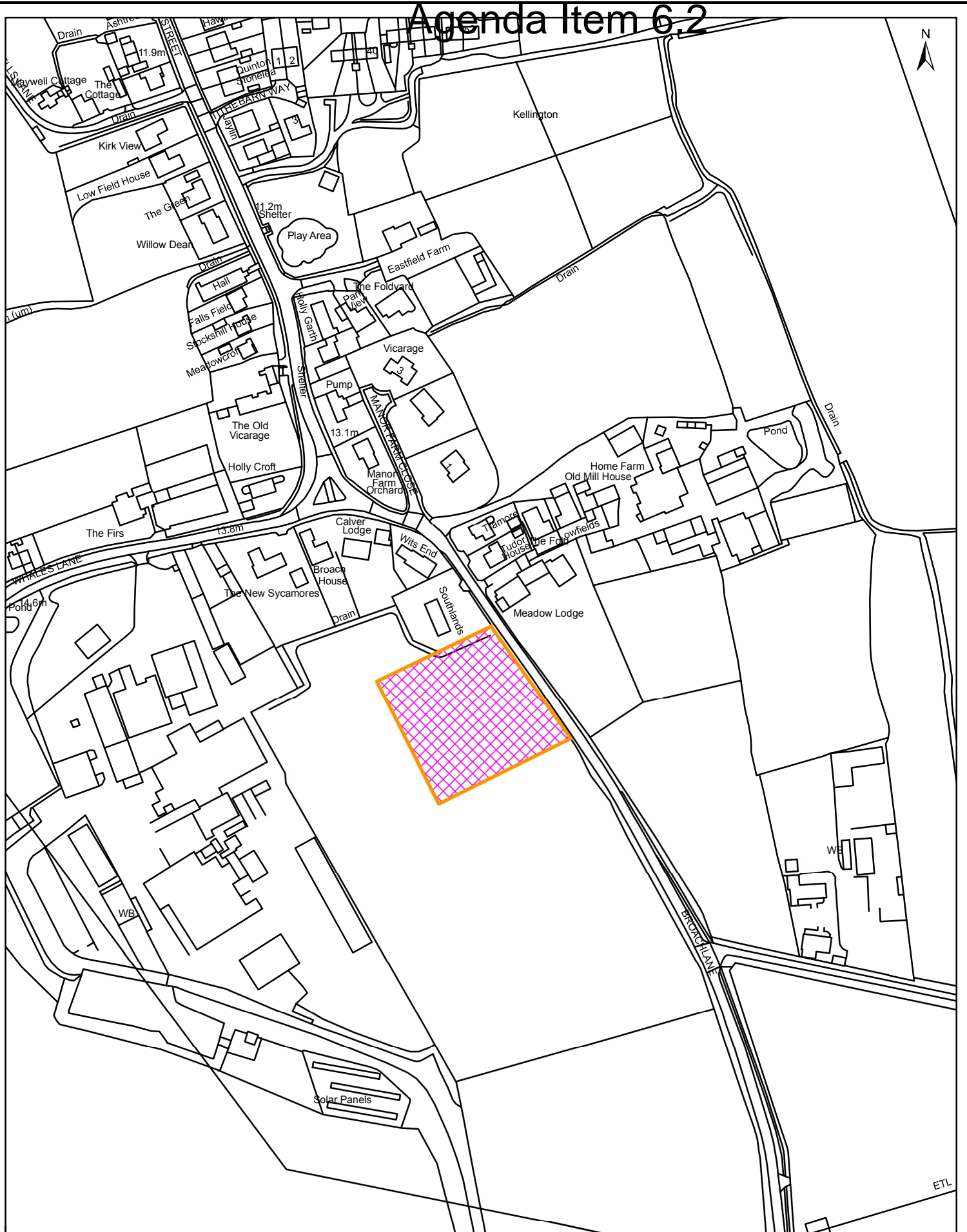
12. In summary, I conclude that the Council has failed to produce adequate evidence to justify the imposition of conditions 3, 4 and 10. The appellants have incurred expense through the appeal process in responding to these conditions, which I have found to be neither reasonable nor necessary in relation to the nature of the development proposed.
13. As such, unreasonable behaviour resulting in unnecessary expense has been demonstrated in this case, as set out in Paragraphs 030, 032 and 049 of the PPG. Consequently, I consider a full award of costs is justified.

Costs Order

14. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Selby District Council shall pay to Mr David Sanderson and Mr John Eccles, the costs of the appeal proceedings described in the heading of this decision.
15. The applicant is now invited to submit to Selby District Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Nigel Harrison

INSPECTOR



APPLICATION SITE

Broach Lane, Kellington
2018/1123/REM

1:2,500



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AMENDED DRAWING



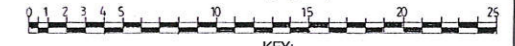
CONSULTING SURVEYORS
LAND-ENGINEERING-BUILDING

188 THORNER LANE ■ SCARCROFT ■ LEEDS
TEL 01132 893924 ■ TEL 07739 753 651
EMAIL INFO@CSLSURVEYS.CO.UK ■ WWW.CSLSURVEYS.CO.UK

TITLE		Topographical Survey Land Off Broach Lane Kellington		
CLIENT		Mrs Ruby Lee		
DATE	DRAWN BY	CHKD. BY		
24/03/16	ACA	SA		
PLOT SCALE		1 : 200 @ A1		
REV	AMENDMENT	DATE	BY	CHKD.
A	Broach Lane added	29/08/18	ACA	SA

NOTES

This survey is fitted to National Grid and Datum using GPS, and has been drawn at a scale factor of 1.0000.
Boundaries shown are physical features on site and do not necessarily represent the legal extents of ownership.
This drawing and the information contained therein is issued in confidence and is the copyright of CSL Surveys (Engineering) Ltd. Disclosure of this information to Third Parties without permission is forbidden as is copying or replication.



KEY

- B BOLLARD
- BT BRITISH TELECOM COVER
- CB CONTROL BOX
- CONC. CONCRETE
- DC DRAINAGE CHANNEL
- DK DROP KERB
- DP DOWN PIPE
- EP ELECTRICITY Pylon
- FL FLOOR LEVEL
- FH FIRE HYDRANT
- G GULLY
- GP GATE POST
- GV GAS VALVE
- H HEIGHT
- IC INSPECTION COVER
- IL INVERT LEVEL
- LP LAMP POST
- MH MANHOLE
- NB NOTICE BOARD
- RE RIDDING EYE
- RS ROAD SIGN
- RW RETAINING WALL
- TB TRAFFIC BOLLARD
- TL TRAFFIC LIGHT
- TP TELEGRAPH POLE
- UTL UNLABLE TO LIFT
- WM WATER METER
- WO WATER OFFICE
- SV WATER STOP VALVE
- A SURVEY STATION
- BOREHOLE
- SOIL SAMPLE
- DIAMETER
- TRIAL HOLE/WT

LANDSCAPING
TREES - 8-10cm girth at 1M - 2.5-3M high

Species	Number
A - Fraxius Excelsior (ash)	4
B - Betula Pendula (silver birch)	4
C - Sorbus Huphensis (huph rowan)	4
D - Fagus Sylvatica (copper beech)	3

SHRUBS
Planted at 3m.s. using a selection of the following.

Species	Size cm	Pot size litre	Number
Bed A			
Berberis Frikartii Amstelveen	20-30	C3	6
Berberis Thunbergii Atropurpurea	30-40	C3	5
Pyracantha Red Cushion	40-60	C3	5
Rosa Max Graf	30-40	C3	5
Euonymus Emerald Green	30-40	C3	5
Bed B			
Berberis Frikartii Amstelveen	20-30	C3	3
Pyracantha Red Cushion	40-60	C3	3
Rosa Max Graf	30-40	C3	3
Euonymus Emerald Green	30-40	C3	3
Bed C			
Berberis Frikartii Amstelveen	20-30	C3	3
Pyracantha Red Cushion	40-60	C3	3
Rosa Max Graf	30-40	C3	3
Euonymus Emerald Green	30-40	C3	3
Bed D			
Berberis Frikartii Amstelveen	20-30	C3	3
Rosa Max Graf	30-40	C3	3
Euonymus Emerald Green	30-40	C3	3

GROUND COVER SHRUBS
To be planted at 4m.s. using a selection of the following

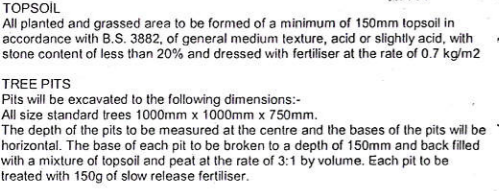
Bed	Species	Size cm	Pot size litre	Number
Bed A				
Locinera Maigreen	20-30	C2	4	
Coloneaster Skoghholm	20-30	C2	4	
Viburn Davidii	20-30	C2	4	
Herbe 'Autumn Glory	20-30	C2	4	
Herbe Rakaiensis	20-30	C2	4	
Bed B				
Locinera Maigreen	20-30	C2	2	
Coloneaster Skoghholm	20-30	C2	2	
Viburn Davidii	20-30	C2	2	
Bed C				
Viburn Davidii	20-30	C2	3	
Herbe 'Autumn Glory	20-30	C3	3	
Herbe Rakaiensis	20-30	C3	3	
Bed D				
Coloneaster Skoghholm	20-30	C2	1	
Locinera Maigreen	20-30	C2	1	
Herbe Autumn Glory	20-30	C3	2	
Bed E				
Coloneaster Skoghholm	20-30	C2	4	
Locinera Maigreen	20-30	C2	4	
Viburn Davidii	20-30	C2	4	

TOPSOIL
All planted and grassed area to be formed of a minimum of 150mm topsoil in accordance with B.S. 3882, of general medium texture, acid or slightly acid, with stone content of less than 20% and dressed with fertiliser at the rate of 0.7 kg/m²

TREE PITS
Pits will be excavated to the following dimensions:-
All size standard trees 1000mm x 1000mm x 750mm.
The depth of the pits to be measured at the centre and the bases of the pits will be horizontal. The base of each pit to be broken to a depth of 150mm and back filled with a mixture of topsoil and peat at the rate of 3:1 by volume. Each pit to be treated with 150g of slow release fertiliser.

TURFED AREAS
Turf is to be weed free, having a strong root structure and conform with B.S. 3969 free from any ryegrass or other species.

MAINTENANCE
The soil in the shrub beds and around trees will be kept free from weeds and watering will be carried out when necessary in dry conditions until the plants are established. All grassed areas will be cut at least once per week or as necessary. Weed killer will be applied strictly in accordance with the manufacturers instructions. Special will be taken in the vicinity of tree and shrub roots and that adjacent gardens and private property are not affected. Weed killer to paved areas will be based on Altrazine or Simazine. Weed killer to planted areas will be capable of quick suppression of competing vegetation without damage to trees or shrubs.



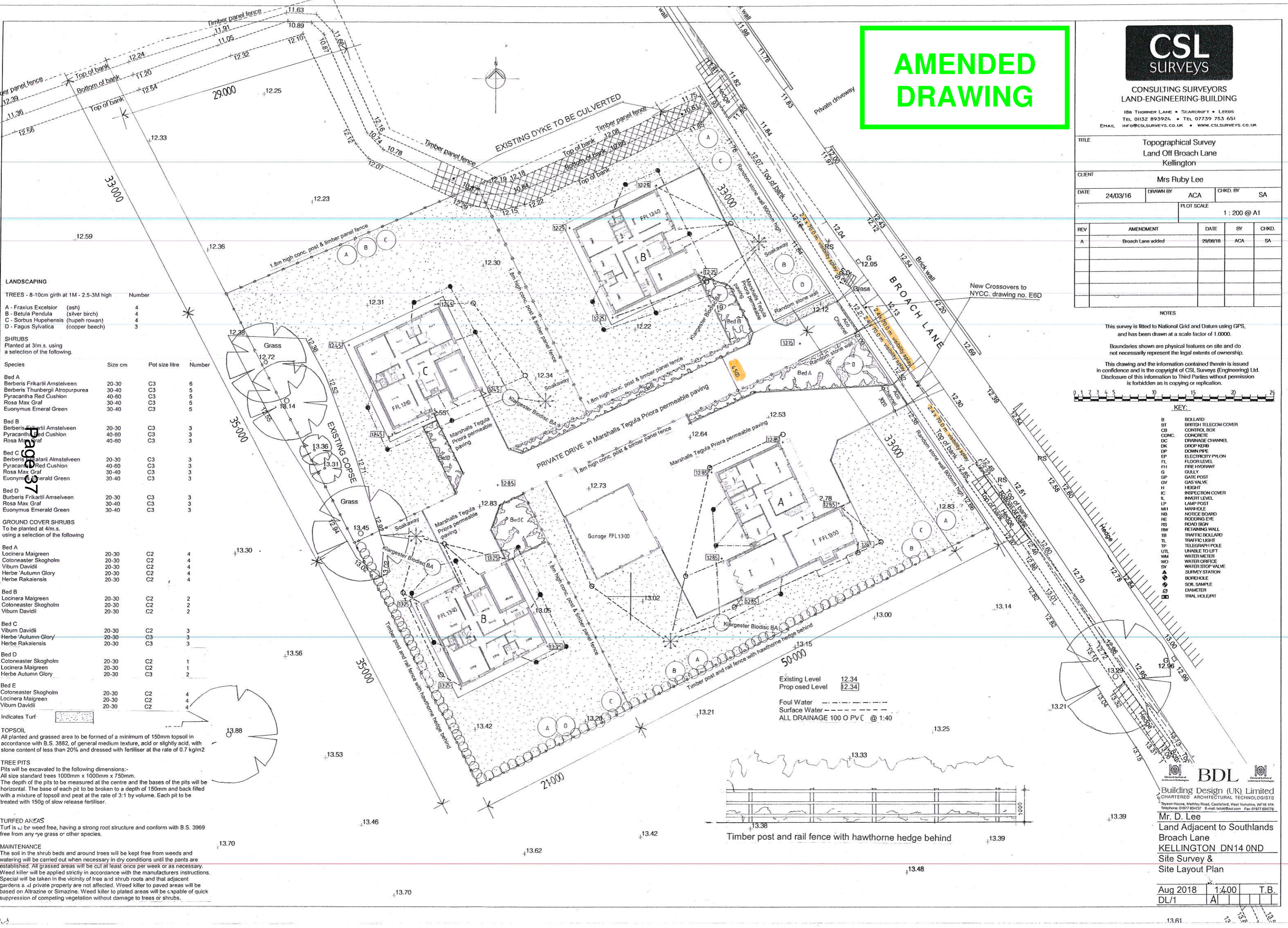
INDICATES TURF

TOPSOIL
All planted and grassed area to be formed of a minimum of 150mm topsoil in accordance with B.S. 3882, of general medium texture, acid or slightly acid, with stone content of less than 20% and dressed with fertiliser at the rate of 0.7 kg/m²

TREE PITS
Pits will be excavated to the following dimensions:-
All size standard trees 1000mm x 1000mm x 750mm.
The depth of the pits to be measured at the centre and the bases of the pits will be horizontal. The base of each pit to be broken to a depth of 150mm and back filled with a mixture of topsoil and peat at the rate of 3:1 by volume. Each pit to be treated with 150g of slow release fertiliser.

TURFED AREAS
Turf is to be weed free, having a strong root structure and conform with B.S. 3969 free from any ryegrass or other species.

MAINTENANCE
The soil in the shrub beds and around trees will be kept free from weeds and watering will be carried out when necessary in dry conditions until the plants are established. All grassed areas will be cut at least once per week or as necessary. Weed killer will be applied strictly in accordance with the manufacturers instructions. Special will be taken in the vicinity of tree and shrub roots and that adjacent gardens and private property are not affected. Weed killer to paved areas will be based on Altrazine or Simazine. Weed killer to planted areas will be capable of quick suppression of competing vegetation without damage to trees or shrubs.



Building Design (UK) Limited
CHARTERED ARCHITECTURAL TECHNOLOGISTS

Mr. D. Lee
Land Adjacent to Southlands
Broach Lane
KELLINGTON DN14 0ND
Site Survey &
Site Layout Plan

Aug 2018	1:400	T.B.
DL/1	A	

13.61

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Report Reference Number: 2018/1123/REM

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

APPLICATION NUMBER:	2018/1123/REM	PARISH:	Kellington Parish Council
APPLICANT:	Mr David Lee	VALID DATE: EXPIRY DATE:	10th October 2018 5th December 2018
PROPOSAL:	Reserved matters application including access, appearance, landscaping, layout and scale of approval APP/N2739/W/15/3136685 (2015/0546/OUT) for erection of 3 bungalows and 1 dormer bungalow		
LOCATION:	Land At Broach Lane Kellington Goole North Yorkshire		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as at least 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 application site is located outside the defined development limits of Kellington, which is a Designated Service Village as identified in the Core Strategy.
- 1.2 The application site comprises an open area of agricultural land. To the north of the site is a residential property known as Southlands, to the east is Broach Lane, with

Meadow Lodge Care Home beyond. To the south and east is open agricultural land; beyond which is the farm packaging and distribution factory of MH Poskitt Ltd.

The Proposal

- 1.3 The application seeks approval of reserved matters (access, layout, scale, appearance and landscaping) pursuant to an outline approval (2015/0546) granted on appeal (ref: APP/N2739/W/15/3136685).
- 1.4 Therefore, the principle of the development has been established through the outline permission and only those reserved matters (access, layout, scale, appearance and landscaping) can be considered at this stage.

Relevant Planning History

- 1.5 The following historical applications are considered to be relevant to the determination of this application.
- 1.6 An outline application (reference: 2015/0546/OUT) with all matters reserved for a residential development was refused on 15th October 2015. A subsequent appeal was allowed on 22nd June 2016.
- 1.7 An outline application (reference: 2015/1172/OUT) with all matters reserved for a residential development was granted on 29th February 2016.

2. CONSULTATION AND PUBLICITY

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

- 2.1 **Parish Council** – Object. Although this has outline planning permission in light of appeal decision reference APP/N2739/W/17/3185197, this reserved matters application should be refused. Selby District Council now has a five year supply of deliverable housing land. The noise from the commercial vegetable enterprise would adversely impact upon the living conditions of future residents, especially in the two bungalows closest to the enterprise. Putting residential properties so close to a large commercial vegetable enterprise would clearly impact on the ability of the business to expand in the future. The north of Kellington comprises of frontage development, mainly individually built dwellings. The proposed development would be at odds with the established character of the frontage development in the village fringe. It would be introducing a suburban feature into this rural landscape that would be seen as a harsh and unsympathetic extension of the village. The site lies outside of Kellington development limits. At the very least just two bungalows on the Frontage of Broach Lane should be allowed. If that is not possible then the application should be refused.
- 2.2 **NYCC Highways** – No objections, subject to eleven conditions relating to: (1) construction of roads and footways prior to occupation of dwellings; (2) discharge of surface water; (3) construction requirements of private access/verge crossings; (4) visibility splays; (5) pedestrian visibility splays; (6) approval of details for works in the highway; (7) completion of works in the highway; (8) details of access, turning and parking; (9) provision of approved access, turning and parking areas; (10)

garage conversion into habitable room; and (11) on-site parking, on-site storage and construction traffic during development.

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

2.4 **Danvm Drainage Commissioners Shire Group Of IDBs** – No objections, subject to recommendations.

2.5 **Neighbour Summary** – All immediate neighbours were informed by letter and a site notice was erected. Eleven letters of representation have been received all objecting to the proposed development on grounds that may be summarised as:

- the siting of the proposed development outside the village curtilage, which would set a precedent for further residential development outside the village curtilage
- the non-linear nature of the development which would go against the character and appearance of the area
- highway safety issues
- flood risk and drainage
- future residents being subject to noise from the adjacent commercial vegetable enterprise which would adversely affect their residential amenities
- proposed properties would affect the ability for the adjacent commercial vegetable enterprise to expand in the future; and
- unsympathetic extension to the village which would introduce a suburban feature into the rural landscape.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

3.1 The site has outline planning permission so the principle may not be questioned, despite the site being outside the defined development limits of Kellington.

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

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

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

Selby District Core Strategy Local Plan

3.4 The relevant Core Strategy Policies are:

- SP1 – Presumption in Favour of Sustainable Development
- SP2 – Spatial Development Strategy
- SP5 – The Scale and Distribution of Housing

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

Selby District Local Plan

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

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

3.6 The relevant Selby District Local Plan Policies are:

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

4. APPRAISAL

4.1 Since the principle has been established, the main issues to be taken into account when assessing these reserved matters are:

- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety

Design and Impact on the Character and Appearance of the Area

4.2 Residential development within the vicinity of the application site is mixed in nature, with a variety of dwelling types, sizes, ages and materials. It is noted that on the western side of Broach Lane there are predominantly bungalows and dormer bungalows, while on the eastern side of Broach Lane are predominantly two storey dwellings and a two storey care home.

4.3 In the appeal decision the Inspector stated that *“While the appeal site is located outside the settlement limits of Kellington, it is a modest area of land, read within the context of the MH Poskitt Ltd site and the care home opposite. Moreover, the proposal would be well contained and would assist in providing a transition from the open countryside to the village context of Kellington”*.

4.4 The Inspector also stated that *“the location [of the application site] outside of the settlement limits would not be unduly harmful”*. There is nothing within the appeal decision to suggest that the Inspector considered the indicative layout of four dwellings as shown on drawing no. DL/1 submitted with the appeal proposal (similar in layout to that of the current proposal) would have any adverse impact on the character and appearance of the area.

- 4.5 The proposed site layout plan (drawing no. DL1/A) builds on that submitted with the appeal proposal. This shows the application site laid out to accommodate four dwellings, two to the front of the site and two to the rear of the site. A dormer bungalow and a bungalow would be provided to the site frontage, with two bungalows to the rear. Each dwelling would site centrally in its plots, with the provision of hardstanding for parking and turning and grassed areas. The bungalows would be served from a shared private drive leading from Broad Lane, while the dormer bungalow would be served from its own private drive leading from Broach Lane and would benefit from a double detached garage within its curtilage alongside hardstanding for parking and turning and a grassed area wrapping around the south side of the dwelling.
- 4.6 In terms of the size of the plots it is considered that these are commensurate with bungalows within the vicinity of the application site. In terms of the layout the Inspector considered the indicative layout would not have any adverse impact on the character and appearance of the area. The frontage properties would be set back from the highway by approximately 11 metres, which is not as much as Southlands is set back from the highway (at 14 metres) but is more than other neighbouring properties. Taking into account various setbacks of dwellings from the highway in the vicinity of the application site and the extent of the outline approval, it is considered that the layout of the proposed dwellings would be acceptable in respect of the impact on the character and appearance of the area.
- 4.7 On scale and appearance, the existing properties along the western side of Broach Lane are predominantly bungalows and dormer bungalows constructed of a range of external materials. The proposed dwellings would be a mix of bungalows and dormer bungalows and the submitted elevation drawings for each house type sets out that the materials to be used in the external construction of all of the proposed dwellings which are considered acceptable.
- 4.8 The landscaping shows the provision of planting beds to the front of each dwelling (for which detailed specifications of planting are provided on the submitted drawing); grassed areas around each dwelling; planting of a number of trees adjacent to the north, east and south boundaries of the site (for which detailed specifications are provided on the submitted drawing); and the planting of a hawthorn hedge to the south and west boundaries of the site.
- 4.9 The existing copse to the western boundary of the site would be retained as part of the proposals. The details of the landscaping scheme are considered to be acceptable and a condition could be attached to any planning permission granted requiring the landscaping scheme to be carried out in accordance with the submitted details within a specified time period and maintained for a period of five years. The proposed landscaping scheme would aid assimilation of the proposed development into the street scene.
- 4.10 The boundary treatments, in association with the hawthorn hedge to the south and west boundaries include a timber post and rail fence; the retention of an existing copse to the western boundary of the site; the provision of a 1.8 metre high timber panel fence to the northern boundary of the site; and the provision of a 0.9 metre high random stone wall to the site frontage, adjacent to Broach Lane. Internally, there are 1.8 metre high timber panel fences subdividing the proposed

dwellings. These boundary treatments are considered appropriate having regard to the context of the site and the character and appearance of the area and can be secured by way of condition.

- 4.11 Subject to the aforementioned conditions, it is considered that these reserved matters are acceptable and would not have a significant or detrimental impact on the character and appearance of the area. The proposal is therefore considered acceptable in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policies SP4 and SP19 of Core Strategy and the advice contained within the NPPF.

Impact on Residential Amenity

- 4.12 To the north of the application site is a residential property known as Southlands while to the east of the application site is Broach Lane, with Meadow Lodge Care Home beyond.
- 4.13 Given the size, siting and design of the proposed dwellings and their relationship to neighbouring residential properties outside the application site, it is not considered that the proposals would result in any significant adverse effects of overlooking, overshadowing or oppression on the residential amenities of any neighbouring residential properties outside the application site. Furthermore, the proposed dwellings would each benefit from an adequate amount of useable external amenity space for the occupiers of the proposed dwelling.
- 4.14 It is noted that a condition has been attached to the outline approval requiring a scheme of protecting the proposed development from noise to be submitted to and approved by the Local Planning Authority prior to the construction of the proposed development and implemented in accordance with the approved scheme prior to the first occupation of the dwellings. This would need to be done through a separate discharge of condition application.
- 4.15 Having regard to the above, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policy ENV1 (1) of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Highway Safety

- 4.16 The site layout plan demonstrates that the three bungalows would be served from a shared private drive leading from Broach Lane and would each benefit from an integral garage and an area of hardstanding to the front of the respective dwelling for parking and turning. Meanwhile, the dormer bungalow would be served from its own private drive onto Broach Lane and would benefit from a detached double garage and an area of hardstanding to the front and north side of the dwelling for parking and turning.
- 4.17 NYCC Highways have been consulted on the proposals and raise no objections, subject to eleven conditions relating to: (1) construction of roads and footways prior to occupation of dwellings; (2) discharge of surface water; (3) construction requirements of private access/verge crossings; (4) visibility splays; (5) pedestrian visibility splays; (6) approval of details for works in the highway; (7) completion of works in the highway; (8) details of access, turning and parking; (9) provision of

approved access, turning and parking areas; (10) garage conversion into habitable room; and (11) on-site parking, on-site storage and construction traffic during development. Not all of these conditions are considered reasonable and necessary and as such, Officers would recommend only those, or variations of those, which they consider are reasonable and necessary to attach to any planning permission granted.

4.18 Having regard to the above, it is considered that the proposal would be acceptable in terms of highway safety and is therefore in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and the advice contained within the NPPF.

5. CONCLUSION

5.1 The application site benefits from outline approval which was granted at appeal (reference: APP/N2739/W/15/3136685) with all matters reserved for future consideration. Therefore, the principle of the development has been established through the outline permission and only the reserved matters (access, layout, scale, appearance and landscaping) can be considered at this stage.

5.2 Having assessed the proposals against the relevant policies, the reserved matters for the access, layout, scale, appearance and landscaping are considered to be acceptable. The details ensure that the proposal would not result in detrimental impacts on the character and appearance of the area, the residential amenity of the occupiers of neighbouring properties or highway safety.

5.3 The proposed development is therefore considered to be acceptable having had regard to Policies ENV1, ENV2, T1 and T2 of the Selby District Local Plan, Policies SP1 SP2, SP5, SP9, SP15, SP18 and SP19 of the Core Strategy and the advice contained with the NPPF.

6. RECOMMENDATION

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

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

- DL/1 – Location Plan
- DL/1A – Site Layout Plan
- 758/2 – Proposed Floor Plans Type A
- 758/3 - Proposed Elevation Plans Type A
- 758/4 - Proposed Garage Type A
- 758/5 – Proposed Plans Type B
- 758/6 - Proposed Plans Type C

Reason:
For the avoidance of doubt.

02. The landscaping and tree planting scheme as submitted on Drawing No. DL1A shall be carried out in its entirety within the period of twelve months beginning

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

Reason:

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

03. No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation. The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority in consultation with the Highway Authority before the first dwelling of the development is occupied.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.

04. A site compound within the application site shall be provided as soon as the means of access to the site has been constructed and is available for use so that all contractor parking, materials storage and deliveries can take place within the site so as to prevent the need for parking or disruption of the free flow of traffic on the public highway. The compound shall be retained in use until the substantial completion of the development.

Reason:

In order to protect the amenities of the area and the highway safety of users of the highway and to make provision for an on-site contractor's compound to reduce the tendency for any kerb side parking on Broach Lane, in accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan.

05. Prior to the development being brought into use, splays shall be provided giving clear visibility of 45m measured along both channel lines of the major road Broach Lane from a point measured 2m down the centre line of the access road. The eye height will be 1.05m and the object height shall be 0.6m. Details of highway improvement works, namely the relocation of the existing gateway feature, shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority and shall be completed in accordance with the approved details. Once created, the visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and in the interests of road safety.

7. Legal Issues

7.1 Planning Acts

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

7.2 Human Rights Act 1998

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

7.3 Equality Act 2010

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

8. Financial Issues

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

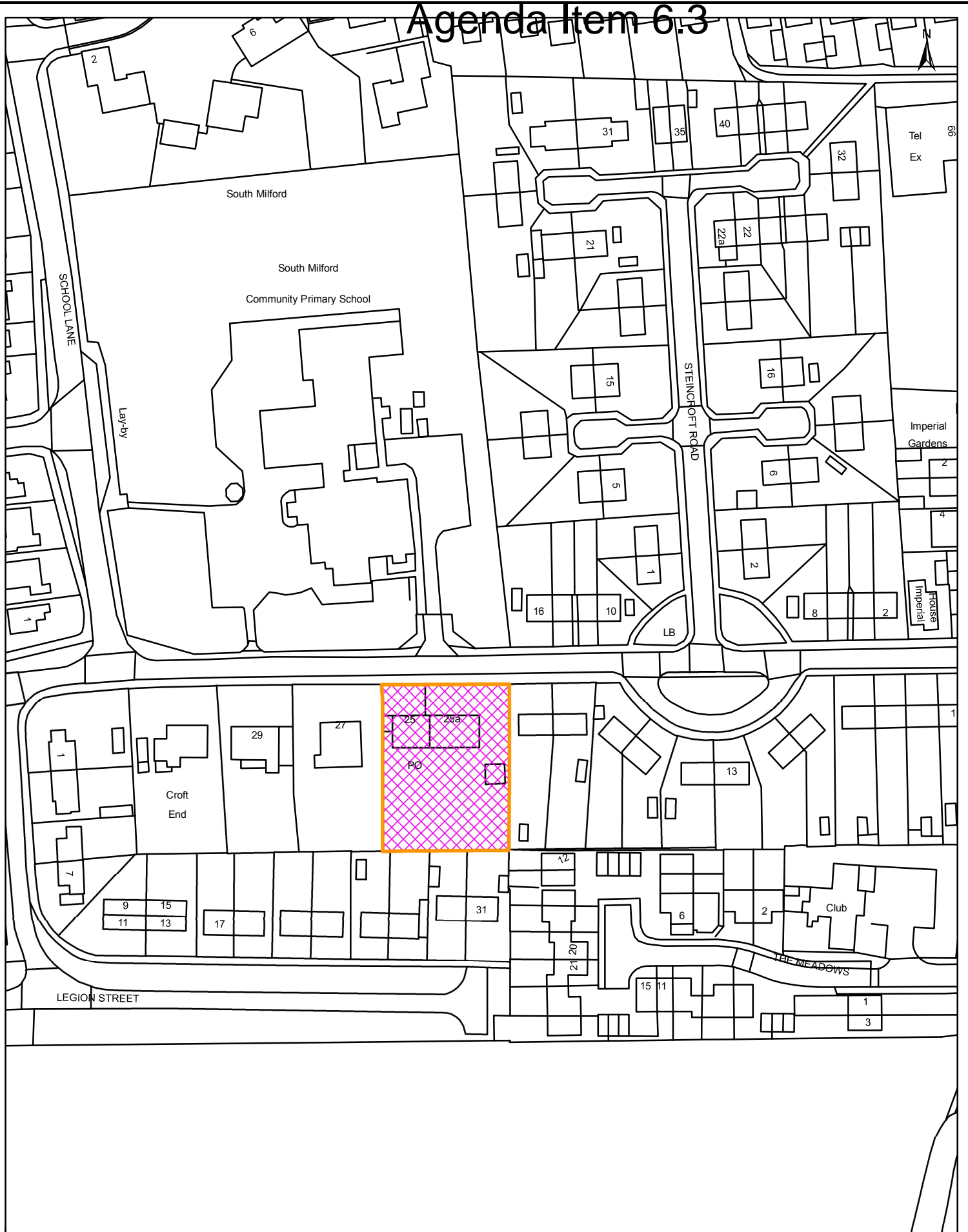
9. Background Documents

Planning Application file reference 2018/1123/REM and associated documents.

Contact Officer: Jenny Tyreman, Senior Planning Officer

Appendices: None

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APPLICATION SITE

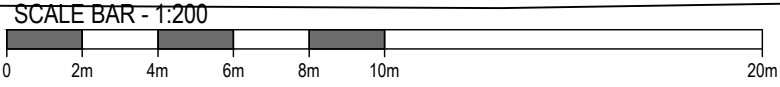
25 Sand Lane, South Milford
2018/1141/OUT

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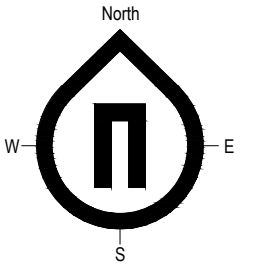
SAND LANE



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 Report any discrepancies to the architect before commencing work. If this drawing exceeds the quantities taken in any way the architect are to be informed before the work is initiated. Work within the Construction (Design & Management) Regulations 2015 is not to start until a Health and Safety Plan has been produced. This drawing is copyright and must not be reproduced without consent of NW Architects Limited.

DRAWING STATUS/TYPE KEY

F Feasibility	SK Sketch	L Landscape	C Construction
P Planning	M Marketing	S Survey	AB As Built
T Tender	TNT Tenant	OS Ordnance Survey	



**AMENDED
DRAWING**

**INDICATIVE
ONLY**

REV	DESCRIPTION	DRAWN	DATE	CHECKED	DATE
B	NOTE ADDED	RD	27-11-18	NW	27-11-18
A	SCALE AMENDED	RS	08-10-18	NW	08-10-18

REVISIONS



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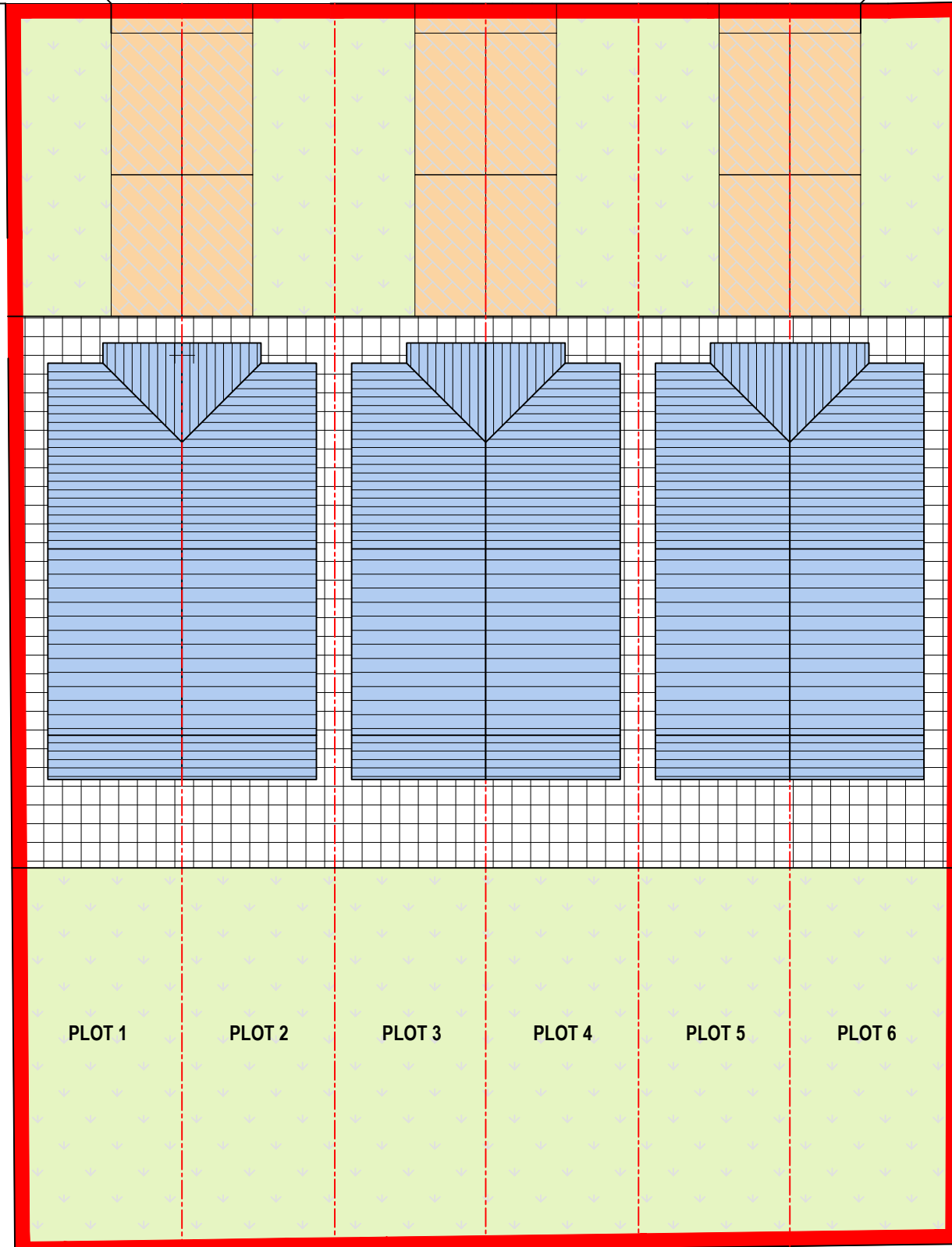
CLIENT
 Mr C Georgiou

PROJECT
 25 Sand Lane
 South Milford

DRAWING TITLE
 Proposed Site Layout

Scale	Drawn By	Date Drawn
1:200 @ A3	RAP	03-11-15
	Checked By	Date Checked
	NW	03-11-15

Drawing No. 15066-P300
 Revision B



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Report Reference Number: 2018/1141/OUT

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

APPLICATION NUMBER:	2018/1141/OUT	PARISH:	South Milford Parish Council
APPLICANT:	Mr C Georgiou	VALID DATE: EXPIRY DATE:	10th October 2018 5th December 2018
PROPOSAL:	Outline application (with all matters reserved) for demolition of existing buildings and erection of a residential development		
LOCATION:	25 Sand Lane South Milford Leeds		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as at least 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 application site is located within the defined development limits of South Milford, which is a Designated Service Village as identified in the Core Strategy.
- 1.2 The application site comprises an existing bungalow, known as 25 Sand Lane, along with its associated garden land, driveway and turning and parking area; plus an attached single storey shop (Use Class A1) along with its associated turning and parking area.

- 1.3 To the south, east and west of the application site are residential properties; while to the north of the application site is Sand Lane with South Milford Community Primary School beyond.

The Proposal

- 1.4 The application seeks outline planning permission (all matters reserved) for the demolition of existing buildings and erection of a residential development. Existing buildings at the site include a bungalow and a local shop.
- 1.5 An indicative site layout plan, floor plans and elevations have been submitted with the application, which demonstrate how the site could be laid out to accommodate six two storey semi-detached dwellings, with accommodation in the roof space facilitated by roof lights. The indicative site layout plan demonstrates how the proposed dwellings would each be served by their own vehicular access and parking areas to the front (north) of the dwellings, with private amenity areas to the rear (south) of the dwellings. The suitability of the indicative site layout plan, floor plans and elevations in respect of the main issues will be discussed later in this report.

Relevant Planning History

- 1.6 The following historical applications are considered to be relevant to the determination of this application.
- 1.7 An application (reference: 2016/1176/FUL) for the change of use from garage to fish and chip shop to include external and internal alterations was refused on 11th January 2017.
- 1.8 An application (reference: 2017/0874/FUL) for the proposed conversion of existing convenience store into a Fish and Chip Shop (Use Class A1 to A5) was refused on 24th October 2017.

2. CONSULTATION AND PUBLICITY

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

- 2.1 **Parish Council** – Object due to over development of the site relative to the surrounding area and impact on highway safety due to access and limited parking.
- 2.2 **NYCC Highways** - Due to the location of the proposed site (near a school entrance and a route to school), there are major concerns regarding the lack of a vehicle turning area for each plot.
- 2.3 **Selby Area Internal Drainage Board** - If surface water is to be directed to a mains sewer system the IDB would have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow.
- 2.4 **Yorkshire Water Services** - The developer is proposing to discharge surface water to public sewer however, sustainable development requires appropriate surface water disposal and Yorkshire Water promotes the surface water disposal hierarchy.

The developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourses are not reasonably practical before considering disposal to public sewer. Only as a last resort, and upon receipt of satisfactory evidence to confirm the reasons for rejection of other methods of surface water disposal, curtilage surface water may discharge to public sewer. Surface water discharges to the public sewer must have a minimum of 30% reduction based on the existing peak discharge rate during a 1 in 1 year storm event. The developer will be also required to provide evidence of existing positive drainage to a public sewer from the site to the satisfaction of YWS/the LPA by means of physical investigation. On-site attenuation, taking into account climate change, will be required before any discharge to the public sewer network is permitted. Therefore, no objections, subject to a condition regarding the above.

- 2.5 **Environmental Health** - The site is bounded by residential and as such residents are likely to experience disturbance during demolition and construction works, notably from noise and dust emissions. It is therefore recommended that a condition regarding construction hours is attached to any planning permission granted.
- 2.6 **Waste And Recycling Officer** - Access to the properties would be via the existing highway and so presents no concerns in terms of waste collection. As there are more than four properties, the developer would be required to purchase the waste and recycling containers for this development.
- 2.7 **Neighbour Summary** – All immediate neighbours were informed by letter and a site notice was erected. Eleven letters of representation have been received as a result of this advertisement, all objecting to the application on grounds that may be summarised as:
- overdevelopment of the site
 - inappropriate design and adverse impact on the character and appearance of the area
 - not in accordance with the South Milford Village Design Statement
 - loss of the local shop, with the next nearest being Marks and Spencer, which is more expensive and involves crossing a busy road
 - safety of children at the school opposite
 - impact on residential amenity in terms of overlooking, overbearing, loss of privacy, loss of daylight/sunlight
 - impact on drainage
 - noise and disturbance; and comments on the publicity of the application.

3. **SITE CONSTRAINTS AND POLICY CONTEXT**

Constraints

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

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

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

Selby District Core Strategy Local Plan

- 3.4 The relevant Core Strategy Policies are:

- SP1 – Presumption in Favour of Sustainable Development
- SP2 – Spatial Development Strategy
- SP4 – Management of Residential Development in Settlements
- SP5 – The Scale and Distribution of Housing
- SP9 – Affordable Housing
- SP14 – Town Centres and Local Services
- SP15 – Sustainable Development and Climate Change
- SP18 – Protecting and Enhancing the Environment
- SP19 – Design Quality

Selby District Local Plan

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

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

- 3.6 The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- ENV2 – Environmental Pollution and Contaminated Land
- T1 – Development in Relation to the Highway Network
- T2 – Access to Roads
- S3 – Local Shops

4. APPRAISAL

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

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage
- Nature Conservation and Protected Species
- Land Contamination

- Affordable Housing
- 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. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.
- 4.3 Policy SP2A(a) of the Core Strategy states that *"The majority of new development will be directed to the towns and more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints"*. Further, the policy states that *"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. Proposals for development on non-allocated sites must meet the requirements of Policy SP4"*.
- 4.4 Policy SP4(a) of the Core Strategy states that *"in order to ensure that development on non-allocated sites contributes to sustainable development and the continued evolution of viable communities, the following types of residential development will be acceptable in principle within Development Limits"*.

In Selby, Sherburn In Elmet, Tadcaster and Designated Service Villages -

"Conversions, replacement dwellings, redevelopment of previously developed land, and appropriate scale development on greenfield land (including garden land and conversion/redevelopment of farmsteads)."

- 4.5 Policy SP4(d) of the Core Strategy states that *"Appropriate scale will be assessed in relation to the density, character and form of the local area and should be appropriate to the role and function of the settlement within the hierarchy."*
- 4.6 The proposed plans that have been submitted with the application seek to show how the site could be laid out to accommodate six two storey semi-detached dwellings, with accommodation in the roof space facilitated by roof lights. The indicative site layout shows how the proposed dwellings would each be served by their own vehicular access and parking areas to the front (north) of the dwellings, with private amenity areas to the rear (south) of the dwellings.
- 4.7 Having considered these plans, to see if six can be accommodated on the site, the scheme would not be of an appropriate scale in relation to its density, character and form relative to the local area. The indicative plans do not demonstrate how six might be accommodated on the site.
- 4.8 However, since the plans submitted are for indicative purposes only and the description of development is for the erection of a residential development, with no numbers or types of dwellings specified there is no doubt that the site can accommodate some residential development. A scheme could be designed to be of

an appropriate scale of development on greenfield land and as such the proposal is considered to fall within one of the types of development identified within Policy SP4(a) of the Core Strategy and therefore the proposal is considered to be acceptable in principle, without specifying numbers, in accordance with Policies SP2 and SP4 of the Core Strategy. It would be entirely appropriate to include an informative on any approval to indicate that the indicative plans have no status and that, furthermore the Committee do not find the present indicative layout or character of the indicative plans acceptable.

