



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY, 6 FEBRUARY 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 - 14)

To confirm as a correct record the minutes of the Planning Committee meeting held on 16 January 2019

6. Planning Applications Received (Pages 17 - 18)

- 6.1. 2018/0051/FULM - Park Farm, Main Street, Skipwith (Pages 19 - 46)
- 6.2. 2018/0226/FUL - East End Cottage, Main Street, Thorganby (Pages 47 - 88)
- 6.3. 2018/0398/FUL - Partridge Hill Farm, Oxmoor Lane, Church Fenton (Pages 89 - 102)
- 6.4. 2018/0415/OUT - 4 Sutton Lane, Byram, Knottingley (Pages 103 - 122)
- 6.5. 2018/0646/FUL - A19 Caravan Storage Limited, Hazel Old Lane, Hensall (Pages 123 - 138)
- 6.6. 2018/1108/FUL - Land To The Rear Of The Lodge, 23 Selby Road, Riccall (Pages 139 - 154)
- 6.7. 2018/1111/FULM - Dovecote Park, Bankwood Road, Stapleton (Pages 155 - 170)
- 6.8. 2018/0681/FULM - Viner Station, Roe Lane, Birkin (Pages 171 - 188)

Janet Waggott

Janet Waggott, Chief Executive

Dates of next meetings (2.00pm) Wednesday, 6 March 2019

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, 16 January 2019
Time:	2.00 pm
Present:	Councillor J Cattanach in the Chair Councillors D Peart (Vice-Chair), I Chilvers, J Deans, R Musgrave, R Packham and P Welch
Officers Present:	Martin Grainger, Head of Planning, Ruth Hardingham, Helen Robinson, Solicitor, Planning Development Manager, Paul Edwards, Principal Planning Officer, Yvonne Naylor, Principal Planning Officer, Rachel Smith, Principal Planning Officer, Jenny Tyreman, Senior Planning Officer, Simon Eades, Laura Holden, Planning Officer, Victoria Foreman, Democratic Services Officer
Press:	0
Public:	25

38 APOLOGIES FOR ABSENCE

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

39 DISCLOSURES OF INTEREST

Councillor R Musgrave declared a non-pecuniary interest in agenda item 6.9 – 2018/0743/FUL - Former Mushroom Farm, Gateforth New Road, Brayton as knew the applicant. Councillor Musgrave confirmed that he would leave the meeting during consideration of the application and would therefore not take part in the debate or vote.

40 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chair reminded Committee that the agenda for the meeting was a busy one and as such, should the meeting reach three hours in length, a vote to

continue would need to be taken.

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

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

1. 2017/0701/OUT – Yew Tree House, Main Street, Kelfield
2. 2018/1123/REM – Land at Broach Lane, Kellington
3. 2018/1108/FUL – Land To Rear Of The Lodge, 23 Selby Road, Riccall
4. 2018/0742/FULM – Level Crossing on Cow Lane, Cow Lane, Womersley
5. 2018/1043/OUT – 1 The Bungalow, Weeland Road, Eggborough
6. 2018/0743/FUL – Former Mushroom Farm, Gateforth New Road, Brayton
7. 2018/1402/DOV – Pinfold Garth, Sherburn in Elmet
8. 2018/0941/OUT – Castle Close, Cawood
9. 2017/0872/FUL – Land at Wharfe Bank, Tadcaster
10. 2018/0450/FULM – Dovecote Park, Bankwood Road, Stapleton
11. 2018/1141/OUT – 25 Sand Lane, South Milford, Leeds
12. 2018/1424/DOV – Land to the West of Mill Hill Cottage, Hull Road, Osgodby

Lastly, the Committee acknowledged that agenda item 6.10 – 2018/0562/FULM – Ibbotsons, Mill Hill had been pulled from the agenda and would not be considered at the meeting.

41 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.

42 MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 5 December 2018.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 5 December 2018 for signing by the Chairman.

43 PLANNING APPLICATIONS RECEIVED

The Planning Committee considered the following applications.