Loss of Local Shop

- 4.9 The proposal involves the demolition of existing buildings at the site, including a local shop.
- 4.10 Policy SP14A of the Core Strategy states that *“The health and wellbeing of town centres, and local shopping facilities and services will be maintained and enhanced”*.

On Local Shops and Services Outside Established Town Centres – the policy reads:

“Supporting local shops and services....by resisting the loss of existing facilities and promoting the establishment of new facilities to serve the day-to-day needs of existing communities and the planned growth of communities”.

- 4.11 Policy S3B of the Selby District Local Plan states that *“Outside Selby, Tadcaster and Sherburn in Elmet, proposals involving a loss of retailing (Class A1) use, or loss of a public house (Class A3), will not be permitted unless: (1) It can be demonstrated that there is alternative provision of a similar type of use within reasonable walking distance; or (2) It can be shown that the business is no longer viable for retail purposes within its existing use class, and that it has remained unsold or unlet for a substantial period of time, despite genuine and sustained attempts to market it on reasonable terms”*.
- 4.12 The applicants contend that there is alternative provision of a similar type of use within reasonable walking distance and that the business is no longer viable for retail purpose within its existing use class.
- 4.13 It is not considered that the requirements of the second part of Policy S3B have been demonstrated as the applicants have merely stated that the business is no longer viable for retail purposes and have not provided any evidence to demonstrate this claim or that the premises has remained unsold or unlet for a substantial period of time, despite genuine and sustained attempts to market it on reasonable terms. However, there are two limbs to the policy. There is an A1 retail unit within a two minute walk of the application site (which is currently occupied by Marks and Spencer). Therefore, there is alternative provision of a similar type of use within reasonable walking distance and the proposal would thus satisfy the first part of Policy S3B. Proposals are only required to satisfy one of the above tests to comply with Policy S3B relating to the loss of retailing (Class A1).

- 4.14 Having regard to the above, the proposal is considered to be acceptable in principle and in accordance with Policy SP14 of the Core Strategy and Policy S3 of the Selby District Local Plan.

Design and Impact on the Character and Appearance of the Area

- 4.15 The application site is an existing bungalow, known as 25 Sand Lane, plus an attached single storey shop along with its associated turning and parking area.
- 4.16 The application site is located within a predominantly residential area, with residential properties within the immediate vicinity of the application site comprising a mixture of bungalows and two storey detached, semi-detached and terraced dwellings of varying size and design.
- 4.17 The residential development of the site can be acceptable in principle and the reserved matters – layout, scale, appearance which would include materials and design, for example are not in front of the authority presently and any consent would not give any status to the indicative plans.
- 4.18 It is therefore considered that a scheme could be designed with an appropriate layout, appearance, scale and landscaping 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 in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF.

Impact on Residential Amenity

- 4.19 Whilst the specific impact upon neighbours and residential amenity as a whole cannot be determined at the outline stage, it is considered that a scheme could be designed with an appropriate layout, appearance, scale and landscaping. In the circumstances, it will be possible to regulate the development at the reserved matters stage to that there are no unacceptable effects upon residential amenity.
- 4.20 The Environmental Health Officer has raised concerns that the construction phase of the development could result in existing residential properties surrounding the development site being subject to disturbance from dust and noise. The Environmental Health Officer therefore recommends that a condition is attached to any planning permission granted relating to construction hours, which is considered reasonable and necessary given the context of the application site.
- 4.21 Subject to the aforementioned condition, 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

- 4.22 The indicative proposed site layout plan (drawing no. 15066- P300 B) submitted with the application demonstrates how the site could be laid out to accommodate

six two storey semi-detached dwellings, each served by their own vehicular access and parking areas to the front (north) of the dwellings.

- 4.23 NYCC Highways have been consulted on the proposals and have advised that, based on the indicative proposed site layout plan, there are major concerns regarding the lack of a vehicle turning area for each plot due to the location of the application site near a school entrance and on a route to school.
- 4.24 However, the access is reserved for subsequent approval at the reserved matters stage and the extent to which existing properties have their own on curtilage turning areas would be a matter for consideration at that stage. There would be a concern about the indicative multiple crossovers and any scheme would need to reduce the number of dwellings proposed in order to reduce the number of parking and turning areas required to be accommodated within the application site.
- 4.25 Thus, 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

- 4.26 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 4.27 In terms of drainage, the submitted application form sets out that surface water would be disposed of via mains sewer but does not set out how foul drainage would be disposed of. The Selby Area Internal Drainage Board and Yorkshire Water have been consulted on the proposal and have not raised any objections subject to a condition regarding surface water drainage.
- 4.28 Subject to the aforementioned condition, it is considered that the proposals are acceptable in terms of flood risk and drainage.

Land Contamination

- 4.29 The application has been supported by a planning application form and a contaminated land screening assessment form.
- 4.30 Having reviewed the contaminated land screening assessment form it is considered that there is limited potential contamination to be present at the site. However, it would be considered reasonable and necessary to attach a condition which will ensure that if there is any contamination identified in the course of the works of development this can be appropriately mitigated.
- 4.31 Subject to the aforementioned condition, 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

- 4.32 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.
- 4.33 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”*.
- 4.34 The application is outline; however an indicative proposed site layout shows six dwellings. 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 concluded that there is no requirement to provide affordable housing.

Waste and Recycling

- 4.35 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.

5. CONCLUSION

- 5.1 The application seeks outline planning permission (all matters reserved) for the demolition of existing buildings and the erection of a residential development. Notwithstanding the details shown on the indicative layout, floor and elevation plans submitted with the application, it is considered that a scheme could be designed (in terms of layout, scale and appearance) to be of an appropriate scale of development on greenfield land and as such the proposal is considered to fall within one of the types of development identified within Policy SP4(a) of the Core Strategy. Furthermore, in terms of the loss of the local shop, there is alternative provision of a similar type of use within reasonable walking distance and the proposal is considered to be acceptable in principle in accordance with Policy SP14 of the Core Strategy and Policy S3 of the Selby District Local Plan.
- 5.2 Having assessed the proposals against the relevant policies, it is considered that an appropriate layout, scale, appearance, landscaping and access could be achieved at the reserved matters stage for the proposals to be acceptable in respect of the impact on the character and appearance of the area, impact on residential amenity and impact on highway safety. Furthermore, the proposals are considered to be

acceptable in respect of flood risk and drainage, nature conservation and protected species, land contamination, affordable housing and waste and recycling.

6. RECOMMENDATION

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

01. Applications for the approval of the reserved matters referred to in Condition 2 herein shall be made within a period of three years from the grant of this outline permission and the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason:

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

02. Approval of the details of the (a) appearance, (b) landscaping, (c) layout, (d) scale and (e) the means of access to the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason:

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

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

15066-S100 – Site Location Plan

Reason:

For the avoidance of doubt.

04. 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.

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

a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical;

- b) evidence of existing positive drainage to public sewer and the current points of connection; and
- c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change

Reason:

To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage.

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

Reason:

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

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

Reason:

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

INFORMATIVE:

The indicative layout plans submitted with this application (15066- P300 B, 15066-P301 A and 15066-P302 A) have been dealt with on this basis and do not form a part of this approval. The local planning authority would advise that the indicative three pairs of semi-detached properties would not be in keeping with the character of the locality and would thus, without prejudice, not have the authority's support.

7. Legal Issues

7.1 Planning Acts

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

7.2 Human Rights Act 1998

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

7.3 Equality Act 2010

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

8. Financial Issues

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

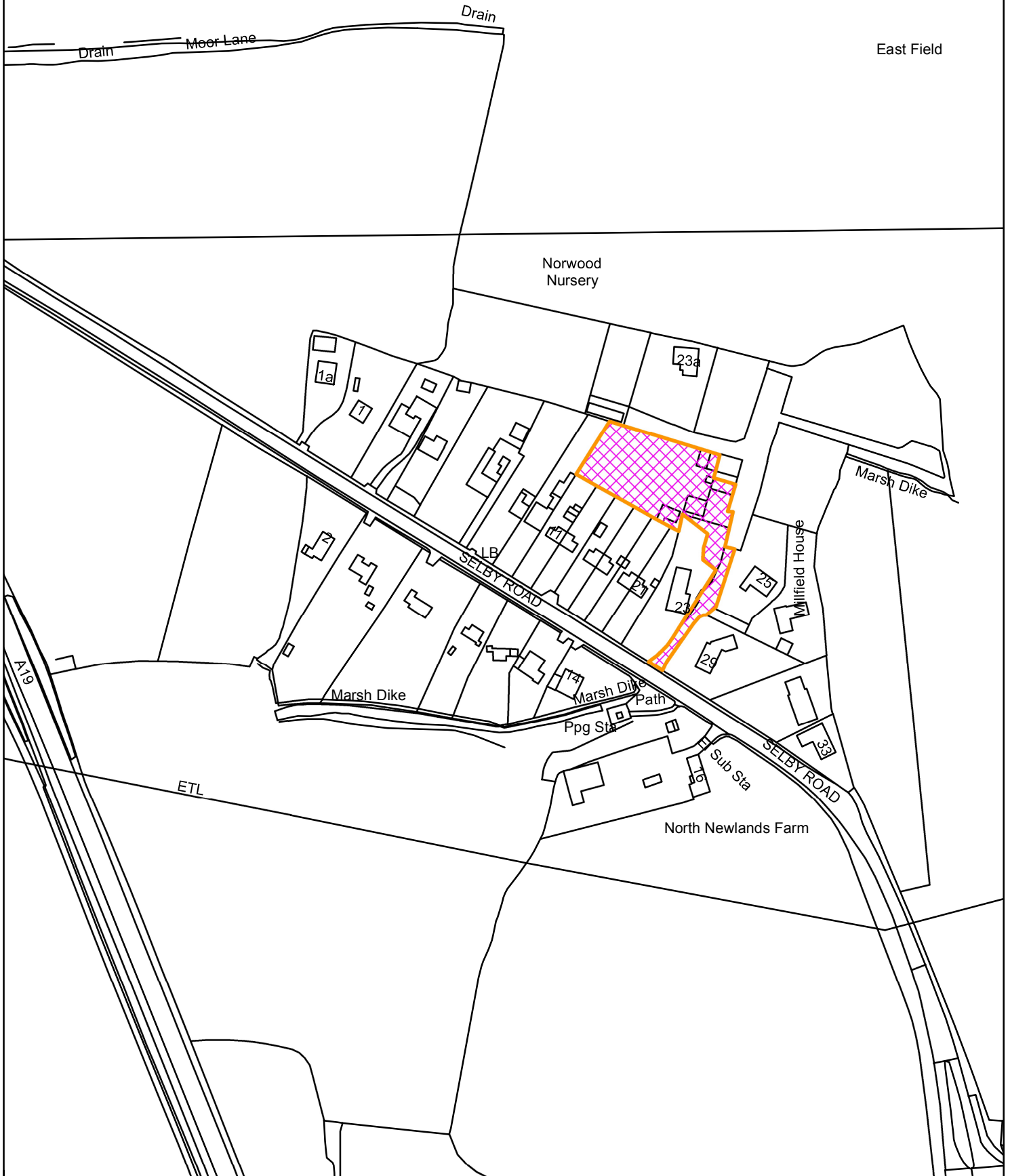
9. Background Documents

Planning Application file reference 2018/1141/OUT and associated documents.

Contact Officer: Jenny Tyreman, Senior Planning Officer

Appendices: None

Agenda Item 6.4



APPLICATION SITE

Land to rear of The Lodge, 23 Selby Road, Riccall
2018/1108/FUL

1:2,500



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REAR OF N°23
THE LODGE,
SELBY RD.,
RICCALL

PROPOSED OFFICE, STORAGE...

SITE PLAN.

NOTES

BOUNDARY TO NORTH AMENDED.

1:200 SCALE DATE DRAWN: 21-11-18 DRAWN BY: P. CRITCHLEY

AMENDED
DRAWING



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Report Reference Number: 2018/1108/FUL

To: Planning Committee
Date: 16 January 2019
Author: Laura Holden (Planning Officer)
Lead Officer: Ruth Hardingham (Lead Officer – Planning)

APPLICATION NUMBER:	2018/1108/FUL	PARISH:	Riccall Parish Council
APPLICANT:	Mrs C Northern	VALID DATE:	5th October 2018
		EXPIRY DATE:	30th November 2018
PROPOSAL:	Proposed erection of amenity block following demolition of existing stables		
LOCATION:	Land To Rear Of The Lodge 23 Selby Road Riccall York North Yorkshire		
RECOMMENDATION:	APPROVAL		

This application has been brought before Planning Committee as more than 10 objections have been received contrary to the Officer recommendations to approve the application.

1. INTRODUCTION AND BACKGROUND

The Site

- 1.1 The application site is a parcel of open land situated approximately 5 miles north of Selby and south east of Riccall on the eastern side of the A19.
- 1.2 The site lies outside defined development limits and therefore is located within open countryside.
- 1.3 The site is situated within Flood Zone 1 which is at low probability of flooding.

The proposal

- 1.3 The proposal is for the erection of amenity block following demolition of existing stables in relation to the previously approved holiday lodges on the site (2016/1258/COU).
- 1.4 The proposed amenity block is to be single storey, and measure 5 metres in length and 12 metres in width, and has a gable to the front measuring 2 metres in length and 5 metres in width. The proposed amenity block is to be 4.6 metres to the ridge height and 3.1 metres to the eaves height. The walls are to be timber cladding and the roof is to be slate tile.

Planning History

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

Application Number: 2007/0934/OUT, Description: Outline for the erection of 12no. Holiday Chalets on land at Norwood Nursery to the rear, Address: Norwood Nurseries, Selby Road, Riccall, York, North Yorkshire,,, Decision: REF, Officer: STNA, Decision Date: 16-NOV-07

Application Number: 2011/0739/COU, Description: Change of use of land for the siting of 12No. twin unit static holiday lodges, Address: Norwood Nurseries, Selby Road, Riccall, York, North Yorkshire,,, Decision: PER, Officer: LOMI, Decision Date: 19-SEP-11

Application Number: 2011/0959/DPC, Description: Discharge of conditions from approval 2011/0739/COU for the change of use of land for the siting of 12No. twin unit static holiday lodges, Address: Norwood Nurseries, Selby Road, Riccall, York, North Yorkshire,,, Decision: Officer: STWR, Decision Date:

Application Number: 2008/0211/OUT, Description: Outline for the erection of 12no. Holiday Chalets on land to the rear, Address: Norwood Nurseries, Selby Road, Riccall, York, North Yorkshire,,, Decision: PER, Officer: RISU, Decision Date: 23-MAY-08

Application Number: 2011/0166/OUT, Description: Extension of time application for approval 2008/0211/OUT (8/15/89P/PA) for outline permission to erect 12no. Holiday Chalets on land to the rear, Address: Norwood Nurseries, Selby Road, Riccall, York, North Yorkshire,,, Decision: PER, Officer: YVNA, Decision Date: 08-APR-11

Application Number: 2016/1258/COU, Description: Demolition of buildings on site, Change of use to allow the siting of 6 No. holiday use only units, Address: Land To Rear Of, The Lodge, 23 Selby Road, Riccall, York, North Yorkshire,,, Decision: PER, Officer: KETH, Decision Date: 08-MAR-17

2. CONSULTATIONS

- 2.1 **HER Officer** – No objections
- 2.2 **NYCC Highways Canal Rd** – No objections

- 2.3 **The Ouse & Derwent Internal Drainage Board** – The Board has no objections to the principle of this development but feel it appropriate that the applicant clarifies the drainage strategy to enable an evaluation to be undertaken in terms of flood risk. The Board recommends that any approval granted should include the conditions relating to the submission of drainage details.
- 2.4 **Environmental Health** – No objections
- 2.5 **National Grid** – No objections
- 2.6 **Parish Council** – Objects – due to concerns over storage of propane gas, and chemicals, potential for vandalism and theft, lack of information regarding materials, inaccurate red line boundary. Following the submission of amended plans the Parish Council were re-consulted and the previous comments have been maintained.
- 2.7 **Pland Use Planning Yorkshire Water Services Ltd** – No objections, subject to a condition that there shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which are to be submitted to and approved by the Local Planning Authority.

Publicity

- 2.8 **Neighbour Summary** – All immediate neighbours have been informed by letter and a site noticed has been erected. 19 letters of objection from 13 addresses have been received as a result of this advertisement. The letters of objection raise concerns in respect of:

Highways:

- Restricts access for emergency vehicles
- Limits turning area
- Poor visibility
- Narrow entrance way
- Additional site traffic
- Existing access already busy

Services:

- Power and sewerage not adequate
- Development over electricity cables running through the site

Amenity:

- Increase in traffic, noise and pollution would result in loss of amenity
- Noise from generators
- Increase in crime, and litter
- Too close to residential properties

Design:

- Building too large
- Inappropriate scale

- Materials not stated

Other matters:

- Amenity block not necessary or justified
- Comments regarding potential intended/future use of the site
- Inaccuracies in the submitted plans
- Health and safety concerns over storage of combustible materials & gas
- Referral to Policy RT12 of Selby District Local Plan inaccurate because it refers to caravans and camping facilities and the previously approved application is for holiday lodges.
- Conditions for 2016/1258/COU are not going to be enforced or complied with
- Windows and doors could be added to change the amenity block into a residential property
- Concerns the site will make it harder to sell surrounding properties.

In response to the re-consultation the previous comments have been maintained.

3 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.8** The application site is located outside development limits, and is therefore within the open countryside.
- 3.9** The application site is located within Flood Zone 1, which has a low probability of flooding.

Selby District Core Strategy Local Plan

- 3.10** 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

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

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

- 3.12** The relevant Selby District Local Plan Policies are:

RT11 - Tourist Accommodation

RT12 - Touring Caravan and Camping Facilities
ENV1 - Control of Development
T1 - Development in Relation to Highway
T2 - Access to Roads

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

3.13 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 (para 12). This application has been considered against the 2018 NPPF.

4 APPRAISAL

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

- Principle of Development
- Impact on Highways
- Impact on Residential Amenity
- Design and Impact on the Character and Form of the Area
- Flood Risk, Drainage, Climate Change and Energy Efficiency
- Other Issues

Principle of Development

4.9 Policy SP1 of the Selby District Core Strategy Local Plan (2013) sets out that when considering development proposals the Council will take a positive approach that reflects the presumption of sustainable development as contained in the National Planning Policy Framework (NPPF). It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

4.10 There are a number of policies within the development plan that are relevant. These include Core Strategy Policies SP2, SP13, SP15, SP18 and SP19. Taken together, the main thrust of these policies is that development in the open countryside (outside development limits) will generally be resisted unless it involves the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes and well-designed new buildings. Proposals of an appropriate scale which would diversify the local economy (consistent with the NPPF) or meet affordable housing needs (adjoining the development limits of a village and which meet the provisions of Policy SP9), or other special circumstances, may also be acceptable.

4.11 Policy SP13 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 rural tourism and other small scale rural development.

4.12 There are no specific policies relating to the provision of holiday lodges, chalets, static caravans or cabins with the Local Plan, however Policy RT12 of the Selby

District Local Plan relates to proposals for touring caravan and camping facilities and acknowledges that such developments are likely to be located beyond development limits. Given that the previously approved application for holiday lodges on the site was assessed under this Policy as the holiday lodges comply with the statutory definition of a caravan, it is considered acceptable that the proposed amenity block is assessed under the same policy.

- 4.13** RT12 (6) requires any new ancillary buildings or structures are essential to providing basic services on the site. The application proposes an ancillary building to the previously approved holiday lodge site, the building is to be used to as an office, as well as the storage of items related to the upkeep of the lodges and site. The proposals are therefore considered acceptable in accordance with Policy RT12 (6).
- 4.14** It is considered that the proposal would bring forward rural development that supports the rural economy and would therefore be in accordance with the local and national planning policies, subject to assessment of other criteria discussed further below.

Impact on Highways

- 4.15** Policy in respect of highway safety and capacity is provided by Policies ENV1(2) and T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF. These policies should be afforded significant weight.
- 4.16** RT12 (4) requires the site to have good access to the primary road network, with RT12 (5) requiring proposals to ensure that they would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity. Similarly Policy ENV1 (2) requires proposals to take account of the relationship of the proposal to the highway network, the proposed means of access, the need for road/junction improvements in the vicinity of the site and the arrangements to be made for car parking.
- 4.17** The proposal involves the use of an existing approved access, and due to the nature of the proposal will not result in the intensification of the existing access.
- 4.18** Objections received have been considered and are noted above in the publicity section. The application has been assessed by NYCC Highways have been consulted and have no objections to the proposal.
- 4.19** It is therefore considered that the proposal would not result in a detrimental impact on the existing highway network in accordance with Policies RT12 (4), ENV1 (2), T1 and T2 of the Selby District Local Plan.

Impact of the proposal on Residential Amenity

- 4.20** Relevant policies in respect to impacts on residential amenity include Policy ENV1 (1) of the Local Plan. Policy ENV1(1) should be afforded significant weight given that it does not conflict with the NPPF.
- 4.21** Policy ENV1 (1) requires that the District Council take account of "The effect upon... the amenity of adjoining occupiers". It is considered that Policy ENV1 (1) of the Selby District Local Plan should be given significant weight as one of the core

principles of the NPPF is to ensure that a good standard of residential amenity is achieved in accordance with the emphasis within the NPPF.

- 4.22** The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 4.23** Policy RT12 (5) requires proposals to take account of the effect upon the amenity of adjoining occupiers.
- 4.24** The proposed amenity block is situated to the North East of the site, and is approximately 12 metres from the nearest neighbouring boundary, and over 30 metres from the neighbouring property.
- 4.25** The proposals due to the appropriate separation distances, the existing and proposed boundary treatment and landscaping around the perimeters of the site and the orientation of the windows in amenity block ensures that there would be no significant detrimental impact in terms of overlooking or overshadowing or adverse noise and disturbance in accordance with Policies ENV1 (1) and RT12 (5).

Design and Impact on the Character and Form of the Area

- 4.26** Relevant policies in respect of design and impact on the character of the area include Policy ENV1 (1) and (4) of the Selby District Local Plan and Policies SP4 and SP19 of the Core Strategy.
- 4.27** Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF. Relevant policies within the NPPF, which relate to design include paragraphs 56 to 64.
- 4.28** Policy RT12 (1) requires the proposal to not have a significant adverse effect on the character and open appearance of the countryside, or harm acknowledged conservation interests.
- 4.29** Policy RT12 (2) states any proposals for development within the locally important landscape areas, as defined on the proposals map, would conserve and enhance the landscape quality of the area in terms of scale, siting, layout, design, materials and landscaping.
- 4.30** Policy RT12 (3) states the proposal would not be visually intrusive and would be well screened by existing vegetation, or would incorporate a substantial amount of landscaping. In addition Policy ENV1 (1) requires proposals to take account of the effect upon the character of the area or the amenity of adjoining occupiers with
- 4.31** Policy ENV1 (4) requiring proposals to take account of the standard of layout, design and materials in relation to the site and its surroundings and associated landscaping.
- 4.32** Policy ENV21 relates to landscaping and states where appropriate proposals for development should incorporate landscaping as an integral element in the layout and design, including the retention of existing trees and hedgerows and planting of native, locally occurring species.

- 4.33** It is noted that the site is not located within a sensitive area of landscape, a Locally Important Landscaped Area, Green Belt, and would not affect the setting of a listed building or a nationally or locally important site of nature conservation interest. In addition the site is set back a significant distance from the most common public viewpoint of Selby Road and is well screened through existing mature ferns and boundary fencing, which would be enhanced by further planting on the western and southern perimeters of the previously approved development on the site.
- 4.34** It is therefore considered that the proposed development would accord with Policies RT12 (1), (2) and (3) and ENV1 (1) and (4) of the Selby District Local Plan.

Flood Risk, Drainage, Climate Change and Energy Efficiency

- 4.35** Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account climate change and energy efficiency within the design.
- 4.36** The NPPF paragraph 94 states that local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations. NPPF Paragraph 95 states to support the move to a low carbon future, local planning authorities should plan for new development in locations and ways which reduce greenhouse gas emissions; and which actively support energy efficiency improvements to existing buildings.
- 4.37** The application site is located in Flood Zone 1 (low probability of flooding).
- 4.38** Concern has been raised by residents and these points have been considered. The Drainage Board has suggested a condition to secure detail of surface water drainage. No detail has been submitted for foul drainage. It would therefore be reasonable and necessary to secure detail by condition.
- 4.39** It is therefore considered that the proposal is in accordance with Policies SP15, SP16 and SP19 of the Core Strategy Local Plan, and the NPPF, subject to conditions.

Nature Conservation and Protected Species

- 4.40** Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 109 to 125 of the NPP and accompanying PPG in addition to the Habitat Regulations and Bat Mitigation Guidelines published by Natural England.
- 4.41** In respect to impacts of development proposals on protected species planning policy and guidance is provided by the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010 and the NPPF. The presence of a protected species is a material planning consideration. In addition Policy ENV1(5) require proposals not to harm acknowledged nature conservation interests.
- 4.42** As such, having had regard to all the ecological issues associated with the proposal, it is concluded that the proposal is acceptable and that the proposal is in accordance with Policy SP18 of the Core Strategy and ENV1(5) of the Local Plan.

Other issues

- 4.43** Many of the objections refer to the use of the previously approved holiday lodges and the end user of these approved lodges is not considered to be material to the determination of the application. Planning policy is geared toward rural tourism provision, additionally the previously approved holiday lodges and the current proposal do not involve permanent residential occupation and conditions have been secured to ensure that the use remains as holiday use only. A condition will also be used to ensure that the proposed building is used only in connection with the approved use of the land.
- 4.44** Objection comments refer to concerns regarding the safety of the storage of propane on the site so close to residential properties. A verbal conversation with Environmental Health confirmed that there is other guidance and legislation controlling the storage and management of the propane stored on site, and therefore, it is not considered to be a planning consideration.
- 4.45** House prices are not a material planning consideration.
- 4.46** The National Grid have been consulted and have no objection to the proposal despite close proximity to a High-Pressure Gas Pipeline.
- 4.47** Objection comments regarding the enforcement of the previous permission (2016/1258/COU) conditions are not considered to be relevant to the determination of this application.

5 CONCLUSION

- 5.8** The proposed development is considered to accord with Policies ENV1, RT12, T1 and T2 of Selby District Local Plan and Policies SP1, SP2, SP13, SP15, SP16, SP18 and SP19 of Selby Core Strategy.
- 5.9** The proposal is considered to be acceptable in respect of matters of acknowledged importance such as design and impact on the character and form of the area, highway safety, drainage and flood risk, residential amenity and nature conservation.

6 RECOMMENDATION

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

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

Reason:

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

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

Floor Plan & Elevations – Received 23rd November 2018
Site Plan – Received 23rd November 2018

Reason :

For the avoidance of doubt.

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

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with ENV2 of the Local Plan and SP19 of the Core Strategy

04. The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those stated in the Planning and Design and Access Statement received 26th September 2018.

Reason:

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

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

The following criteria should be considered:

- Any proposal to discharge surface water to a watercourse from the redevelopment of a brownfield site should first establish the extent of any existing discharge to that watercourse.
- Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140lit/sec/ha or the established rate whichever is the lesser for the connected impermeable area).
- Discharge from "greenfield sites" taken as 1.4 lit/sec/ha (1:1yr storm).
- Storage volume should accommodate a 1:30 yr event with no surface flooding and no overland discharge off the site in a 1:100yr event.
- A 20% allowance for climate change should be included in all calculations.
- A range of durations should be used to establish the worst-case scenario.
- The suitability of soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 or other approved methodology.

Reason:

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

06. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason:

In the interest of satisfactory and sustainable drainage

07. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

Reason:

To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the foul sewer network

08. The amenity block hereby permitted shall only be used in connection with the use of the land for holiday lodges. It shall not at any time be used for any other purpose. If the use of the land for holiday lodges ceases, the building hereby permitted shall be removed as soon as practicable.

Reason:

In the interests of visual amenity in order to comply with Policies ENV1 and EMP13 of the Selby District Local Plan.

Legal Issues

Planning Acts

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

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.

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

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

Conclusion

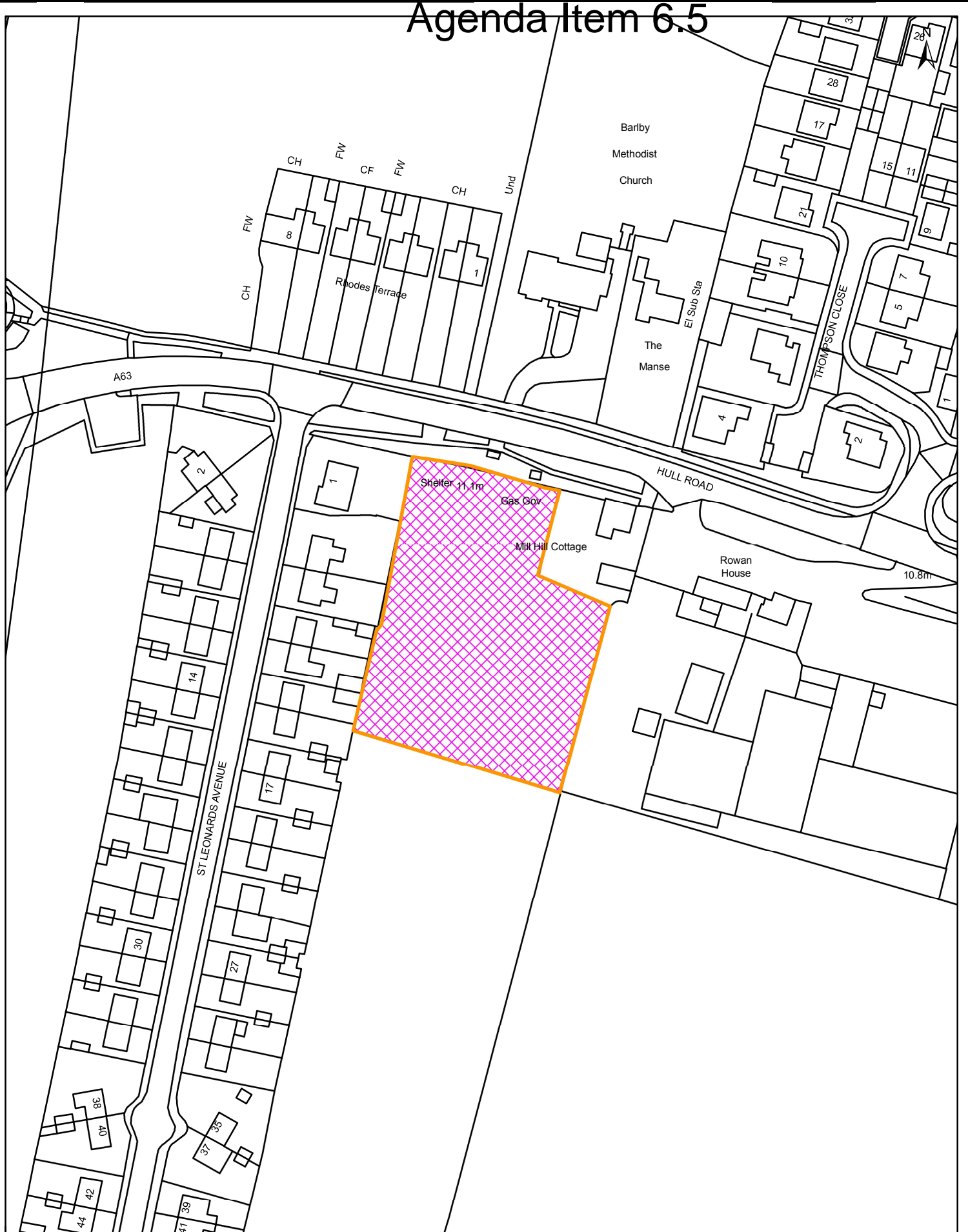
As stated in the main body of the report.

Background Documents

Planning Application files reference 2018/1108/FUL and associated documents.

Contact Officer: Laura Holden, Planning Officer

Appendices: None



APPLICATION SITE

Mill Hill Cottage, Hull Road, Osgodby
2018/1424/DOV

1:1,250



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Report Reference Number: 2018/1424/DOV

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

Request for a Deed of Variation to Section 106 agreement dated 2 December 2015 seeking the removal of the affordable housing requirement associated with a scheme for residential development with all matters reserved approved under reference 2015/0433/OUT on land to the west of Mill Hill Cottage, Hull Road, Osgodby

This matter has been brought to Planning Committee for consideration due to it being a proposal to amend the affordable housing contribution agreed by Members on 9 September 2015.

Summary:

The applicant has submitted a reserved matters application for the erection of a residential development of 9 No. dwellings with layout, scale, appearance, landscaping and access for consideration at land to the west of Mill Hill Cottage, Hull Road, Osgodby (reference: 2018/1119/REM), pursuant to outline planning permission being granted at the site for a residential development with all matters reserved on 2nd December 2015. A Section 106 agreement in association with the outline consent requires [amongst other things] 40% of the total number of dwellings to be provided on the site to be affordable housing. This was agreed on the basis that the indicative layout plan submitted with the outline consent demonstrated how the site could be laid out to accommodate 14No. dwellings. However, since the outline consent was granted, the site has been sold onto a Developer, D Noble Ltd, who have submitted a reserved matters application for the erection of a residential development of 9 No. dwellings.

Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) sets out the affordable housing policy context for the District and 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. 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”*.

The submitted reserved matters application (reference 2018/1119/REM) pursuant to outline planning permission reference 2015/0433/OUT is for the erection of a residential development of 9No. dwellings. Given the proposed number of dwellings is below 10 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 the application for the erection of a residential development of 9No. dwellings is acceptable without a contribution for affordable housing.

Recommendation:

That the request for a Deed of Variation be approved subject to delegation being given to Officers to complete a Deed of Variation to the original Section 106 agreement to remove the requirement for affordable housing associated with a scheme for residential development with all matters reserved approved under reference 2015/0433/OUT on land to the west of Mill Hill Cottage, Hull Road, Osgodby. This variation shall be time limited for a period of 3 years from the date of the decision.

Reasons for recommendation

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

1. Introduction and Background

- 1.1. Outline planning permission for residential development of the site with all matters reserved was granted on 2nd December 2015 (under reference 2015/0433/OUT) and was subject to a Section 106 agreement which secured [amongst other things] 40% of the total number of dwellings to be provided on the site to be affordable housing in accordance with Policy SP9 of the Core Strategy and the accompanying Affordable Housing Supplementary Planning Document (SPD). This was on the basis that the indicative layout plan submitted with the outline consent demonstrated how the site could be laid out to accommodate 14No. dwellings.
- 1.2 Since the outline consent was granted, the site has been sold onto a Developer, D Noble Ltd, who have submitted a reserved matters application for the erection of a residential development of 9No. dwellings, for which the applicant's consider no affordable housing provision should be sought having had regard to the advice contained within the NPPF, as revised in July 2018. The applicant has therefore requested a deed of variation to the original Section 106 agreement to remove the requirement for affordable housing associated with a scheme for residential development with all matters reserved approved under reference 2015/0433/OUT on land to the west of Mill Hill Cottage, Hull Road, Osgodby.

- 1.3 A deed of variation is an agreement between the parties to a Section 106 agreement to alter its terms. A planning obligation may be modified or discharged at any time by agreement with the Council. If there is no agreement to voluntarily renegotiate, and the planning obligation predates April 2010 or is over 5 years old, an application can be made to the Council to change the obligation if it “no longer serves a useful purpose”. If this results in a refusal, an appeal can then be made. Accordingly, if the Council refuses the applicant’s request there is no prospect of an appeal at this stage but we should nevertheless act reasonably and determine the proposal in the context of the planning policies and other material considerations and consider whether the obligation continues to serve a useful purpose.

2. Policy Context

- 2.1 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) sets out the affordable housing policy context for the District and 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.
- 2.2 However, the NPPF, as revised in July 2018, 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. Assessment

- 3.1. Outline planning permission for residential development of the site with all matters reserved was granted on 2nd December 2015 (under reference 2015/0433/OUT) and was subject to a Section 106 agreement which secured [amongst other things] 40% of the total number of dwellings to be provided on the site to be affordable housing in accordance with Policy SP9 of the Core Strategy and the accompanying Affordable Housing Supplementary Planning Document (SPD). This was on the basis that the indicative layout plan submitted with the outline consent demonstrated how the site could be laid out to accommodate 14No. dwellings.
- 3.2 Since the outline consent was granted, the site has been sold onto a Developer, D Noble Ltd, who have submitted a reserved matters application (reference 2018/1119/REM) pursuant to outline planning permission reference 2015/0433/OUT is for the erection of a residential development of 9No. dwellings with layout, scale, appearance, landscaping and access for consideration. Given the number of dwellings proposed under the reserved matters application is below 10 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.

- 3.2 No further reserved matters applications can now be submitted pursuant to outline planning permission reference 2015/0433/OUT, as Condition 2 attached to outline planning permission reference 2015/0433/OUT required applications for the approval of reserved matters to be made within a period of three years from 2nd December 2015, that being before 2nd December 2018.
- 3.3 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, as revised in July 2018, the application for the erection of a residential development of 9 No. dwellings would be acceptable without a contribution for affordable housing and the planning obligation would not serve a useful planning purpose.

4. Legal/Financial Controls and Other Policy Matters

Legal Issues

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

Financial Issues

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

Impact Assessment

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

5. Conclusion

- 5.1. Outline planning permission for residential development of the site with all matters reserved was granted on 2nd December 2015 (under reference 2015/0433/OUT) and was subject to a Section 106 agreement which secured [amongst other things] 40% of the total number of dwellings to be provided on the site to be affordable housing in accordance with Policy SP9 of the Core Strategy and the accompanying Affordable Housing Supplementary Planning Document (SPD). This was on the basis that the indicative layout plan submitted with the outline consent demonstrated how the site could be laid out to accommodate 14No. dwellings.
- 5.2 Since the outline consent was granted, the site has been sold onto a Developer, D Noble Ltd, who have submitted a reserved matters application (reference 2018/1119/REM) pursuant to outline planning permission reference 2015/0433/OUT is for the erection of a residential development of 9No. dwellings with layout, scale, appearance, landscaping and access for consideration. Given the proposed number of dwellings is below 10 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.

- 5.3 No further reserved matters applications can now be submitted pursuant to outline planning permission reference 2015/0433/OUT, as the Condition 2 attached to outline planning permission reference 2015/0433/OUT required applications for the approval of reserved matters to be made within a period of three years from 2nd December 2015.
- 5.4 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 the application for the erection of a residential development of 9No. dwellings would be acceptable without a contribution for affordable housing.
- 5.5 Having regard to the above, Officers agree that it is reasonable to remove requirement for affordable housing and this variation shall be time limited for a period of 3 years from the date of the decision.

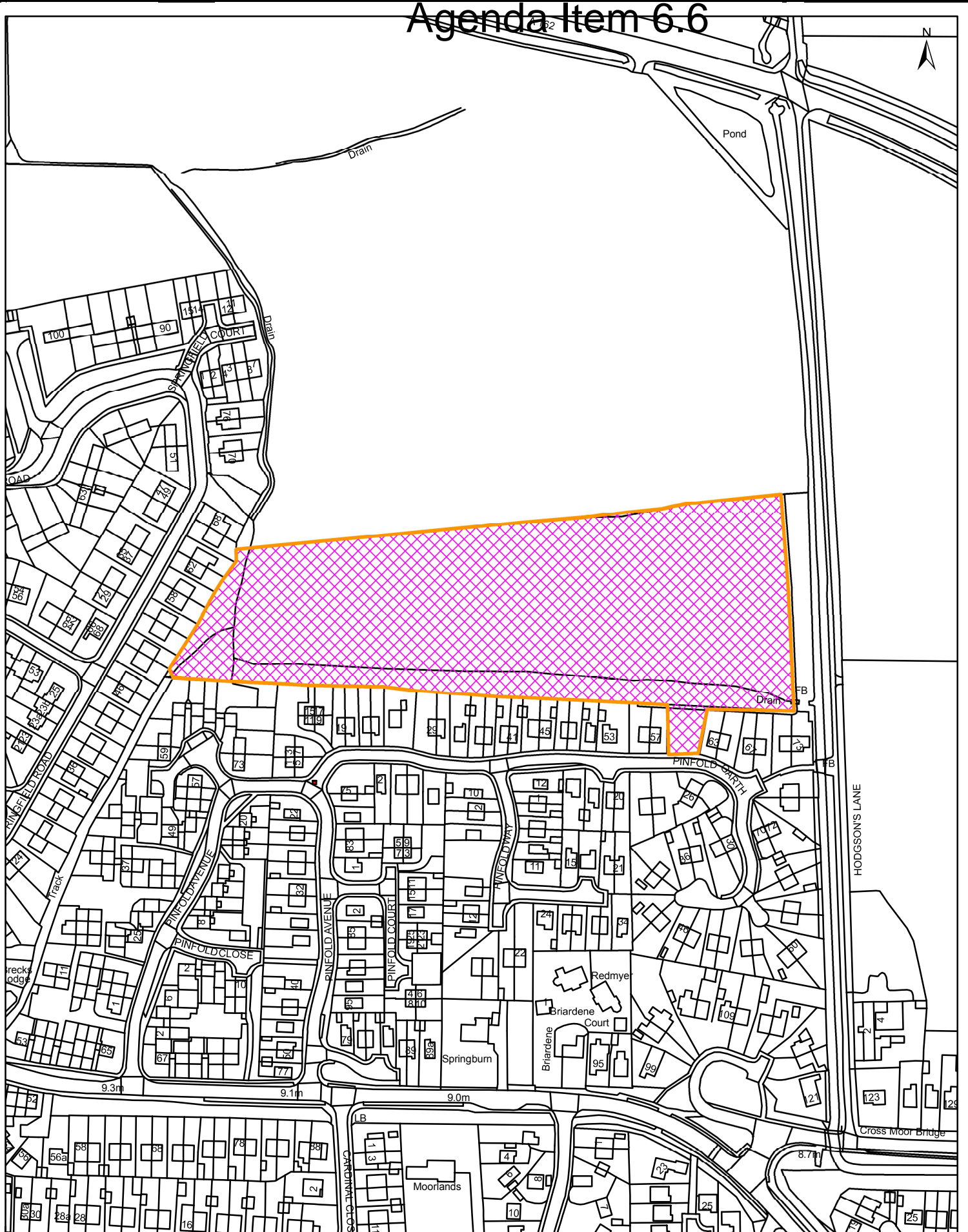
6. Background Documents

Planning Application file reference 2015/0433/OUT and associated documents.

Contact Officer: Jenny Tyreman, Senior Planning Officer

Appendices: None

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APPLICATION SITE

Pinfold Garth, Sherburn in Elmet
2018/1402/DOV

1:2,500



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Report Reference Number: 2018/1402/DOV

To: Planning Committee
Date: 16 January 2019
Author: Yvonne Naylor Principal Planning Officer
Lead Officer: Ruth Hardingham, Planning Development Manager

Request for a Deed of Variation to Section 106 agreement seeking a reduction in the proportion of affordable housing to be provided within scheme for up to 60 dwellings approved under references 2016/1256/OUTM (outline) at Pinfold Garth Sherburn in Elmet

This matter has been brought to Planning Committee for consideration due to it being a proposal to reduce the percentage of on-site affordable housing from the 40% agreed by Members in June 2017.

Summary:

The applicant intends to develop out an approved scheme for 60 houses on land at Pinfold Garth Sherburn in Elmet under 2016/1256/OUTM and a Reserved Matters submission is under consideration at present under 2018/0385/REMM. A section 106 agreement in association with the Outline Consent requires, amongst other things, 40% of the total number of dwellings to be provided as affordable housing. However, having now undertaken a detailed appraisal, the applicant finds that the agreed level of provision would render the scheme unviable and would stall the development. It is therefore seeking a deed of variation to reduce the provision of affordable housing to a level where the scheme can proceed unhindered to completion. The applicant's initial submission proposed 7% affordable housing (4 units), but after further negotiation it is now proposing 20% (12 units). The tenure split would be split circa of 50/50 between shared ownership (Plots 33 / 34 / 35 / 36 / 12 / 13 / 14 and 15) and Social Rent (Plots 38 / 39/ 40/ / 43 / 44 / 45/ 46).

Recommendation:

That the request for a Deed of Variation be approved subject to delegation being given to Officers to complete a Deed of Variation to the original Section 106 agreement to reduce the overall provision of affordable housing to 25%, with tenure split as per Plan PA-HL-18 shared ownership and social rent. This variation shall be time limited for a period of 3 years from the date of the decision.

Reasons for recommendation:

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

1. Introduction and background

- 1.1. Outline planning permission for residential development of this site was granted in July 2017 (under reference 2016/1256/OUTM) and was subject to a section 106 agreement which (amongst other things) secured the on-site provision of 40% affordable housing in accordance with Core Strategy policy SP9. This level of provision was not contested at the time and no viability arguments were advanced by the landowners.
- 1.2. As part of the submissions made by Stonebridge Homes to agree the reserved matters pursuant to the Outline Consent the developer requested a deed of variation to reduce the housing obligation supported by a Viability Appraisal together with sales comparisons. The appraisal submitted was based on a mix of 60 dwellings as per the reserved matters submission. The appraisal was completed based on a 7% affordable housing contribution and gave profit levels below the normal 20% benchmark. A deed of variation is an agreement between the parties to a Section 106 agreement to alter its terms. A planning obligation may be modified or discharged at any time by agreement with the Council. If there is no agreement to voluntarily renegotiate, and the planning obligation predates April 2010 or is over 5 years old, an application can be made to the Council to change the obligation if it "no longer serves a useful purpose". If this results in a refusal, an appeal can then be made. Accordingly, if the Council refuses the applicant's request there is no prospect of an appeal at this stage, but we should nevertheless act reasonably and determine the proposal in the context of the planning policies and other material considerations that apply to affordable housing and consider whether the obligation continues to serve a useful planning purpose.