44 2017/0701/OUT - YEW TREE HOUSE, MAIN STREET, KELFIELD, YORK

Application: 2017/0701/OUT

Location: Yew Tree House, Main Street, Kelfield

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

The Senior Planning Officer presented the application which had been brought back before Planning Committee following consideration at the 5 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.”

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

Officers explained that since the Planning Committee meeting in December 2018, legal advice had been sought on the appropriateness of proposed conditions limiting the number of properties at the site. A recent appeal decision against grant of outline planning permission at Barff Lane, Brayton, where a condition was attached limiting the number of properties on the site, was rejected by the Inspector and costs awarded against the Council. The Committee noted that the legal advice in relation to the application for Yew Tree House was that a condition restricting the number of dwellings on the site would not be appropriate, and Officers therefore did not recommend that such a condition be attached to any planning permission granted.

In relation to the officer update note, the Committee acknowledged that condition 12 on page 24 of the agenda had been amended, and noted that all pre-commencement conditions recommended to be attached had the prior written agreement of the applicant.

Nigel Drayton, Kelfield Parish Council, spoke in objection to the application.

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

Members considered the application in full and accepted the Officer advice regarding a condition limiting the number of properties on site.

It was proposed and seconded that the application be approved.

RESOLVED:

To GRANT the application subject to conditions set out in paragraph 3 of the report and the officer update note.

45 2018/1123/REM - LAND AT BROACH LANE, KELLINGTON, GOOLE

Application: 2018/1123/REM

Location: Land At Broach Lane, Kellington, Goole

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

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

The Committee noted that the application was a 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.

Councillor John McCartney, Kellington Parish Council, spoke in objection to the application.

Councillor Mary McCartney, local Member, spoke in objection to the application.

Members queried if concerns had been raised by the Planning Inspector relating to the non-linear layout of the scheme; Officers confirmed that this had not been raised as an issue by the Inspector.

Members were mindful of the outline approval granted at appeal with all matters reserved for future consideration, and acknowledged that the principle of development had been established through the outline permission and only reserved matters could be considered at the meeting. The Committee agreed 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.

It was proposed and seconded that the application be approved.

RESOLVED:

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

46 2018/1108/FUL - LAND TO REAR OF THE LODGE, 23 SELBY ROAD, RICCALL, YORK

Application: 2018/1108/FUL

Location: Land To The Rear Of, The Lodge, 23 Selby Road, Riccall, York

Proposal: Proposed erection of amenity block following demolition of existing stables

The Planning Officer presented the application which had been brought before Planning Committee as more than 10 objections had been received contrary to the Officer recommendations to approve the application.

The Committee noted that the application was for the proposed erection of amenity block following demolition of existing stables.

Members asked for clarification regarding the definition of amenity uses and if this included social activities; Officers confirmed that the amenity uses for this application were only as detailed in the application, i.e. office, cloakroom, laundry and storage.

Mark Newby, on behalf of objectors, spoke in objection to the application.

During the representations made on behalf of the objectors, a question was raised as to whether the correct ownership certificate for the site had been submitted with the application. This led Members to question whether the application had been correctly validated. It was felt that this matter required further investigation and that the application should not be considered any further until this had been clarified.

It was proposed and seconded that the application be deferred.

RESOLVED:

To DEFER consideration of the application until Officers have checked that the correct certificate of ownership for the site had been submitted and that it was therefore a correctly validated application.

47 2018/0742/FULM - LEVEL CROSSING ON COW LANE, COW LANE, WOMERSLEY, DONCASTER

Application: 2018/0742/FULM

Location: Level Crossing On Cow Lane, Cow Lane, Womersley, Doncaster

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

The Principal Planning Officer presented the application which had been brought before Planning Committee because it constituted inappropriate development within the Green Belt.

The Committee noted that the application was for 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.

In relation to the officer update note, the Committee acknowledged that the pedestrian bridge no longer formed part of the application, the pre-

commencement conditions included in the recommended conditions had been agreed by the applicant, the recommendation for approval was subject to no objection being received from the Highways Authority and changes had been made to conditions 2 and 3.

Councillor John McCartney, on behalf of Womersley Parish Council, spoke in objection to the application.

Diane Cragg, applicant (Network Rail), spoke in support of the application.