2. Policy context

- 2.1. The pre-amble to Core Strategy policy SP9 acknowledges that securing 40% affordable housing is a "challenging target" and that provision from this source will be heavily dependent upon economic circumstances and the health of the private housing market at any one time. It is also acknowledged that "to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, should enable the development to be deliverable."
- 2.2. National policy guidance on viability was revised in July 2018. The guidance on viability and decision making is as follows:-

“Should viability be assessed in decision-taking?”

Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.

Such circumstances could include, for example where development is proposed on unallocated sites of a wholly different type to those used in viability assessment that informed the plan; where further information on infrastructure or site costs is required; where particular types of development are proposed which may significantly vary from standard models of development for sale (for example build to rent or housing for older people); or where a recession or similar significant economic changes have occurred since the plan was brought into force.”

The Guidance has this to say about the weight to be attached to viability assessments:-

“The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and viability evidence underpinning the plan is up to date, any change in site circumstances since the plan was brought into force, and the transparency of assumptions behind evidence submitted as part of the viability assessment.”

3. Assessment

- 3.1. The initial viability appraisal presented by the developer showed that the scheme would only be able to provide 7% affordable provision, this was not accepted by the District Valuer in advising the Council.
- 3.2. Further submissions were made by the applicants in rebuttal to the stance of the District Valuer looking at the construction costs, the land values and the abnormal costs, ultimately resulting in an increase in the offer to 25% of units based on a split as follows:

*Shared Ownership – Plots 33 / 34 / 35 / 36 / 12 / 13 / 14 and 15; and
Social Rent - Plots 38 / 39/ 40/ / 43 / 44 / 45/ 46).*

- 3.3. Officers have considered the submissions made by the developer and consider that the provision of 25% of the units as affordable as per the above splits is acceptable. Officers have formed this view in light of the submissions made by the developer of the site who acquired the site post the outline consent secured by the landowners and has also undertaken full technical assessment of the delivery of the site.
- 3.4. Officers consider that by not agreeing this variation the planning consequences of this would mean that the development would be unlikely to proceed. Therefore it is the Officers view that that a planning balance needs to be struck between the policy aim of achieving the up to 40% affordable housing target against the benefits of maximising the prospect of housing being delivered.

4. Legal/Financial Controls and other Policy matters

Legal Issues

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

Financial Issues

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

Impact Assessment

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

5. Conclusion

- 5.1. The 60 houses proposed in this development represent a valuable contribution to the Council's current 5-year housing supply and it is important that the scheme is implemented as soon as possible. Negotiations have taken place and on the basis of the applicant's submitted viability appraisal it is accepted that provision of 40% contribution is unsustainable, but considers that the development could support a contribution of 25%. Officers also accept this view and consider that planning obligations that provide for a 40% affordable housing contribution no longer serve a useful planning purpose.

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

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

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

- 5.3. Therefore given the above Officers agree that it is reasonable to reduce the affordable levels to 25% as per Plan PA-HL-18 shared ownership and social

rent and ensure that this variation shall be time limited for a period of 3 years from the date of the decision.

6. Background Documents

Outline planning permission ref. 2016/1256/OUTM

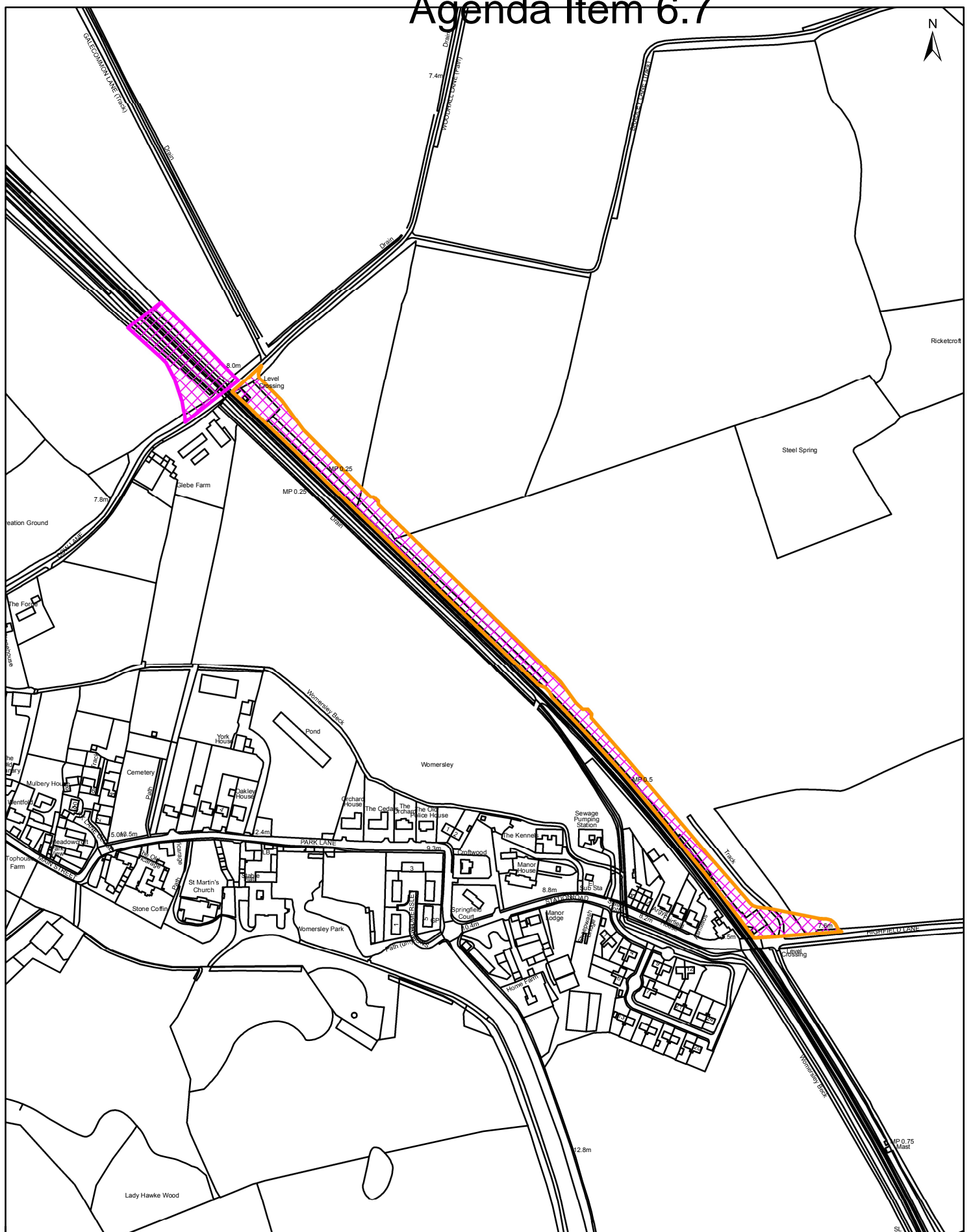
Contact Officer:

Yvonne Naylor, Principal Planning Officer

Appendices: None

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Agenda Item 6.7



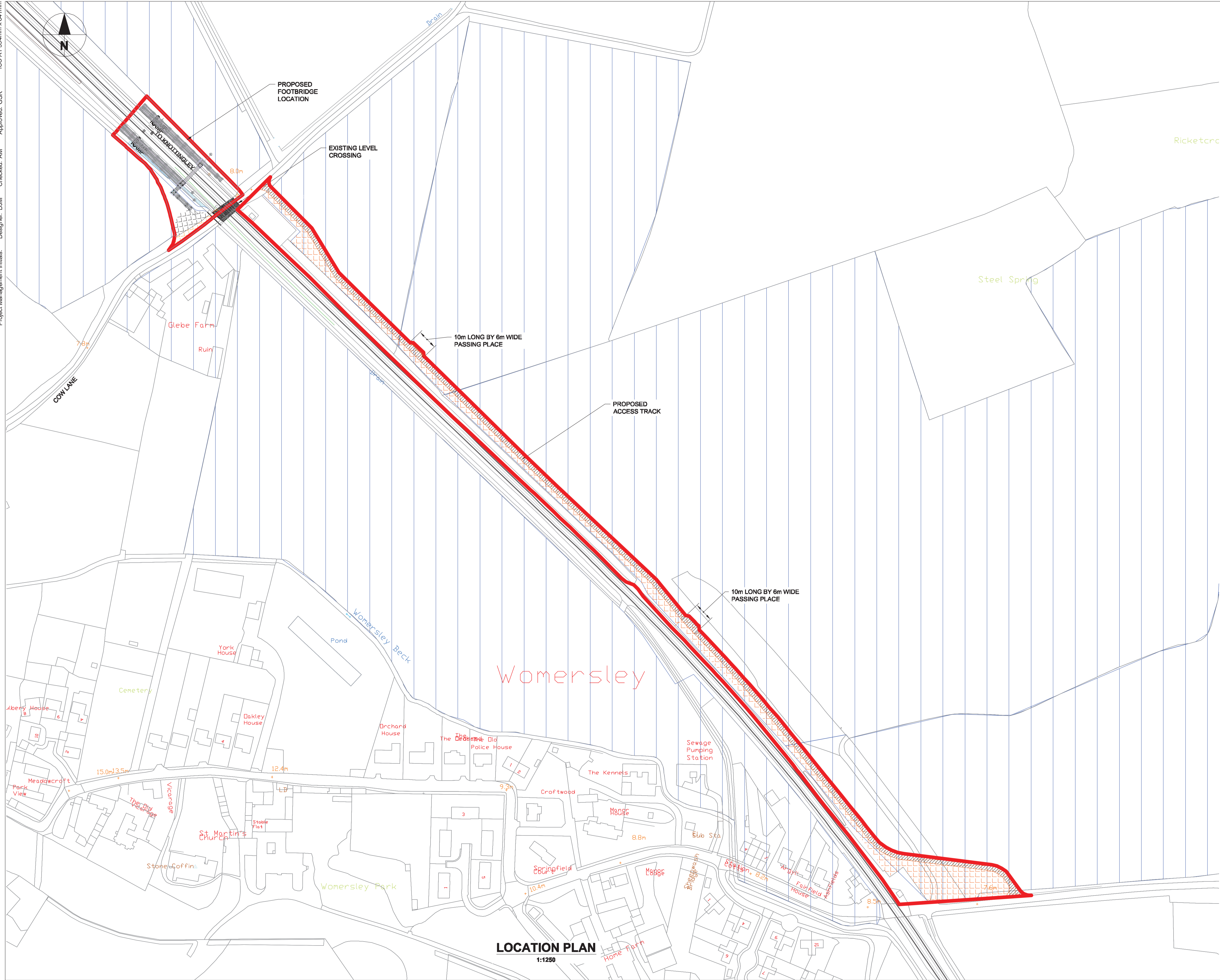
APPLICATION SITE

Level Crossing, Cow Lane, Womersley
2018/0742/FULM

1:4,500



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LOCATION PLAN
1:1250



NOTES

1. ALL DIMENSIONS ARE IN MILLIMETRES UNLESS NOTED OTHERWISE. ALL LEVELS SHOWN ARE IN METRES ABOVE ORDNANCE DATUM.

KEY

	TRACK AREA
	ADDITIONAL LAND OUTSIDE OF ASSUMED NR BOUNDARY
	ADDITIONAL LAND OUTSIDE OF ASSUMED NR BOUNDARY
	SITE LOCATION

ISSUE/REVISION

NO	DATE	DESCRIPTION
P02	10/07/18	SCALE CHANGED TO 1:1250
P01	08/05/18	PLANNING ISSUE
I/R	DATE	DESCRIPTION

CLIENT

NETWORK RAIL

PROJECT

AMCO GIFFEN

POST OFFICE LANE FOOTBRIDGE

SHEET TITLE

NEW TRACK/ROAD SITE LOCATION BLOCK PLAN

CONSULTANT

AECOM

One Trinity Gardens
Newcastle upon Tyne
0191 224 6500 tel 0191 224 6599 fax
www.aecom.com

SHEET NUMBER

60543757-AEC-STR-DR-1700-147

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Report Reference Number 2018/0742/FULM

To: Planning Committee
Date: 16 January 2019
Author: Rachel Smith (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0742/FULM	PARISH:	Womersley Parish Council
APPLICANT:	Network Rail (Infrastructure) Ltd	VALID DATE: EXPIRY DATE:	16th July 2018 15th October 2018
PROPOSAL:	Proposed new access road to serve existing agricultural fields on the north-eastern side of the railway line together with the formation of a turning head adjacent to Cow Lane to allow the removal of vehicular crossing rights over Post Office Lane Level Crossing		
LOCATION:	Level Crossing On Cow Lane Cow Lane Womersley Doncaster South Yorkshire		
RECOMMENDATION:	APPROVAL		

This application has been brought before Planning Committee because it constitutes inappropriate development within the Green Belt.

1. Introduction and background

The Site

- 1.1** The application site is located to the north of the village of Womersely within the Green Belt. The majority of the site lies within Flood Zone 1 with a portion of the site within Flood Zone 2. The application site lies outside Womersely conservation area.

1.2 The proposal

When the application was submitted, permission was sought for the removal of the existing level crossing between Cow Lane and the north side of the railway. To maintain access to the agricultural land to the north eastern side of the railway it

was proposed to form a new access track alongside the railway line, to provide access for agricultural vehicles. Pedestrian access was to be provided by a bridge over the railway to include ramped access. A turning area for vehicles was shown at the end of Cow Lane. Concerns were raised by officers in relation to impact of the bridge on the openness of the Green belt and the character of this rural area. Neighbour objections also raised similar concerns. As a result, the application has been amended to delete the pedestrian bridge from the proposal. Accordingly whilst the level crossing will be closed to vehicles, pedestrian access will be maintained.

1.3 Planning History

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

Application Number: 2012/0110/LPA, Renewal of level crossing. Decision: No Objection.

1.4 Consultations

North Yorkshire Bat Group – No comments received.

Conservation Officer – No comments received.

Historic England - On the basis of the additional information, do not wish to offer any comments. It is suggested that the Council seeks the views of its specialist conservation and archaeological advisers, as relevant.

NYCC Highways Canal Rd – At present Cow Lane is a Highway maintainable at public expense (HM@PE) which means the public highway rights are maintained by the County Council. Network Rail have been in discussions with the County Council about a 'Stopping Up Order' (removing the Public Highway Rights) on a section of Cow Lane (hence the above planning application for a new access road).

However, as the 'Stopping Up Order' (Section 116 Highway Act 1980) is an integral part of the application (without the 'Stopping Up Order' being approved, there is no need for the new access road to be provided), to take it forward NYCC would expect the applicant to either:

1. apply for the 'Stopping Up Order' prior to applying for the new access road (because the decision is made by a Magistrate and is not guaranteed)
2. or apply for a Section 247 (T&CPA) to remove the highway rights under planning legislation which is a quicker way of the removal of highway rights.

The submitted drawing shows an overrun of the grass verges by the HGV's and the Steel Barrier is not far enough away from the turning area to allow safe

turning. Before a formal response is made, clarification is needed of how the applicant wishes to remove the Highway Rights (under Section 116 or Section 247) and an amended plan of the turning head is required.

Drainage Commissioners Shire Group Of IDBs The above application lies within the IDB district and indicates that the application will increase the impermeable area to the site and the applicant will therefore need to ensure that any surface water systems installed have the capacity to accommodate any increase in surface water discharge from the site. If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year. If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow. If the surface water is to be discharged to any watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission, and would be restricted to 1.4 litres per second per hectare or green field runoff. No obstructions within 7 metres of the edge of a watercourse are permitted without Consent from the IDB. Consent required from the IDB as described above should be made a condition of any Planning decision. Regarding the amended plans submitted for the above planning application; on behalf of the Selby Area IDB there are no further comments to make, and original response still applies.

Natural England – Comments on application as submitted

No objection. The proposed development will not damage or destroy the interest features of the Forlorn Hope Meadow Site of Special Scientific Interest. In terms of general advice paragraph 109 of the NPPF (now para 170) of the NPPF highlights the need to protect and enhance valued landscapes through the planning system. Development should provide opportunities to secure a net gain for nature and local communities, and take account of the mitigation hierarchy referred to in the NPPF. The contribution that the development makes to the wider environment should also be taken into account.

In relation to the revised plan - Natural England made no objection to the original proposal, and the proposed amendments are unlikely to have significantly different impacts on the natural environment than the original proposal.

National Grid – No comments received.

Parish Council – The submitted information makes reference to the risk of the development being visually intrusive. The Parish Council therefore request the submission of a visual impact display of the bridge taken from the Playing Field at Cow Lane and also displays from the other aspects of the bridge so to ascertain the visual impact on the village .

Parish Council – In relation to revised plans - Pedestrian access over the railway line must be maintained, as it is used by Womersley residents as access to amenity land and footpaths on the other side of the railway. Whilst the new road will allow access from the southern end of the village, those from the northern end will have long walk, and a dangerous pavement crossing at the double bend in the middle of the village.

The Parish Council requested a meeting with the applicant to discuss the proposed development. Final comments are therefore awaited.

Public Rights Of Way Officer – Recommend an informative that states that no works are to be undertaken which will create an obstruction, either permanent or temporary, to the Public Right of Way adjacent to the proposed development.

LNE Network Rail – No comments received.

Yorkshire Water Services Ltd – No comments received.

SuDS And Development Control Officer - No objections to this proposal from a flood risk or drainage perspective.

Yorkshire Wildlife Trust – No comments received.

The Environment Agency (Liaison Officer) - The proposed development site appears to have been the subject of past industrial activity which potentially poses a high risk of pollution to controlled waters. The Environment Agency has not provided site-specific land contamination advice for this site, as a result of prioritisation of other more sensitive sites. It is therefore recommended that the Council refer to the EA's published "Guiding Principles for Land Contamination" It is also recommended that consultation be carried out with the Council's Environmental Health / Environmental Protection Department in relation to land contamination management. Where planning controls are considered necessary it is recommended that requirements for human health protection are integrated with those for protection of the water environment. This approach is supported by Paragraph 109 of the National Planning Policy Framework Model Procedures and Good Practice.

Waste on site

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. It is recommended that the developer refers to the Position statement on the Definition of Waste: Development Industry Code of Practice and The Environmental regulations page on GOV.UK.

Waste to be taken off site

Contaminated soil that is, or must be, disposed of is waste. Therefore, its handling, transport, treatment and disposal are subject to waste management legislation, which includes Duty of Care Regulations 1991, Hazardous Waste (England and Wales) Regulations 2005, Environmental Permitting (England and Wales) Regulations 2010, and The Waste (England and Wales) Regulations 2011.

HSE Web Consultation – The site lies within the consultation distance of at least one major hazard site and/or major accident hazard pipeline; HSE needs to be consulted on any developments on this site. You will also need to contact the pipeline operator as they may have additional constraints on development near their pipeline. **HSE Web Consultation** – Updated comments. The Health and Safety Executive (HSE) **does not advice, on safety grounds, against the granting of planning permission in this case.** As the proposed development is

within the Consultation Distance of a major hazard pipeline you should consider contacting the pipeline operator before deciding the case. HSE's advice is based on the situation as currently exists; our advice in this case will not be altered by the outcome of any consultation you may have with the pipeline operator.

Unidentified Pipelines

There is at least one unidentified pipeline in this Local Authority Area. The Local Authority may wish to check with the pipeline operator before proceeding.

Northern Gas Networks –No objection however the promoter should contact Northern Gas Networks direct prior to any construction work.

Coal Authority – Falls within the defined development low risk area and therefore a coal mining risk assessment is not required.

Contaminated Land Consultant - York City Council - The submitted report is acceptable and provides a good overview of the site's history, its setting and its potential to be affected by contamination. Confirm that the report and the proposal to complete site investigation works are acceptable. Agree that the potential risk to the human health and controlled waters is low and that chemical analysis will help assess any potential contamination at the site and aid waste classification. No significant risks have been identified to potential receptors following the development of the site due to the proposed use of hardstanding as part of the development of the footpath. Potential risks to construction workers during the development works can be addressed by compliance with normal health and safety precautions. The site lies in a Coal Authority Reporting area although the site is not within an area that could be affected by past, present or predicted future underground mining. The report concludes that generally the risk of potential contamination and pollution on the site is considered to be low due to the limited historical use. If contamination is found, appropriate remedial action may be required to make the site safe and suitable for its proposed use. The following Planning conditions are therefore recommended in relation to land contamination investigation.

2.0 Publicity

2.1 The application was advertised on site and immediate nearest neighbours consulted. Further neighbour consultation was carried out on November 20th in relation to the revised plans. In addition two pipeline operators who have apparatus in the area were contacted. 9 letters of objection have been received including the following points:

- Disgusted by the proposal. This is a dead end for traffic and only used by dog walkers.
- The proposal is more suited to a city centre. An eyesore not suited to a location adjacent to a pretty historic village and Conservation area.
- The bridge is too large.
- Why can't pedestrian access be secured by an electronic gate?
- Don't want the crossing closed as it is used by dog walkers.
- Invasion of privacy from people looking from the bridge into the rear garden. The proposed trees will take a long time to mitigate this.

- A waste of money. Money could be used to replace the gates as is being carried out elsewhere.
- Conflicts with Green Belt Policy.
- The new track could lead to problems with security, vandalism, theft and fly tipping.
- The path is currently used by dog walkers and horse riders and the proposed bridge is not suitable or safe for horse riders. Have been riding horse over it for 16 years.
- Network Rail want to increase the speed on the line and the number of trains using the line, and taking this crossing out will enable them to do this, this I do not feel is right for Womersley, the increased number of trains will increase the noise pollution, disturb the wildlife and increase the numbers of times traffic is stopped for trains.

A letter of objection has also been received from Cllr Mary Mc Cartney on the following grounds:

- The massive bridge will be a permanent blot on the landscape and should be rejected.

A letter of objection has also been received from County Councillor John McCartney on the following grounds:

- Womersley is a rural village parts of which have conservation status. The proposed bridge would be a blot on the rural landscape and should be refused.

2 Report

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

2.2 Selby District Core Strategy Local Plan

The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development

SP3 - Green Belt

SP15 –Sustainable development and climate change

SP18 - Protecting and Enhancing the Environment

SP19 - Design Quality

2.3 Selby District Local Plan

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

This application has been considered against the 2018 NPPF.

Annex 1 of the NPPF provides as follows:-

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

The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development

ENV2 - Environmental Pollution and Contaminated Land

T7 - Provision for Cyclists

T8 - Public Rights of Way

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

The 2018 NPPF 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 (para 12).

3. Policy Background

3.1 Core Strategy

Section 3 of the Core Strategy includes “Visions Aims and Objectives”. One of the aims is to ensure that new development and other actions protects and enhances the built and natural environment, reinforces the distinct identity of towns and villages, and supports health and well-being, including new communities. One of the objectives (Paragraph 3.5 (4)) is concerned with safeguarding the open character of the Green Belt and preventing coalescence of settlements. Bullet point 6 seeks to ensure that new development is located in areas of lowest flood risk. Bullet point 8 refers to minimising the need to travel and providing opportunities for trips to be made by public transport, walking and cycling. Bullet point 11 refers to ‘protecting and enhancing the character of the historic environment, including buildings, open spaces and archaeology and acknowledges the contribution of the District’s heritage to economic prosperity, local distinctiveness and community well-being. Bullet point 14 it refers to protecting, enhancing and extending green infrastructure.

3.2 Policy SP3 (B) provides that within the defined Green Belt, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted.

3.3 Policy SP15 makes reference to incorporating sustainable drainage systems which promote groundwater recharge, protecting, enhancing and creating habitats to improve biodiversity resilience to climate change, mitigation and adaptation and

provision for cycle lanes and cycling facilities, safe pedestrian routes and improved transport facilities.

- 3.4** Policy SP18 encourages sustaining the local distinctiveness of the natural and man-made environment by safeguarding and enhancing the historic and natural environment, conserving historic assets which contribute most to the distinct character of the district, ensure developments retain, protect and enhance features of biological interest, and identify, protect and enhance locally distinctive landscapes areas of tranquillity, public rights of way and access...
- 3.5** Policy SP19 requires that proposals for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design. In addition, proposals should have regard to local character, identity and context of its surroundings including historic townscapes settlement patterns and the open countryside. Within the criteria it also makes specific reference to creating rights of way or improving them, incorporating landscaping and taking account of risk in relation to soil, air water, light or noise pollution or land stability.

Selby District Local Plan

- 3.6** Policy ENV 1 seeks to secure a good standard of development in relation to a number of criteria. Of particular importance to this application are the **following criteria**;
- 1 The effect on the character of the area or the amenity of adjoining occupiers;*
 - 2 The relationship of the proposal to the highway network, the proposed means of access, the need for road/junction improvements in the vicinity of the site, and the arrangements to be made for car parking;*
 - 4 The standard of layout, design and materials in relation to the site and its surroundings and associated landscaping,*
 - 5 The potential loss, or adverse effect upon, significant buildings, related spaces, trees, wildlife habitats, archaeological or other features important to the character of the area; and*
 - 6 The extent to which the needs of disabled and other inconvenienced persons have been taken into account;*
- 3.7** Policy ENV2 seeks to ensure that development does not give rise to unacceptable levels of noise, contamination or other environmental pollution unless satisfactory remedial or preventative measures are included as an integral element in the scheme.
- 3.8** Policy T7 states that the District Council will seek to promote the objectives of the national cycling strategy by a number of identified criteria.
- 3.9** Policy T8 states that development which would have a significant adverse effect on any route in the districts public rights of way network will not be permitted unless a number of criteria can be met.

National Planning Policy Framework (NPPF)

- 3.10** Paragraph 11 of the NPPF includes a presumption in favour of sustainable development. For decision making, this means approving development that accords with an up to date development plan without delay.
- 3.11** Paragraph 38 includes that Local Planning Authorities should approach decisions on proposed development in a positive and creative way.
- 3.12** Paragraph 47 states that Planning Law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 3.13** Chapter 8 seeks to promote healthy and safe communities. At Paragraph 98 it states that planning policies and decisions should protect and enhance public rights of way...
- 3.14** Chapter 9 seeks to promote sustainable transport. Paragraph 102 states that *'Transport issues should be considered from the earliest stages of plan-making and development proposals so that:*
- c) Opportunities to promote walking, cycling and public transport are identified and pursued.*
- d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gain.*
- At Paragraph 104 d) it states that planning policies should *Provide for high quality walking and cycling networks and supporting facilities such as cycle parking.*
- 3.15** Chapter 12 seeks to achieve well designed places. It states that *'The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'*. At paragraph 127 f) it requires that plans and decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Paragraph 128 states that *'Design quality should be considered throughout the evolution and assessment of individual proposals.'* And at paragraph 130 it is made clear that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area, and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.
- 3.16** Section 13 highlights the importance that the Government attaches to the Green Belt. It states that *'the fundamental aim if Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics of Green Belts are their openness and their permanence.*
- 3.17** Paragraph 143 it states that *'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'*. And at Paragraph 144 *' When considering any planning application, local planning authorities should ensure that substantial weight is*

given to any harm to the Green Belt, Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposals is clearly outweighed by other considerations.'

3.18 Chapter 15 relates to Conserving and enhancing the natural environment, and at 170 B refers to '*recognising the intrinsic character and beauty of the countryside...*'

3.19 Chapter 16 relates to conserving and enhancing the historic environment. It emphasises that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance.

4.0 Appraisal

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

- Green Belt
- Landscape impact
- Highway considerations, including loss of vehicular crossing
- Heritage
- Flood Risk and Drainage
- Contamination
- Neighbour amenity
- Biodiversity

Green Belt

4.2 Both Policy SP3 of the Core Strategy and Section 13 of the NPPF require that inappropriate development should not be approved unless the harm resulting from the proposal is outweighed by very special circumstances. Paragraph 146 of the NPPF provides that certain forms of development are not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. These include:

- C) local transport infrastructure which can demonstrate a requirement for a Green Belt location.

The development includes the formation of a new access road to serve the agricultural land on the eastern side of the railway by forming a new access track to run parallel to the railway line and drainage ditch between Cow Lane and Highfield Lane. It will be 700m long and surfaced in crushed aggregate. Where it joins Highfield Lane there will be a bell mouth formed from concrete and covered in tarmac. A further bell mouth will be formed at the north western end. A turning head will be provided at the Womersley side of the level crossing close to the junction of Cow Lane with the level crossing. A steel barrier will be erected to prohibit vehicles. It is clear that the access and turning require a Green Belt location because the development is directly related to the location of the railway crossing and access to land on the other side. It is not considered that the access track will be readily visible because in the locality as it runs alongside the railway line, and the majority of the existing planting will be maintained. Indeed it will look like any other agricultural track that criss crosses the fields. The Courts have previously held that openness equates to an absence of development. It has also

been decided that the concept of the "openness of the green belt" had to be interpreted in the specific context in which it fell to be applied under the equivalent policy in the previous version of the NPPF (paragraph 90). Visual impact was one of the relevant factors in interpreting that concept. When a development is likely to have visual effects within the green belt, the decision-maker is required to consider the effect of this on the question of whether the development would preserve the openness of the green belt. Given the natural texture of the surface, its location next to the existing railway and its limited use, it is not considered that the track itself will impact on openness. However it is considered that the bell mouth at either end of the track and the turning area will have some impact on openness, and they introduce a form of development including a tarmacked entrance that will appear more urban. Furthermore the turning area at the end of Cow Lane is in an existing landscaped area adjacent to the road.

- 4.3** It is therefore considered that the development is inappropriate and therefore harmful by definition. As such it should not be approved unless Very Special Circumstances outweigh the harm by definition and any other harm.

Removal of level crossing and other highway considerations

- 4.4** Policies SP15 and SP18 of the Core Strategy make reference to provision for cycle lanes and cycling facilities, safe pedestrian routes and improved public rights of way and access. Chapter 8 of the NPPF seeks to promote healthy and safe communities. Paragraph 98 provides that planning policies and decisions should protect and enhance public rights of way. The level crossing at the end of Cow Lane currently provides vehicular access for farm vehicles together with access for pedestrians. The proposal seeks the removal of the level crossing between Cow Lane and the north side of the Askern branch line.
- 4.5** The application as submitted sought to retain access for agricultural vehicles to land on the other side of the railway line by creating a new access track that runs parallel to the railway line between Highfield Lane and Cow Lane. To provide pedestrian access over the level crossing it was proposed to construct a ramped footbridge located to the north west of the current crossing position. The new footbridge would have consisted of ramps on either side of the railway line rising from ground level to the bridge height which would be 5.2 metres above the railway line. The application was accompanied by a survey of usage of the crossing which demonstrated that during a 9 day survey 146 people used the level crossing averaging 16 pedestrians per day. A further survey was carried out in June 2017 and showed similar results. This census also recorded the number of vehicles using the crossing over the period. A total of 113 vehicles including 26 tractors were recorded. The report concluded that a ramped structure was the most appropriate to replace the existing level crossing because full closure without re-provision would result in a lengthy diversion for pedestrians and a ramped structure would provide for people with reduced mobility, those with pushchairs and cyclists.
- 4.6** Officers raised concerns however regarding the scale of the pedestrian bridge due to the urbanisation of this rural area, the landscape impact and impact on the openness of the Green Belt. This was an issue that was raised in objections to the development. In response to this the development has been amended to exclude the bridge. Pedestrian access will be retained over the crossing. The exact details of the design are to be approved; however it is considered that this can be addressed by condition. The Public Rights of Way Officer has not objected but

recommended a condition to require that there is no obstruction to any right of way.

- 4.7** It is noted that the Highway Authority have requested additional information regarding the stopping order for the end of Cow Lane, and a revised plan for the turning area is also required. They have however confirmed that the details of the turning head can be secured by condition.
- 4.8** Whilst the precise details of the access over the crossing have yet to be agreed, the agent has confirmed that the access will be suitable for wheelchair users and pushchairs. Because of this, it will be wide enough for cyclists, although it is understood that there are no cycle rights on the public footpath. This will equally apply to horse riders. Subject to details of the turning head and crossing, it is considered that the new access to provide vehicular access to the fields together with pedestrian and wheel chair access over the crossing will accord with those identified parts of the NPPF that relate to enhancing rights of way, and Policies ENV1 (6), T7 and T8 of the Selby District Local Plan by retaining access to the countryside and linking with other footpaths in the vicinity.

Landscape and Character assessment

- 4.9** The site does not lie within a locally important landscape area. However the NPPF at paragraph 170(b) requires that planning policies and decisions should recognise the intrinsic character and beauty of the countryside. The application site is located in a rural area that forms the setting to the village of Womersley. It was considered that the initial proposal that included a large pedestrian bridge would introduce a very urban structure into this rural landscape. This is a matter that was raised in a number of objections to the application. In response that element of the proposal has been omitted. and is considered that the works respect the rural character of their location. The majority of the access will be surfaced with crushed aggregate which is not out of keeping with a rural area. It is also considered that the location of the track alongside the railway minimises its impact. Those more urban elements of the development relate to the bellmouth at either end of the access, and the turning head at the end of Cow Lane. However it is considered that any impact is much localised and will not therefore have an adverse impact on the wider area. As such it is considered that the development will accord with the requirements of Section 15 of the NPPF and criteria 1 and 5 of Policy SP 18 of the Core Strategy and criteria 1 of Policy ENV 1 of the Selby District Local Plan.

Heritage

- 4.10** The site does not lie within a Conservation area however it is within the setting of Womersley Conservation area. It was considered that the pedestrian bridge would have had some impact on the setting of the Conservation area by virtue of its scale and urban form which would harm the rural setting of the village. However the bridge has been excluded from the proposal and it is not considered that the revised development will harm the setting of the conservation area. Nor is it considered that the new access or turning area will harm the setting of the listed buildings that are located to the south eastern end of the village. According to a recent Court of Appeal decision (Catesby Estates Ltd), for a proposed development to affect the setting, there has to be a distinct visual relationship between the two. That relationship has to be more than remote or ephemeral, and it has to bear on how the asset was experienced in its surrounding landscape.

However, that does not mean that other factors are to be ignored and economic, social and historical considerations are also relevant. However in this case the impact of the development is very localised and there is no visual relationship or other connection between the proposed development and the setting of the listed buildings. As such it is not considered that the development conflicts with that part of Policy SP18 of the Core Strategy that relates to heritage nor section 16 of the NPPF.

Biodiversity

- 4.11** The application is accompanied by a preliminary ecological appraisal. This concludes that there are no statutory designated sites within 2km of the site and therefore the proposed works will have no negative impact on any designated sites. Natural England has not raised any objection to the proposed development. It is also considered that the nearest locally designated site is a sufficient distance to prevent the development impacting on it. The report acknowledges that there is a potential impact bat foraging habitat due to the woodland edges present on the site. The proposed works will have no negative impact on foraging bats as long as the existing foraging habitat is not fragmented by the works. Now that the level of work proposed has been reduced, it is not proposed that trees will be removed however a landscaping condition will address any loss of trees and shrubs that may occur during the works. This will ensure the retention habitat for foraging bats and nesting birds.
- 4.12** The dense vegetation within the survey area provides an abundance of nesting habitat for birds during the nesting season, which extends from March to September each year. Significant removal of vegetation during the nesting season will potentially have a High Negative Impact on any nesting birds present. Therefore any clearance of vegetation should take place outside the bird nesting season.

Flood Risk and Drainage

- 4.13** The majority of the site lies within flood zone 1, with an area in the centre of the access track lying in flood zone 2. The track will be constructed from a porous surface and due to its location at a lower level than the railway will not increase flood risk in the area. Essential infrastructure is identified as being acceptable in flood zone 2. The planning statement advises that the proposed development will drain to existing surface water drainage ditches and does not require any additional work. Because the track itself is porous it is not considered likely to increase surface water runoff, with only a limited impermeable area to form the turning area and bellmouth to the access track. The report identifies that Peak flood depths on site have the potential to increase by 30–50% under the stated peak flow increases for climate change in the Humber River Basin District. However the proposed access track is not required to be operational in times of flood it is considered that this risk is acceptable. There are no residual risks from the watercourses adjacent to the Site. There is a potential residual risk of failure of the land drainage network due to blockages. Regular inspection and maintenance of these drains should be carried out to ensure that this risk is mitigated as far as possible. There is a residual risk of flooding as a result of the breach of a reservoir structure. However, the risk is considered very low due to the frequent inspections and the highly regulated nature of the structures Whilst SP15 does state that development in areas of flood risk should be avoided; it is considered that the location for the track is dictated by the need to access the surrounding land.

Furthermore it is considered that it can be made safe without increasing flood risk elsewhere. It is therefore considered that the Sequential Test has been passed. The benefits of the improvements to safety by prohibiting vehicle movements across the railway line provide wider public benefits, and therefore the Exception Test has been passed. In terms of drainage, the Lead Local Flood Authority has not objected to the development from a flood risk or drainage point of view. Therefore it is considered that the development accords with policy SP15 d and section 14 of the NPPF.

Contamination

- 4.14** ENV2 B states that if there is a suspicion that the site might be contaminated, planning permission may be granted subject to conditions to require a site investigation and assessment. The application was accompanied by a phase 1 contamination which concludes that there is a low risk of contamination. This has been considered by The Council's Land Contamination consultant who concludes that the report provides a good overview of the site's history, its setting and its potential to be affected by contamination. It is further agreed that the potential risk to the human health and controlled waters is low and that chemical analysis will help assess any potential contamination at the site. However, potential sources of contamination at the site include the railway embankment, track bed, drainage and services and use of the site as a railway and road intersection. The potential contaminants of concern identified at the site include PAHs, asbestos, metals, sulphate, diesel and lubricating oils. No significant risks have been identified to potential receptors following the development of the site due to the proposed use of hardstanding as part of the development of the footpath. Potential risks have been identified to construction workers during the development works but these are thought to be reduced to insignificant if the workers comply with normal health and safety precautions. The report recommends that ground investigation including sampling and chemical analysis is carried out to determine the nature and extent of contamination.
- 4.15** The Environment Agency hasn't provided detailed site-specific land contamination advice for this site, due to prioritising more sensitive sites. They have however recommended that development of the site is carried out in accordance with the Environment Agency guidance on land contamination. The Environment Agency's comments do however indicate that the risks to controlled waters from the proposed development at the site are low. It is considered that in completing the recommended site investigation, the potential risk to controlled waters will also be assessed. Therefore it is considered that the development accords with Policy ENV2 B subject to conditions requiring an investigation and risk assessment, followed by remediation and verification of remedial works where required.

Neighbour impact

- 4.16** The NPPF in chapter 12 requires that planning policies and decisions should provide a high standard of amenity for existing and future users. Policy ENV1 of the Selby District Local Plan requires that development takes account of the amenity of adjoining occupiers. An objection was received from the nearest neighbour to the site due to potential overlooking from the pedestrian bridge due to its height and proximity. However the bridge has been removed from the proposal and therefore addresses this concern. It is not considered that the closure of the level crossing will have a significant adverse impact on neighbouring amenity, and any impact as a result of the turning area opposite their property is

likely to be offset by the reduction in vehicular movements along Cow Lane. In terms of the new access, there may be some increase in vehicular movements to the other level crossing by farm vehicles to reach the new access, however it is not considered that this will have a significant adverse impact due to the relatively low number of movements. As such it is not considered that the development will have a significant adverse impact on neighbouring amenity.

- 4.17** Accordingly it is considered that the development will accord with that part of the NPPF that relates to amenity and Policy ENV 1 (1) of the Selby District Local Plan.

Other material considerations

- 4.18** The HSE has been consulted on the application and has not advised against the development. However they have identified that the proposed development is within the Consultation Distance of a major hazard pipeline and therefore British Gas Networks have been consulted on the application. They have confirmed that they have no objection to the application. There is also an unidentified pipeline and therefore it is recommended that an informative is imposed advising that the applicant consults any pipeline operator.

In relation to safety, security and fly tipping concerns it is recommended that a gate be provided across the access to prevent general use of the track.

Very Special Circumstances

- 4.19** It has been concluded that because the development will have some impact on openness, the development is inappropriate by definition. Paragraph 144 of the NPPF provides that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very Special Circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal is clearly outweighed by other considerations. The applicant has provided the following information to demonstrate such 'Very Special Circumstances':

- Level crossings have been identified as the single biggest risk on Network Rail's infrastructure. As such a programme of closing crossings has been put in place. Where this cannot be carried out options to make the crossing safer are looked at.
- By closing Post Office Lane level crossing, risk for road users and train passengers will be significantly reduced as the probability of a train striking a vehicle or pedestrian reduces to zero.
- Network Rail will be able to invest the money that would normally be spent on renewals, maintenance and operations in other areas of the network which will enhance the journeys for thousands of passengers each year.
- The provision of inclusive alternative access across the railway line.
- The reduction in agricultural vehicle movements through the village in particular at the junction of Main Street and Cow Lane and reduction in vehicle movements along Cow Lane.

- The provision of turning facilities for vehicles along Cow Lane.
- Landscape mitigation and enhancement works.

4.20 Since the application was submitted, the proposal was varied to delete the pedestrian bridge. As such the crossing will be kept open but vehicular access prevented. It is therefore necessary to consider whether the improvements to rail safety are sufficient to outweigh the harm to the green belt and any other harm. It is considered that harm to landscape; flood risk, contamination drainage, biodiversity and neighbour impact are minor in effect. It also concluded that the safety benefits by reducing the risk of trains striking cars, and the site specific location of the development outweighs any harm to the openness of the green belt and the limited other harm identified. It is of importance however that the improvements to safety will only be achieved if the stopping up order, (which requires decision by a Magistrate), is agreed. Without the stopping up of the highway there is no need for a turning area and access. It is therefore recommended. In view of this it is considered that a condition be imposed requiring that the access and turning area do not commence on site until the stopping up order is in place. Subject to the imposition of such a condition it is not considered that the development will conflict with the purposes of including the land within the Green Belt. As such it is considered that this constitutes the very special circumstances, and therefore the development accords with paragraph 144 of the NPPF and policy SP3 of the Core Strategy

5.0 CONCLUSION

5.1 The site is located in the Green Belt and substantial weight has been given to the harm to the Green Belt by reason of inappropriateness. Minor harm to neighbour amenity, and flood risk have been identified. It is considered however that harm to landscape character and biodiversity can be mitigated by appropriate conditions. It is considered that the development must be located within the Green Belt because of the nature of the proposal which is directly located to the railway and the agricultural land and the limited harm to openness of the Green Belt and therefore harm by definition is outweighed by the safety benefits of the works. It is also considered that the revised plans which omit the pedestrian bridge address the main objections that have been raised. Furthermore, the development will retain pedestrian and wheelchair access over the crossing. As such the development accords with the relevant policies in the Development plan and the NPPF, and there are no other material considerations identified that would warrant refusing the application.

Recommendation: Approval subject to no adverse comments being received from the Highway Authority, and subject to the following conditions;

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

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

2 The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:
60543757-AEC-STR-DR-1700-152 REV 1 A PO3 Proposed track/road general arrangement.

60543757-AEC-STR-DR-1700-155 Rev 1 A PO3 Proposed Turning head
60543757-AEC-STR-DR-1700-147 PO3 Rev 1 A New track/road site location
block plan
0543757-AEC-STR-DR-1700-148 Rev 1A PO3 New track/road block plan - north

Reason: For the avoidance of doubt.

- 3 Prior to the closure of the level crossing to vehicular traffic, precise details of the turning head, provision for pedestrian and wheelchair access together with the barrier to vehicles shall be submitted to, and approved in writing by the Local Planning Authority.

Reason: In the interests of highway and pedestrian safety, appropriate access for pedestrians and wheelchair users and the visual amenity of the area.

- 4 Prior to development commencing on site, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings shall include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
human health property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s)

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

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

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

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

be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 6 The development shall be carried out in accordance with the approved remediation scheme and a verification report that demonstrates the effectiveness of the remediation carried out must be produced submitted to and approved in writing of the Local Planning Authority.

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

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

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

- 8 A landscaping scheme that has first been submitted to and approved in writing by the Local Planning Authority shall be implemented on site within the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the Local Planning Authority. The submitted scheme shall include replacement trees and shrubs for those required to be removed to create the turning area and access track. The submitted details shall include a plan of the site indicating inter alia the number, species, heights on planting and positions of all trees, shrubs and bushes. All trees, shrubs and bushes shall be maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason: To safeguard the rights of control by the Local Planning Authority in the interests of amenity having had regard to Policy ENV1 of the Selby District Local Plan.

- 9 The development of the site shall be carried out in accordance with the recommendations contained within the submitted preliminary ecological appraisal.

Reason: In the interests of ensuring that the scheme avoids potential impacts on nesting birds and bat foraging habitat and to ensure the enhancement of the site for wildlife purposes.

- 10 Prior to the access being first brought into use, details of a security gate to the access from Highfield Lane shall be submitted to, and approved in writing by the LPA. Thereafter the development shall be carried out in accordance with the submitted details.

Reason: To increase security and reduce the risk from vandalism and fly tipping.

- 11 The access and turning area shall not be commenced until a stopping up order (under Section 116 of the Highway Act) has been confirmed, or agreement has been made under Section 247 of the Town and Country Planning Act to prevent vehicular access over the level crossing.

Reason: The site lies within the Green Belt, and 'very special circumstances' to outweigh the potential harm to the Green Belt by reason of inappropriateness and any other harm will not exist unless the safety benefits associated with closing the level crossing to vehicular traffic are delivered.

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 and the Public Sector Equality Duty (PSED)

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

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

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

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

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

The "relevant protected characteristics" are listed in s.149 (7) and include age, disability and race. The possible impact of the development on non-ambulant members of the public has been highlighted as a potential issue. However as noted above, access for wheelchair users will be retained over the crossing. A condition has been imposed requiring specific details to be submitted to, and agreed in writing in the circumstances and paying due regard to the PSED, it is

not considered that the proposals would give rise to any adverse impacts on those sharing a protected characteristic.

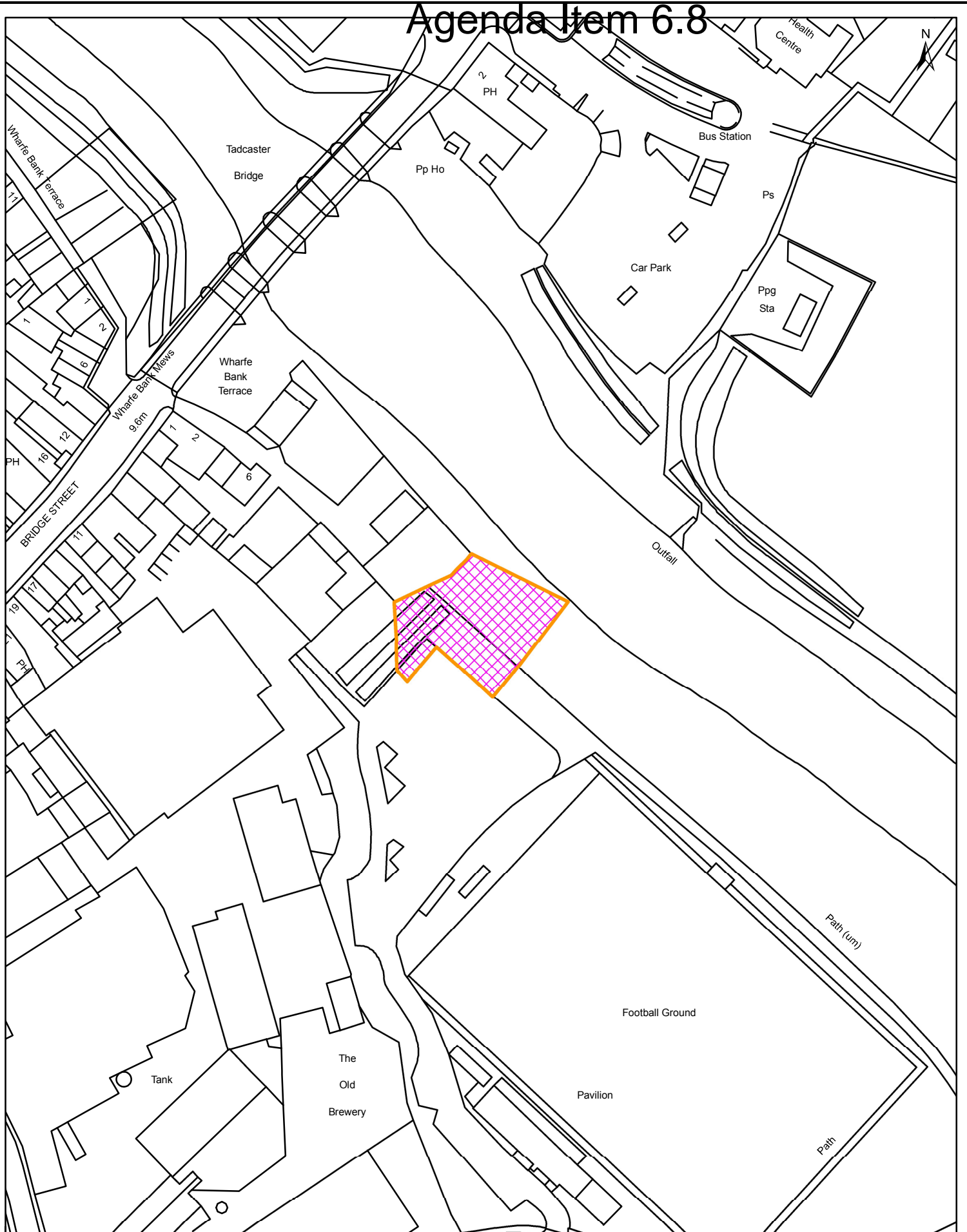
7. Financial Issues

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

8. Background Documents

Contact Officer: Rachel Smith, Principal Planning Officer

Appendices: None



APPLICATION SITE

Land at Wharfe Bank, Tadcaster
2017/0872/FUL

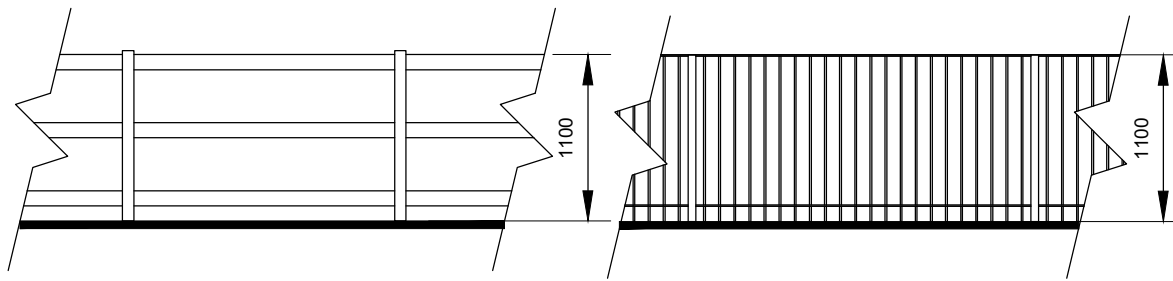
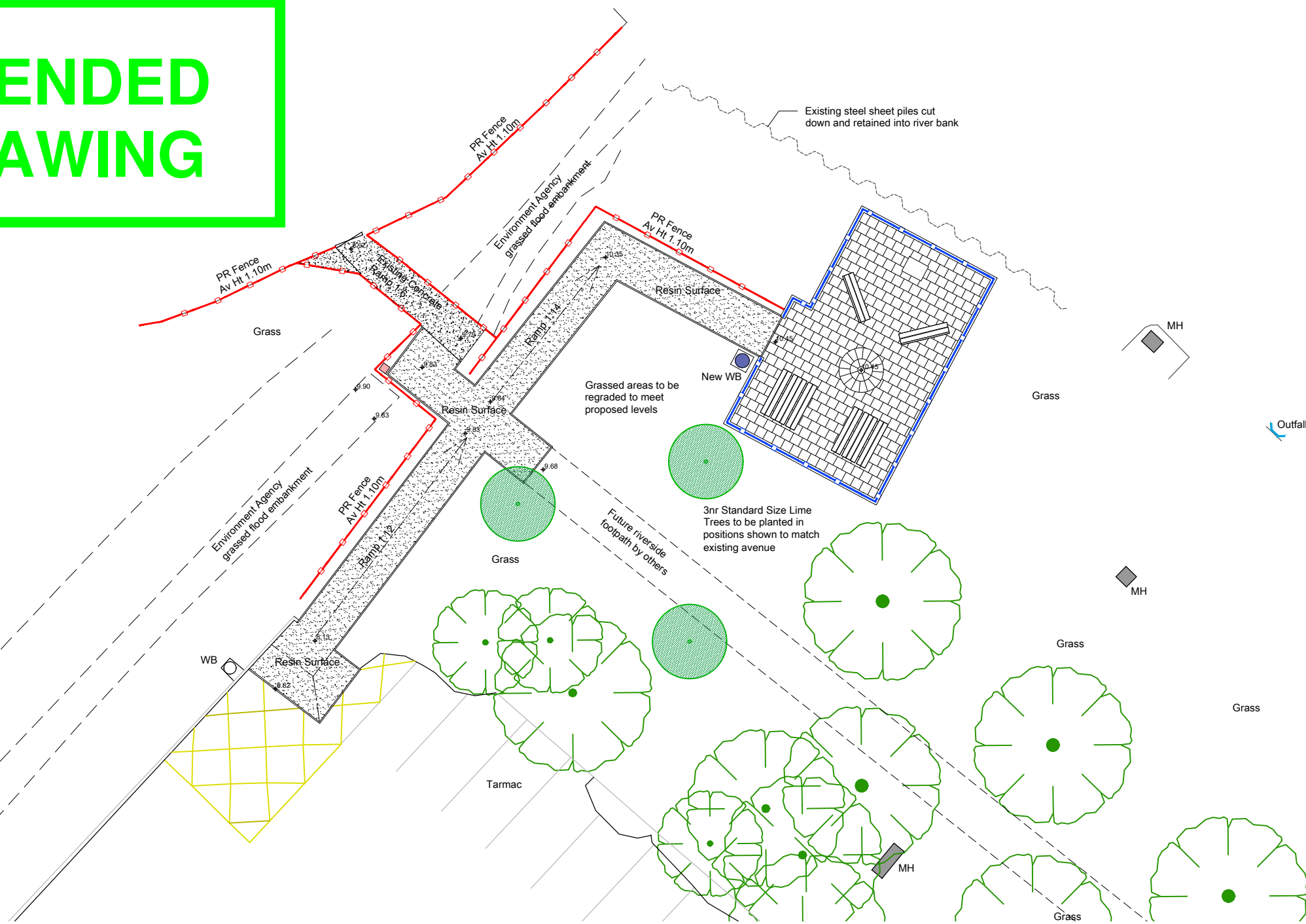
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AMENDED DRAWING

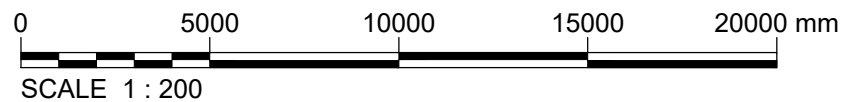
Page 123



PRESSURE TREATED SOFTWOOD POST & RAIL FENCE
 100x38MM PRESSURE TREATED S/W RAILS NAILED TO
 100X75MM PRESSURE TREATED S/W POSTS

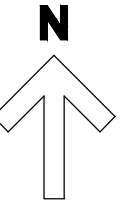
BLACK PAINTED GALVANISED STEEL RAILINGS
 FABRICATED USING:
 12MM SOLID SQUARE VERTICAL RAILINGS SET INTO
 30X8MM FLAT HORIZONTAL RAILS BETWEEN
 50X50MM SQUARE POSTS

RAILINGS TO BE SOCKET FIXED INTO COPING FOLLOWING
 THE FABRICATOR'S SPECIFICATION



Notes

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KEY

- DOG WASTE BIN
- REFUSE BIN
- MARSHALLS CONSERVATION PAVING - SILVER GREY
- RESIN BONDED SURFACING - COLOUR TBA WITH LOCAL AUTHORITY
- METAL RAILINGS - BLACK
- TIMBER POST AND RAIL FENCING

P4	Seating amended to reflect updated proposals	BJG 26.10.18	NB 26.10.18	NB 26.10.18
P3	Revised following planning officer's comments to include lime trees and resin surfacing	BJG 05.09.18	NB 05.09.18	NB 05.09.18
P2	Issued for Planning	BJG 13.04.18	NB 13.04.18	NB 13.04.18
P1	Footpaths amended	BJG 08.03.18	NB 09.03.18	NB 09.03.18
Ver.	Details	Author & Date	Checked & Date	Approv'd & Date



Mount View, Standard Way, Northallerton, North Yorkshire, DL6 2YD Tel: 01609 797373

Client
NORTH YORKSHIRE COUNTY COUNCIL

Project name
TADCASTER SEATING AREA

Drawing Title
PROPOSED SITE PLAN

Purpose
INFORMATION

Scale	Drawn	Checked	Approved
1:200 @ A3	BJG	NB	NB
Original Size	Date	Date	Date
A3	27.02.18	28.02.18	28.02.18

Drawing Number
NY17009-A-100.003

Version
P4

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Report Reference Number: 2017/0872/FUL

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

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

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

1. INTRODUCTION AND BACKGROUND

Site and Context

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

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

The Proposal

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

Relevant Planning History

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

2. CONSULTATION AND PUBLICITY

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

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

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

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

- Reduce size to reflect the existing concrete base and not to increase its size.
- Use bespoke railings and furniture

- Flat topped railings, simple appearance and a traditional style found within Tadcaster
- Use of natural materials for the paving slabs and not concrete
- Reclaimed stone for cladding the walls to blend in with surroundings
- Amend path details

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

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

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

2.4 **HER Officer** – No objections.

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

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

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

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

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

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

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

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

2.12 **Designing Out Crime Officer** – An analysis of crime and anti-social behaviour for an area within a 100m radius of the site has been carried out for a 12 month period and there were no incidents recorded by North Yorkshire Police. We have liaised

with the local Neighbourhood Policing Team supervision who state that although the proposal does have the potential to suffer from anti-social behaviour they have no evidence to prove that it will. As there are no dwellings nearby there is no potential natural surveillance of the proposal by residents. However, there is potential passive surveillance by persons using the bridge over the river. It is therefore important that any sight lines are not obstructed by any trees and there should be a management and maintenance policy in place to ensure that this does not occur. Persons wishing to act in a criminal or anti-social manner do not wish to be seen and therefore this area should be provided with lighting. It is understood that the temporary bridge was illuminated and therefore this should not be an issue. Any lighting should be attached to a lamp column and bollard lighting should not be used as it does not project sufficient light at the right height and distorts the available light due to the 'up-lighting' effect; making it difficult to recognise facial features and as a result causes an increase in the fear of crime. It is also susceptible to being damaged. The provision of lighting on a lamp column would also provide the potential for a mobile CCTV camera to be installed, should it be felt that one is required. There should be a litter bin provided that is constructed of a fire resistant material. The design of any seating should prevent people from being able to lay across them, the provision of arm rests can be one solution. It is understood that the proposed materials for the seating and tables may be amended to consist of iron frames and wooden slats. These should be secured in place and again there should be a Management & Maintenance Policy in place that provides details of how any damage, including graffiti, will be dealt with in a timely manner.

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

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

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

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

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

Selby District Core Strategy Local Plan

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

Selby District Local Plan

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

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

- 3.8 The relevant Selby District Local Plan Policies are:
 - ENV1 – Control of Development

- ENV2 – Environmental Pollution and Contaminated Land
- ENV25 – Control of Development in Conservation Areas
- ENV27 – Scheduled Monuments and Important Archaeological Sites
- ENV28 – Other Archaeological Remains
- ENV29 – Protection of Local Amenity Space

4. APPRAISAL

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

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

The Principle of the Development

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

4.5 The application proposes the installation of a recreational raised seating area over an existing temporary bridge foundation. Whilst Policy ENV29 purports to prevent any form of development of Local Amenity Space; when the policy is read in context and with the written justification set out in paragraphs 4.172-4.174 of the Selby District Local Plan, it is clear that the policy is seeking to prevent the loss of such Local Amenity Space to other forms of development that would exclude use or enjoyment of such Local Amenity Space. This proposal would provide opportunities for informal recreation which would complement the designation of the site as Local Amenity Space and would not undermine the policy objectives set out in SP2 of the Core Strategy or ENV29 of the Selby District Local Plan. There is nothing in the Development Plan or the NPPF to identify this type of development as being unsustainable, or preclude in principle development of this type in this location. The proposal is therefore considered to be acceptable in principle and accords with Policies SP1 and SP2 of the Core Strategy and Policy ENV29 of the Selby District Local Plan.

Impact on Heritage Assets

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

- 4.11 Paragraph 192 of the NPPF states that *“In determining applications, local planning authorities should take account of:*
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
 - c) the desirability of new development making a positive contribution to local character and distinctiveness”.*
- 4.12 Paragraph 193 of the NPPF states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”.*
- 4.13 Paragraph 196 of the NPPF states that *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”.*
- 4.14 Paragraph 196 of the NPPF should be read in conjunction with paragraph 193 of the NPPF which provides that when considering the impact of a proposal on the significance of a designated heritage asset, “great weight” should be given to the asset’s conservation. This wording reflects the statutory duty in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990.
- 4.15 Whilst considering proposals for development which affects a Listed Building or its setting, regard is to be made to Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 which requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'. Section 72 of the above Act contains similar requirements with respect to buildings or land in a Conservation Area.
- 4.16 In the case of *Barnwell Manor Wind Energy Ltd v E.Northants DC, English Heritage, National Trust & SSCLG [2014] EWCA Civ 137*, it was held that in enacting Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990, Parliament intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise. In *The Forge Field Society and Others, Regina (on The Application of) v Sevenoaks District Council [2014] EWHC 1895 (Admin)* Lindblom J confirmed that the desirability of preserving the settings of listed buildings should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise.
- 4.17 The application proposes the installation of a recreational raised seating area over an existing temporary bridge foundation. The proposed seating area would measure

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

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

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

- 4.20 The Heritage Statement sets out that the application site currently comprises a large modern concrete platform with railings, left behind after the removal of a temporary footbridge across the River Wharfe. The Statement sets out that the current unattractive concrete platform situated within the proposed development site, visible from the Grade II listed Wharfe Bridge looking south, detracts from its setting, and as a result, its significance. On the other hand, views of the bridge from the proposed development site are extensive and allow for appreciating and understanding the structure. Therefore, these views and the ability to experience them make a contribution to the setting of the asset. Finally, the site itself is set back from the main road and due to intervening development, is substantially screened from the historic centre of the town providing no contribution to views looking east and west along Bridge Street whether entering or exiting the conservation area.
- 4.21 In terms of an impact assessment of the proposed development on the setting of heritage assets, the Heritage Statement focuses the assessment on the impact of the proposed development on the three key designated heritage assets which have the potential to be affected by the proposals: the Tadcaster Conservation Area, the scheduled Tadcaster motte and bailey castle; and the Grade II listed Wharfe Bridge. In terms of the impact of the proposed development on the Tadcaster Conservation Area, the Heritage Statement concludes that the conservation area derives much of its primary character from the line of historic development along Bridge Street. There is no intervisibility between the proposed development site and the main street, due to intervening development. Furthermore, views looking southward over the bridge on arrival into Tadcaster, where the proposed development is visible, would be marginally improved. Given there is no intervisibility between the proposed development site and the main street, the Heritage Statement concludes that the development is considered to have an overall neutral impact on the setting of the Tadcaster Conservation Area. In terms of the impact of the proposed development on the scheduled Tadcaster motte and bailey castle, the Heritage Statement concludes that given the distance and lack of intervisibility to and from the proposed development site, the proposed development would result in a neutral impact to the significance of the Tadcaster motte and bailey castle scheduled monument. In terms of the impact of the proposed development on the Grade II listed Wharfe Bridge, the Heritage Statement concludes that the proposed development, in creating an additional designated viewing area as well as introducing an interpretation panel, would better reveal the significance of the bridge through creating improved views to and from it, and providing information on its history. As such, the Heritage Statement concludes that the proposed development would have a moderate positive impact on this element of the setting of the historic bridge.
- 4.22 The applicant's agent has submitted additional information on the impact of the proposals on heritage assets during the application process. In terms of justifying the size of the proposed recreational raised seating area, the applicant's agent has advised that the recreational raised seating area would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The proposed size of the seating area utilises land which was altered as part of the provision of the temporary bridge foundation and is a size required to provide a meaningful space for the proposed seating and viewing area and to allow access to and from the proposed seating and viewing area.

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

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

proposal which are considered to have an adverse impact upon the significance of the listed bridge through development within its setting". The Council's Conservation Officer considered that further amendments would be required in order for the proposals to be considered acceptable including a reduction in the size of the proposed recreational raised seating area to reflect the existing concrete base and not to increase its size, plus the use of natural materials for the paving slabs and kerbs as opposed to the use of concrete. The comments of the Conservation Officer in terms of the proposed amendments to the scheme are addressed below in the Officers assessment of the impact of the proposals on heritage assets.

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

area, the more prominent it would be on the riverbank and the greater the potential for a harmful impact on heritage assets, specifically the Grade II listed Wharfe Bridge.

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

- 4.31 In terms of public benefits, the proposal would lead to the creation of a recreational raised seating and viewing area on the south riverbank of the River Wharfe which would provide an area from which the Grade II listed Wharfe Bridge would be viewed, understood and appreciated from by members of the public, both locals and visitors alike. Furthermore, the proposal would re-purpose the existing temporary bridge foundation and area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The proposal would preserve the history of this previous use, which itself forms an important part of the town history and provided a public benefit to the town by enabling the provision of a temporary footbridge connecting the two sides of Tadcaster for a year while the listed Wharfe Bridge was repaired following the December 2015 flood event. In weighing the harm against the public benefits of the proposal, it is considered that there are clear public benefits in terms of the provision of a seating and viewing area on an area of designated Local Amenity Space which would contribute towards marking and acknowledging a significant recent event in the towns history, directly related to the preservation of the Grade II listed Wharfe Bridge.
- 4.32 Having regard to the above, it is considered that the proposed development would lead to less than substantial harm to the significance of a designated heritage asset, namely the Grade II listed Wharfe Bridge. However, when the harm is weighed against the public benefits of the scheme, it is considered that the proposal is acceptable. The proposal would therefore be in accordance with Policies SP18 and SP19 of the Core Strategy, Policies ENV1, ENV25 and ENV27 of the Selby District Local Plan and S66 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 and the advice contained within the NPPF.

Impact on Archaeology

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

Design and Impact on the Character and Appearance of the Area

- 4.35 The application proposes the installation of a recreational raised seating area over an existing temporary bridge foundation. The proposed seating area would measure maximum of 6.9 metres by 10.3 metres and would be sited over the existing temporary bridge foundation and the area of land to the south of the temporary bridge foundation which has been raised with crushed stone fill and steel sheet piling used to retain the ground. The sides of the proposed recreational raised seating area would be clad in twice weathered ashlar magnesium limestone with limestone coping to match Wharfe Bridge; atop the limestone copings would be black painted galvanised steel railings to be 1.1 metre high and socket fixed to coping; and the floor surface of the recreational raised seating area would be

Marshalls Conservation Paving in Silver Grey. Sited on the recreational raised seating area would be an ashlar magnesium limestone plinth with an information board, along with 2No. Woodscape Type 3 Backrest Seats and 2No. Woodscape Standard Picnic Sets. Leading to the recreational raised seating area to the west would be a ramp with a Resin Bonded Surface in Silver Granite set with Marshalls Conservation Kerb in Silver Grey, and 1.1 metre high post and rail fence.

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

Impact on Trees

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

- 4.41 The submitted proposed site plan (drawing no. NY017099-A-100.003 P4) demonstrates how 3No. standard size Lime trees would be planted in positions to match the existing avenue as part of the proposals, in lieu of the TPO Lime trees which have been removed previously. These replacement trees would be covered by TPO reference 2/1987. For the avoidance of doubt, these replacement trees are located within the application site boundary and therefore a condition could be attached to any planning permission granted requiring these to be planted, maintained and managed. The proposed trees are to be Common Lime (*Tilia Europaea*) standard size in accordance with BS:3936. A maintenance and management plan has been submitted in respect of the lime trees to be planted as part of the proposals, which sets out: newly planted trees will be checked for disease by a competent person annually for any major deterioration in their condition; pruning of epicormic or basal growth will be undertaken annually in September; weed control by ensuring no weed growth within a 500mm diameter of each tree annually between April and August. A suitable herbicide should be used in compliance with manufacturer's instructions. Fertilise using suitable slow release fertiliser as per manufacturer's instructions for the first 3 years after planting annually between April and August; inspect tree ties and stakes as scheduled and after strong winds. Replace loose, broken ties or decayed stakes to original specification; remove ties and stakes 4 years after planting; and remove dead trees and replace as per original specification annually until year 5. The applicant's agent has confirmed that North Yorkshire County Council would be responsible for the management and maintenance of the trees for the first 5 years, although this work would be carried out by the tree supplier.
- 4.42 Subject to conditions relating to the method of working in close proximity to trees and the planting of replacement TPO trees which would be subject to the submitted maintenance and management plan, it is considered that the proposal is considered acceptable in respect of its impact on trees in accordance with Policy ENV1(5) of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Residential Amenity

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

significant adverse impacts on the residential amenities of neighbouring properties in terms of noise and disturbance over and above the current situation.

- 4.45 Having regard to the above, it is considered that the amenities of the adjacent properties would be preserved and the amenities of the future property would be acceptable in accordance with Policies ENV1(1) and ENV2 of the Selby District Local Plan and the advice contained within the NPPF.

Flood Risk

- 4.46 The application site is located within Flood Zone 3a which has been assessed as having between a 1 in 100 or greater annual probability of river flooding (>1%) or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any one year.
- 4.47 Paragraph 155 of the NPPF states that *“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere”*.
- 4.48 Paragraph 158 of the NPPF states that *“The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding”*
- 4.49 Paragraph 159 of the NPPF states that *“If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance”*.
- 4.50 The application proposes the installation of a recreational raised seating area over the existing temporary bridge foundation within Flood Zone 3a and therefore the sequential test would be required to determine whether there are any reasonably available sites at lower probability of flooding that could reasonably accommodate the proposed development. Given the nature of the proposed development, to provide a recreational raised seating area on the riverbank with views of the Grade II listed Wharfe Bridge, which would be a water compatible use, it would be considered reasonable and necessary to narrow down the geographical coverage area for the sequential test to an area along the riverbank either side of the Grade II listed Wharfe Bridge.
- 4.51 A flood risk assessment and a sequential test have been submitted with the application.
- 4.52 In terms of the flood risk assessment, the submitted information includes a Flood Risk Assessment (Project No. JAG/AD/JF/40773-RP001) undertaken by Alan Wood

and Partners dated April 2018 and an Addendum to the Flood Risk Assessment Project No. JAG/AD/JF/40773-RP001) undertaken by Alan Wood and Partners dated May 2018. The Environment Agency have been consulted on the proposals and consider that the submitted Flood Risk Assessment and Addendum to the Flood Risk Assessment are acceptable and the proposed development would not cause any unacceptable increases in flood risk. The Environment Agency therefore raise no objections to the proposed development in terms of flood risk. A condition could be attached to any planning permission granted requiring the development to be carried out in strict accordance with the recommendations and mitigation measures contained within the submitted Flood Risk Assessment and Addendum to the Flood Risk Assessment.

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

Other Issues

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

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

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

5. CONCLUSION

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that "if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposed development would not have a detrimental effect on the setting of heritage assets (having regard to paragraphs 189 to 198 of the NPPF and Section 66 of the Planning (Listed Building and Conservation Areas Act) 1990), archaeology, the character and appearance of the area, trees, the residential amenity of the occupants of neighbouring properties, flood risk or any other issues which have been raised and assessed as part of the application. The application is therefore considered to be in accordance with the relevant policies of the development plan, namely, Policies ENV1, ENV2, ENV25, ENV27, ENV28 and ENV29 of the Selby District Local Plan, Policies SP1, SP2, SP15, SP18 and SP19 of the Core Strategy. It is also considered that the application is consistent with

relevant guidance in the NPPF and for the purposes of Section 38(6), there are no other material considerations which would indicate otherwise.

6. RECOMMENDATION

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

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

Reason:

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

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

100.001 P1 – Site Location Plan

100.002 P1 – Existing Site Plan

100.004 P1 – Existing Plans and Elevations

NY17009-A-100.003 P4 – Proposed Site Plan

NY17009-A-100.005 Proposed seating Area Works

NY17009-A-100.006 P3 – Proposed Materials and Furniture

Reason:

For the avoidance of doubt.

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

Reason:

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

04. The replacement three Lime trees as shown on drawing no. NY17009-A-100.003 P4, shall be planted in the first available planting season following the completion of the works to provide the recreational raised seating area and associated access paths as shown on drawing no. NY17009-A-100.003 P4. Any trees which die, are removed or become seriously damaged or diseased within the first five years shall be replaced in the next available planting season with others of the same size and species. Furthermore, the trees shall be maintained and managed by (or on behalf

of) North Yorkshire County Council in strict accordance with the 'Proposed Tree Maintenance Plan' submitted to the Local Planning Authority on 1 October 2018.

Reason:

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

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

Reason:

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

7. Legal Issues

7.1 Planning Acts

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

7.2 Human Rights Act 1998

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

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

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

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

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

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

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

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

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

8. Financial Issues

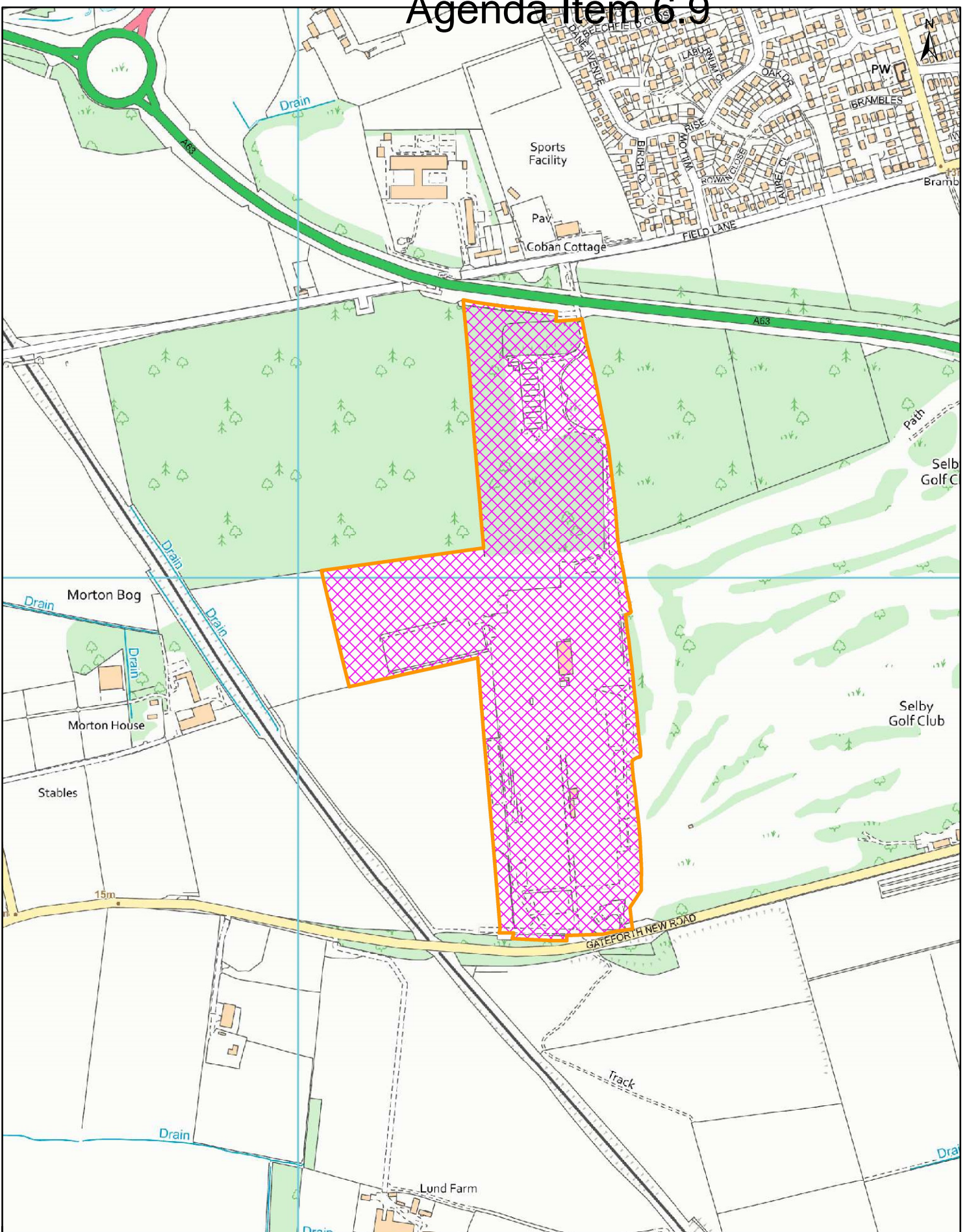
Financial issues are not material to the determination of this application.

9. Background Documents

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

Contact Officer: Jenny Tyreman, Senior Planning Officer

Appendices: None



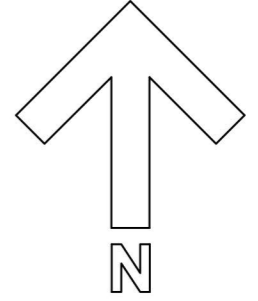
APPLICATION SITE

Former Mushroom Farm, Gateforth New Road, Brayton
2018/0743/FULM

1:6,500



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Key

- Ownership boundary
- Application site boundary
- Phase division line phase
- Existing trees/woodland
- Proposed trees
- Proposed structure/amenity planting
- Proposed gentle landscaped bund
- Unimproved neutral grassland
- Scrub
- Scattered scrub
- Permissive footpath
- Existing track
- Proposed footpath
- Proposed fence line with gated access
- Proposed water body
- Proposed electric car hook ups
- Proposed park home 168 No.

C	FX FARMER'S ACCESS ROAD ADDED	08/06/18	JG
B	ADDITIONAL UNITS ADDED	30/05/18	LD
A	ROADS/PATHS AND LAYOUT ADJUSTED	16/03/18	LD
REV	DESCRIPTION	DATE	INITIAL

Bratherton

PARK DESIGN CONSULTANTS

Mollington Grange • Parkgate Road • Mollington
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E. parkdesign@bratherton.co.uk W. www.bratherton.co.uk

LINKSIDE MILL

*PROPOSED
MASTERPLAN*

DATE • 05/02/18	SCALE • 1:1250 @ A1
DRAWN • LD	CHECKED • REV • C
	JOB • 1353/1



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Report Reference Number: 2018/0743/FUL

To: Planning Committee
Date: 16 January 2019
Author: Paul Edwards (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0743/FUL	PARISH:	Hambleton Parish Council
APPLICANT:	York House Leisure	VALID DATE: EXPIRY DATE:	2 August 2018 1 November 2018 E of T agreed until ~18 January 2019
PROPOSAL:	Demolition of buildings and removal of concrete hard standing and redevelopment of site to create a retirement village comprising a change of use of land to site 168 residential park home caravans, temporary reception lodge, shop and sales office, community centre with meeting hall, kitchen, toilets, office, shop, outdoor terrace, village green, and provision of lakes, ponds, public and private amenity spaces, estate roads, car parking, bus laybys, refuse stores, maintenance building and yard		
LOCATION:	Former Mushroom Farm Gateforth New Road Brayton Selby		
RECOMMENDATION	Minded to APPROVE subject to conclusion of a planning obligation		

This application is to be determined by the Planning Committee as the application is a Departure from the Development Plan and there are material considerations which would support the recommendation for approval.

1. Introduction and background

The Site

- 1.1 The application site lies between the classified Gateforth New Road to the south and the A63 by pass south of Thorpe Willoughby to the north and is the site of a former mushroom farm also known as Linkside Mill that had been operated variously by Middlebrook, Stanley Middlebrook and Gateforth Park Mushroom Farms, since at least the late 1970's until the site closed in 2008 and was mostly cleared some time before 2013.
- 1.2 The northern half of the site is partially regenerated woodland with concrete structures and hardstandings amongst it whilst the southern half is almost entirely covered by extensive concrete slabs and is open but for some remains of upstanding former mushroom farm sheds and buildings. There is a bunded former lagoon in a part of the site that projects out beyond the main site to the west and this area is surrounded by regenerating grassland and sparse woodland. Vehicle access is principally from Gateforth New Road but there is an informal pull-in and parking areas off the A63 since the woodlands are used for informal access and recreation. The more formalised crossing of the A63 where Field Lane crosses the by-pass is some 100m along the A63 to the west.
- 1.3 The total site area is 18.32 ha (45.5 acres), its immediate neighbour to the east is Selby Golf Course whilst there is agricultural land to the west with the east coast York/Doncaster branch line beyond. The site is in EA Flood Zone 1.

The proposal

- 1.4 This is a full planning application for the redevelopment of the site as a retirement village with 168 two bedroomed residential park home caravans on the southern part of the site, to be developed in three phases. The development includes a Phase 1 reception building and shop and all homes would be accessed from the internal access roads with on plot parking of two spaces with additional visitor parking.
- 1.5 The Phase 2 layout includes a communal resident's building of community rooms and lounge/ reception and shop; across this phase there are three ponds, amenity and recreation spaces. The former lagoon area would become a lake land setting for 48 of the homes. All boundaries have additional landscape and buffer zones proposed and there is selected use of low bunds to screen some homes from the spine/ internal access roads.
- 1.6 The road network gives full access to the entire site and all areas are served by mini bus pick up/drop off points since the application includes proposals for a subsidised taxi/minibus service for the residents to further enhance the sustainability of the site. This will be a service to the Fox Inn bus stop and local shops nearby in Thorpe Willoughby. This service will be synchronised with selected Arriva 402/403 routes servicing Selby and Leeds.
- 1.7 The existing woodland and grassland areas in the northern part of the site will be retained as an area of private and public open spaces to be used for leisure/ dog walking with a footpath and access network controlled by the Landscape Management Plan. This northern area includes a proposed fishing lake which, the applicants say, will be constructed at the beginning of development to allow it to establish and to give the best ecological advantage prior to occupation.

- 1.8 Park Homes are built to a British Standard and are transported to site. They are residential caravans that can provide a similar single storey accommodation to the same internal standards as a newly built bungalow, but generally at a more affordable price in an often dedicated retirement community with shared community facilities and an on-site warden. The rights of owners are protected by the Mobile Homes Acts that amended the Caravan Sites and Control of Development Act 1960 (CSCDA 1960); residents own the house but rent the pitch on which it is sited and have the right to use it as a permanent residence rather than holidaying accommodation. Residential parks also require a site licence under the CSCDA 1960 but it is a requirement that planning permission is in place before a local authority site licence can be issued.
- 1.9 The homes come in a variety of accommodation types, and in, for example lengths of 36, 40, 42 and 45 feet. Generally they have brick/ brick slip plinth with rendered clad finishes and pressed steel coloured roofs. The applicants, York House Leisure own and operate a number of retirement and holiday parks across Yorkshire; the nearest residential park for the over 50's is Quarry Moor and New Park in Ripon. Five full time permanent jobs would be created on this site.

Planning History

- 1.10 There are a number of previous planning applications relating to the mushroom farm use since the late 1970's and it appears that the use ceased in 2008. Previously it appears that the site was first developed for a wartime land girls accommodation and training centre in the early 1940's and subsequently became a POW camp (Sandbeds Camp, Brayton) with a capacity for 1,975 staff and prisoners.
- 1.11 The relevant post mushroom farm history can be summarised as:
- 2010/1072 An application on the northern part of the site (6 ha) directly off the A63 for twelve individual show people's residential plots, storage and play areas was withdrawn in June 2011 since insufficient information had been received to make it valid.
- 2010/1073 The same application site as above was the subject of an application of the same description for show people's accommodation which was refused by Planning Committee in January 2011. The six reasons for refusal related to that a required economic social need had not been established, and insufficient information had been provided to enable a full highways assessment, flood risk, drainage, pollution, contamination, controlled waters and ecological implications.
- 2012/0028 A resubmission of the January 2011 refusal was refused by Committee in July 2012. The subsequent appeal against this refusal was allowed (planning permission granted) in March 2013 and a full award of costs was made against the Council.
- 1.12 Of relevance here is that the Inspector concluded in the 2013 decision that the site was close to Thorpe Willoughby and its range of local services and facilities (Inspector's para 14 /2182714 14 March 2013).
- 1.13 In addition, it is important to be aware of a more recent nearby appeal decision at Field Lane on a 4.65 ha site which extends from the informal crossing point here

over the A63 opposite the northern part of this application site along the south side of Field Lane back towards Thorpe Willoughby (2016/1345). The outline application for up to 108 houses was dismissed at appeal in March 2018 (ref: /3181460). In assessing whether it was an appropriate location for development, the Inspector described that appeal site as on the edge of the built up area (of Thorpe Willoughby) and within walking distance of local shops, other facilities and services. In view of the use of bus stops on Field Lane, the Inspector concluded that the site would provide access to shops and other facilities by sustainable means.

- 1.14 This decision has relevance as although the appeal failed on matters to do with the scale of growth already experienced in Thorpe Willoughby, the Council being able to demonstrate a five-year supply of housing sites and that it was outside of development limits, the Inspector's conclusions about proximity to the settlement and sustainable transport demonstrated that it was a sustainable location.
- 1.15 There have been no other applications registered since the mushroom farm use ceased and the planning permission for show people's accommodation was not implemented.
- 1.16 Officers (including the Council's Housing Enabler) have been engaged with the applicants on pre-application discussions for some months. These discussions have included exploring how the proposals could be regarded as a form of 'affordable housing' that could be acceptable beyond defined settlement development limits.

2 Consultation and Publicity

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

2.2 Thorpe Willoughby Parish Council

The response states that the Council had unanimously resolved that it had no objection and that it would be a good development for the location which would overcome historic problems and concerns.

2.3 Gateforth Parish Council

The Council responded that it was generally supportive since it would improve a derelict area which is attracting fly tipping and anti-social behaviour. Express some concerns about additional traffic generated, although this would be partly mitigated by the introduction of a 30mph speed limit through the village.

Officer comment: The Highway Authority has confirmed that there are no planned or proposed 30mph speed limits on Gateforth New Road.

- 2.4 **The County Highway Authority is yet to respond in full.**

It is anticipated that that the specifications and final location of the access to the site off Gateforth New Road, to ensure appropriate visibility will be the subject of appropriate recommended conditions or further design detail. The blue land to the north is also the subject of ongoing negotiation.

2.5 North Yorkshire Police Designing out Crime Officer

The officer has commented that the overall design and layout is acceptable. Curtilage parking complies with best practice and recommendations are made in respect of lighting and windows/door sets complying with the appropriate British Standard.

- 2.6 **Environmental Health**
Initially raised concern about the proximity of both the A63 and the railway line to the site and requested a condition to protect properties from noise/ requested a Noise Assessment. Subsequently the applicants carried out noise monitoring and the Assessment received, it was confirmed, was carried out in accordance with EHO recommendations. The Environmental Health authority has responded with a recommended condition that the development is carried out in accordance with that Assessment.
- 2.7 **North Yorkshire Fire and Rescue**
Has responded that at this stage it has no objection/observation to make and that it will make further comments when the building control body issues a statutory Building Regulations consultation to the fire authority.
- 2.8 **The Lead Local Flood Authority**
The Authority responded by requesting further information in the form of infiltration testing, ground investigations to demonstrate ground water level and details of the proposed permeable paving. Although the infiltration testing that had been carried out showed good rates, a larger representative coverage of the site was requested. The applicant suggested that this further work request could be controlled by condition, as agreed by Yorkshire Water, since those areas that had been surveyed showed good infiltration rates and other construction details could also be controlled by condition on any approval.
- 2.9 The LLFA remains concerned about the need to provide infiltration testing across representative parts of the site but given the view of the applicants were advised of this approach and of the ability to control by condition on any approval. No further response has been received.
- 2.10 **Yorkshire Water**
Commented that the Flood Risk Assessment and Outline Drainage Strategy were acceptable and requested a number of standard and site specific conditions on any approval.
- 2.11 **Shire Group of IDBs**
The Group has replied with a standard response that the impermeable areas of the site will be increased and that the applicant should satisfy themselves that any existing or proposed surface water system has the capacity to deal with the increased discharge.
- 2.12 **Natural England**
Replied that that it had no comments to make and referred to its standing advice.
- 2.13 **Yorkshire Wildlife Trust (YWT)**
The Trust replied initially in requesting further survey information including further assessment of the grassland and woodlands. A further Ecological Impact Assessment was submitted to address these comments and in October it was updated again in the light of new information/ survey work.
- 2.14 As a result of this further information, the Trust confirmed that it was now satisfied with the updated Reports and seeks conditions relating to:

- a sensitive landscape plan which shows the retention of woodland and grassland and how they will be enhanced as part of the proposals
- Ecological/Environmental Management Plan to show how the site will be managed in the long term to ensure net gain in biodiversity
- Sensitive lighting scheme which will protect foraging corridors for bats
- Bat and bird box plan which shows the number, location and type of boxes to be installed
- Construction Environmental Management Plan (CEMP) which will detail precautionary working methods for species potentially present on site including reptiles and amphibians.

2.15 County Archaeologist

Referred to the former WW2 POW camp and said that below ground remains are unlikely to be present and requested, initially, an archaeological scheme of investigation. Upon further consideration of the condition of the site, responded that no further archaeological comment or intervention was necessary.

2.16 Selby Contracts Team Leader

On waste and recycling facilities, commented on what the minimum requirements would be for the number of homes in terms of whether there were communal collection points or, as the applicants would wish, individual collections 'kerbside' for each property. The latter would have implications for the layout, so that the freighter did not have to reverse or manoeuvre around the current cul de sac areas. The agreed way forward is that in those areas of short cul de sacs where the freighter would not enter, small scale presentation/ collection points can be provided by condition. In addition, a planning obligation is sought to address the necessary provision of waste and recycling receptacles.

2.17 Council's Contaminated Land Consultant

Members will be updated on comments received at Planning Committee.

2.18 Publicity

No neighbour representations have been received. The applicants held a public drop in session at The Owl on 12 September 2018 and have submitted the survey/questionnaire sheets that were completed by people who visited over the course of the day.

2.19 The applicants have summarised the responses to that drop-in and say that twenty-nine forms were completed. In response to the three questions posed, all 29 agreed that it would be 'positive development for the site'. Twenty-seven out of the 29 say they would support the application. The third question was, 'if over 50 would you consider park home living' and 21 indicated that they would be interested. The applicants see this final response as indicative of the need for this type of accommodation and a number even asked to be kept informed of progress that they might be interested in downsizing but staying in the local area.

3. Site Constraints and Policy Context

Constraints

3.1 The site is in the open countryside without allocation.

3.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that "where in making any determination under the planning Acts, regard is to be had to

the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise". There are material considerations that are considered to significantly weigh in favour of approving the proposal and these are discussed further below.

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

- 3.3 The National Planning Policy Framework (July 2018) replaced 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.

The NPPF also confirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise

Selby District Core Strategy Local Plan

- 3.4 The relevant Core Strategy Policies are:

- SP1: Presumption in Favour of Sustainable Development
- SP2: Spatial Development Strategy
- SP13: Scale and Distribution of Economic Growth
- SP15: Sustainable Development and Climate Change
- SP19: Design Quality

Selby District Local Plan

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

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

- 3.6 The relevant Selby District Local Plan Policies are:

- ENV1 - Control of Development which would permit good quality development subject to normal development management criteria.
- ENV2 – Pollution and contaminated land would not permit development that could be affected by, of relevance here, levels of noise or contamination unless satisfactory remedial or preventative measures are in place.
- ENV3 – Light Pollution would only permit outdoor lighting schemes that represent the minimum necessary for security and operation; designed to minimise pollution, not affect highway safety and not significantly detract from character of the rural area.
- 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.

- 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:

1. Assessment against the development plan/Principle of the use
2. Appropriate in scale and type to its location
3. Sustainable transport connections
4. Ecology and Protected species
5. Contamination
6. Affordability in perpetuity
7. The nature of any conditions/ planning obligation

Principle of the Use

4.2 The proposal is for a large scale mobile park home development for 168 residential park homes which would provide permanent accommodation for the over 55s (with an age occupancy restriction). This proposed development as a mobile park home would amount to a sui generis use and would not be subject to the policy requirements that apply to development that falls within Use Class C3 (dwelling houses). The site is situated within the open countryside.

4.3 Policy SP2 of the Core Strategy sets out the long term spatial direction for the District and provides guidance for the proposed general distribution of future development. 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. This proposal for a large scale mobile park development is not considered to accord with any of the exceptions listed or the 'other special circumstances set out in Policy SP2 of the Core Strategy. Therefore the proposals are contrary to Policy SP2 and whilst the proposals will meet some of the requirements of other development plan policies (such as Policies ENV1, ENV2, ENV3, T1 and T2 of the Local Plan and SP13, SP15 and SP19 of the Core Strategy); they will not comply with the development plan as a whole.

Sustainability of the Development

4.4 In terms of sustainability, the site is located outside the development limits of Thorpe Willoughby which is a Designated Service Village as identified in the Core Strategy where there is scope for additional residential growth to support rural sustainability. The village of Thorpe Willoughby is the closest settlement to the application site and the village adjoins the application site on the north of the A63. The village has two pubs, a primary school, village hall, post office, and is connected to the application site by a crossing of the A63. The Selby Golf Course adjoins the application site and Brayton Village is located 1.5 miles away to the east and has a number of local shops and facilities including a small supermarket, junior school, church and eateries.

- 4.5 The closest bus stop to the application site is located 100 metres to the north of the site along Field Lane which is accessed via a footpath that avoids the A63 and is served by the number 6, 7 and 403 buses which provide frequent services to both Selby and Leeds. The closest train station is a 10 minute drive away in Selby Town Centre which serves Hull Trains, Transpennine Express, Virgin Trains and Northern, serving routes to Hull, Manchester, York and London.
- 4.6 The proposals would also provide the residents with their own community building, shop, area of recreational open space, and fishing lakes. The applicants are also proposing to provide a subsidised taxi/mini bus service and pedestrian access to the facilities in Thorpe Willoughby such as pubs, shops, and bus services which will be secured through the use of a planning obligation.
- 4.7 As mentioned previously in the Planning History section of this report there have been two appeal decisions in which Planning Inspectors have commented on the sustainability of this location. In the appeal decision for the change of use of the land formerly used in association with the Gateforth Mushroom Farm and sewage treatment works into Showmen's Quarters, the Inspector highlights that the application site is close to Thorpe Willoughby and its range of local services and facilities, also concluding that it is not located away from existing settlements. In a more recent appeal decision (albeit not on the application site but on a site that is immediately adjacent), the Inspector concluded that the adjacent site was within walking distance of local shops, other facilities and service. The Inspector also concluded that bus stops on Field Lane provide access to shops and other facilities. Therefore both these appeal decisions support the principle that the application site is a sustainable location in terms of access to services and facilities and this is a view shared by Officers. It is also considered that any future residents would also help to further enhance the sustainability credentials of the location by using these local shops and services in the area thereby generating additional spending and creating additional demand for services

The proposals would remedy a 'problem' site and make efficient use of brownfield land without encroaching into the open countryside

- 4.8 The site is currently a former mushroom farm comprising approximately 17.22 hectares of land with derelict agri-industrial buildings some of which are now fire damaged or otherwise vandalised. The site has extensive areas of hardstanding including large tarmacked areas, concrete slabs and derelict and burnt down buildings. The red line of the application site extends to 18.32 hectares but it is principally only the previously developed, concrete areas of the site which will be the main focus for the redevelopment.
- 4.9 The proposals would effectively restore this brownfield site and this would also have the added benefits of improving biodiversity, landscape character and appearance of the site by removing all the derelict buildings and sterile hard-standing and replacing them with park homes in a landscaped parkland environment with large areas of open space, lake, ponds and planting.
- 4.10 The NPPF in paragraph 170 supports the remediation and mitigation of despoiled, degraded, derelict, contaminated and unstable land, where appropriate. Officers consider that the redevelopment of this site would have such environmental benefits.

The proposals for low cost permanent accommodation for over 55s which would meet a specific growing need

- 4.11 Officers consider that the proposals would help to address an identified need for affordable accommodation for an ageing population.
- 4.12 Paragraph 59 of the NPPF points to the importance placed upon the needs of groups with specific housing requirements being addressed. Paragraph 61 of the NPPF continues that in the context of a local housing needs assessment, the housing needed for different groups in the community (including, for example, 'older people') should be assessed and reflected in policy. The NPPG, on Housing Needs Assessment, refers to the need to provide housing for older people as critical since people are living longer lives and the proportion of older people in the population is increasing.
- 4.13 The current publically available Strategic Housing Market Assessment (SHMA) for Selby goes into some detail about the specific need for housing to meet those needs of the elderly in the District. The SHMA does not set housing targets, this is the role of the Local Plan, but it gives objective assessment of the housing need. Until there are further local plan documents available, this is the current expression of need in the District.
- 4.14 On age structure changes, for example, the SHMA shows that the largest growth in numbers will be in people aged 60 and over, a growth of 55% in numbers between 2014 and 2037. The aged over-75 populations will grow by 116%. A similar analysis over a shorter period, just for Selby, to 2027 shows increase of 23% and 68% in those two age groups respectively (Chapter 3).
- 4.15 The SHMA identifies a demand from older households for bungalows (Chapter 8) with a concluded need to increase delivery of bungalows and to provide opportunities for households to downsize (p.143). Thus although the SHMA makes no mention of specific opportunities provided by a park home caravan development of this nature, this scheme would nevertheless contribute to meeting those defined needs. It is also considered appropriate to attach an age occupancy restricted planning condition to any consent granted to ensure that the proposal is provided permanent accommodation for an specific growing need.

It is considered that this form of accommodation would provide low cost accommodation. Furthermore, the applicants suggest that park home caravans can provide housing which is at least 30% cheaper than a brick built equivalent. The applicants continue in the Planning Statement that park homes retain this relative affordability in perpetuity due to the nature of ownership (the occupier owns the home, but rents the pitch on which it is sited), and as they do not have permitted development rights allowing for extension that apply to dwelling houses in Use Class C3 and furthermore the site cannot be redeveloped into 'bricks and mortar' housing without applying for planning permission, which is not only contrary to the signed Written Statement of the Mobile Homes Act but would unlikely to be passed as local planning authorities seek to keep park homes as a source of affordable housing which meet a specific housing need for elderly people.

- 4.16 The applicants' case is that having assessed the local housing market and the value of transactions through 2016 and 2017, this shows a range of prices for the twelve second hand bungalow sold in this period of £120,000 to £240,000. Prices for new

detached bungalows at Privet Drive sold within the same period are in the range £240,000 to £310,000.

- 4.17 By comparison, the applicants say that the asking price of new park homes on this site will range from £120,000 with the bulk in the £150,000 region and a few premium sales with particularly high internal specifications at £180,000.
- 4.18 This, the applicants say is evidence that the site is affordable, being between 33% and 50% lower in price than the market value for new build properties. The lower priced, second hand properties, they continue would generally require work or refurbishment and would thus not be to the same specification or energy efficiency as a new park home caravan.
- 4.19 As a type of affordable accommodation the applicants say that the park home can fit many of the parts of the definition of affordable housing and they will remain affordable in perpetuity since the market keeps them at that price and since:
- The more restrictive nature of ownership suppresses prices
 - In many cases limited by park rules to the over 50s, or higher and thus this is a restricted and limited market overall
 - There are no permitted development rights so they cannot be extended without permission into family sized homes
- 4.20 Thus the applicants conclude that park home sites operate in a market of their own that is by definition a lower cost product. Given the above, Officers consider that the case that the applicants have put forward that the proposals would provide low cost permanent accommodation for a specific age group should be supported.
- 4.21 Officers considered that the proposals are also supported by Policy SP13 of the Core Strategy which supports sustainable development on both Greenfield and previously developed sites in rural areas in the case of, of relevance here for example, 'redevelopment of existing and former employment sites'. In all cases such development is to be appropriate in scale and type to its location and not harm character or amenity. On the face of it, it appears that subject to compliance with normal development management criteria, the redevelopment of former employment sites and commercial premises is supported by Policy SP13 of the Core Strategy.
- 4.22 To conclude, this proposal is considered to conflict with Development Plan policies, namely Policy SP2 of the Core Strategy. Despite the departure from policy, Officers consider that there are significant benefits of the scheme such as the proposals would tidy up the site and make efficient use of brownfield land without encroaching into the open countryside and would provide low cost permanent accommodation for over 55s which would meet a growing need. Officers also consider that the application site is in a sustainable location and future residents would have access to local service and facilities as well as helping to sustain these local shops and services in the area by generating additional spending and creating additional demand for services.

Appropriate in scale and type to its location

- 4.23 The red line site extends to 18.32 ha but the main focus of the development proposals will be concentrated on the previously developed, concrete covered areas of the site. Thus, in terms of the scale of the development proposals, they do not seek to develop land outside of the existing site boundaries or generally beyond the previously developed areas. On the site area alone, the scale is considered to be appropriate.
- 4.24 The site has Selby Golf Club as its neighbour and whilst the Club has not made representations, it is reasonable to conclude that a retirement village could have some synergy with a golf club in terms of recreation and social opportunities; together with the use of the proposed fishing lake.
- 4.25 The extensive planting and landscaping proposals around single storey lodges would be appropriate and provide a good standard of amenity. This would be a positive enhancement and improvement to the area given the previous and current now derelict and industrialised landscape.
- 4.26 Whether this is an appropriate 'type' of development to this location is a matter of planning judgment but Officers are of the view that open market housing in this location that is not intended to cater for an identified housing need would be far more difficult to justify. This is supported by the appeal decision on Field Lane almost adjoining to the north and that the identification of what would be a major site for open market housing is a matter that should be determined through the Site Allocations local plan. On a total site area of over 18ha, 168 park homes would give a housing density of ~9 per ha. This is exceptionally low density overall and would further support that this is considered to be appropriate in scale and type in an environment that is proposed to be of high quality.
- 4.27 Part D to Policy SP13 seeks to ensure a good standard of amenity and that the character of the area would not be harmed. There are no neighbour amenity considerations as such; the nearest residents are across the railway line to the west, to the south west across Gateforth New Road and adjacent to the golf club entrance, some 700m to the east. The character of the area can only be improved so both Policies SP13 and ENV1 are satisfied.

Sustainable transport connections/ highways

- 4.28 Policy in respect of access and other highway considerations is provided by Policies ENV1 (2) T1 and T2 of the Selby District Local Plan and Section 9 of the NPPF. A previous mentioned an Inspector's decision has noted that part of the site is close to Thorpe Willoughby. Although the Field Lane appeal was dismissed, the Inspector nevertheless observed that site was within walking distance of Thorpe Willoughby's facilities. Although the residential part of this site is approximately 500m from Field Lane and the Field Lane appeal site together with its adjacent bus stops, these two appeal decisions do suggest that the site is well connected to transport facilities.
- 4.29 There will be an onsite shop in a permanent building in Phase 2 which will reduce the need to travel for everyday convenience and grocery supplies. The Park Home Residents will be restricted to an over 55's occupancy clause and thus residents will be unlikely to contribute significantly to peak hour traffic flows based upon comparator other park home data and the highway authority has agreed that this comparison is appropriate.

- 4.30 The pedestrian routes to the north and across the bypass are considered to be in need of enhancement and planning obligations will be needed to secure those improvements/ connections. The highway authority has similarly agreed that a travel plan will be required and work is continuing to draft an obligation to secure this connection and TP provisions.
- 4.31 The application also includes a proposal to provide a subsidised taxi/mini bus service from the site to the Fox Inn bus stop (Fox Lane) off the A1238 Leeds Road through Thorpe Willoughby where it would be synchronised with the 402/403 Selby/Leeds service. This level of subsidy/duration has not been defined and would be part of the travel plan and its mechanism set out in a planning obligation, which your officers will report further upon.
- 4.30 The final comments of the highway authority are awaited and are anticipated to relate to design and visibility on the Gateforth Road site frontage and the A63 connections and car parking. The recommendation is subject to satisfactory receipt of those final comments, imposition of conditions (to follow) and subject to the conclusion of a planning obligation in any event.

Ecology and Protected Species

- 4.31 The scheme has evolved with guidance from the Yorkshire Wildlife Trust. Following the receipt of further surveys and updating of reports it has been agreed that any outstanding matters may now be addressed by condition.
- 4.32 The value of the grassland had originally been overemphasised since upon further survey it was agreed that since it is on previously developed land, it has the title of 'semi improved' which is actually species-poor. It does nevertheless have some wildlife value and they are thus to be retained in their current state as far as practicable and subject to management/mitigation recommendations.
- 4.33 The remaining building shells and frames have very low bat potential due to the extent of arson and vandalism but the requested conditions relate to a sensitive lighting scheme – to protect bat foraging corridors and the provision of bat and bird boxes. The accuracy of the reptile surveys was similarly constrained by the presence of quantities of cladding and plywood which could be refuges.
- 4.34 The plantation woodland in the northern part (Phase 3) is no more than 30 years old and does not have high ecological value and is ground species fauna-poor. There is no evidence of GCN and as a precaution pre-commencement badger, reptile and bird surveys are recommended. Thinning and ground cover management will increase ecological value and the natural pond areas will be replaced by the three proposed lakes.
- 4.35 Active management of the retained areas will improve the ecological value and this will be addressed through an Ecological Enhancement Management Plan (EEMP) and a Construction Environmental MP. The relevant conditions are set out in the recommendation at Conditions 4 and 6. It is considered that the proposals would accord with Policy ENV1 (5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation.

Contamination

- 4.36 There is potential for contamination of the existing site and the Phase 1 Environmental Report is being assessed by the Council's Contaminated Land Consultant. Initial comments are that the recommended site investigation will be needed and it is likely that a number of conditions on any approval will be recommended. The full response will be referred to in the Officer Update report in advance of Committee. The proposals are therefore acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

Nature of conditions/ planning obligation

- 4.37 A condition to restrict the age of residents is to be attached to any consent granted to ensure that the proposal is providing for a specific identified need in the District.
- 4.38 The suggested conditions below address ecology and site management/maintenance together with necessary landscaping/ planting, noise, contamination and revisions for refuse collection points.
- 4.39 The Highway Authority is yet to respond in detail so this will need to be the subject of an Officer Update note to address the details of the site access and visibility onto Gateforth New Road. The recommendation below is on the basis that a suitable access can be formed and would thus be the subject of condition(s) to follow.
- 4.40 A planning obligation under s.106 of the Act would need to be entered into for the mechanism of implementation and funding of the Travel Plan and a subsidised mini bus provision. It is considered that the situation in respect of other blue land and the connection to the public right of way to the north can be the subject of a negative condition or be addressed by a planning obligation dependent upon the identity of any third party land ownerships. The applicants are agreeable to entering into such a deed. Since an obligation is required, it is practical to add the provision of the waste and recycling receptacle in accordance with the Developer Contributions SPD, to any obligation.

5. Legal Issues

- 5.1 Planning Acts: This application has been determined in accordance with the relevant planning acts.
- 5.2 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.
- 5.3 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.

Financial Issues

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

6. Conclusion

- 6.1 To conclude, this proposal is considered to conflict with Development Plan policies, namely Policy SP2 of the Core Strategy. Despite the departure from policy, Officers consider that there are significant benefits of the scheme such as the proposals would tidy up the site and make efficient use of brownfield land without encroaching into the open countryside and would provide low cost permanent accommodation for over 55s which would meet a growing need. Officers also consider that the application site is in a sustainable location and future residents would have access to local service and facilities as well as helping to sustain these local shops and services in the area by generating additional spending and creating additional demand for services.
- 6.2 Although final access details are yet to be resolved, it is anticipated that this is a matter of design given the existing site accesses and the previous uses and it will be addressed by the imposition of to-be-defined planning conditions on any updated recommendation and approval. The further details of the Travel Plan and bus service, together with access and connections from the north will also be the subject of the Officer update.
- 6.3 There are no other outstanding issues or representation that may not be dealt with by conditions or obligation as part of any approval and thus subject to the satisfactory highways response and update, the recommendation will be one of approval subject to the necessary planning obligation (para 4.32).

7. Recommendation

7.1 It is recommended that :

A: Committee resolves that it is Minded to Approve the application subject to the satisfactory completion of a planning obligation under s.106 of the Act in accordance with the Heads of Terms set out in this report, and

B: authority is delegated to the Planning Development Manager to approve this application upon the conclusion of the planning obligation and subject to the imposition of the conditions below. That delegation to include the alteration, addition or removal of conditions from those set out 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.

7.2 Recommended conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the application dated 14 June 2018 and specifically in accordance with the associated approved plans and documents referenced:
 - Red Line Existing Location Plan Dwg No 1353/6 Rev A
 - Proposed Masterplan Dwg No 1353/1 Rev C

- Proposed Lake and Sections Dwg No 1353/8
- Communal Building Floor Plan Dwg No 1353/5
- Communal Building Elevations Dwg No 1353/4
- Maintenance Building Dwg No 1353/3
- Recycling Station Dwg No 1353/2
- Fence detail Dwg No 1353/7
- Omar Park Homes Plans 4802, 4406, 3421, 5106
- Prestige Homeseeker Plans and elevations reprise, Minuet, Sonata II
- Noise Assessment (ref: 296877 -02[00])

Reason: For the avoidance of doubt.

3. The Age Restricted Dwellings hereby permitted shall not be occupied other than by persons who have attained the age of 55 years or the spouse or partner of such persons including a widow or widower.

Reason: To ensure that the proposal is providing accommodation for a specific need group.

Pre-Commencement Conditions

4. Prior to the commencement of development a Development Strategy and Phasing Plan to identify the contents of each Phase (as defined on the Masterplan Dwg No 1353/1 Rev C) and the order of site clearance, development of planting, landscaping, bunding and lake construction within each phase and how the phase under development relates to and takes account of undeveloped phases in terms of ecological mitigation and enhancement and contamination shall be submitted to and approved by the local planning authority. The Plan shall thereafter be implemented in accordance with the approved details.

Reason: This is a pre-commencement condition that is necessary in order that the phased site clearance and development takes account of the existing and to be retained environments that form a part of the wider application site in order to accord with Local Plan policies SP13, SP15, SP19 and ENV1.

5. Prior to the commencement of development a Construction Environmental Management Plan to provide details of precautionary working methods in each phase (as defined on the Masterplan Dwg No 1353/1 Rev C) to take account of the potential presence of reptiles and amphibians shall be submitted to and approved by the local planning authority. The CEMP shall thereafter be implemented in accordance with the approved details.

Reason: This is a pre-commencement condition that is necessary in order that the phased site development takes account of the existing and to be retained environments that form a part of the wider application site in order to accord with Local Plan policies SP13, SP15, SP19 and ENV1.

6. Prior to the commencement of development in Phase 2 or Phase 3 (as defined on the Masterplan Dwg No 1353/1 Rev C) a sensitive Landscape Management Plan, including details of retention of grassland and details of all trees to be removed and details of trees to be retained and measures for their protection in that area, long term maintenance and enhancement objectives shall be submitted to and approved

by the local planning authority.. The sensitive Landscape Management Plan shall thereafter be implemented in accordance with the approved details.

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

7. Prior to the commencement of development an Ecological/Environmental Management Plan to show how the site will be managed in the long term and to ensure a net gain in biodiversity 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 within the site. 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 that is necessary in order to ensure mitigation in accordance with the MAB revised Ecological Assessment dated September 2018 and paragraph 175 of the NPPF and Plan Policy ENV1.

8. Prior to the commencement of development a surface and foul water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development shall be 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.

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.

Highways / access

9. 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

shall have been submitted to and approved by the local planning authority before the first use of the first home on the site and the accesses to the site shall be laid out and constructed in accordance with the approved plans before first occupation.

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.

10. No home shall be first occupied until the carriageway and any footway/footpath from which it gains access has been constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network.

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.

11. There shall be no vehicular or construction access to the site other than from the approved access point(s) on Gateforth New Road.

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.

12. No development shall commence within a particular phase (as defined on the Masterplan Dwg No 1353/1 Rev C) until a Construction & Environmental Management Plan for that phase 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 CEMP and their protection during development
- details of any temporary or construction lighting
- Soil Management Plan
- Wheel washing facilities, and
- 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 phase 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.

13. Prior to the first occupation of any home in a phase (as defined on the Masterplan Dwg No 1353/1 Rev C), details of the location of revised bin and waste recycling collection points at the end of cul de sacs on the layout where the refuse freighter will not be able to enter shall be installed in accordance with details that have previously been submitted to and approved by the local planning authority.

Reason: In order that the layout of the site provides for the proper storage and presentation for collection of site refused and recycling in accordance with Local Plan Polices SP15 and ENV1.

Landscaping/planting/Ecology

14. No development shall take place in a particular phase (as defined on the Masterplan Dwg No 1353/1 Rev C) until full details of both hard and soft landscaping works for that particular phase have been submitted to and approved by the local planning authority.

Reason: To ensure for the landscaping and planting of areas not covered by buildings and in order to protect the amenities of the area and in the interests of the character and amenities of the area in order to comply with Plan Policies SP18, SP19, ENV1 and ENV12.

15. All of the approved landscaping/planting works for each phase (as defined on the Masterplan Dwg No 1353/1 Rev C) 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.

16. Prior to the installation of any external lighting, lighting columns or street lighting details of a Site External Lighting Strategy and to address mitigation of impacts upon protected species and protect bat foraging corridors 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 MAB revised Ecological Assessment dated September 2018 and paragraph 174 of the NPPF and Plan Policy ENV1.

17. Prior to the first occupation of a home in any Phase (as defined on the Masterplan Dwg No 1353/1 Rev C) the scheme of bat and bird box installation shall have been implemented in accordance with a scheme for that phase that has previously been submitted to and approved by the local planning authority.

Reason: In accordance with the details of the application, to accord with the MAB revised Ecological Assessment dated September 2018 and in order to ensure for the enhancement of biodiversity in accordance paragraph 175 of the NPPF and Plan Policy ENV1.

Contamination

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

Reason: This is a pre-commencement condition 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.

19. 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

- 20.0 The development hereby approved shall be carried out in full accordance with the Noise Assessment (ref: 296877 -02[00]) which forms a part of this approval

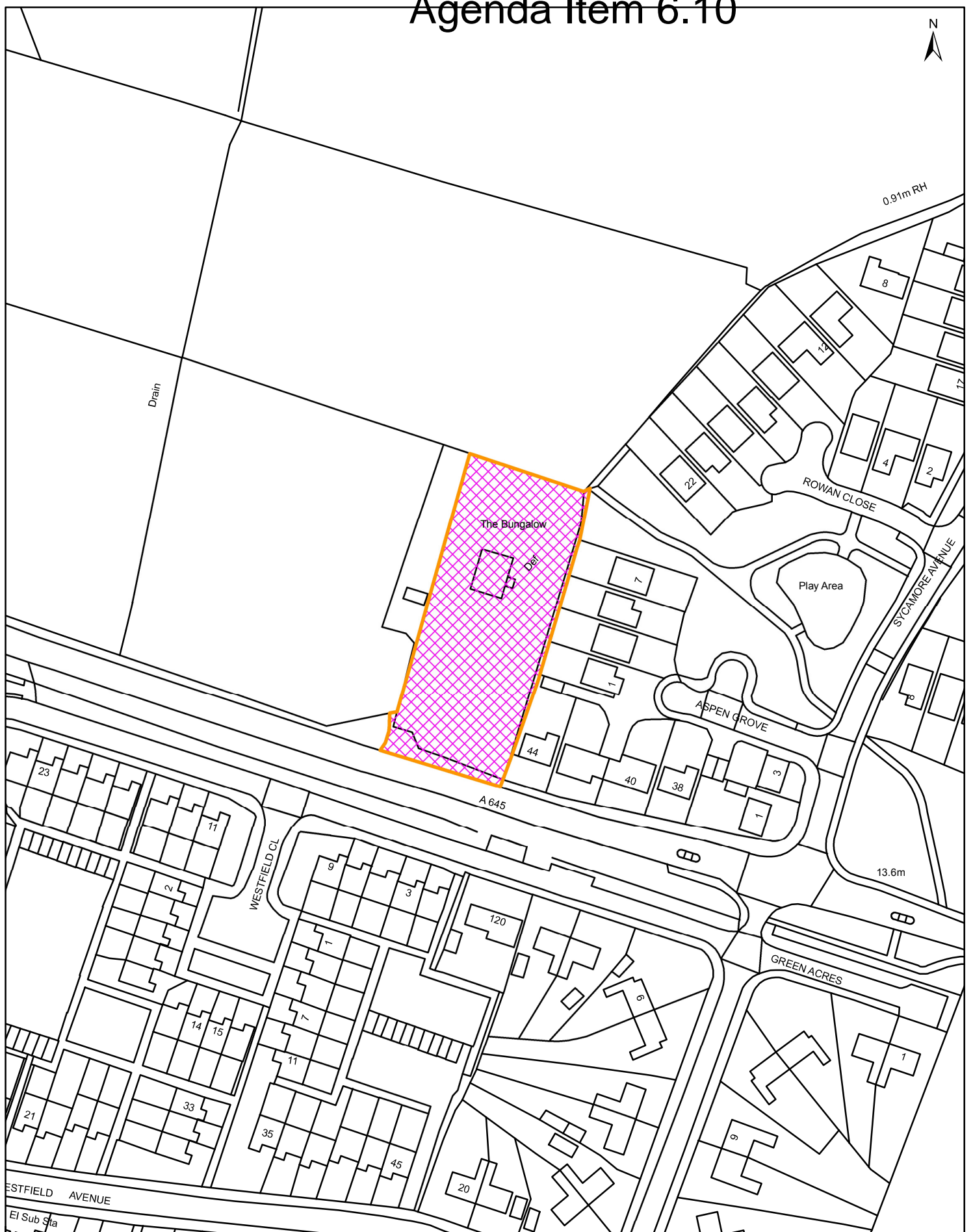
Reason: In order to protect the residential amenities of future residents in accordance with Selby Local Plan Policies SP19 and ENV2.

Case Officer:

Paul Edwards, Principal Planning Officer
pedwards@selby.gov.uk

Appendices:

None



APPLICATION SITE

1 The Bungalow, Weeland Road, Eggborough
2018/1043/OUT

1:1,250



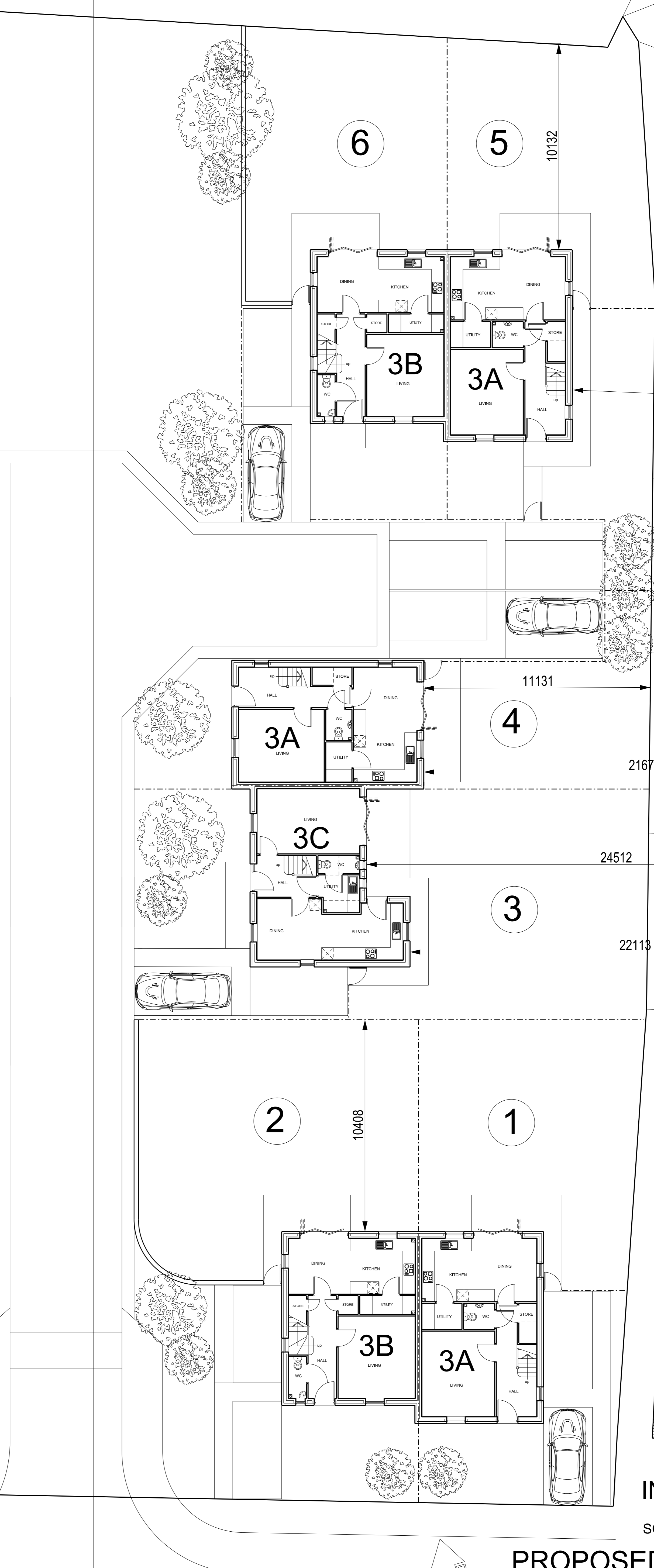
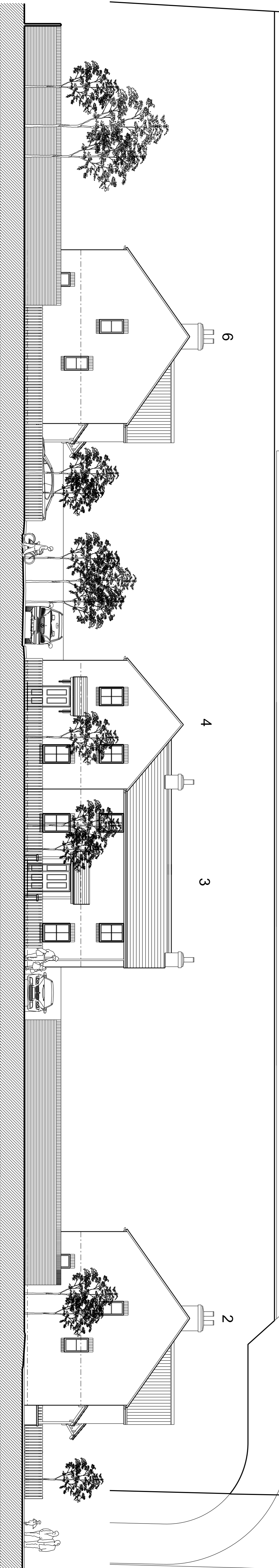
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DO NOT SCALE

A

AMENDED DRAWING

STREET ELEVATION A-A



INDICATIVE ONLY

SCALE 1:100 @ A1 - 1:200 @ A3

PROPOSED SITE LAYOUT

Note:
This layout is subject to confirmation of site boundaries, topographical survey, easements, restrictive covenants etc; consultation with Local Authority, Public Utilities etc.

WEELAND ROAD

A

ACCOMMODATION
6no. 3 BED HOUSES
Page 17 of 3
SITE AREA = 0.2292 Ha

HOUSING DEVELOPMENT
WEELAND ROAD, EGGBOROUGH

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Report Reference Number: 2018/1043/OUT

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

APPLICATION NUMBER:	2018/1043/OUT	PARISH:	Eggborough Parish Council
APPLICANT:	Mr D Knowles	VALID DATE: EXPIRY DATE:	24th September 2018 19th November 2018
PROPOSAL:	Outline application for up to 6 dwellings including access with all other matters reserved		
LOCATION:	1 The Bungalow Weeland Road Eggborough Goole East Yorkshire DN14 0PP		
RECOMMENDATION:	GRANT		

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

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located within the defined development limits of Eggborough, which is a Designated Service Village as identified in the Core Strategy.
- 1.2 The application site comprises an existing bungalow, known as 1 The Bungalow, along with its associated garden land, driveway and turning and parking areas.

- 1.3 To the east of the application site are residential properties; to the north and west of the application site are open fields, while to the south of the application site is Weeland Road, with residential properties beyond.

The Proposal

- 1.4 The application seeks outline planning permission for the erection of a residential development of up to six dwellings including access (with all other matters reserved).
- 1.5 An access plan has been submitted which demonstrates three access points to the site. One main access point, which would be formed by upgrading the existing access, and two further access points along the site frontage to Weeland Road to serve frontage properties. Furthermore, a footpath is proposed to the site frontage to link into the existing footpath to the east.
- 1.6 An indicative proposed site layout plan (drawing no. 03A) and indicative proposed floor plans and elevations (drawing no. 09) have been submitted as part of the application to demonstrate how the site could be laid out to accommodate six semi-detached two storey dwellings.

Relevant Planning History

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

2. CONSULTATION AND PUBLICITY

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

- 2.1 **Kellington Parish Council** – Object. Two of the site plans submitted show a 'ghost' estate to the west of this site - this estate has not been built. The applicant should be asked for accurate maps showing the reality of the existing site. The site lies outside of the defined development limits. Selby District Council has a five year supply of deliverable land and therefore this application should be refused.
- 2.2 **Eggborough Parish Council** – Object. The application site lies outside of the defined development limits. The site location plan shows ghost properties on a site to the west that are not yet built and the site does not have full planning permission - the existing site layout is inaccurate and suggests that the properties could be classed as infill when they are not.
- 2.3 **NYCC Highways** – Initial response dated 15.10.2018 - No objections, subject to seven conditions relating to: (1) detailed plans of road and footway layout; (2) construction of roads and footways prior to the occupation of dwellings; (3) use of existing access; (4) discharge of surface water; (5) visibility splays; (6) approval of details for site works in the highway; and (7) construction management plan.

Further response dated 18.12.2018 - No objections, subject to nine conditions relating to: (1) detailed plans of road and footway layout; (2) construction of roads and footways prior to the occupation of dwellings; (3) use of existing access; (4) discharge of surface water; (5) visibility splays; (6) approval of details for site works

in the highway; (7) construction management plan; (8) construction requirements of private access/verge crossings; and (9) details of access turning and parking.

- 2.4 **Danvm Drainage Commissioners Shire Group Of IDBs** – No response within statutory consultation period.
- 2.5 **Yorkshire Water** – No objections, subject to a condition that there shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which are to be submitted to and approved by the Local Planning Authority.
- 2.6 **Environmental Health** – No objections, subject to a condition requiring a construction and environmental management plan.
- 2.7 **Contaminated Land Consultant** - No objections, subject to a condition relating to the reporting of any unexpected contamination.
- 2.8 **County Ecologist** – No objections, subject to an informative.
- 2.9 **Natural England** – No response during statutory consultation period.
- 2.10 **North Yorkshire Bat Group** - No response during statutory consultation period.
- 2.11 **HER Officer** – No objections.
- 2.12 **Waste And Recycling Officer** – States that since there are more than 4 properties here, the developer will be required to purchase the waste and recycling containers for this development.
- 2.13 **Neighbour Summary** – All immediate neighbours have been informed by letter and a site notice has been erected. One letter of support and twelve letters of objection have been received as a result of this advertisement.
- 2.14 The letter of support states that the development is welcomed because it will bring high quality housing to the area.
- 2.15 The twelve letters of objection may be summarises as:
- the location of the proposed development outside the defined development limits of Eggborough
 - the lack of services to support more housing in this location
 - the potential for future housing development if this housing development is allowed
 - the impact of the proposed development on the character and appearance of the area and increases traffic
 - the impact of the proposed development on the residential amenity of neighbouring properties in terms of noise and disturbance, overlooking, overshadowing and loss of privacy and loss of views
 - loss of trees
 - the impact of the proposal on nature conservation and protected species
 - the potential for the proposed development to increase flood risk elsewhere
 - the potential for the development to increase anti-social behaviour in the area

- loss of agricultural land; and
- inaccuracies in the submitted plans, which show a ghost housing estate to the west of the application site.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

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

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

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

Selby District Core Strategy Local Plan

- 3.4 The relevant Core Strategy Policies are:
- SP1 – Presumption in Favour of Sustainable Development
 - SP2 – Spatial Development Strategy
 - SP4 – Management of Residential Development in Settlements
 - SP5 – The Scale and Distribution of Housing
 - SP9 – Affordable Housing
 - SP15 – Sustainable Development and Climate Change
 - SP18 – Protecting and Enhancing the Environment
 - SP19 – Design Quality

Selby District Local Plan

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

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

- 3.6 The relevant Selby District Local Plan Policies are:
- ENV1 – Control of Development
 - ENV2 – Environmental Pollution and Contaminated Land
 - T1 – Development in Relation to the Highway Network

- T2 – Access to Roads

4. APPRAISAL

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

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage
- Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing
- 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 11 of the NPPF.

4.4 The comments of the Parish Council and neighbouring properties are noted regarding the location of the application site outside the defined development limits of Eggborough. However, to clarify, the application site is located wholly within the defined development limits of Eggborough, which is a Designated Service Village as identified in the Core Strategy.

4.5 Policy SP2A(a) of the Core Strategy states that *"The majority of new development will be directed to the towns and more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints"*. Further, the policy states that *"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. Proposals for development on non-allocated sites must meet the requirements of Policy SP4"*.

4.6 Policy SP4(a) of the Core Strategy states that *"in order to ensure that development on non-allocated sites contributes to sustainable development and the continued evolution of viable communities, the following types of residential development will be acceptable in principle within Development Limits"*.

In Selby, Sherburn In Elmet, Tadcaster and Designated Service Villages -

"Conversions, replacement dwellings, redevelopment of previously developed land, and appropriate scale development on greenfield land (including garden land and conversion/redevelopment of farmsteads)."

- 4.7 An indicative proposed site layout plan (drawing no. 03A) has been submitted with the application which demonstrates how the site could accommodate six two storey semi-detached dwellings. The proposed dwellings would result in a replacement dwelling and appropriate scale development on greenfield land and as such the proposal is considered to fall within one of the types of development identified within Policy SP4(a) of the Core Strategy and therefore the proposal is considered to be acceptable in principle in accordance with Policies SP2 and SP4 of the Core Strategy.

Design and Impact on the Character and Appearance of the Area

- 4.8 The application site comprises an existing bungalow, known as 1 The Bungalow, along with its associated garden land, driveway and turning and parking areas.
- 4.9 To the east of the application site are residential properties; to the north and west of the application site are open fields, while to the south of the application site is Weeland Road, with residential properties 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 various coloured brick properties with pantile or slate roof tiles.
- 4.10 The application seeks outline planning permission for the erection of a residential development of up to six dwellings including access (with all other matters reserved). Notwithstanding this, an indicative proposed site layout plan (drawing no. 03A and indicative proposed floor plans and elevations (drawing no. 09) have been submitted with the application to demonstrate how the site could accommodate six dwellings. The indicative plans show the provision of a pair of two storey semi-detached dwellings to the front of the site, a pair of two storey semi-detached dwellings to the middle of the site and a pair of two storey semi-detached dwellings to the rear of the site.
- 4.11 Having had regard to the indicative plans, and the surrounding context, while it is not considered that the indicative proposed site layout plan could be supported given the lack of turning and parking areas to the front plots 1 and 2, which are shown to be accessed from Weeland Road directly, it is considered that an appropriate layout, 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 in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF.

Impact on Residential Amenity

- 4.12 An indicative layout plan has been submitted with the application which demonstrates how the site could accommodate up to six dwellings. 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.

- 4.13 The Environmental Health Officer has been consulted on the proposals and has raised concerns that the construction phase of the development could result in existing residential properties surrounding the development site being subject to disturbance from dust, noise and vibration. The Environmental Health Officer therefore recommends that a condition is attached to any planning permission granted requiring a Construction and Environmental Management Plan to be submitted and approved prior to site preparation and construction work commencing in the interests of the residential amenities of neighbouring properties.
- 4.14 Subject to the aforementioned condition, 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

- 4.15 An access plan (drawing no. Revision A) has been submitted which demonstrates three access points to the site. One main access point which would be formed by upgrading the existing access, and two further access points along the site frontage to Weeland Road to serve frontage properties. Furthermore, a footpath is proposed to the site frontage to link into the existing footpath to the east.
- 4.16 Since 'access' is submitted as part of this application it must be considered at this point and any conditions arising from it imposed at this outline stage.
- 4.17 North Yorkshire County Council Highways have been consulted on the proposals and have raised no objections subject to the proposed three access points subject to a series of conditions. It should be noted that the Highways Officer has raised concerns with the indicative proposed site layout plan, as this does not provide any turning areas to the front of plots 1 and 2 which are shown to be accessed from Weeland Road. This would be required in order to enable vehicles to leave the site in a forward gear in the interests of highway safety. However, the layout of the site is reserved for subsequent approval and it is considered that an appropriate layout, 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 highway safety. A condition could also be attached at this outline stage to ensure details of vehicular turning are submitted to and approved by the Local Planning Authority.
- 4.18 In terms of conditions to be attached to any outline permission, the Highways Officer has suggested a number of conditions, which could be condensed into fewer conditions and re-worded to ensure they meet the tests set out in paragraph 55 of the NPPF. Conditions are necessary controlling details of the proposed access, turning and parking, construction vehicle parking and material storage, in the interests of highway safety. A condition is necessary requiring the provision of a footway along the frontage of the site in the interests of highway and pedestrian safety and to encourage walking from the site.

- 4.19 Subject to the aforementioned conditions, it is considered proposal is 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

- 4.20 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 4.21 In terms of drainage, the submitted application form sets out that surface water would be disposed of via mains sewer and foul drainage would be disposed of via mains sewer. The Danvm Drainage Commissioners Shire Group of Internal Drainage Board's and Yorkshire Water has been consulted on the proposals.
- 4.22 The Internal Drainage Boards have not made any comments on the application. Yorkshire Water have not raised any objections on the proposal subject to a condition that there shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which are to be submitted to and approved by the Local Planning Authority.
- 4.23 Subject to the aforementioned condition, it is considered that the proposals are acceptable in terms of flood risk and drainage.

Nature Conservation and Protected Species

- 4.24 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.
- 4.25 The application has been supported by a Bat Survey (report reference: R-3605-02) undertaken by Brooks Ecological dated September 2018. The survey has confirmed the presence of a small non-breeding common pipistrelle roost with external access located between a gap in the verge of the bungalow roof on the northern elevation, with the roost presumed to be either inside the soffit box along the northern elevation or in between the roofing tiles and roofing felt. The survey concludes that licensing will need to be secured in order to derogate potential offences arising from the proposed development.
- 4.26 The County Ecologist has been consulted on the application and has advised that small non-breeding common pipistrelle roost's are of low conservation significance and their loss can be readily compensated for. There would be no significant effect on local bat populations, so mitigation could be dealt with under a Low Impact Class License as outlined in the report. The County Ecologist therefore advises that there are no objections to the application and no conditions are recommended to be attached. However, an informative regarding the above recommendation is considered reasonable and necessary.

Land Contamination

- 4.27 The application has been submitted by a Phase 1 Preliminary Contaminated Land Risk Assessment undertaken by ViaSolutions dated September 2018. This has been assessed by the Council's Contaminated Land Consultant who has advised

that there are no objections to the application subject to a condition relating to the reporting of any unexpected contamination. In addition, the Council's Contaminated Land Consultant recommends that an asbestos survey is completed on the current building prior to any demolition works given the age of the development. While it is not considered reasonable and necessary to attach a planning condition in respect of an asbestos survey since it is dealt with under other legislation, an informative could be attached to any planning permission granted being this to make the applicants aware of this issue.

- 4.28 Subject to the aforementioned condition relating to the reporting of unexpected contamination and an informative relating to an asbestos survey, 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

- 4.29 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.
- 4.30 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"*.
- 4.31 The application is outline; however an indicative proposed site layout plan (drawing no. 03A) demonstrates how the site could accommodate up to six dwellings. 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.

Waste and Recycling

- 4.32 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.

5. CONCLUSION

- 5.1 The application seeks outline planning permission for the erection of a residential development of up to six dwellings including access (with all other matters reserved). The principle of the proposed development and the details of access are considered to be acceptable, subject to appropriate conditions.
- 5.2 Having assessed the proposals against the relevant policies, it is considered that an appropriate layout, scale, appearance and landscaping could be achieved at the reserved matters stage for the proposals to be acceptable in respect of the impact on the character and appearance of the area and impact on residential amenity. Furthermore, the proposals are considered to be acceptable in respect of flood risk and drainage, nature conservation and protected species, land contamination, affordable housing and waste and recycling.

6. RECOMMENDATION

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

01. Applications for the approval of the reserved matters referred to in Condition 2 herein shall be made within a period of three years from the grant of this outline permission and the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason:

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

02. Approval of the details of the (a) appearance, (b) landscaping, (c) layout and (d) scale (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason:

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

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

LOC01A – Site Location Plan
LAY02 A – Existing Site Layout
Revision A – Access Plan

Reason:

For the avoidance of doubt.

04. 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.

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

- a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical;
- b) evidence of existing positive drainage to public sewer and the current points of connection; and
- c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change

Reason:

To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage.

06. No development shall take place until details of the standards to which the access serving the development is to be constructed, including lining and signing, traffic calming measures, sections, visibility splays, surfacing, kerbing, edging and drainage has been submitted to and approved in writing by the Local Planning Authority. No dwelling(s) shall be occupied until the access has been constructed in accordance with the approved details.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

07. The development shall not be brought into use until a 2m wide footway along the site frontage has been provided in accordance with the details shown on drawing no. Revision A.

Reason:

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

08. There shall be no establishment of a site compound, site clearance, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the local planning authority for the provision of:

- (i) on-site parking capable of accommodating all staff and subcontractors vehicles clear of the public highway;

- (ii) on-site materials storage area capable of accommodating all materials required for the operation of the site.

The approved areas shall be kept available for their intended use at all times that construction works are in operation.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.

- 09. Prior to the occupation of the dwelling(s) hereby permitted, the vehicular parking and turning arrangements shall have been constructed and made available for use in accordance with details that have previously been submitted to and approved by the Local Planning Authority. Once constructed they shall be retained as such for their intended purpose for the lifetime of the development.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.

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

Reason:

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

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

Reason:

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

INFORMATIVE:

As a small bat roost has been identified in the roofline of the bungalow, mitigation and compensation measures will need to be undertaken under a Low Impact Class License. The applicant will need to liaise closely with their ecologists and have

regard to the advice contained in the bat survey report (Brooks Ecological, September 2018).

7. Legal Issues

7.1 Planning Acts

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

7.2 Human Rights Act 1998

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

7.3 Equality Act 2010

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

8. Financial Issues

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

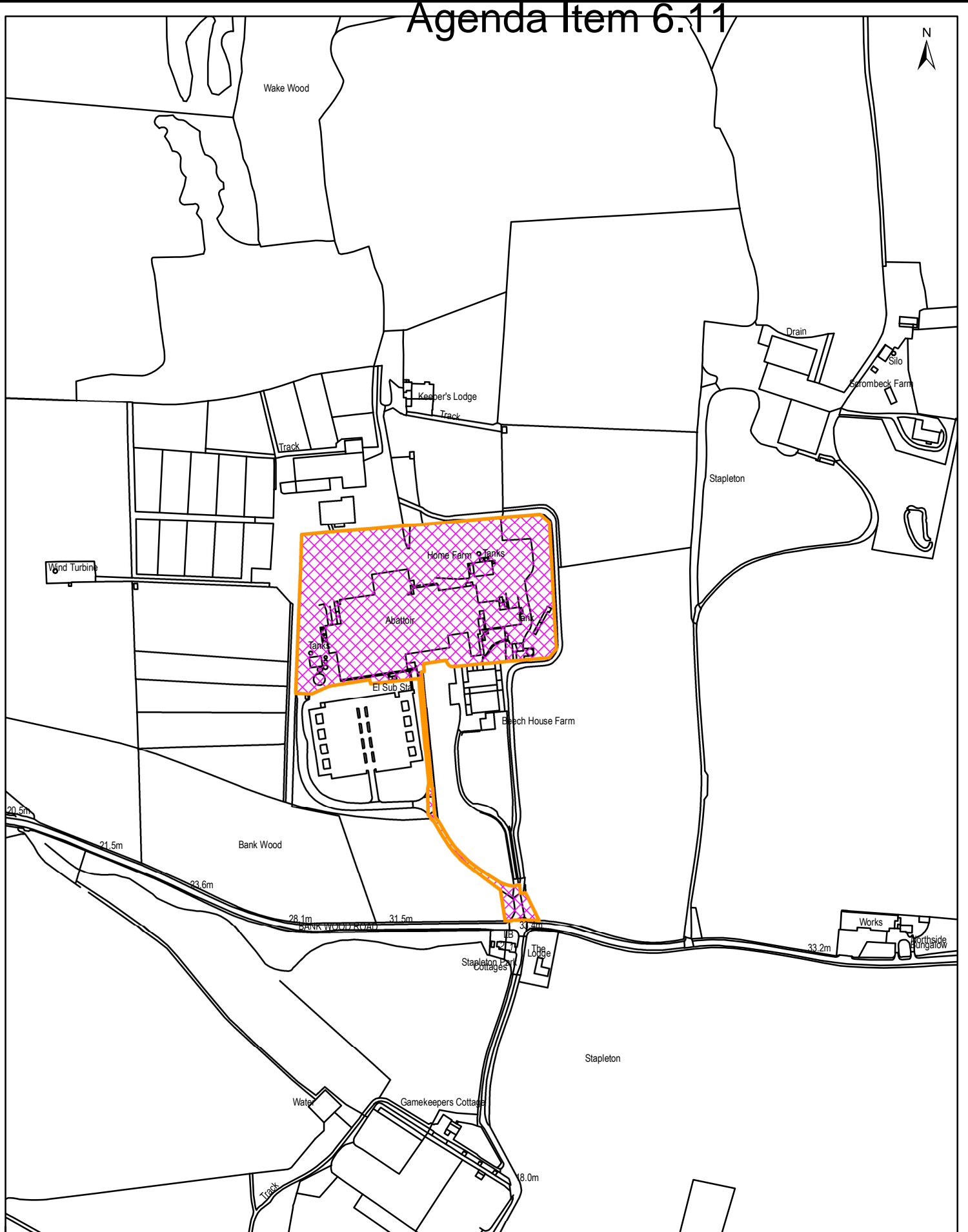
9. Background Documents

Planning Application file reference 2018/1043/OUT and associated documents.

Contact Officer: Jenny Tyreman, Senior Planning Officer

Appendices: None

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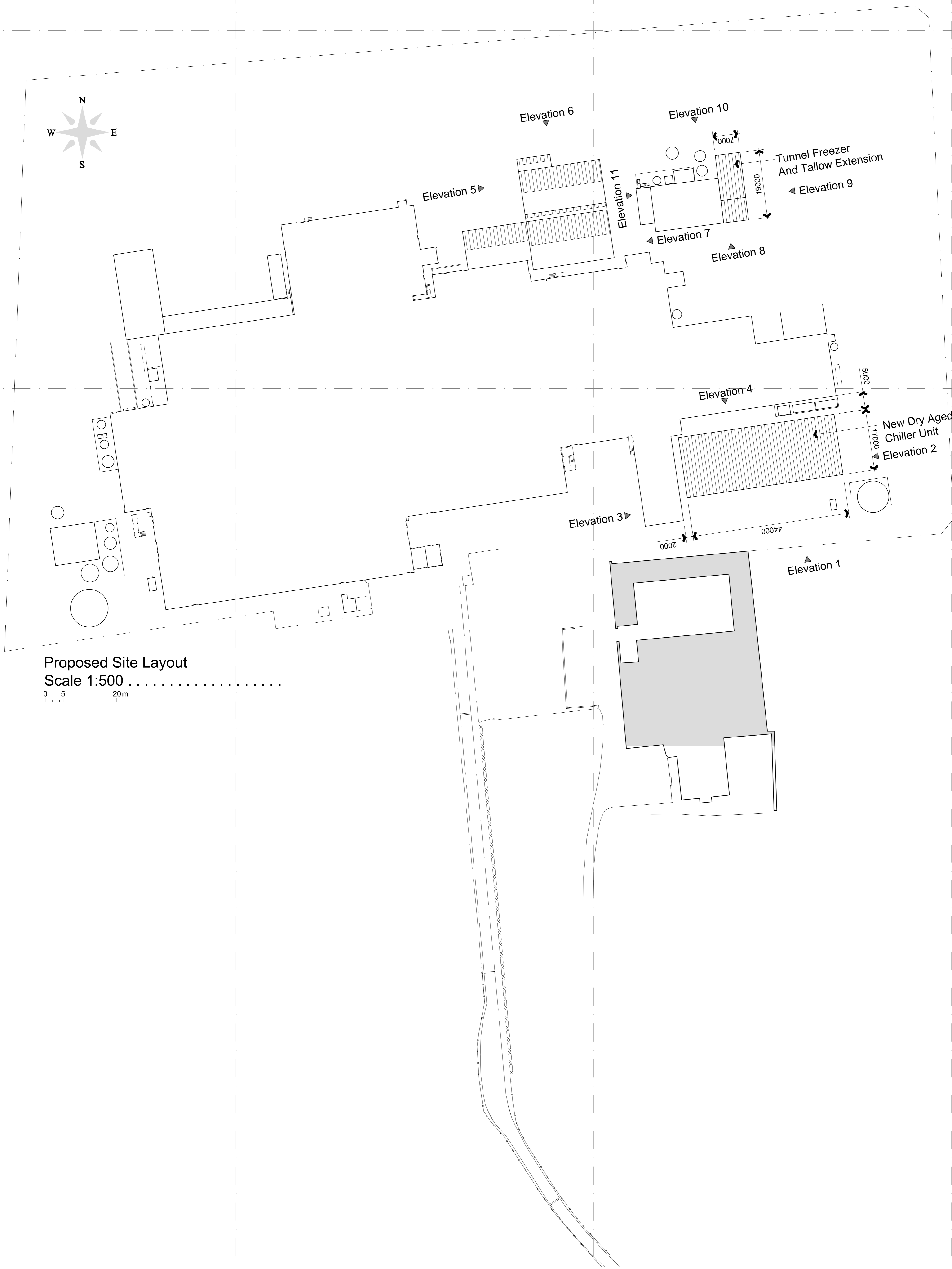
APPLICATION SITE

Dovecote Park, Bankwood Road, Stapleton
2018/0450/FULM

1:5,000



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Proposed Site Layout
Scale 1:500

Rev B. Planners comments added	DP	Apr 2018	
Rev A. Tunnel Freezer added	DP	Apr 2018	
DP Architectural Services LTD	Client	Project	Drawings
20 Merfield Ashey Village Chorley Lancashire PR7 1UR m. 07877 595100 t. 01257 671635 e. dparch69@gmail.com	Dovecote Park Ltd Dovecote Park Bank Wood Road Stapleton Pontefract WF8 3DD	Dry Aged Chiller	Proposed site Layout
	Paper size A1	Job no 2018-07	Drawing no P02
	Date Mar 2018	Scale 1:500	Revision B

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Report Reference Number: 2018/0450/FULM

To: Planning Committee
Date: 16 January 2019
Author: Simon Eades (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0450/FULM	PARISH:	Stapleton Parish Council
APPLICANT:	Dovecote Park Ltd	VALID DATE:	20 April 2018
		EXPIRY DATE:	20 July 2018
PROPOSAL:	Proposed erection of a new dry aged chiller and extension to the fat processing room and retrospective extensions to the venison lairage facility		
LOCATION:	Dovecote Park Bankwood Road Stapleton Pontefract West Yorkshire WF8 3DD		
RECOMMENDATION:	MINDED TO APPROVE – Refer to the Secretary of State		

This application has been brought before Planning Committee because it constitutes inappropriate development within the Green Belt.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The topography of the land running from Bankwood Road (the entrance of the complex) to the northern edge of the site at the adjacent property of Home Farm has an undulating character. From the entrance at Bankwood Road the land rises and then dips where the main complex of buildings are located. From the main complex of buildings the land significantly rises again. The topography of the land running from west to east has an undulating character where the main complex building is located in the hidden dip of the land.

- 1.2 From the south of the site at the entrance the boundary treatment is high natural stone walling with a plantation of large mature deciduous trees which screens the highest part of the existing buildings. Surrounding the main complex of buildings there are high mature evergreen trees.

The proposal

- 1.3 The application seeks planning permission for

A: The proposed erection of a new dry aged chiller 44m L x 17m W in place of the previously consented chiller of 22.7m x 10.2m. The height of this proposal would be 10.5m and it would be constructed from timer and fair faced blockwork with a curved profile metal sheet roof.

B: Extension to the fat processing room 17m L x 9m W by 3.25m H constructed from timber cladding and a profiled metal clad roof, and

C: Retrospective extensions and permissions for venison processing, lairage and boning hall. Overall the approved floor area was 641 sq m combined compared to the as built construction which is being sought to be regularised of 665 sq m.

Planning History

- 1.5 There have been a large number of applications relating to this site, and the current applicants have been operating here since 1997. The most relevant recent permission is from 2017.

- 2017/0283/FUL Extensions to the established commercial premises at Dovecote Park to provide a new tray storage facility, venison lairage facility, dry aged chiller and a replacement site office

- 1.6 The total gross new floorspace on this approval was 815 sq m so it did not need to be referred and the authority concluded that very special circumstances existed to warrant the granting of this consent in May 2017.

2.0 CONSULTATION AND PUBLICITY

- 2.1 The application was advertised by site and press notice as a departure to the Local Plan and neighbours notified by letter. No neighbour representations have been received as a result.

- 2.2 **Yorkshire Water Services Ltd** - No response received.

- 2.3 **Environmental Health** - No response received.

- 2.4 **Public Rights Of Way Officer** - No response received.

- 2.5 **Parish Council** - No response received.

- 2.6 **Danvm Drainage Commissioners Shire Group Of IDBs** - No response received.

- 2.7 **NYCC Highways** – Replied with no objections.

- 2.8 **Heritage Services Officer** – Replied with no objections.

- 2.9 **SuDS And Development Control Officer** - The increase of impermeable area appears to be very small, the key question from a flood risk and drainage perspective is whether the drainage layout has changed from the original proposal. There do not appear to be any drainage plans or statements with this application; it would be appreciated if the applicant could confirm how the drainage that has been built differs from what was previously approved.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site is located outside the defined development limits, within the Green Belt and the Locally Important Landscape Area, and within Flood Zone 1 on the Environment Agency's Flood Risk Maps.

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

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

Selby District Core Strategy Local Plan

- 3.4 The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development
SP2 - Spatial Development Strategy
SP3 - Green Belt
SP13 - Scale and Distribution of Economic Growth
SP18 - Protecting and Enhancing the Environment
SP19 - Design Quality

Selby District Local Plan

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

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

The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
ENV15 - Locally Important Landscape Areas
EMP9 - Expansion of Existing Employment Uses
T1 - Development in Relation to Highway

4.0 APPRAISAL

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

- The background and the proposed development
- Principle of Development
- Policies in the NPPF which require development should be restricted
 - i) Green Belt
- The Impacts of the Proposal:
 - a) Impact on the Character and Form of the area
 - b) Residential Amenity
 - c) Highways
 - d) Flood Risk
 - e) Nature Conservation and Protected Species
 - f) Contamination
- Case for Very Special Circumstances

The background and the proposed development

4.2 In 2017, the applicant secured planning permission (2017/0283/FUL) on the site for:

- Extension to provide new tray storage facility;
- Extension to provide a new venison lairage facility
- Extension to dry aged chiller; and
- Extension to deliver a replacement site office.

4.3 However, the works as built deviated from the approval and the as built floorspace exceeds the consent by some 25 sq m. This application seeks permission to regularise retrospective works to the complex and for new works set out below.

New works

4.4 The new works include changing the size, siting and position of the dry aged chiller in the 2017 application and tunnel freezer and tallow extension to the existing fat processing room. The site has an extant consent for a smaller dry aged chiller with dimensions of 22.7m by 10.2m. The proposed new dry aged chiller is to be orientated in a 90o direction and has dimensions of 44.0m in length and 17.0m in width and will be 10.5m in height. The submitted planning statement states that the changes are required because:

“The new dry aged chiller is required on site due to the business being in a growth phase for dry aged products to their main customer, Waitrose and the need for additional space for product maturation. The applicant currently uses two areas at the moment for ageing beef but one near the offices is too far away from the production lines and so is therefore considered to be inefficient. Therefore, the applicant wishes to consolidate the maturation processes to one area to improve on product quality and consistency and also take into account the additional sales. The

expansion to this area of business also means that Dovecote Park require the dry aged chiller to be slightly larger than those approved on site.”

- 4.5 The submitted planning statements states that tunnel freezer and tallow extensions to the existing fat processing room are required because:

“to provide additional storage room for raw material fat under cover prior to it being processed. The extension will also contain a freezer tunnel to cool a by-product called greaves which is the unmeltable residue left after animal fat has been rendered. This is currently disposed of as a category 3 material but it is proposed that this product will be frozen and sold for pet food”.

Retrospective Works

- 4.6 The retrospective works include an infill extension in between the two approved venison lairage facility buildings. It also includes increasing the size of the north off shot venison facility buildings. There is also a retrospective extension to the west of the venison lairage facility building.

- 4.7 The submitted planning statement states that changes to the approved Venison Processing Area and Lairage were because:

“As the abattoir was being constructed it became apparent that the building footprint needed to be increased slightly to fit the automatic kills line into the building, furthermore it was realised during the build that some enlargements were required to the building in order to meet all the Food Standards Agency for separation of animals on the line.

The lairage has been increased in size to allow the welfare of the animals within the pens to be maximised. Due to the temperament of the deer, care was required to ensure that the pens and offloading ramps were laid out correctly. Subsequently the off-loading ramp needed to be increased by 0.5m which impacted on the footprint of the lairage and it has been constructed to ensure the welfare standards of the animals are met.

The gap between the existing buildings and the venison abattoir was increased to 0.9m in order to improve staff access to both facilities and allow for an improved foot wash scheme to meet hygiene rules, the size of which was not anticipated originally. Overall, the floor area of the lairage and venison processing room was 641 sqm combined whereas the combined floor area as built is 666 sqm.”

- 4.8 The submitted planning statement states the need for the addition to the venison boning building is because:

“Initially a venison boning hall was constructed adjacent to the abattoir but it was realised that this facility would not meet the Food Standards Agency requirements for the throughput of the de-boning of venison quarters once chilled. The original small boning hall led to inefficient meat processing occurring on site as it was not large enough to cope with the amount of meat it was supposed to be processing which in turn meant that it would not meet the strict hygiene and operational rules of the Food Safety Agency. In order to allow the processing of the meat to be carried out by the correct method, an extension was built adjacent, to the west, of the abattoir in order to allow for the effective de-boning to meet the standards required.”

Policies in the NPPF which require development should be restricted.

Green Belt

- 4.9 The decision making process when considering proposals for development in the Green Belt is in three stages, and is as follows:
- a. It must be determined whether the development is appropriate development in the Green Belt. The NPPF and Local Plan set out the categories of appropriate development.
 - b. If the development is appropriate, the application should be determined on its own merits unless there is demonstrable harm to interests of acknowledged importance, other than the preservation of the Green Belt itself.
 - c. If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which outweigh the presumption against it.
- 4.10 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 4.11 Paragraphs 145 and 146 of the NPPF set out inappropriate development in the Green Belt in that 'the construction of new buildings is inappropriate', however exceptions to this include 'the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building'.
- 4.12 The term 'disproportionate' is not defined. On the basis of planning appeal decisions and case law it is normally considered that extensions exceeding 50% of the volume of the original building, taken either singularly or cumulatively with other extensions, constitute a disproportionate addition. Notwithstanding this the 50% volume addition of the original building 'criterion' should only be used as a guide and not a definitive rule and even additions of 40% could appear to be disproportionate dependent upon the size, scale and design of the extension and host property.
- 4.13 It is also important that regard is given to cumulative impacts of successive extensions to avoid incremental additions resulting in disproportionate additions over time. In such cases a particular extension in itself may appear small, but when considered together with other extensions may be considered to constitute a disproportionate addition.
- 4.14 A number of extensions to the Dovecote Park Complex have been approved and a particularly large extension had been approved under application reference 2010/1301/FUL. Taking these extensions cumulatively they would result in disproportionate additions over and above that of the original building.
- 4.15 The proposed development would therefore be inappropriate development in the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, 'is clearly outweighed by other considerations' (NPPF para 144).

Assessment of Harm from the Proposed Development

- 4.16 In order to assess whether the proposal would result in any other harm than the definitional harm by means of inappropriateness it is important to undertake the 'normal tests' applied to any planning submission.

Impacts of the proposal

Impact on the Character and Form of the area

- 4.17 The proposals would extend the footprint and mass of the complex and the extensions would be viewed against the back drop of the main complex of buildings which are greater in height or of the same height.
- 4.18 The new dry aged chiller is located in between the south of the main complex building and the office buildings on the site. The new dry aged chiller is seen against the back drop of the host buildings and would relate to the host buildings in terms of scale, bulk and mass. The dry aged chiller does not protrude any further east than the existing built form of the complex.
- 4.19 The retrospective extensions to the venison lairage facility are located to the north of the complex and are located in between the existing buildings and are seen against the back drop of the existing complex buildings. This extension is smaller in size than the existing complex buildings and would relate to the host buildings in terms of scale, bulk and mass.
- 4.20 The tunnel freezer and tallow extension to the fat processing room are to the east of this building which is in the north east part of the complex. This extension is considered to relate to the host buildings in terms of scale, bulk and mass.
- 4.21 The extensions to the host building would be positioned where the functional and operational demand for these new additions will be met. The position of the proposed and retrospective extensions would not appear isolated additions and would relate to the current large mass of buildings on the site. The context of the extensions in this proposed scheme is considered not to adversely affect the openness of the Green Belt and therefore, in this respect, it accords with Policy SP3 of the Selby District Local Plan and the NPPF.
- 4.22 Policy ENV15 relates to design and impacts on the Locally Important Landscape Area (LILA). The buildings on the site are confined within the boundary parameters of the business and there would be no encroachment into land outside this parameter. The impact on the LILA would therefore be minimal.

Residential Amenity

- 4.23 Due to the combination of the orientation of the site, the height, the projection and siting of the proposed scheme and distance away from the neighbouring properties, the proposal is considered not to cause significant adverse effects of overlooking, overshadowing and or oppression.
- 4.24 It is therefore considered that the amenity of the adjacent residents would be preserved in accordance with Policy ENV1 of the Selby District Local Plan in this respect.

Highways

- 4.25 The Highway Authority raises no objections to the application and it is therefore considered that the proposal would not create conditions prejudicial to highway safety therefore the proposed scheme is considered acceptable and accords with policies ENV1 and T1 of the Local Plan, and the advice contained with the NPPF.

Flood Risk

- 4.26 The application site is located in Flood Zone 1 (low probability of flooding). As such a sequential flood test is not required. There are existing drainage systems within the site and further detail is not required at this stage. The proposed scheme therefore accords with Policies SP15 and SP19 of the Core Strategy.

Contamination

- 4.27 The site is operational and is undertaken within large industrial buildings and converted offices. The new extensions would be located on hard standing land that is considered previously developed land. There is a constraint for the site as potentially contaminated land – slaughter house, abattoir. There are no expected contaminants from other forms of land contamination. Therefore given the current use of the site and the known slaughter use operating on the site, it is considered that it is not necessary to seek land contamination information at this stage.
- 4.28 The proposal is therefore considered to be acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

5.0 Case for Very Special Circumstances

- 5.1 In relation to Very Special Circumstances (vsc's) it is necessary for the decision maker to conduct a balancing exercise by weighing the harm by reason of inappropriateness and any other harm against other circumstances in order to form a view whether those other circumstances amount to very special circumstances. An authority on this is from the Court of Appeal in *Wychavon District Council v Secretary of State (2008)*. A normal or common planning consideration is capable of giving rise to very special circumstances and the correct approach, it was found, is to make a qualitative judgment as to the weight to be attached to the factor under consideration. The NPPF limits itself to indicating that the balance of such factors must be such as 'clearly' to outweigh the harm by reason of inappropriate and any other harm.
- 5.2 The application has submitted a case for very special circumstances and they consider that there are several significant considerations which comprise the case required to overcome the harm to the Green Belt caused by the proposal. These are as follows:
- the Scope for Disaggregation;
 - the need for the facility in both commercial and economic terms; operational considerations; and
 - employment Impact.

5.3 Each VSC will be discussed in turn.

The Scope for Disaggregation,

5.4 The agent has stated:

5.5 *'company has two sites one based with the district at Dovecote Park and other at Skellington site which outside Selby District. The Skellington site of the company only has the facilities for the killing element of the abattoir whereas as the Dovecote Park has both the killing elements and the processing and packaging elements for the abattoir which can be seen from the comprehensive development and planning history of the Dovecote Park complex'.*

5.6 For the Venison Lairage element of the proposal the supporting information states:

5.7 *'The Dovecote Park site was chosen rather than the Skellington site as it did not have a large area to accommodate the venison abattoir. It is the largest venison abattoir in the country by far. The facility will incorporate new techniques that have not previously been implemented in the UK for slaughter lines e.g. automatic line, specialised lairage and individual stun box. The facility was designed following trips to New Zealand to allow the management to see the facilities which are designed for large scale operations for deer and as such are organised and developed for larger scale throughput.*

5.8 *When it was first determined that a new venison abattoir was required for Waitrose, a survey of all the other venison abattoirs in the United Kingdom was carried out, none were found to be suitable for the needs of Dovecote Park in terms of size and standards.*

5.9 *For both efficiency and practicality it was decided to build the venison abattoir on the Stapleton site adjacent to the current beef abattoir so that the current staff could carry out both operations. This could be achieved by building semi-automated venison abattoir production line that would be used first in the mornings and then move onto cattle once the venison production was completed'.*

5.10 In the terms of the vsc's submitted in relation to the Venison Lairage it is acknowledged that the Lairage already has planning permission in the 2017 application and is already operational. This application seeks permission to expand the facility due to the Food Standards Agency (FSA) requirements.

5.11 Due to the combination of the existing Lairage facility, technological techniques and requirements for the Lairage, the production line process, availability of local skilled labour force, the lack of land availability at the Skellington site and that the facility is unique in the UK, officers consider that it is unreasonable and inappropriate to assume possible disaggregation of the site processes. It is considered that the case for the expansion and improvement of this facility at the Dovecote Park site has been established given the above requirements and to continue to meet the Waitrose contract. Officers consider that these are vsc's and should be given significant weight.

Dry aged Chiller

5.12 On the Dry aged chiller the agent states "that the site already has an extant planning permission for this facility on the Dovecote Park site".

5.13 The agent has stated that:

5.14 *'...this application is required for an increased size Dry aged chiller facility because the market demands for Dry aged products are growing year on year with the Increase in weight of dry aged beef over time being shown below:*

- 2014-5 17% over previous year
- 2015 -6 71%
- 2016-7 8%
- 2017-8 10%.

5.15 *Dovecote Park slaughters beef cattle and they need to balance out the sales of all the carcass as on occasions Waitrose do not require the whole carcass. They endeavour to sell most of the product to Waitrose (approx. 90%) but there is always an imbalance which is sold to other customers mostly in food service. The company has always operated in this manner. The alternative would be to waste that meat.*

5.16 *Dovecote Park has always sold cuts of beef that could be dry aged in vacuum pack form, however, but the trend in the last few years is for sales of dry aged beef to increase with the company having recently secured more business in longer term agreements in food service (restaurants and catering outlets) for dry aged products. Whilst the company will be selling the same percentage of their products into food service, it is now predominantly dry aged beef rather than in vacuum packed form. Despite the contracts with the food service being won the majority of the dry aged produce is destined for Waitrose and sales have grown significantly over the last few years hence the requirement for a larger dry aged facility than previously planned. Again the facility is required at this site as it will utilise the existing workforce on site and site infrastructure.'*

5.17 In terms of the case for vsc's being established in relation to the Dry aged chiller, it is acknowledged that the chiller already has extant planning permission. Officers consider that the expansion of the Dry aged chiller on site is justified due to the combination of the case for the investment in the technological techniques and requirements in the Dovecote Park complex together with the particular requirements of the production line process and the presence of a skilled labour force; the lack of land availability at the Skellington site and that the Dovecote Park complex is the second biggest largest independent British processor of its kind based in the UK. As indicated above in order to meet charging market demand for dry aged products it is considered unreasonable and inappropriate to consider disaggregation of the site. Offices consider that the case for the expansion and improvement of the Dovecote Park site have been established given the above requirements and to the need to continue to meet the Waitrose contract. It is considered that these factors are vsc's and should be given significant weight.

The need for the facility in both commercial and economic terms and operation consideration;

5.18 For the Venison Lairage the agent has stated:

5.19 *'The size of the abattoir needed to be amended due to the operational requirements of an automatic kill line into the building; additionally enlargements to the building were required in order to meet the Food Standards Agency with reference to the separation of animals on the line.*

- 5.20 *The layout of the lairage needed to be increased in size in order to look after the welfare of the animals on site. To ensure this happened the greatest of care was taken in designing the layout of the pens and off-loading ramps to ensure it met animal welfare standards. In doing so it was identified that the off-loading ramp needed to be widened by 0.5m therefore a larger footprint was required.*
- 5.21 *The venison boning hall was required to enable the processing of the venison to occur by the correct method by allowing the effective de-boning of the venison to meet strict hygiene and operational rules of the Food Safety Agency’.*
- 5.22 In addition to the above the agent has provided evidence that there has been ongoing meetings and correspondence between the applicant and the FSA to ensure that the Venison Lairage meets the appropriate standards as the scheme as it stands has conditional FSA approval.
- 5.23 The agent has demonstrated that due to market changes and meeting Waitrose needs through their contract with Dovecote Park, the production of dry aged products has increase every year. The agent states:
- 5.24 *‘the new dry aged chiller is required on site due to the business being in a growth phase for dry aged products to their main customer, Waitrose and need the additional space for product maturation. The extension to the fat processing room is again required due to the business being in a growth phase and to allow by products, in the form of ‘greaves’, to be sold.’*
- 5.25 It is considered that the operational need is a vsc which will assist with meeting the economic market demands and operational needs, not least because it will allow the business to continue to meet the Waitrose contract.

Employment considerations

- 5.26 The agent has stated that:
- 5.27 *‘There are currently 722 existing jobs at the Dovecote Park complex. The proposal will create a total of 40 jobs. The proposed scheme creates 12 jobs in the venison facility and 28 jobs by the dry aged chiller. 12 additional jobs will be created by the venison boning facility compared to the previously approved scheme as the facility is larger than approved which will allow more deer to be processed at any one time.’*
- 5.28 It is apparent that the consequence of a refusal would be that Dovecote Park would be unlikely to secure future contracts and would be unable to fulfil its current contractual obligations of their client, Waitrose. It is therefore reasonable to assume, as , the applicants suggest, that the consequence of not being able to meet the ongoing needs of Waitrose is potentially far greater than merely foregoing additional jobs associated with the retrospective and the new built element of the application, but rather the loss of some or all of the existing jobs. In the planning balance, especially in the current economic climate, the impact of such job loses is of significant weight.

Conclusion on very special circumstances

- 5.29 In order to constitute very special circumstances the weight attributed to these factors should clearly outweigh the harm by reason of inappropriateness and any other harm.
- 5.30 In terms of harm to the Green Belt, and any other harm resulting from the proposal, the NPPF makes it clear that substantial weight should be given to harm by reason of inappropriateness alone. Furthermore significant weight should also be given to the actual harm to the openness and visual amenities of the Green Belt resulting from the location, design and encroachment resulting from the proposal.
- 5.31 In respect to the benefits of the proposal, it is considered that substantial weight should be attached to the applicant's case that there is no real scope for disaggregation, that the expansion of the facility would contribute towards economic market demands and operational requirements and that it would have a positive impact on employment.
- 5.32 Notwithstanding the harm arising from the inappropriateness of the proposal there are very limited effects upon openness and visual amenities or upon the purposes of including land within the Green Belt. It is considered that the applicant has coherently and cogently demonstrated that there are overwhelming benefits arising from the proposal. It is considered that a case for very special circumstances considered cumulatively together has been made. It is therefore concluded that the case put forward for very special circumstances by the applicant outweighs any harm by virtue of inappropriateness and any other harm in terms of openness or the visual amenities of the Green Belt.

6. CONCLUSION

- 6.1 The proposed development constitutes inappropriate development within the Green Belt. However, having had regard to the development plan, all other relevant local and national policy considerations, consultation responses and all other material planning considerations, it is considered that the case for very special circumstances put forward by the applicant has been made.
- 6.2 These very special circumstances outweigh the harm by reason inappropriateness and any harm to the openness and visual amenities of the Green Belt. The proposal is acceptable in all other regards, according with Policies EMP9, ENV1, ENV15 and T1 of Selby District Local Plan and Policies SP1, SP2, SP3, SP13, SP15, SP18 and SP19 of Selby Core Strategy and the NPPF.

7. RECOMMENDATION

- A: That Committee is minded to approve this application;**
- B: Authority be given to refer this application to the Secretary of State under the 2009 Consultation Direction with the indication that the authority is minded to approve it subject to the conditions below;**
- C: i) In the event that the application is not called-in the Planning Development Manager has delegated authority to approve this application in accordance with the conditions set out below and subject to any necessary changes to them subsequent to the Minister's decision, or**

d. In the event that the application is called-in a further report will come to Committee to outline the authority's case in support and the other and financial implications.

Recommended Conditions:

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

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

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

Existing site Layout P01 Revision C
Proposed site Layout P01 Revision B
Proposed Ground Floor Layout P04 Revision C
Proposed and Existing Elevations P05 Revision D
Site Location Plan 1 Rev –
2017 Consented Layout 02 Revision C
Footprint Extent Comparison Plan 3 Rev 02

Reason: For the Avoidance of Doubt

03. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those stated in the application form received by the Council on 17th April 2018 and on drawing Proposed and Existing Elevations P05 Revision D.

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

8. Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9. Financial Issues

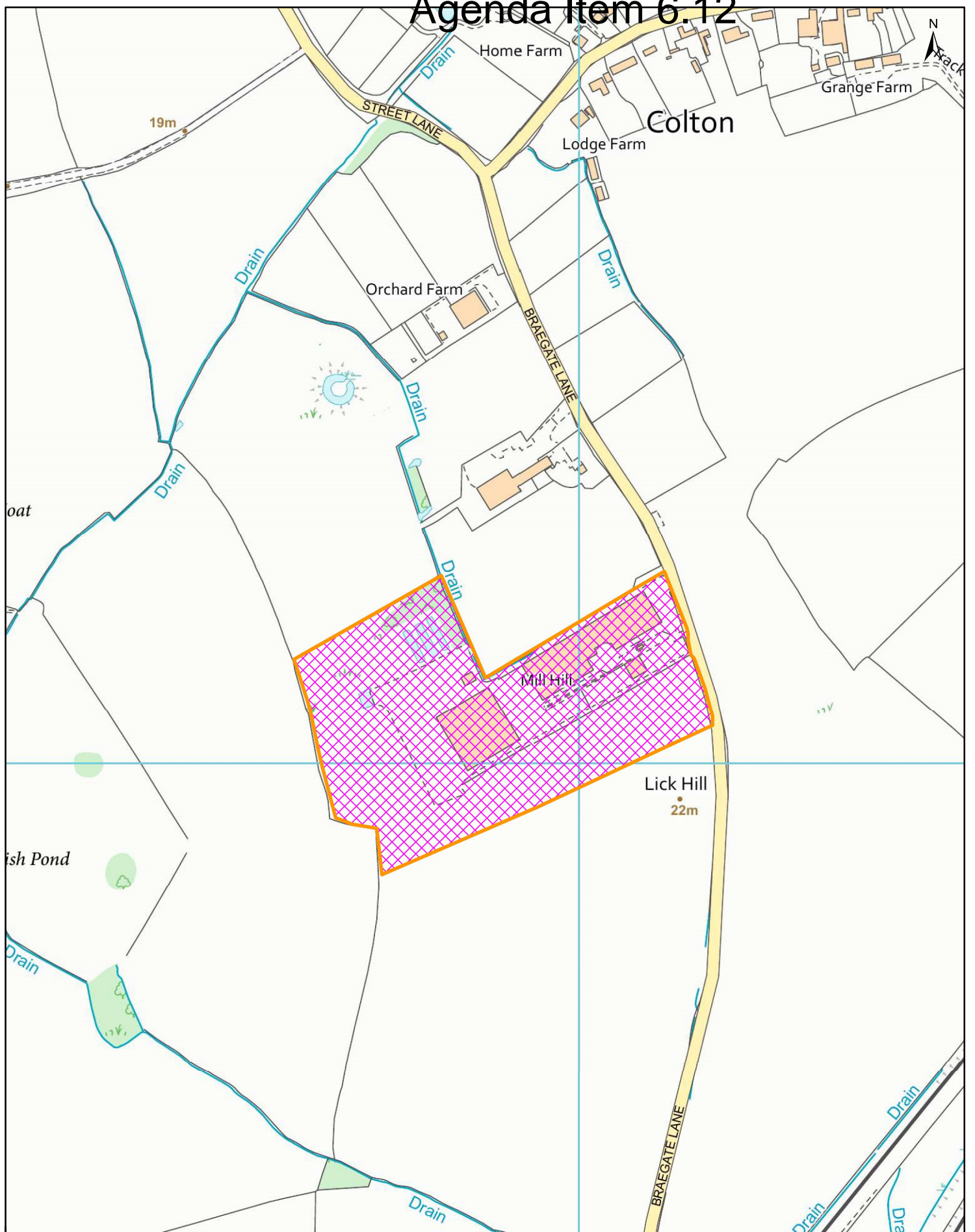
Financial issues are not material to the determination of this application.

10. **Background Documents**

Planning Application file reference 2018/0450/FULM and associated documents.

Contact Officer: Simon Eades, Senior Planning Officer

Appendices: None



APPLICATION SITE

Ibbotsons, Mill Hill, Braegate Lane, Colton
2018/0562/FULM

1:5,000



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Report Reference Number: 2018/0562/FULM

To: Planning Committee
Date: 16 January 2019
Author: Mandy Cooper (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0562/FULM	PARISH:	Colton
APPLICANT:	Ibbotsons	VALID DATE: EXPIRY DATE:	06 June 2018 05 September 2018
PROPOSAL:	Retrospective change of use of agricultural buildings to B8 (Storage & Distribution); erection of enlarged commercial building (B8) following demolition of existing general purpose agricultural building & improvements to existing site access (New Red Line)		
LOCATION:	Ibbotsons Mill Hill Braegate Lane Colton Tadcaster LS24 8EW		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee having been called in by Councillor Musgrave who states “...that the core business of the site which has expanded exponentially over the last couple of decades, seems now to be food processing and storage as opposed to agricultural and therefore it should be assessed as such.” The proposals are also contrary to Policy SP13 of the Core Strategy.

1. INTRODUCTION AND BACKGROUND

1.1 Site and Context

1.2 The application site is located outside development limits to the south of Colton and west of Braegate Lane. For the purposes of planning the site lies in open countryside and adjacent to but not within the designated Green Belt. The A64 and Bilbrough Top

junction are to the north of the application site. The existing site comprises a potato storage, packing and distribution facility run by Ibbotson's Potatoes. The larger site comprises various buildings, the activities of which are associated with local farmers who grow potatoes on behalf of Ibbotson's who then store and pack potatoes for subsequent distribution.

- 1.3 Originally the application proposed the demolition of an existing general purpose agricultural building and its replacement with a modern and slightly larger building. The associated adjacent buildings were initially viewed as being in agricultural use as it was understood that all the potatoes being stored, bagged and distributed were produced by the owners of the site. Since the original submission however, it has now come to light that the potatoes are not produced on the farm but are transported to the site from other local farmers. Whilst the actual operations within the buildings have not altered, the Local Planning Authority have taken the view that because the potatoes are bought in, the use falls under class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (Storage & Distribution) and is in fact now a commercial use. The application has now been updated to reflect these changes, with an additional fee submitted. The proposal now relates to the use of the whole site encompassed within the amended red line plan.
- 1.4 Access is gained via two separate access, both of which are directly from Braegate Lane; one leading directly to the front loading area and the other being gated and leading to the offices with associated parking area. Improvements have recently been undertaken to the existing access, in conjunction with North Yorkshire County Council Highways Authority and for the purposes of transparency, has been included in the application description.
- 1.5 The site comprises a number of buildings, the majority being steel and timber frame; in addition to an office which is timber with brick cladding.
- 1.6 The boundary to the south west and north west adjoin land which was formerly associated with the site. The south east boundary adjoins open countryside which is in agricultural use; whilst the north east boundary abuts the public highway.
- 1.7 **Officer Note:** Due to the changes in the application description and new red line plan and in the interests of transparency, the proposal has been re-advertised via the press, site notice and appropriate neighbours (Overall expiry date is 11.12.2018). All statutory consultees have also been re-consulted. Additional comments have been received, which are referred to below.

2. The Proposal

- 2.1 The Proposal is for the Retrospective change of use of agricultural buildings to B8 (Storage & Distribution); erection of enlarged commercial building (B8) following demolition of existing general purpose agricultural building and improvements to existing site access.
- 2.2 The footprint of the proposed new building would be similar to that it would replace - other than the loading area, which is currently centrally located to the southeast elevation between the replacement building and two existing adjoining buildings (to be retained). This area would be covered as part of the redevelopment, in order to protect the produce from inclement weather.
- 2.3 The scale of the building would be as follows:

- Height to ridge: 9.35m
- Height to eaves:6.4m
- External width: 27.4m
- External length: 84.7m

and would comprise a portal steel structure over shallow pre-cast concrete plinth panels and a plastisol coated profiled steel roof.

3. Environmental Impact Assessment (EIA)

3.1 'Screening' is a procedure used to determine whether a proposed project is likely to have significant effects on the environment. If a proposed project is listed in the first column in Schedule 2 of the 2017 Regulations and exceeds the relevant thresholds or criteria set out in the second column the proposal needs to be screened by the local planning authority to determine whether significant effects on the environment are likely and hence whether an Environmental Impact Assessment is required.

The application was originally screened at submission on the basis of it being an application for agricultural development which fell within paragraph 7(b) of the first column (Food Industry – packing and canning of animal and vegetable products) and Officers concluded at this stage that an EIA was not required.

3.2 The application has now been changed from agricultural to commercial and although it is accepted that screening was not undertaken within 21 days of this change, it is considered that the scheme is not EIA development. The application still falls within paragraph 7(b) of the first column of Schedule 2. The proposed replacement building would exceed the threshold in the second column (1000 sqm) by 430.4sqm and as the proposal includes the full extent of the site it is far larger at around 6ha. It is therefore necessary to consider whether significant effects on the environment are likely and hence whether an Environmental Impact Assessment is required. [Whilst the use of the site is ongoing and has been for a number of years, officers have considered the impacts associated with the proposed development as a whole rather than additional impacts associated with the proposed new building only.

3.3 Much of the land is open, being used for circulation, storage and parking and therefore not occupied by buildings. The extent of buildings on site (including the new building, existing buildings; offices and staff facilities) would equate to 9507sqm. It is on this basis that the screening process has been undertaken, which considers the potential issues and impacts from the use of the site; in addition to categorising the development. This has concluded that the proposed development, because of its size, location (it is not in an area of environmental sensitivity)and the processes involved, would not, (subject to appropriate mitigation measures provided for in planning conditions), result in a development that is likely to have significant effects on the environment. In coming to this conclusion the relevant criteria in Schedule 3 of the 2017 Regulations have been taken into account.

3.4 The planning officer remains of the view that the conclusions of the Screening Opinion are correct and that the proposal does not need to be accompanied by an Environmental Statement.

4. Relevant Planning History

4.1. The following historical applications are considered to be relevant to the determination of this application.

- CO/1985/1121 – Proposed erection of extension to existing general purpose agricultural building - Refused 31.05.1985
- CO/1985/1122 – Erection of extension to existing general purpose agricultural building - Refused 21.06.1985
- CO/1986/1226 – Proposed alterations to raise the roof height of existing potato storage building – Approved 24.11.1986
- CO/1986/1228 – Erection of extension to existing potato storage building – Approved 12.01.1993
- 2008/1118/FUL – Erection of an office building at Ibbotsons Potatoes, Braegate Lane, Colton, Tadcaster, LS24 8EP – Approved 24.11.2008

5. CONSULTATION AND PUBLICITY

5.1 The initial application as referred to in Section 1 of the report was advertised by site notice; press and neighbour notification letters.

5.2 A number of **Objection** letters have been received from four addresses stating the following concerns and general comments:

- Loss of amenity due to existing and future extent of goods vehicles
- Existing and continued impact on highway safety due to poor junction between the old Colton Lane and the realigned Colton Lane – lack of sight lines and vehicles turning are crossing onto opposite side of road causing major traffic safety issue when egress taken from our property
- Stated vehicle movements is inaccurate in regards to actual usage
- Plans misleading in regards to ownership and use of the larger site – major food processing site and external storage area are not shown on the plans
- HGVs use the road from 4.00am until 9.00pm every day and when dark this presents additional safety issues, particularly for pedestrians
- Vibrations to our house when lorries are passing and we now have settlement cracks appearing
- Destruction of the verges and breaking up of road – cracks and ruts
- Disturbance from workers playing music – normally on night shifts or at weekends; in addition to noise from high pitched vehicle beepers
- Landscaping is inadequate for such a huge site and visibly intrusive when looking north and some trees have been taken down which I believe form part of the original planning permission
- General noise pollution emanating from the site including horns and beepers from forklifts, shunters, lorries, vans
- Noise from engineering works; power tools carried out in the yard areas

- Reference made to the amount of high pitched bleeps from single shunter/trailer movement to the frontage area of the site when reversing into the distribution building and has included a type written record of noise incidents
- Four key areas where the sound is emanating from:
 - Yard nearest Braegate Lane
 - Yard to rear of the Front Pack House
 - Yard to the rear of the engineering works building
 - Yard to rear of the rear Pack House
- Noise from the 30 number refrigeration unit extractor fans on the buildings are monotonous, tedious and fatiguing - which operate 24 hours 7 days a week on an intermittent basis
- In an attempt to reduce the noise I have planted over 20,000 trees in the field adjoining the site
- Application appears to be materially deficient as no reference is made to the change of use of other buildings; outside storage or trailer parking areas
- Penetrating light pollution onto Lingfield – mostly flood lights from buildings to the frontage and rear and the yard areas

5.3 General Comments

- No objection in principle
- Acoustic barriers would reduce noise impacts to Lingfield if incorporated to the frontage near Braegate Lane, in addition to the rear along the ditch side and from Pack House to the new engineering works building
- Sound insulation should be incorporated to the interior walls and roof
- No artificial lighting to the Lingfield side or toward Lingfield
- High risk of fire near the trees from smoking areas – fire prevention barriers at 6-7m high would help
- 10m high acoustic barrier to whole boundary to Lingfield
- Effects of amended application not considered against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017
- Application altered since submitted such as the change in fee – which appears to have not been revisited
- No case or evidence put forward suggesting that the former agricultural buildings were in any way redundant prior to the change of use
- Proposal re-advertised but no mention of re-consultation with statutory consultees

- Application must be tested against full range of planning policies relevant if proposal had been applied for before development had commenced
- Primary issues in determining the application are:
 - Whether sufficient information submitted in support of application
 - Whether application in compliance with development plan policy
 - Whether proposal represents a sustainable form of development; and
 - Whether it is possible to safely access the site
- Proposal should include sufficient information allowing the Council and public to assess full impact of proposal – otherwise an unsustainable and potentially unsound decision taken
- None of documents and drawings provide sufficient information to robustly determine the application
- Lacks a thorough assessment of the following:
 - Ecology – increase in noise, dust, lighting and activity resulting from the proposal and full impacts of the development
- Highways Impact needs re-assessing – my response to all relevant information submitted with original application in regards to the amount of vehicle movements to and from the site on any day
- No safe access to the site; public transport provision or pedestrian facilities which could reasonably serve employees or visitors to the site and anyone on foot has to use the grass verges or the highway so site cannot be reasonably considered to be a safe location to which to travel
- HGV scale likely to be larger and movements to and from site likely to have increased since change from agricultural to commercial
- Transport Assessment and a Formal Travel Plan should be incorporated due to change in employee travel behaviour and in order that the Council has sufficient information to reach a determination
- Does not accord with specific Development Plan Policy which advise that development should be appropriate in scale and type to its location, or harm the character of the surrounding area and, ensure a good standard of amenity
- Commercial uses are exclusively within the settlements of Colton and Bilborough Top – no other large scale commercial uses in this area
- No attempt to demonstrate that the proposal makes any contribution to the rural economy through local employment opportunities
- Prior use of site would have involved a smaller number and different profile of employee which would have allowed staff to benefit from the occupation of dwellings subject to agricultural occupancy conditions with no such benefits now

- No assessment by applicant of surrounding area and development's appropriateness in terms of scale, use or appearance and fails
- Application site adjoins the Green Belt and whilst outside it has the ability to harm the openness
- Clear that the proposal would have a harmful effect (due to its inappropriateness and the activities associated with the use particularly HGV movements and the effects of the operation such as flood lighting and noise
- Location is remote from Selby District's main centres of population and falls within open countryside
- As the site was formerly agricultural it cannot be assessed as being Previously Developed Land (PDL) in accordance with the glossary in the revised NPPF
- Employment uses are trip generators by both employees and commercial vehicles travelling to and from the site, therefore should be located in sustainable locations
- Proposal would create significant new journeys which could otherwise be directed to locations which benefit from rail and bus services or co-located with residential uses that enable employees to cycle or walk to work
- No information available in regards to the number and location of employees and therefore unable to assess the travel patterns of workers
- Scant information with regard to sources of materials, distances from application site or frequency and therefore site is an unsustainable location
- Applicant needs to provide evidence with regards to the material considerations which may count in the balance in favour of the development proposal as there is none provided so far
- Buildings appear to be enlarged from those shown on earlier revised drawings
- Do not documents represent an entirely new application and will they go to full consultation
- Are there any conditions in regards to the use of horns, beepers, alarms, music etc
- What are conditions relating to hours of use on site
- Reference to road kill of hedgehogs on Braegate Lane between Bilbrough Lodge and site
- HGVs pass through Appleton village
- Complaint now made to Environmental Health Department in relation to noise and lighting (but now removed)
- Large building at the west end of the site does not appear to have had an application for consent to construct nor a planning decision

5.4 A letter of support has also been received from a local resident which states the following:

- Ibbotsons's trucks using Colton Lane is beneficial for a number of reasons
- Drivers are highly considerate and courteous of other road users, driving in a safe and controlled manner unlike the majority of car drivers who travel at ridiculous speeds
- I drive an HGV horse box and find it difficult to pull out of my drive because of the cars but the truck drivers who frequent Ibbotsons will allow me the time and room to manoeuvre safely and keep Colton Lane a safer road by sticking to the speed limit and forcing car users to do the same

6. Consultation Responses

Bolton Percy Colton & Steeton Parish Council

The following are the comments from the councillors of the above Parish Council.

- 1. This site is apparently not an agricultural site now, all this side of the business is being transferred to a building on Acaster Airfield.*
- 2. This site is mainly used as a potato processing and packaging plant which entails large amounts of potatoes being transported in high volumes by huge articulated lorries to and from the site along Colton Lane, connecting to the A64.*
- 3. Colton Lane is a narrow country road, with sharp bends and is not suitable for use of these wagons, which have been using it over the past years, but with the proposed implementation of yet more of this type of traffic. Planners must look seriously into straightening out the road and widening it before any further planning applications are granted.*
- 4. It must be noted that pedestrians have to use this road, which has no footpath on either side, together with local traffic which is making the road very dangerous, and councillors feel an accident waiting to happen.*
- 5. This site is a large industrial development, which has been expanded over the years, in the middle of open countryside and planners must look into how much further expansion should be granted in this open area.*

The councillors hope you will take into consideration the above concerns.

Local Highway Authority – Conditions to be attached to any permission granted.

Lead Officer Environmental Health and Housing – “Concerns have been raised by neighbouring receptors regarding light spill arising from the proposed development.” Planning condition is therefore recommended to control levels of lighting. (12.10.2018).

Principal Archaeologist (North Yorkshire County Council) - “I have no objection to the proposal and have no further comments [to] make.”

Ainsty (2008) Internal Drainage Board - No objection subject to a condition to secure a satisfactory drainage strategy.

Natural England - “Natural England has no comments to make on this application.”

Lead Local Flood Authority - No objection subject to conditions.

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

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

Yorkshire Water Services - No response within statutory consultation period.

Principal Landscape Architect - No objection provided that a detailed landscape scheme is provided. The amended 'hedge planting specification' is now satisfactory in respect of the species proposed along with the planting details. **NYCC Ecology** - Site is of low ecological value and consists predominantly of hard standings and existing agricultural buildings. Submitted Ecology Report concludes the grain store proposed for demolition does not provide roosting opportunities for bats and found no evidence of other protected species within the application site. The amended planting specification for the proposed replacement hedgerows is suitable for the site and will provide appropriate ecological enhancement

7. Site Constraints

- 7.1 The application site is situated within open countryside and **adjacent** to the green belt.
- 7.2 The application site is located in an area of potentially contaminated land the contaminant being from factory works but the use is not specified.
- 7.3 The majority of the application site is located in flood zone 1 with a low probability of flooding.

8. National Guidance and Policy – National Planning Policy Framework (NPPF)

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

8.2 Selby District Core Strategy Local Plan

- 8.3 The relevant Core Strategy Policies are:

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Development Strategy
SP3	Green Belt
SP13	Scale and Distribution of Economic Growth
SP15	Sustainable Development and Climate Change
SP18	Protecting and Enhancing the Environment

8.4 Selby District Local Plan

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

This application has been considered against the 2018 NPPF.

Annex 1 of the NPPF provides as follows:-

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

8.6 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development

ENV2 - Environmental Protection and Contaminated land

ENV21 - Landscaping Requirements

EMP7 - Employment Development in the Countryside

EMP9 - Expansion of Existing Employment Uses in the Countryside

T1 - Access to Roads

9. APPRAISAL

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

- Principle of Development
- Visual Impact on the Green Belt and Locality
- Impact on Residential Amenity
- Highway Matters
- Drainage
- Biodiversity
- Other Matters

9.2 Principle of Development

9.3 Relevant policy is contained both in the Core Strategy (SDCS) and the Local Plan (SDLP) and policy SP1 (SDCS) states that *‘when considering development proposals the Council will take a positive approach which reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.’*

9.4 Policy SP2 (SDCS) is concerned with the spatial development strategy in the district and states that development in the open countryside and outside development limits shall be limited (amongst other things) to the replacement or extension of existing buildings and well-designed new buildings of an appropriate scale which would

contribute toward and improve the local economy and enhance and or maintain the vitality of rural communities in accordance with policy SP13. Additionally, criterion c) supports the re-use of existing buildings (preferably) for employment purposes. The proposal includes the continued re-use of existing agricultural buildings in addition to the replacement of a further building.

- 9.5 Policy SP13 (SDCS) positively promotes the development and revitalisation of the local economy and criterion c) states that development which brings sustainable economic growth in rural areas through (amongst other things) the re-use and expansion of businesses and infrastructure of an acceptable scale and under criterion d) would not harm the character of the area, with no adverse impacts on amenity and appropriate to its location, would be encouraged. The revised NPPF supports the principles referred to in the above policies (paragraph 83) and paragraph 84 adds that *“policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements”* – subject to the same aforementioned criteria as policies SP2 and SP13 of the Core Strategy. Whilst a new development of this nature might not **strictly** accord with policy SP13 in this location; the Local Planning Authority (LPA) has taken a balanced view in regards to the nature and use of the existing site and the processes which have taken place here for a number of years. In addition to the sites accessibility to major road networks and therefore sustainability. These are site specific issues, which would justify a departure from the requirements of policy SP13. Apart from the replacement building, there are no actual changes to the activities taking place on site or within the buildings. Furthermore, the application site is located less than 2 kilometres from the A64 and is therefore classed as sustainable in this regard.
- 9.6 Policy EMP9 (SDLP) allows for the expansion of businesses outside development limits, subject to accordance with set criteria. This includes no significant adverse impact on the character of the area achieved through a high standard of design which would be very similar to the existing adjacent buildings along with the use of similar (and colour) materials, which would complement existing buildings, Additionally, criterion 4) adds that the development must be well related to existing development. The proposal would replace an existing building within a well-established group, with a small extension which would encompass existing working areas within the confines of the site boundaries.
- 9.8 The proposed development comprises the demolition of an existing 60 year old building which is no longer fit for purpose due to the internal arrangement and degrading of the existing internal and external materials. It is proposed to be replaced with a larger building which includes a central covered loading dock and fan housing which would enable more efficient processing; better movement around the site and the protection of goods. Furthermore, a condition would be included which requires full details of the above equipment to be submitted and approved by the LPA, prior to installation.
- 9.9 Questions have been raised in regards to the actual use of the site and that it appears to be more of a commercial activity than an agricultural unit. The submitted Design, Access and Planning Statement advises that there has been major growth in terms of the customer base which includes a number of major retailers as well as food processors. The existing plans also indicate that a larger building which is adjacent to the proposal to the west is used for the storage, grading and bagging of the potatoes. The adjoining building to the south, is used for storage and loading.

There are no other processes taking place on or within the site other than those stated above.

- 9.10 In order to establish whether the unit should be classed as commercial or agricultural, confirmation was requested as to where the potatoes came from. The agent, following discussions with the applicant, confirmed that potatoes are no longer grown by Ibbotson's and local farmers (within 30 miles of proposal site) grow set varieties and set amounts which are then bought, stored, packaged and distributed from this facility. On the basis of the above information, it has been established that the facility is classed as a commercial (B8) concern and no longer falls under an agricultural use.
- 9.11 This is an established business which has had a positive impact on the local economy through the provision of more than 100 jobs. This development would allow for the improvement and small expansion to an established, business. On this basis, the principle of the proposal is acceptable, subject to all other matters being satisfactory.

9.12 Visual Impact on the Green Belt and Locality

- 9.13 Comments submitted by neighbours and the Parish Council are acknowledged with regards to the development proposal.
- 9.14 Paragraph 143 and 144 of the NPPF provides that inappropriate development within the green belt should not be approved except in very special circumstances. Paragraph 144 adds that local planning authorities (LPA) should ensure that substantial weight is given to harm to the green belt unless any harm is clearly outweighed by other considerations. Paragraph 145 states that the construction of new buildings in the green belt are inappropriate. Exceptions to this are (amongst other things) buildings for agriculture and forestry and that the replacement of a building is not materially larger than the one to be replaced.

The first point to note is that the proposal is not within but adjacent to the Green Belt so the specific controls on inappropriate development within the Green Belt and the need to establish very special circumstances do not apply. Having said this, officers have considered the possible impacts associated with the development on the adjacent Green Belt, particularly in terms of any impact on openness. With this in mind, the character of the proposed new building is essentially agricultural in respect of its form, scale and materials. Furthermore, the building would not be a stand-alone structure but would be situated within an existing group of buildings on an established site.

- 9.15 Policy SP3 relates to the Selby area Green Belt and its protection (amongst other things) from inappropriate development, with its main function being the protection of its open character and to prevent the coalescence of settlements. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The site is not within the Green Belt but is situated adjacent to it. There are no physical changes to the application site, other than the construction of a replacement building, which would sit amongst other adjacent buildings and would not therefore directly impact upon the views and openness of the adjacent Green Belt.
- 9.16 The development would require the removal of some self-seeded trees and scrub. These are impacting on the stability of the buildings and causing damage to the

existing drainage run. The field adjoining the site to the north has been planted with a large number of species of trees, most of which are approximately 2m in height.

- 9.17 An important element in delivering a fully integrated development in this location is the implementation of a high quality landscaping scheme which succeeds in complementing the buildings and reduces the impact on the countryside and adjacent green belt. In order to mitigate the loss of existing boundary treatment, a mixture of mostly indigenous replacement trees and shrubs would be planted along this boundary. Planting would include Hawthorn, Blackthorn, Buckthorn, Hazel, Field Maple; Holly, Guelder Rose; Spindle and Crab Apple. Both the Landscape Architect and the NYCC Ecologist have advised that the planting specification is acceptable. This would be an improvement to the existing poor quality/condition screening currently in place and would incorporate a variety of indigenous species and would be in accordance with criterion 4 of policy EMP9 (SDLP).
- 9.18 External dimensions of the proposed building would be 84.7m long by 27.4m wide; height to eaves would be 6.4m (max) and to ridge 9.3m (max) and with a net gain of 294 sqm additional internal floor space. The proposed new building would be higher than the existing to be removed but no higher than the adjoining building to the south and equal in height at eaves level.
- 9.19 Materials for the proposed building would comprise a plastisol coated profile steel composite roof and wall panels, both in goosewing grey and over shallow precast concrete plinth panels. The proposed loading entrances would comprise insulated roller doors and the personnel doors would be steel faced in a grey finish. This aspect of the development therefore accords with criterion 2 and 3 of policy EMP9 (SDLP).
- 9.20 The development would be within an active site where the character is already established and would not present a different character type or impact on the adjacent agricultural land to the west and surroundings, or the adjacent Green Belt to the east. When viewed as a group, the new building would be seen in context with the existing buildings as a backdrop. In addition, the materials would be similar and of the same colour, which would ensure that the proposal would sit comfortably within the existing group as a whole and therefore would not be visually dominant in regards to the adjoining and wider landscape. In this regard the proposal specifically accords with all the criterion (1 - 4) contained within policy EMP9 (SDLP) in respect of the sites redevelopment and expansion
- 9.21 The development would be acceptable in regards to its visual impact and therefore in accordance with the provisions of Policies ENV1 (SDLP) and Policies SP13, SP18 and SP19 (SDCS) and the provisions of the revised NPPF.

9.22 Impact on Residential Amenity

- 9.23 The proposed replacement building is on an existing established site and would be situated close to the northern boundary. There are no residential properties immediately adjoining the site but the heavily landscaped (trees) land adjoining to the north is attached to the domestic curtilage of a dwelling situated 125m north of the site.

Noise

- 9.24 One objection letter suggests that a 10m high acoustic barrier be installed to the northern boundary facing his residential property; also to the rear of the site;

acoustic barriers to the site frontage and fire prevention barriers also at 6-7m high to the northern boundary. There are no plans to incorporate any form of fencing to the site and whilst these comments are acknowledged by the local planning authority, given that the EHO has not raised concerns with regards to noise and has not included any conditions in his response, it would be not be justified, or reasonable to impose conditions requiring this level of mitigation.

- 9.25 Given that the application site is situated in open countryside, barriers of such a scale would have an unacceptable and detrimental visual impact both in regards to the site as well as the adjacent landscape. Furthermore, the installation of the barriers to the site frontage would not only be visually dominating and impact significantly on the adjacent Green Belt but would reduce visibility in respect of access to and from the site and therefore impact on highway safety.
- 9.26 In response to comments from an objector regarding restrictions on the use of the site, there is a condition which states machinery can be only be used between the hours of 7.00am to 7.00pm, during week days *'nor at any time on Sundays*. Other than this there appear to be no restrictions on the use of the site.
- 9.27 One objection refers to cigarette butts being found on his Land where there are multiple trees and concerns regarding the adjacent smoking shelter which immediately adjoins the southern boundary of the land attached to Lingfield. The shelter has now been fitted with Perspex screens to the north side and has a number of sand filled ashtrays and buckets, along with a fire extinguisher.
- 9.28 The objector refers to noise from the rear yard, which is the yard which would, as a result of the proposed development become a covered area and thereby minimising any potential noise impact. There is also a suggestion that the proposed building should be insulated in order to prevent additional noise. Given that the doors would need to be opened for loading; unloading and ventilation, imposing such a condition would be unreasonable.
- 9.29 An official complaint was logged with the Environmental Health Officer (EHO) by one of the objectors, in regards to noise. The EHO advised that he would investigate the complaint which relates to existing activity on the site and added that he does not foresee as being made worse should planning consent be granted. An update has been received from the Environmental Health Officer who advises that he wrote to the complainant on 12th November 2018. The complainant responded the following day in writing and stated he did not wish to make a formal complaint. As such there are no further concerns from an EH perspective.

Light Pollution

- 9.30 The application proposes the inclusion of external lights which would be low power LED flood lights. These would be wall mounted over access points and aimed at the yard surface area and therefore not cause direct glare to the neighbouring residential property to the north of the site.
- 9.31 Objections have been received in regard to existing high light levels within the site. The EHO has stated that they only have powers to deal with light where it gives rise to a Statutory Nuisance. Given the large separation distances, light from the development is not likely to give rise to a Statutory Nuisance and as such EH would not take any action. If the development gives rise to light pollution that is not a Statutory Nuisance such as light spill and sky glow then the impacts are more likely to be ecological and should have been considered in the ecological appraisal.

- 9.32 A condition would be included (should permission be granted) which would restrict the candela (brightness) level of the lights in order to prevent light pollution to the adjacent open countryside and the adjacent neighbour as a result of the proposal.
- 9.34 Subject to a specific condition to protect the amenity of the nearby residents limiting light levels, the scheme can be considered acceptable. The development is therefore in accordance with policy ENV2 (a) (SDLP) and SP19 (SDCS) and with the provisions of the NPPF.

9.35 Highway Matters

- 9.36 Paragraph 108 (point b) of the NPPF stipulates that planning decisions should take account of whether:

'Safe and suitable access to the site can be achieved for all users.'

Paragraph 109 adds that Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

- 9.37 Policy T1 (SDLP) advises that (amongst other things) development proposals will only be permitted where *"existing roads have adequate capacity and can safely serve the development, unless appropriate off-site highway improvements are undertaken by the developer."* The development includes improvements to the existing areas within the site frontage and also includes the widening of the existing internal access within the site. Criterion 1 of policy EMP9 requires proposals to *'not create conditions prejudicial to highway safety..'*
- 9.38 The development comprises of a replacement building which would be larger than the existing but is for the improvement to, rather than expansion of operations. The existing layout and height of the building is unsuitable being structurally unsound and internally the floor surface is (due to an uneven waffle effect timber floor) unacceptable for loading of vehicles and raises health and safety issues.
- 9.39 The replacement building proposes an additional covered area to the south side, as produce is currently being stored outside due to lack of appropriate space within the existing building. In addition, the existing yard layout is causing some congestion within the site from the internal movement of loading vehicles. The proposed new building would ensure that no produce is left outside as is the current scenario and it would assist in improving the flow around the remainder of the site.
- 9.40 Objections have been received to the proposal, particularly highway safety, due to the extent of HGVs frequenting the site and the hours of use. Having looked at the site history there is no evidence of a restriction on the timing of HGVs using the site.
- 9.41 The submitted Design and Access Statement advises that the traffic flow would remain at existing levels with no increase and the aims are to improve the traffic flow within the site by reducing the pedestrian traffic mix. In addition, the proposal includes widening of the existing access to raise site safety by further separating the HGVs accessing the storage buildings, from cars parking within the office car park.
- 9.42 Following the changes to the red line plan; the application description and objections relating to the requirement for a Travel Plan and Transport Plan a full re-consultation was undertaken. The Highways Officer has responded stating that

based on the fact that the existing traffic flow would remain unchanged; the number of employees; development site area and the upgraded access, his original observation of 'no objections' remains as on the previous response.

- 9.43 Furthermore, The Highway Officer, following comments relating to highway safety, conducted an incident search over the last five years within the local area, which showed three recorded collisions over the period. These were due to driver error and not as a result of the access, road or HGV related.
- 9.44 The adjacent neighbour has advised that the stated vehicle movements to and from the site do not reflect the actual usage. The Design, Access and Planning Statement includes the extent of vehicle movements to and from the site each day and states that this level would not increase. Such submitted information is taken as being correct as it would not be in the applicant's interests to knowingly submit incorrect information.
- 9.45 A letter of support received from another, neighbour states that the HGV drivers frequenting the site are always courteous and polite and drive at slow speeds which also assists in keeping speeds down by other road users.
- 9.46 It is noted that one objector refers to vibrations from the HGVs and destruction of the highway verge. The road is used by all traffic including cars and potentially other HGVs and it would be difficult to specify which vehicles are responsible for damage resulting from traffic along Braegate Lane.
- 9.47 The application is within 2km (approximately) of the major road network with direct access from the site.
- 9.48 Based on the evidence supplied by the Highway Officer in relation to accidents and that traffic flows remaining at current levels, the proposal is considered to accord with policies (criterion 1) EMP9, T1 and ENV1 (SDLP) and the relevant advice in the revised NPPF. The Highway Officer has also requested three pre-commencement conditions which relate to the highway improvements but as these works have already been undertaken and inspected by NYCC Highways Officers, it is considered that it would not be reasonable or necessary to include them on any consent granted.

9.49 Drainage

- 9.50 The site is in Flood Zone 1 (low probability of flooding) and as such it is not at risk from flooding. The Environment Agency's flood maps indicate however, that a small portion of the site close to the loading area is affected by some low level flooding from surface water. However, the submitted information advises that drainage channels have been added to minimise this.
- 9.51 There is no requirement for foul drainage and surface water run-off would be to an existing surface water dyke. In addition, all rainwater pipes would be sealed at ground floor level in order to prevent contamination of the surface water drain and dyke.
- 9.52 Both the Internal Drainage Board (IDB) and the Lead Local Flood Authority (LLFA) have made comments on the proposal. The LLFA have advised that the submitted information is limited but consider that risk can be controlled by suitable conditions. They also refer to the fact that the rainwater pipes will be sealed at ground level to prevent contamination entering surface water drains and the dyke and state that the

applicant needs to advise “*what these contaminants are and what steps are being or will be taken to prevent them entering the watercourse network with surface water from the yard areas.*” In response, the agent has submitted a brief statement advising that since receiving advice from the Environment Agency all rainwater pipes are sealed in any new agricultural or industrial development he has submitted. He adds that this prevents the tipping of any type of liquid contaminant (including milk) and also prevents vermin from entering, which is critical on a site storing food.

9.53 The IDB’s comments are noted but the proposed new building would not result in additional areas of hardstanding and the building would utilise existing drainage and providing the surface water run-off is discharged at the greenfield rate of 1.4 litres per second per hectare, it is considered to be acceptable.

9.54 Subject to no further comments from the LLFA and the inclusion of relevant conditions, it is considered the proposals are acceptable in respect of flood risk and drainage and therefore accord with policy ENV2 (b) (SDLP) and the advice within the NPPF.

9.55 Biodiversity

9.56 Protected Species include those protected under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. The presence of a protected species is a material planning consideration.

9.57 Relevant policies in respect of nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 of the Core Strategy.

9.58 The site and its immediate surroundings are not included in any designation for nature conservation interest. There are no European or nationally designated sites within 2km of the survey site. No impacts to designated sites are therefore anticipated.

9.59 A phase 1 Ecological Appraisal was submitted with the application. The Ecology Officer however, requested a more thorough survey report, which takes account of all the impacts of the development to be addressed.

9.60 The updated report advises that there are low roosting opportunities for bats and therefore a survey is not required. It adds that as there are trees to the site boundary, there may be some use and therefore recommends that a number of bat boxes be fitted to trees around the site.

9.61 There are two lagoons within 70m of the site which are unsuitable for Great Crested Newts as the water is regularly disturbed. The lagoons do not contain suitable aquatic plants or any other native amphibians.

9.62 No nesting birds were seen during the survey (and no evidence of badgers – referred to in initial report) and that site clearance should take place outside the nesting season (outside February to August).

9.63 The revised ecology report and design statement refers to ‘*flora*’ within and beyond the site being of poor ecological value. The recommended mitigation/ecological enhancement shall be to plant a species rich hedgerow along the northern boundary, which would create a long lasting ecological enhancement and comprise mixed native species. It is confirmed that none of the existing trees have bat roost

potential. This proposal is acceptable as it will maintain a potential foraging corridor for bats and other wildlife.

9.64 Subject to a condition requiring the proposed development to be carried out in accordance with the mitigation and compensation measures; method statement and recommendations for ecological enhancement contained within the updated Ecological Impact Assessment undertaken by Yorkshire Ecology Surveys and dated 26th November 2018; in addition to the amended Planting Specification as received on the 17th December 2018 - which have been accepted by the NYCC Ecology Officer and the Principal Landscape Officer. It is considered that the proposal would not detrimentally impact upon nature conservation interests and therefore complies with Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

9.65 Other Matters

9.66 An objector has stated that the application does not make reference to the buildings and areas of the site which have already changed use in previous years. In addition to the proposed replacement of the building to be demolished and replaced with a larger, building, the application now proposes a change of use of the whole site in order to regularise the site's use.

9.67 The change of use applies to the whole of the site and includes ancillary buildings; hard standings; working areas and parking which are all encompassed within the red line plan and therefore the application site. These would have formed part of the site when it was classed as an agricultural facility and there is no change in the operations taking place other than the source of the potatoes which are no longer grown by the applicants. It is this which goes to the heart of the planning application, with all other uses being ancillary to the original use of the site.

9.68 An additional fee has now been paid by the applicant to the local planning authority in regards to the changes to the application from agricultural to commercial.

9.69 The description of the application now reflects what has been applied for and the submission of updated plans which now include the whole of the site. The proposal has been re-advertised and all of the statutory consultees have now been re-consulted in regards to all amendments.

10. CONCLUSION

10.1 Having assessed the proposal against the relevant policies, the proposal is considered to be an acceptable form of development in this location and in respect of the principle of such development. The impact on the character and appearance of the immediate and wider area; flood risk; surface water drainage and climate change; residential amenity; highway safety; landscaping; biodiversity and protected species.

11. RECOMMENDATION

That the Planning Committee is minded to **approve** this application subject to the following conditions:

1. The development must be begun not later than the expiration of three years from the date of this permission.

Reason: To comply with the requirements of section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. This permission relates to the following plans and documents:

1259.1 Rev. B – Location plan as received on 23.11.2018
1259.2 Rev. B – Wider site location plan as received on 23.11.2018
1259.3.1 Rev. B – Part existing site/building plan as received on 23.11.2018
1259.3 Rev. B – Existing site plan as received on 23.11.2018
1259.4 Rev. B – Existing part site/building plan as received on 23.11.2018
1259.5 Rev. A – Existing elevations as received on 23.11.2018
1259.6 Rev. B – Part/proposed site/building plan as received on 23.11.2018
1259.7 Rev B – Part proposed site/building plan as received on 23.11.2018
1259.8 Rev. A – Proposed elevations as received on 23.11.2018
1259.9 Rev. A – Proposed sections as received on 23.11.2018
1259.10 Rev. A – Proposed roof plan as received on 23.11.2018
Amended Ecological Appraisal as received on 26.11.2018
1259 Rev. C - Shrub & Tree Planting Specification as received on 17.12.2018
1259 Rev. A - Design, Access & Planning Statement as received on 23.11.2018

Except as provided for by other conditions to this permission, the development shall be carried out in complete accordance with the approved drawings.

Reason: For the avoidance of doubt and to ensure a satisfactory standard of development in accordance with the policies contained within the Selby District Council Core Strategy; saved policies in the Selby District Local Plan and the provisions of the National Planning Policy Framework.

3. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:

- i the parking of vehicles of site operatives and visitors;
- ii hours of construction working;
- iii loading and unloading of plant and materials;
- iv storage of plant and materials used in constructing the development;
- v the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi wheel washing facilities;
- vii measures to control the emission of dust and dirt during construction;
- viii a scheme for recycling/disposing of waste resulting from demolition and construction works;
- ix delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: In accordance with policy ENV1 of the Selby District Local Plan and in order to minimise detrimental effects to the neighbouring amenities, the

amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the demolition and construction phase.

4. Development shall not commence until a scheme restricting the rate of development flow runoff from the site has been submitted to and approved in writing by the Local Planning Authority and shall account for the following:
 - The flowrate from the site shall be restricted to green field runoff rate and/or a minimum 30% reduction of the existing positively drained runoff rate for the 1 in 1, 1 in 30 and 1 in 100 year rainfall events.
 - Storage volume should accommodate a minimum of a 1:100 year plus climate change critical storm event.
 - A 30% allowance for climate change should be included in all calculations and a further 10% for urban creep for the lifetime of the development.
 - The scheme shall include a detailed maintenance and management regime for the storage facility. No part of the development shall be brought into use until the development flow restriction works comprising the approved scheme have been completed.
 - The suitability of soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 or other approved methodology.

The approved maintenance and management scheme shall be implemented throughout the lifetime of the development.

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

5. The premises shall be used for the storage, packing and distribution of potatoes and for no other purpose (including any other purpose in Class B8) of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: In accordance with policies SP2 and SP13 of the Selby District Core Strategy and EMP13 of the Selby District Local Plan as the proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use having regard to the circumstances of the case.

6. No industrial processes shall be carried out, or plant/machinery/power tools used within the building(s) or within the curtilage of the site outside the following times:

7.00am – 7.00pm Monday to Friday

8.00am – 1.00pm Saturday

nor at any time on Sundays and Bank/Public Holidays

unless previously agreed in writing by the Local Planning Authority.

Reason: to comply with Policy ENV1 of the Selby District Local Plan and to ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

7. No fixed mechanical ventilation or refrigeration /air conditioning plant shall be installed until full and precise details have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the scheme shall be constructed and installed in accordance with the approved scheme and shall thereafter be maintained in accordance with the approved scheme. Details will include the following:
 - Full noise specification including sound power levels and frequency analysis for the equipment to be installed
 - Details of noise mitigation measures to be utilised to prevent the proposed system from causing disturbance to immediately adjacent premises
 - A scale plan showing the positioning and orientation of the equipment in relation to adjacent premises.

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

8. All soft landscaping comprised in the approved plans and in the amended Shrub & Tree Planting Specification (1259 Rev. C) shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of **five** years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

Reason: In accordance with policy ENV21 (A) of the Selby District Local Plan and because a well-designed landscaping scheme can reduce the impact of the development on the amenities of existing residents and help to integrate the development into the surrounding area.

9. The development hereby permitted shall be implemented in strict accordance with the amended Phase 1 Ecological Appraisal (Report: 180054) dated 26th November 2018 and prepared by Yorkshire Ecology Surveys and any variation thereto shall be agreed in writing by the Local Planning Authority before such change is made.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010.

10. Artificial lighting to the development must conform to requirements to meet the Otrusive Light Limitations for Exterior Lighting Installations for Environmental

Zone - E2 contained within Table 1 of the Institute of Light Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2005.

Reason: In order to safeguard the amenity of adjacent residential occupants and prevent light pollution to the surrounding open countryside.

Informatives

Wildlife

Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. In addition, certain species such as the Barn Owl are included in Schedule 1 of the Act and are protected against disturbance while nesting and when they have dependent young. Offences against birds listed in Schedule 1 of the Wildlife and Countryside Act are subject to special penalties. An up-to-date list of the species in Schedule 1 is available from Natural England <http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/speciallyprotectedbirds.aspx>. Further information on wildlife legislation relating to birds can be found at www.rspb.org.uk/images/WBATL_tcm9-132998.pdf.

Surface Water to Adjacent Watercourse

The Applicant states that surface water is to be discharged to an adjacent watercourse. The condition and ability of this watercourse to accept this flow should be determined by the Applicant prior to works commencing, in order to ensure that the receiving watercourse is capable of accepting the increased discharge without detriment to other users.

12. Legal Issues

12.1 Planning Acts

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

12.2 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.

12.3 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.

13. Financial Issues

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

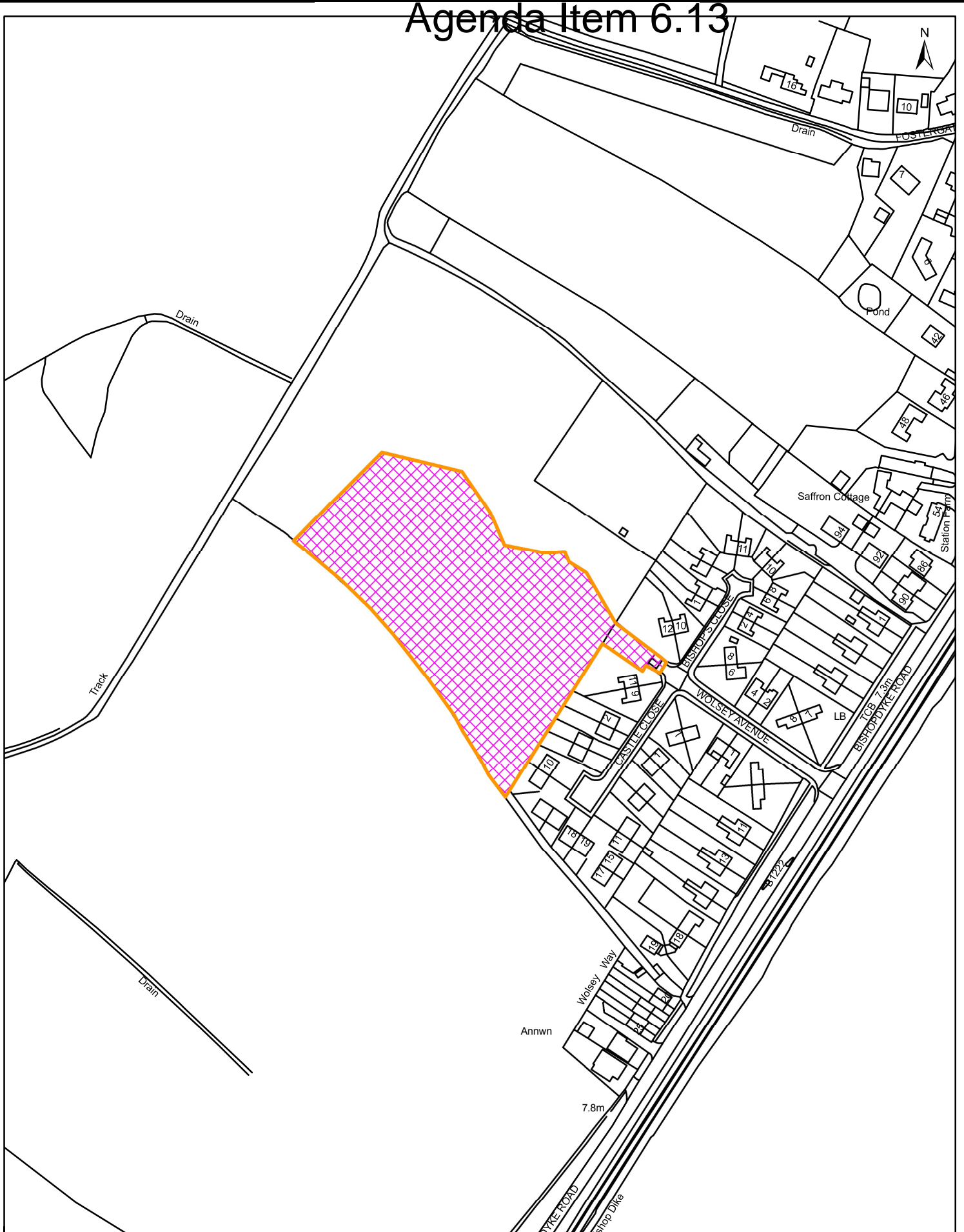
14. Background Documents

Planning Application file reference 2018/0562/FULM and associated documents.

Contact Officer: Mandy Cooper, Principal Planning Officer

Appendices: None

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APPLICATION SITE

Castle Close, Cawood
2018/0941/OUT

1:2,500

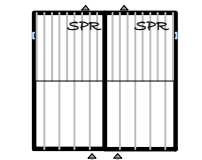


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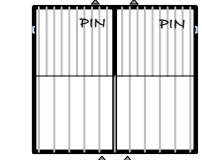
KEY:

-  1800mm BRICK WALL & FENCE
-  1800mm TIMBER FENCE
-  1200mm TIMBER FENCE WITH 300mm TRELIS
-  600mm TIMBER POST AND RAIL FENCE
-  AFFORDABLE HOUSING

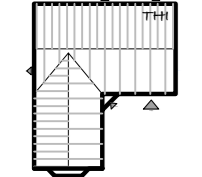
AMENDED DRAWING



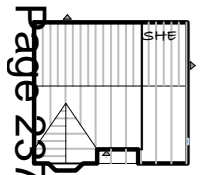
SPRUCE
Affordable 2 bed
2 no



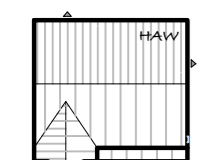
PINE
Affordable 3 bed
2 no



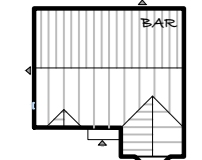
THIRSK
5 bed
3 no



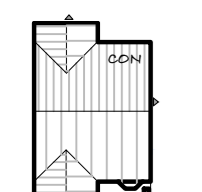
SHERBURN
4 BED
1 no



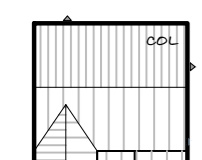
HAWORTH
5 BED
4 no



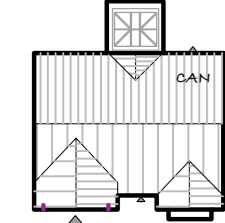
BARROWBY
5 bed
1 no



CONISTON
5 bed
1 no

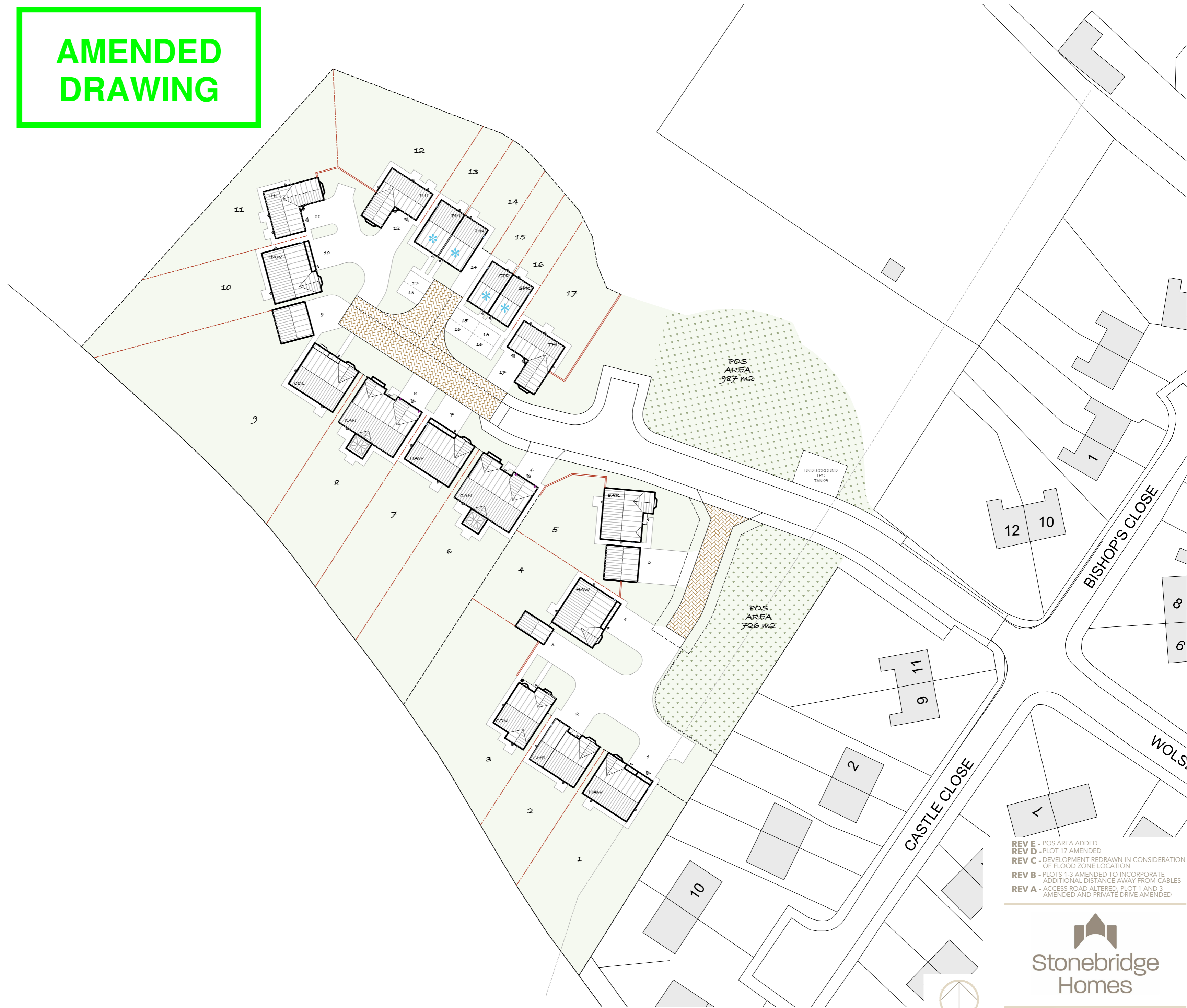


COLLINGHAM
5 bed
1 no



CANTERBURY
5 bed
2 no

TOTAL UNIT NO: 17



- REV E - POS AREA ADDED
- REV D - PLOT 17 AMENDED
- REV C - DEVELOPMENT REDRAWN IN CONSIDERATION OF FLOOD ZONE LOCATION
- REV B - PLOTS 1-3 AMENDED TO INCORPORATE ADDITIONAL DISTANCE AWAY FROM CABLES
- REV A - ACCESS ROAD ALTERED, PLOT 1 AND 3 AMENDED AND PRIVATE DRIVE AMENDED



PROJECT
WOLSEY AVENUE
CAWOOD, YO8 3SU

DWG NO
PA-WA-02
SCALE @ A2
1:500

DRAWING
PROPOSED SITE
LAYOUT

DATE
14/05/18



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Report Reference Number: 2018/0941/OUT

To: Planning Committee
Date: 16 January 2019
Author: Rachel Smith (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0941/OUT	PARISH:	Cawood Parish Council
APPLICANT:	Stonebridge Homes Ltd And Mr David Pulleyn	VALID DATE: EXPIRY DATE:	10th August 2018 9th November 2018
PROPOSAL:	Section 73 Variation of condition 21 (plans) of approval 2015/0518/OUT Proposed outline application for the residential development (access and layout to be approved all other matters reserved) for 17 dwellings with garages, creation of access road and associated public open space following demolition of existing garages at land to the north west		
LOCATION:	Street Record Castle Close Cawood Selby North Yorkshire		
RECOMMENDATION:	APPROVE SUBJECT TO DEED OF VARIATION		

This application has been brought before Planning Committee because it seeks to vary application 2015/0518/OUT which was a departure from the Development Plan. It was considered however that there were material considerations which justified approval of the application. The current application seeks to vary that permission and therefore it does not fall within the Scheme of Delegation.

1. INTRODUCTION AND BACKGROUND

Site and Context

1.1 The application site comprises 1.58 hectares of land within open countryside. It is situated immediately adjacent to the defined Development limits for Cawood with access from Castle Close. The site is surrounded on three sides by open countryside, with residential development forming the south eastern boundary of the site. These houses are predominantly two storey, with the exception being 10 and 12 Castle Close which are situated adjacent to the southern end of the application site. These properties are single storey. The application site lies within Flood Zone 1 (low probability of flooding), Flood zone 2 (medium probability of flooding) and Flood Zone 3a (high probability of flooding).

1.2 The proposal

Planning permission was granted in outline on December 3rd 2015 for 17 dwellings with garages, creation of access road and associated public open space following the demolition of existing garages to facilitate the access. Layout and access were approved with all other matters reserved. The application was approved subject to a section 106 agreement to secure delivery of 40% on site affordable housing provision, on-site recreational open space, and a waste and re-cycling contribution. A subsequent application was approved on August 18th 2018 to modify the Section 106 to agree a reduction in the level of affordable housing to 23.5%. This was agreed following a revised viability that had been assessed by the District Valuer.

1.3 The current application seeks consent under Section 73 of the Act for a minor material amendment to enable development without complying with approved plans condition 21 attached to planning approval 2015/0518/OUT. If approved, a Section 73 application will result in a new decision notice that sits alongside the original permission. The Council cannot re-visit matters of principal unless there have been material changes in planning circumstances. The LPA can however look at all the conditions and not just the condition identified by the applicant. In this case the revisions will vary the housing layout and access. The housing will remain within the same part of the site, with the access point retained. It is essentially the design of the access road and the position of houses around the access that will change. As previously approved, the houses themselves will remain in that part of the site that lies within Flood Zone 1 as shown on the Environment Agency Flood maps for planning.

1.4 Since the outline application was approved, a revised National Planning Policy Framework was published in July 2018. Furthermore the Council can now demonstrate a 5 year deliverable housing supply. These are material considerations that apply to the consideration of this application.

Planning History

1.5 The following includes historical applications that are considered to be relevant to the determination of this application:

Application Number: 2014/1110/OUT - Outline application with all matters reserved for erection of residential development, creation of access road and associated public open. Decision: withdrawn.

Application Number: 2015/0375/OUT - Outline application including access and layout for residential development of 17 dwellings with garages, creation of access

road and associated public open space on land to the North West of Castle Close off Wolsey Avenue, Cawood, Selby, Decision: withdrawn

Application Number: 2015/0518/OUT - Outline application for the residential development (access and layout to be approved all other matters reserved) for 17 dwellings with garages, creation of access road and associated public open space following demolition of existing garages at land to the north west, Castle Close, Cawood, Selby, North Yorkshire. Decision: PERMISSION.

Application Number: 2016/0492/MLA - Application to modify a section 106 planning obligation under section 106BA following approval of 2015/0518/OUT 01-AUG-18 Decision: approved.

Application 2018/1302/MAN - Non material amendment to amend condition 2 to extend the time limit for the submission of reserved matters by 2 months of approval 2015/0518/OUT. (Proposed outline application for the residential development (access and layout to be approved all other matters reserved) for 17 dwellings with garages, creation of access road and associated public open space). Decision: approved.

1.6 Consultations

Parish Council - Initial comments requested explanation of the green dotted area on the drawing? Questioned whether if is a play area what equipment will be provided and what arrangements will be made for maintenance?

Further comments received on November 14th stated that Cawood PC have no objections.

NYCC Highways Canal Rd - No local highway authority objections to the Section 73 Variation of condition 21 (plans) of approval 2015/0518/OUT.

Land Use Planning Yorkshire Water Services Ltd - no comment to make regarding application 2018/0941/OUT.

Selby Area Internal Drainage Board - The application lies within the IDB district and indicates that the application will increase the impermeable area to the site. Therefore, the applicant should ensure that any existing or proposed surface water discharge system has adequate capacity for any increase in surface water run-off to the site. No objection in principle to the use of soakaways, however it will be necessary to carry out a percolation test to demonstrate that ground conditions are acceptable. If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow. If the surface water is to be discharged to any watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission, and would be restricted to 1.4 litres per second per hectare or greenfield runoff. No obstructions within 7 metres of the edge of a watercourse without Consent from the IDB. Should consent be required from the IDB as described above then advised that this should be made a condition of any Planning decision. Any surface water discharge into any watercourses in, on, under or near the site requires consent from the Drainage Board.

SuDS And Development Control Officer - The applicant should note that flood risk mapping has been updated subsequent to the approval 2015/0518/OUT. The site is partly within flood zone 1 and partly within flood zone 3. Development within the site should be directed to those areas with the lowest degree of flood risk.

Environmental Health - There are no Environmental Health objections to the proposals.

Environment Agency – Confirm that there are no objections to the revised plans.

North Yorkshire Bat Group – No comments received.

Yorkshire Wildlife Trust - No comments received.

County Ecology – Some reservations raised regarding the Great Crested Newt Assessment. One concern is that they did not assess whether Great Crested Newts are present in a pond shown on OS maps at Station Farm, around 220 metres NE of the development site. Conversely, it is questioned whether the level of mitigation is proportionate given that the impact on Great Crested Newts has been assessed as “low/negligible”.

Overall, however, agree that the impact on Great Crested Newts is likely to be low and the measures outlined in the Wold Ecology Method Statement will minimise risks. These measures include herbicide treatment of the development site to remove vegetation and the use of wildlife exclusion fencing around the perimeter. Revision of the development layout within the red line boundary would not reduce the efficacy of these measures, so there is no need to revise the assessment referred to in Planning Condition 12 of the outline consent.

In relation to a question by a neighbouring occupier of a potential newt within their garden, it is confirmed that it does appear to be a newt. There are two levels of protection for this species – the Habitats Regulations are concerned with conserving populations while the Wildlife & Countryside Act extends protection to individual animals. No concern regarding the impact of this development on local populations of Great Crested Newt provided the proposed mitigation measures are adhered to. There may be a risk of displacing small numbers of individuals, and the mitigation measures are intended to minimise this risk. Great Crested Newts do wander widely and it is almost impossible to avoid all risk to individual animals. Do not think minor reconfiguration of the layout of the development changes the level of risk to Great Crested Newts.

As the applicant already has outline permission, it is their responsibility to ensure they develop the site in compliance with the law. The applicant should liaise with their ecologist to determine whether the exclusion fencing would require licensing in the light of evidence that individual Great Crested Newts do occur in nearby gardens.

Rural Housing Enabler - The positioning and layout of the four affordable housing units are acceptable, the drawings submitted do not detail internal floor areas however all affordable housing units should adhere to National Space standards and be built to the same standard of design and amenity as market housing. Request that the developer makes early contact with a partner RP for the affordable homes in order to confirm that the number, size and type of units are

acceptable to them; please refer them to Selby DC'S Affordable Housing SPD for a list of all the RP partners.

HER Officer - The details of the proposal have been checked against the Historic Environment Record. The site has been the subject of previous archaeological evaluation. This identified no archaeological constraints. Recommendation: I have no objection to the proposal and have no further comments make.

Designing Out Crime Officer - Front gardens should have clear demarcation to demonstrate 'ownership'. This is not clear for plot 12. The boundaries between each property at the front should also be clearly defined to create 'defensible space' and 'ownership'. Failure to clearly define 'territory' could result in neighbour disputes, particularly in respect of maintenance.

1.7 Publicity

The Application was advertised by site notice, neighbour notification letter and advertisement in the local newspaper. As a result two letters of objection have been received and include the following:

- The houses will be built on an existing flood plain. Whilst protected themselves, how will existing houses be protected to ensure that the development doesn't cause their houses to flood?
- Resident for 20 years and have always parked on Wolsey Avenue. The new road will go past where I park my car. Contractors and heavy vehicles risk causing injury to children and animals. What assurances are there that contractors won't take up limited parking or block driveways or damage cars?
- Concern regarding noise and dust as house backs onto the site and work shifts.
- Enclose evidence of Great Crested Newt in garden. No pond in garden so must be coming from the site.
- Appears that planning permission is a foregone conclusion. As Council tenants feel we have no say in the matter regarding the fact that the proposed dwellings will be built up to our boundary.
- Concern regarding flooding as when there is heavy rain it floods the garden.

2.0 APPRAISAL

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

2.2 Selby District Core Strategy Local Plan

The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development
SP2 - Spatial Development Strategy
SP4 - Management of Residential Development in Settlements
SP5 - The Scale and Distribution of Housing
SP8 - Housing Mix
SP9 - Affordable Housing
SP15 - Sustainable Development and Climate Change
SP16 - Improving Resource Efficiency
SP17 – Low Carbon and Renewable Energy
SP18 - Protecting and Enhancing the Environment
SP19 - Design Quality

2.3 Selby District Local Plan

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

Annex 1 of the NPPF provides as follows:-

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

The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
ENV2 - Environmental Pollution and Contaminated Land
ENV3 - Light Pollution
ENV28 - Archaeological Remains
T1 - Development in Relation to Highway
T2 - Access to Roads
T7 - Provision for Cyclists
RT1 - Protection of Existing Recreational Open Space
RT2 - Open Space Requirements
CS6 - Development Contributions-Infrastructure
ENV1 - Control of Development
ENV2 - Environmental Pollution and Contaminated Land
ENV3 - Light Pollution
ENV28 - Archaeological Remains

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

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 (para 12). This application has been considered against the 2018 NPPF. The revised NPPF states in paragraph 7 that the 'purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three interdependent overarching objectives of social, economic and environmental.

3.0 Key Issues

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

- Principle of development
- Access
- Layout Appearance Scale and Appearance
- Neighbour Amenity
- Housing Mix
- Affordable housing
- Impact of revisions on flood risk.
- Ecology
- Flood Risk and Drainage

Principle of Development

Policy Background

3.1 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.

3.2 For decision taking this means: "c) *'approving development proposals that accord with an up to date development plan without delay.* And "d), *where the policies most important for determining the application are out of date, (This includes for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing land) granting permission unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.*" During the consideration of application 2015/0518/OUT, Policy SP2 was 'out of date' because Selby District did not have a 5 year supply of housing. Accordingly the presumption in favour of sustainable development was triggered. It was determined that the site would deliver high quality homes for local people, and was acceptable in all other respects. In relation to this application the Council can now demonstrate a five deliverable supply and therefore para 11 d) "presumption in favour of granting housing applications do not apply." However, that the authority can demonstrate a five year supply is not a reason for resisting sustainable development and para 38 of the NPPF provides that decision-makers should seek to approve applications for sustainable development where possible.

- 3.3** Policy SP2A of The Core Strategy provides the Spatial Development Strategy for the district. This directs the majority of new development to the towns and more sustainable villages. It further identifies that Designated Service Villages have some scope for additional residential and small scale employment growth to support rural sustainability. Cawood is identified as a Designated Service Village, however the application site lies outside the development limits. The development of the site is therefore contrary to Policy SP2A (c) of the Core Strategy.
- 3.4** Policy SP4 of the Core Strategy states that in Selby, Sherburn in Elmet, Tadcaster and Designated Service Villages – conversions, replacement dwellings, redevelopment of previously developed land, and appropriate scale of development on greenfield land will be acceptable in principle. In this case, the site lies outside but immediately adjacent to the settlement boundary of Cawood. As such the site is located within the open countryside.
- 3.5** Policy SP2A (c) of the Core Strategy states that *“Development in the Countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances”*. Whether such ‘other special circumstances’ apply is considered below. The NPPF also confirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Sustainability of the Development

- 3.6** In terms of sustainability, the site is located adjacent to the development limits of the village of Cawood which is a Designated Service Village as identified in the Core Strategy where there is scope for additional residential growth to support rural sustainability. This is consistent with paragraph 78 of NPPF. The village contains a general store, post office, primary school, public house and a church. With respect to public transport the village has a limited bus service. It is therefore considered that the settlement is reasonably well served by local services which weighs in favour of a conclusion that despite being situated outside the defined development limits, the site is within a sustainable location.

Settlement Strategy, Previous levels of Growth and the Scale of the Proposal.

The application site lies immediately adjacent to the development limits for Cawood which is a Designated as a Service Village. Policy SP5 of the Core Strategy designates levels of growth to settlements based on their infrastructure capacity and sustainability. This policy sets a minimum target of 2000 for designated service villages, (DSVs) as a whole. The most recent monitoring indicates this has been exceeded by completions and permissions in these settlements as a whole. However, the Core Strategy does not set a minimum dwelling target for individual DSVs, so it is not possible to conclude that Cawood has exceeded its dwelling target. As a guide, for the purpose of consultation only the Council put forward various growth options for the DSVs as part of the development of PLAN Selby in 2014 and 2015 and at that time the research indicated minimum growth options of between 29-47 dwellings for Cawood.

To date, Cawood has seen 9 (gross) dwellings built in the settlement since the start of the Plan Period (7 net) in April 2011 and has extant gross approvals (including this site) for 50 dwellings (27 net), giving a gross total of 59 dwellings (51 net).

Taking into account the range of growth options identified for this settlement, the scale of this individual proposal, at 17 dwellings, is considered to be appropriate to the size and role of a settlement designated as a Designated Service Village/Local Service when considered in isolation from the other DSVs. The total net dwellings for the village when this development is added are 51. It is therefore considered that the development of the site for 17 dwellings is broadly consistent with Policy SP5 of the Core Strategy.

Fall - back position

- 3.7** The 'Fall Back' is appropriate in considering whether such 'other special circumstances' apply, (Policy SP2(c) or whether there are any material considerations (para 47 NPPF) that would warrant a decision contrary to the provisions of the development. 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. In some cases that degree of may be necessary; in others, not. The degree of clarity and commitment required will always be a matter for the decision-maker's planning judgment
- 3.8** Turning to these development proposals, application 2015/0518/OUT remains extant and the Reserved Matters application has been submitted within the time scale (and is awaiting determination). Having taken account of the extant permission and the submission of the Reserved Matters application, it is considered that this remains a realistic 'fall-back' position. Whilst work has not commenced on site, the submission of the reserved matters by a developer shows clear intent to proceed with the development.
- 3.9** It is therefore considered that there is an extant permission on the site which can be implemented, (subjected to approval of the reserved matters). This represents a fall-back position and there is a real prospect that it could be implemented.. Furthermore, the 17 houses contribute towards the Council's housing land supply calculations. Of those 17 houses, 4 will be 'affordable'. This extant permission, and the location of the site directly adjacent to the development limits, amounts to the 'other special circumstances' referred to in SP2(c). Furthermore, there is nothing in the revised NPPF that would preclude the principle of the development of this site.

Indeed the NPPF in paragraph 38 states that local planning authorities should approach decisions on proposed development in a positive and constructive way.

- 3.10** In concluding the matter of principle, it is acknowledged that given the current position of a 5 year deliverable land supply, development in the countryside outside development limits would not be supported through the Development Strategy now. However it is considered that the extant permission on this site, the developer investment in submitting applications including the reserved matters and this Section 73 application constitutes the ‘special circumstances’ and material considerations that would outweigh the conflict with policy identified above. This approach is endorsed by the Government’s commitment to delivering a sufficient supply of homes as detailed in section 5 of the NPPF (2018). Paragraph 68 highlights the importance of small and medium sized sites in contributing to the housing requirement of the area. And further states that such sites are often built out quickly. At paragraph 78, the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. The village contains a shop, post office, primary school, public house and church. It is noted however that within Background paper 5 Sustainability Assessment of Rural Settlements of the Core Strategy that it is identified as less sustainable. This is mainly due to the limited access to public transport. Nevertheless given the location of the site adjacent to the settlement boundary, occupiers of the dwellings would utilise those identified services within the village, and therefore accord with the guidance in the NPPF. As such the location of the site would remain sustainable.

Access

- 3.11** Policy in respect of access and other highway considerations is provided by Policy SP19 of the Core Strategy, Policy ENV1 (2) T1 and T2 of the Selby District Local Plan and Section 9 of the NPPF. Of particular importance are paragraphs 108 and 109 which state:

‘108. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 3.12** Application 2015/0518/OUT approved the layout on the site and the access. This access is between existing housing opposite the end of Wolsey Avenue. Once entering the boundary of the site, the road was curved before leading into private drives to serve the housing. The revised layout maintains the same access to the point that it enters the agricultural land. However it then maintains a straighter

access with two private drives off it. The Highway Authority has confirmed that there are no objections to the development.

- 3.13** An objector has raised concerns regarding the impact of construction traffic on the parking of cars in the vicinity of the site, and potential danger to children or pets. The Highway Authority has not objected to the revised plans, and it is noted that the access to the site remains in the same place. It is also noted that the layout shows potential for parking for each dwelling. The access from Wolsey Avenue was previously considered to be of a sufficient width to access the development and good visibility exists on exit. Improvements to the highway with respect to re-surfacing would be secured by way of a Section 38 agreement.
- 3.14** In relation to comments regarding the impact of the development on existing parking for cars, and danger to children by construction traffic, there is inevitably some disturbance when development commences, however the site area includes sufficient space for the parking of construction vehicles and storage of materials. A condition has also been imposed requested specific details. The Highway Authority is satisfied that the proposed access is satisfactory, and construction vehicle will have to drive with due care and attention like any other road user.
- 3.15** It is noted that Cawood performs quite poorly with respect to its accessibility by public transport to service centres. As such there will be some reliance on private vehicles. However this requirement was recognised when the village was identified as a Designated Service Village. Furthermore local services would be available on foot or by bike.

Layout Appearance Scale and Appearance

- 3.16** Relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 and ENV3 of the Selby District Local Plan and Policy SP19 'Design Quality of the Core strategy. Section 12 of the NPPF states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.
- 3.17** The quantum of development remains the same as previously approved. Flood risk will be addressed later in the report; however the layout is dictated to a great extent by a large part of the site being within flood zone 3. This limits the developable area. The housing layout is still more informal than the existing housing in the surrounding area. However this is in part as a result of the flood constraints on the site. The houses are therefore towards the central part of the site. This does however enable a significant area of land that will not be occupied by built form and will comprise areas of garden or public open space. There is also potential for significant landscaping which will require detail at the reserved matters stage. Furthermore, it is considered that the revised layout will provide a more traditional road layout with houses grouped in a manner that is not out of keeping with the wider area. Neighbour amenity will be considered later in the report, however it is considered that the revised layout provides a better relationship with neighbouring occupiers than the extant approval on the site (2015/0518/OUT).
- 3.18** The Design and Access statement submitted with application 2015/0518/OUT set out the design principles. This included the properties being two storey with single storey garages. The detailed design of the houses will be fully considered at the reserved matters stage; however it is not considered that there are any aspects of the layout that would preclude an appropriate design being secured.

- 3.19** With respect to the impact on landscape character, regard has been had to Background Paper No. 10 to the Core Strategy- Landscape Appraisal. This states that the landscape is open to wide ranging views by virtue of the flat topography and limited tree and hedgerow planting in the field patterns. It further states that the village is generally well screened with only select areas being visible within open areas towards the village. However any development will be seen in the context of the existing development. Given the large parts of the site that are not constrained by built development, it is considered that there is significant potential for strategic and more localised planting of native species that will help to integrate the development in the landscape. This aspect is however for consideration at the reserved matters stage. External lighting will also be a consideration at this stage.
- 3.20** In terms of Designing out Crime, Police Architectural liaison officer has advised that front gardens should have clear demarcation to demonstrate 'ownership'. He further advises that this is not clear for plot 12. The boundaries between each property at the front should also be clearly defined to create 'defensible space' and 'ownership'. Failure to clearly define 'territory' could result in neighbour disputes, particularly in respect of maintenance. It is not considered that the submitted layout would preclude the issues raised, and as such the reserved matters can provide appropriate details.

Housing Mix

- 3.20** Policy SP8 requires that all proposals for housing must contribute to the creation of mixed communities by ensuring that the types and sizes of dwellings reflects the demand and profile identified in the SHMA. This is consistent with the requirements of Section 5 of the NPPF on delivering a sufficient supply of homes. Whilst the detail of the design of dwellings is for the reserved matters application, it is evident from the submitted layout that the development will deliver predominantly large dwellings. The mix shown comprises 12 five bedroom dwellings, 1 four bedroom dwellings, 2 three bedroom and 2 two bedroom dwellings. The Draft 2015 SHMA shows the greatest need for 2 and 3 bedroom dwellings (35% and 45%) with only 15 % requirement for larger dwellings. However the quantum of development has not changed since the outline and the constraints on the site as a result of the flood zones is a limiting factor on the layout. Furthermore, whilst there is potential to subdivide one of the larger plots to provide two smaller dwellings, this would increase the quantum of development. Any increase in numbers would lead to a reconsideration of all the material considerations, including highway and neighbour impact. Given an extant approval on the site for 17 dwellings, and a layout which does include four smaller dwellings, (2 two bedroom and 2 three bedroom dwellings), it is considered that this is a material consideration that would indicate an approval of this mix of dwellings contrary to Policy SP8 of the Core Strategy.

Affordable Housing

- 3.21** In terms of affordable housing, 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.

3.22 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. During consideration of application 2015/0518/OUT, the applicant confirmed that they were prepared to provide 40% affordable units and that this could be secured via a Section 106 agreement. Since that time, an application was submitted to modify the agreement so that they can provide less affordable housing on site. Such cases are determined on the basis of what amount of affordable housing can be accommodated without making the scheme unviable. The evidence used is therefore financial in nature and the Council sought the input from the District Valuer to provide specialist advice. On the basis of the viability assessment, it was agreed that the scheme can deliver 23.5% on-site affordable. This equates to 4 Affordable Housing Units. Whilst the details of the house types will be the subject of the reserved matters application, the layout plan shows the provision of two no. two bedroom affordable dwellings, and two no. three bedroom dwellings. Having taken account of the agreed viability, it is not considered that the development is contrary to Policy SP9 and furthermore it is not considered that the development conflicts with the requirements of section 5 of the NPPF in respect of affordable housing provision.

Neighbour Impact

3.23 Policy in respect to impacts on residential amenity and securing a good standard of residential amenity is provided by ENV1 (1) of the Local Plan. The NPPF also states that planning should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

3.24 The revised layout plan demonstrates that appropriate separation distances could be achieved between the existing and proposed dwellings, and indeed between the dwellings on the application site itself. The extant permission shows dwellings in closer proximity to existing dwellings on Castle Close. Plot 7 is very close to the rear fence to 2 and 4 Castle Close with a further dwelling approximately 7m to the rear of the boundary with 10 and 12 Castle Close. On the current Layout, Plot 1 is again approximately 7m from the fence to properties on Castle Close, however the relationship with Castle Close is better because the actual dwelling it is behind on Castle Close is a greater distance, and other dwellings are now approximately 30m from the common boundary. The detailed design of the properties will be assessed in relation to neighbour amenity on the reserved matters application. An objection has raised concern that as Council tenants feel that they have no say in the matter regarding the fact that the proposed dwellings will be built up to their boundary. Whilst the objector has not included their address, comments regarding this matter have been taken into account, however as discussed above, it is considered that the revised plan provides a better relationship when taken as a whole in relation to existing neighbours. A proposed dwelling is closer to the rear of 8 Castle Close, than on the extant layout, however at a separation distance of 23m between the two dwellings it is considered that it is within normal tolerances. It is also of note that the dwelling on the proposed layout has a side elevation towards Castle Close which is less likely to result in overlooking.

3.25 Objectors have also expressed concern that the noise levels and air pollution would increase dramatically and there would be impacts on residents throughout the build. The development of the site will inevitably increase noise and other

impacts. However it will be a temporary impact and impacts in relation to noise and vibration have been addressed by condition. Having taken into account the matters discussed above it is considered that an appropriate scheme can be designed at reserved matters stage which should not cause significant detrimental impact on the residential amenities of either existing or future occupants in accordance with policy ENV1(1) of the Local Plan and the NPPF.

Flood Risk and Drainage

- 3.26** Policies SP15, of the Core Strategy require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design. This is reaffirmed in chapter 14 of the NPPF. At paragraph 155 it states that:

Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. The application site is located in Flood Zones 1 (low probability of flooding), 2 (medium probability of flooding) and 3a (high probability of flooding). The houses will however be sited in that part of the site that lies within Flood Zone 1, with much of the access road, public open space and some garden areas within Flood Zone 3. The Selby District Council Sequential Test Guidance Note (2017) (SPD) accords with the policies in the Core Strategy and the NPPF. It also states that a pragmatic approach on the availability of alternative sites should be taken. Cawood is a Designated Service Village and therefore the SPD states that the area of search should be limited to that particular service village. In this case there are no alternative sites within Cawood. However the guide also states that for applications that are not within Development Limits but immediately adjacent, the proposals must comply with the Councils' Guidance Note for applicants on the Council's 5 Year Supply Position in respect to sustainability.

- 3.27** It was concluded during consideration of the extant outline application that a sequential approach has been taken to the layout of the development to ensure that the residential dwellings would be located within Flood Zone 1 (lowest probability of flooding). There are parts of the access road located within Flood Zones 2 and 3, however sequentially the access could not be created within a lower flood zone. It was therefore considered that the sequential test has been passed. Given that the outline application is extant, it is not considered that a further sequential test is required.

- 3.28** Paragraph 102 of the NPPF states that if following application of the sequential test it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding the exception test can be applied, if appropriate. For the exception test to be passed it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk; and a site specific Flood Risk Assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible, will reduce flood risk overall.

- 3.29** It is considered that there are wider sustainability benefits to the community which include the economic, social and environmental benefits. The proposal would generate employment opportunities in both the construction and other sectors linked to the construction market. The proposals would bring additional residents to the area who in turn would contribute to the local economy through supporting local facilities.
- 3.30** The proposal would also deliver levels of both open market and affordable housing in Cawood and hence promote sustainable and balanced communities and would assist in the Council meeting the objectively assessed housing needs of the district. In addition the scheme would incorporate an area of recreational open space on site. Furthermore, the development would deliver high quality homes that take account of environmental issues such as flooding and impacts on climate change.
- 3.31** In terms of flood resilience and drainage, the 2015 application was accompanied by a Flood Risk Assessment which examines the flood sources and states that the most likely threat of flooding is as a result of the River Ouse which runs to the east of the village or over topping from Internal Drainage Systems failing. With respect to historical flooding the report confirms that in 2011 the site suffered from surface water ingress from the farmland located to the west and this water was pumped with the approval of the Internal Drainage Board to a field drain in the north east corner of the site. The report states that since this time the field drains have been cleaned out and since that date there has been no further ingress of surface water onto this site.
- 3.32** The report stated that although the footprint of the dwellings falls outside Flood Zones 2 and 3, various flood risk mitigation measures would be incorporated into the development which include new dwellings to have a finished floor level of at least 300mm above existing ground level, to have no ground floor sleeping accommodation, watertight external door construction to a minimum of 350mm above floor level, with letter boxes no lower than mid height, ensure that all sockets will be served by wiring from the first floor loops and situated 0.6m above floor level, non-permeable areas outside the dwellings to be kept to a minimum and using solid ground floor construction. In addition the report states that advice will be placed within the dwelling advising what action to take in preparation of a flood occurring and what to do in the event of a flood or breach occurring.
- 3.33** It is noted that concern was raised by neighbouring residents on the previous application in relation to whether the development will increase flood risk for their property. A similar objection has been made in relation to the current application with respect to drainage and flooding. On the previous application the Environment Agency took account of the Flood Risk Assessment and confirmed that they had no objections on the grounds of flood risk subject to a series of mitigation measures being secured by way of a planning condition. A condition was imposed that required the applicant to submit a plan to demonstrate that any ground raising in the construction of the access road will not alter existing flood flow routes. If this cannot be achieved the applicant is required to submit details of a like for like compensatory storage design for the total volume lost (i.e. total area of FZ3 which will no longer available to be used for storage post the construction of the road). A further condition was imposed requiring details of surface water drainage to be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. In relation to this proposal, the Environment Agency has confirmed that there are no objections to

the revised layout. It is considered that the combination of the conditions will ensure that the development does not increase flood risk elsewhere. Yorkshire Water has raised no objection to the development, and North Yorkshire County Council's Flood Risk Management Team have advised that development of the site should be directed to those areas that are at lowest risk of flooding. It is confirmed that the houses will be sited within that part of the site that is at lowest risk of flooding. It is not considered that the revised layout will have any greater impact on flood risk than the extant permission. It is therefore considered that the development accords with Policy SP15 (d) and the NPPF.

Ecology

- 3.34** An extended Phase 1 Habitat Survey undertaken by Wold Ecology was submitted with the approved application (2015/0518/OUT) and this has been updated. (July 2018). The report confirmed that there are no statutory nature conservation designated sites within 2km of the site. There are however a number of locally designated sites. The extended phase 1 survey and ecological assessment took account of the impact of the development on bats, great Crested Newts, Badger, Birds reptiles and Hedgehogs. It concluded that the proposed development is unlikely to impact on European protected species or associated habitats. However the report recommends several measures to ensure potential adverse impacts to Wildlife are avoided. With respect to bats the report concludes that the trees and buildings within the application site do not have features suitable to support roosting bats. The wider area supports a network of habitats including hedgerows, rivers, ditches, scattered trees and mature gardens and grasslands which offer alternate foraging and commuting habitat for bats, however the application site is not considered integral to the favourable population status of local bat populations.
- 3.35** In terms of Great Crested Newts a field survey was carried out during consideration of the 2015 application. This established that an infield pond was present within the large paddock, however when reassessed it was established that this only held water during periods of heavy rain and was dry on the second visit as such it was established that no aquatic habitat would be lost as a result of the proposed development. There were aquatic habitats within 500m of the application site, comprising four ponds. The report established that one pond was no longer present, one pond did not hold water all year round and two of the ponds were permanent, however the landowners did not give permission to fully inspect these ponds. The report therefore concluded that on the basis of the field surveys and desk top studies undertaken there is a low probability of great crested newts being present due to a number of factors including the fact there are no permanent ponds located within the construction zone and that potential great crested newt movement into the construction zone would be from high quality terrestrial habitat (Castle Garth) to sub optimum sheep grazed pasture with no suitable aquatic habitat. The updated report confirms that records of great created newts occur within 500m of the application site. The entire application site was assessed for its potential. It was determined that given the distances between the proposed development area and the nearest breeding pond, and the low quality of habitats in the development area, great crested newts are unlikely to be encountered during stripping of vegetation from the development area.
- 3.36** With respect to other species, the report confirms the application site is not considered to be valuable to wintering birds, and there is no evidence of badger or hedgehog activity. Furthermore there are no potential roosts within the application site. Although the wider area supports several woodland habitats, mature gardens

and grassland which offer alternative foraging and commuting habitat. The County Ecologist has expressed some reservations regarding the Great Crested Newt Assessment produced by Wold Ecology. One concern is that they did not assess whether Great Crested Newts are present in a pond shown on OS maps at Station Farm, around 220 metres NE of the development site. However he agrees that the impact on Great Crested Newts is likely to be low and the measures outlined in the Wold Ecology Method Statement will minimise risks. These measures include herbicide treatment of the development site to remove vegetation and the use of wildlife exclusion fencing around the perimeter. He further advises that the proposed revision to the layout would not reduce the efficacy of these measures, so there is no need to revise the mitigation referred to in the condition attached to the outline application. The mitigation includes hedgerows being retained and protected and maintained at a height of 2m with long term management, any clearance being undertaken outside bird nesting season, bird boxes to be erected throughout the site, care to be taken to vegetation clearance or strimming in order to protect hedgehogs and trees to be retained and enhanced through planting native species which should be incorporated into any detailed landscaping scheme and these measures should be secured via condition.

- 3.37** It is noted that a neighbouring occupier has provided a photo of a likely Great Crested Newt being seen in their garden which abuts the site. The County Ecologist has been re-consulted and advises that there are two levels of protection for this species – the Habitats Regulations are concerned with conserving populations whilst the Wildlife & Countryside Act extends protection to individual animals. It is not considered that the development will impact on local populations of Great Crested Newt provided that the proposed mitigation measures previously proposed are adhered to. There may be a risk of displacing small numbers of individuals, and the mitigation measures are intended to minimise this risk. The County ecologist has advised that Great Crested Newts do wander widely and it is almost impossible to avoid all risk to individual animals. Furthermore it is for the applicant to ensure that the development the site in compliance with the law. Further clarification of the updated newt mitigation measures has however been sought and Members will updated whether an exclusion fencing would require licensing in the light of evidence that individual Great Crested Newts do occur in nearby gardens.
- 3.38** North Yorkshire Bat Group and Yorkshire Wildlife Trust were consulted, however did not provide comments with respect to the application.
- 3.39** Subject to the clarification sought in relation to GCN exclusion fencing together with the mitigation required by condition 12 on Outline 2015/0518/OUT it is not considered that the proposal would impact on the local newt population and would accord with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation .

Heritage

- 3.40** Policies ENV27 and ENV28 of the Local Plan and Policy SP18 of the Core Strategy and the NPPF require proposals to take account of their impacts on heritage assets and in particular in relation to this site, archaeology.
- 3.41** The NPPF paragraph 189 states that Local Planning Authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate

to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. The site does not lie within a conservation area, or its setting, nor does it impact on a listed building. Nevertheless, the County Heritage Services were consulted on this application and have confirmed that the site has been the subject of previous archaeological evaluation. This identified no archaeological constraints. Accordingly the development accords with Policy SP18 (1 and 2), and Policies ENV 27 and ENV 28 of the Selby District Local Plan. It also accords with the requirements of Section 16 of the NPPF.

Recreational Open Space

- 3.42** The proposed layout demonstrates that there would be on-site provision for recreational open space, although the detailed type of provision to be provided would be established in detail at reserved matters stage with delivery secured through the Section 106. It is noted that the proposals would result in the loss of an existing area of recreational open space which residents previously stated is well used by local children. Policy RT1 of the Local Plan is relevant which states that proposals which would result in the loss of existing recreation open space will not be permitted unless, the use has been abandoned and the site is not required to remedy an existing deficiency for recreation use elsewhere, alternative provision of at least the equivalent size, accessibility and quality is made within the locality to serve the needs of the existing community or sports and recreation facilities can best be retained and enhanced through the re-development of a small part of the site. In light of this policy the applicants have demonstrated that this provision would be provided alongside new provision, within the application site to accord with policy.
- 3.43** It is therefore considered that subject to a Section 106 agreement to secure the on-site provision of Recreational Open Space, the proposals are appropriate and accord with Policies RT2 of the Local Plan, Policies SP12 and SP19 of the Core Strategy and the NPPF.

Contamination

- 3.44** Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. These policies should be afforded significant weight. The previous application (2015/0518/FUL) application was accompanied by a Contamination Statement which confirmed that there are no signs of contaminants being present and no historic uses of the site which would have caused contamination.
- 3.45** The Council's Contaminated Land Consultant confirmed that the Contamination Statement was lacking in detail and a full Phase 1 Contaminated Land Report would be required which can be secured via condition. The proposals are therefore acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

Energy and Resource Efficiency

3.46 Policy SP15 of the Core Strategy (Sustainable Development and Climate Change) seeks to promote sustainable development through a number of measures. SP15 B aims to ensure the design and layout of development contributes towards reducing carbon emissions and is resilient to the effects of climate change. It requires that where necessary or appropriate schemes should (criteria a) & b)) improve energy efficiency and minimise energy consumption and should incorporate sustainable design and construction techniques. Criterion e) requires the incorporation of decentralised, renewable and low carbon forms of energy generation in line with Policies SP16 & SP17. The sustainability of the location has been addressed earlier in the report. Policy SP18 seeks to protect and enhance the Environment through a number of measures including criterion SP18 (8) which seeks to ensure that developments minimise energy and water consumption, the use of non-renewable resources and the amount of waste material.

3.47 Policy SP16 of the Core Strategy relates to Improving Resource Efficiency. In order to achieve this objective the policy requires, amongst other things, that unless a particular scheme would be demonstrably unviable or not feasible;

“New residential developments of 10 dwellings or more or non-residential schemes of 1000 m2 gross floor space or more to provide a minimum of 10% of total predicted energy requirements from renewable, low carbon or decentralised energy sources (or else in accordance with the most up to date revised national, sub regional or local targets”

Notes supporting this policy objective state that:

“Whilst building standards for insulation and energy efficiency are not directly within the remit of the planning system, the council, when considering development proposals will take into account the need to utilise energy efficient designs for all aspects including layout (e.g. orientation and passive solar design).”

The extant application is subject to a condition that requires that 10% of the energy is from renewable, low carbon or decentralised energy sources. It is considered that a variation of this condition to also allow a ‘fabric first approach’ would accord with the NPPF. Paragraph 95 of the NPPF advises that LPA’s should plan for new development in locations and ways which reduce greenhouse gas emissions. Significantly it also advises that any local requirements should be consistent with the Governments zero carbon buildings policy and that nationally described standards should be adopted. The overall aim of addressing the causes of climate change by reducing carbon emissions in CS SP15 and SP16 and the related policies are still broadly consistent with the NPPF. However, seeking to achieve that aim by specifying a target for on-site energy generation from renewable sources does not now accord with Paragraph 95 of the NPPF and would exceed national requirements in terms of carbon reduction. It is therefore considered that an amendment to the condition to include a fabric first approach whilst not complying with Policy SP16 of the Core Strategy would still comply with Policy SP15 in seeking to reduce carbon emissions and would accord with the NPPF.

Education, Healthcare, Waste and Recycling

- 3.48** 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. These policies should be afforded significant weight.
- 3.49** During consideration of the previous application confirmed that no education contributions would be required. In addition, education contributions are no longer compliant with the CIL Regulations and this is a material consideration that would indicate why such contributions should not be sought. 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.
- 3.50** Having had regard to the above, 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.

Other matters

- 3.51** In relation to conditions, the approved outline consent on the site includes a number of pre-commencement conditions. Legislation has changed since the previous approval and now Section 100ZA (8) of the Town and Country Planning Act 1990), provides that such conditions should only be used where the local planning authority is satisfied that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission and the applicant has given written consent to such a condition.
- 3.52** A pre-commencement condition that does not meet the legal and policy tests may be found to be unlawful by the courts and therefore cannot be enforced by the local planning authority if it is breached. The conditions have therefore been revised accordingly, and pre-commencement required only in cases that are essential for the development such as contamination and drainage.
- 3.53** The extant permission is subject to a Section 106 which secures delivery of 23.5% affordable housing which equates to 4 houses together with waste and re-cycling contributions and to secure contributions for the maintenance of the open space on site to a Management Company.

Conclusion

- 4.0** The site lies outside the development limits for Cawood which is a Designated Service Village. As such in terms of the development plan the site lies within the open countryside, and development is therefore contrary to the Spatial Strategy contained within Policy SP2 of the Core Strategy. However Policy SP2 (c) limits development in the countryside unless '*other special circumstances*' apply. It has been demonstrated in paragraph 3.7 that there is a fall-back position in the light of the existing outline permission on the site, there is a 'real prospect' of it being implemented, and this is capable of giving rise to "special circumstances" for the purposes of Policy SP2. Furthermore the development secures the delivery of four affordable homes. This accords with the relevant parts of section 5 of the NPPF that refers to the Government's objective of 'significantly boosting the supply of

homes'. It is further considered that the revised layout has a better relationship with neighbouring occupiers than the extant permission.

- 4.1** It is not considered that there are any material considerations identified that would justify the refusal of the proposed development. The recommendation is therefore one of approval subject to revised conditions and a Deed of Variation of the section 106 agreement to take account of the current application.

5.0 RECOMMENDATION

- 5.1** Subject to clarification in relation to new mitigation this application is recommended to be APPROVED subject to a deed of variation in respect to the Section 106 and the following conditions:

- 01** Approval of the details of the (a) appearance, b) landscaping and c) scale (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: This is an outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority.

- 02** Applications for the approval of the reserved matters referred to in No.1 herein shall be made by 4th February 2019, and the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason:

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

Reason:

This is outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority.

- 03.** The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within the FRA:

1. The applicant shall submit a plan demonstrating that any ground raising in the construction of the access road will not alter existing flood flow routes. If the applicant cannot demonstrate this, the applicant shall submit details of a like for like compensatory storage design for the total volume lost (i.e. total area of FZ3 which will no longer be available to be used for storage post the construction of the road).
2. Flood resilience measures to be installed as detailed in the FRA:
 - Finished floor levels are set no lower than 300mm above existing ground level and to be of solid construction.
 - Watertight external door construction to 350mm above ground level.
 - Sleeping accommodation to be provided at upper floor level.
 - Sockets to be wired from above.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason:

To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to reduce the risk of flooding to the proposed development and future occupants.

- 04 There shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site, until the following drawings and details have been submitted to and approved in writing by the Local Planning Authority:
- a. Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:
 - the proposed highway layout including the highway boundary
 - dimensions of any carriageway, cycleway, footway, and verges
 - visibility splays
 - the proposed buildings and site layout, including levels
 - accesses and driveways
 - drainage and sewerage system
 - lining and signing
 - traffic calming measures
 - all types of surfacing (including tactiles), kerbing and edging.
 - b. Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:
 - the existing ground level
 - the proposed road channel and centre line levels
 - full details of surface water drainage proposals.
 - c. Full highway construction details including:
 - typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
 - when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
 - kerb and edging construction details
 - typical drainage construction details.
 - d. Details of the method and means of surface water disposal.
 - e. Details of all proposed street lighting.
 - f. Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.

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

h. A programme for completing the works.

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

INFORMATIVE:

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

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.

05. No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation. The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority before the first dwelling of the development is occupied.

Reason:

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

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

Reason:

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

07. There shall be no HCVs brought onto the site until a survey recording the condition of the existing highway (Wolsey Avenue) has been carried out in a manner approved in writing by the Local Planning Authority.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and in the interests of highway safety and the general amenity of the area

08. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until:

(i) The details of the following off site required highway improvement works, works listed below have been submitted to and approved in writing by the Local Planning Authority:

a. Footway/Carriageway remedial works (Wolsey Avenue)

(ii) A programme for the completion of the proposed works has been submitted to and approved writing by the Local Planning Authority in consultation with the Local Highway Authority.

INFORMATIVE:

There must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the Highway Authority.

Reason:

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

09. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and to ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity the development.

10. No development for any phase of the development shall take place until a Construction Method Statement for that phase has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period for the phase. The statement shall provide for the following in respect of the phase:

- (i) the parking of vehicles of site operatives and visitors
- (ii) loading and unloading of plant and materials
- (iii) storage of plant and materials used in constructing the development
- (iv) erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
- (v) wheel washing facilities
- (vi) measures to control the emission of dust and dirt during construction
- (vii) a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and in the interests of highway safety and the general amenity of the area

11. No above ground works will be commenced until either it has been demonstrated that at least 10% of the energy requirements supply of the development for that phase has been secured from decentralised and renewable or low-carbon energy sources; or an alternative approach, such as fabric first, has been agreed with the local planning authority. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be first submitted to and approved in writing by the Local Planning Authority. Works shall thereafter be implemented in accordance with the approved details and timetable and retained, maintained and retained thereafter.

Reason:

In the interest of sustainability, to minimise the development's impact.

12. The development shall be carried out in complete accordance with the mitigation measures and recommendations set out in the Extended Phase 1 Habitat Survey and Great Crested Newt Assessment by Wold Ecology Ltd unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interests of ensuring that the scheme avoids potential impacts on nesting birds and to ensure the enhancement of the site for wildlife purposes.

13. No development shall commence until an investigation and risk assessment has been undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted and approved in writing of the Local Planning Authority. The report of the findings must include:

- i. a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- ii. an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- iii. an appraisal of remedial options, and proposal of the preferred option(s).

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

The proposed scheme shall thereafter be carried out in accordance with any recommendations set out in the approved report.

Reason:

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

14. No development shall commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The proposed scheme shall thereafter be carried out in accordance with the recommendations set out within the approved report.

Reason:

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

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

Reason:

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

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

Reason:

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

17. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site based

on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage design should demonstrate that the surface water runoff generated during rainfall events up to and including the 1 in 100 years rainfall event, to include for climate change and urban creep, will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The approved drainage system shall be implemented in accordance with the approved detailed design prior to completion of the development.

The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance.

Reason:

To prevent the increased risk of flooding; to ensure the future maintenance of the sustainable drainage system, to improve and protect water quality and improve habitat and amenity.

18 No dwelling shall be occupied until arrangements for the provision of recreational open space on the development have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall cover the following matters:-

- a) the layout and disposition of the recreational open space, including any play equipment to be provided, if any.
- b) the timescale for the implementation and completion of the works to provide the recreational open space;
- c) the mechanism for ensuring that the recreational open space will be available for the public within perpetuity.
- d) maintenance of the recreational open space in perpetuity.

Reason:

To ensure the provision of appropriate recreational open space to serve the development and in accordance with Policy RT2 of the Selby District Local Plan.

19 Should any of the proposed foundations be piled then no piling shall commence until a schedule of works to identify those plots affected, and setting out mitigation measures to protect residents from noise, dust and vibration shall be submitted to and approved in writing by the Local Planning Authority. The proposals shall thereafter be carried out in accordance with the approved scheme.

Reason:

In the interest of protecting residential amenity in accordance with Policies ENV1 and ENV2 of the Local Plan.

20 Prior to the site preparation and construction work commencing, a scheme to minimise the impact of noise and vibration on residential properties in close proximity to the site, shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

In the interests of protecting residential amenity in accordance with Policies ENV1 and SP19 of the Local Plan and the NPPF.

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

1518 Location/B Location Plan
1518 Site Plan 500/C Proposed Plans
1518 Site Plan 1250/B Proposed Plans
1576/001 Topographical Survey.

Reason: For the avoidance of doubt.

6.0 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.

7.1 Financial Issues

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

8.0 Background Documents

- 8.1 Planning Application file reference 2018/0941/OUT and associated documents.

Contact Officer: Rachel Smith, Principal Planning Officer

Appendices: None

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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