It was proposed and seconded that the application be approved.

RESOLVED:

To APPROVE the application subject to no adverse comments being received from the Highway Authority and the conditions set out in paragraph 5 of the report and the officer update note.

48 2018/1043/OUT - 1 THE BUNGALOW, WEELAND ROAD, EGGBOROUGH, GOOLE

Application: 2018/1043/OUT

Location: 1 The Bungalow, Weeland Road, Eggborough, Goole

Proposal: Outline application for up to 6 dwellings including access with all other matters reserved

The Senior Planning Officer presented the application which had been brought before Planning Committee as 10 letters of representation had been received which raised material planning considerations and Officers would otherwise determine the application contrary to these representations.

The Committee noted that the application was an outline application for up to 6 dwellings including access with all other matters reserved.

Officers confirmed that the application site was located partly in Eggborough Parish, and partly in Kellington Parish, and was not outside development limits.

Members acknowledged that the existing bungalow on the site would be demolished as part of the application, and that the details of parking on the site would be considered at the later reserved matters stage as part of the layout of the development; the Committee were only being asked to consider access to the site in the application before them.

Councillor Mary McCartney, local Member, spoke in objection to the application.

It was proposed and seconded that the application be approved.

RESOLVED:

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

49 2018/0743/FUL - FORMER MUSHROOM FARM, GATEFORTH NEW ROAD, BRAYTON, SELBY

Councillor R Musgrave left the meeting at this point.

Application: 2018/0743/FUL

Location: Former Mushroom Farm, Gateforth New Road, Brayton, Selby

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

The Principal Planning Officer presented the application which had been brought before Planning Committee as the application was a departure from the Development Plan and there were material considerations which would support the recommendation for approval.

The Committee noted that the application was for 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.

In relation to the officer update note, the Committee acknowledged that further detail had been provided regarding additional representations from the Council's Contaminated Land Consultant and the Highways Authority. Members also noted that no planning obligation was required regarding the offered shuttle bus, and that a number of changes had been made to various conditions.

Phil Brierley, applicant, spoke in support of the application.

Members agreed that the site in question required redevelopment and supported the application.

It was proposed and seconded that the application be approved.

RESOLVED:

The Committee was MINDED TO APPROVE the application subject to the delegation of authority to the Planning Development Manager to approve the application subject to

the conditions set out at paragraph 7 of the report and in the officer update note. The delegation shall include the alteration, addition or removal of conditions from those set out if amendment becomes necessary as a result of continuing negotiations with the Highway Authority and advice, and provided such condition(s) meet the six tests for the imposition of conditions and satisfactorily reflect the wishes of Committee.

50 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

Application: 2018/1402/DOV

Location: Pinfold Garth, Sherburn in Elmet

Proposal: 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

The Principal Planning Officer presented the matter 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.

The Committee noted that the matter was a 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.

In relation to the officer update note, the Committee acknowledged that the scheme would deliver 25% provision of affordable housing via 15 units, not 20% as stated in the summary. An executive summary of the Viability Assessment had been provided by the applicants, as well as a revised plan of the site showing the placement of the affordable units.

Members queried how the split between shared ownership and social rent was arrived at, and the layout of the affordable properties on the site. Officers confirmed that the divide was a straight 50/50 split, and that Housing Trusts often preferred affordable units to be grouped together on site as this was easier for maintenance and management.

Lucie Jowett, agent, spoke in support of the application.

It was proposed and seconded that the request for the Deed of Variation be approved.

RESOLVED:

To APPROVE the request for a Deed of Variation, 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 Revision C shared ownership and social rent. The variation shall be time limited for a period of 3 years from the date of the decision.

51 2018/0941/OUT - CASTLE CLOSE, CAWOOD, SELBY

Application: 2018/0941/OUT

Location: Castle Close, Cawood, Selby

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

The Principal Planning Officer presented the application which had been brought before Planning Committee because it sought 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 sought to vary that permission and therefore it did not fall within the Scheme of Delegation.

The Committee noted that the application was an application for a 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).

In relation to the officer update note, the Committee acknowledged that clarification was required in relation to newt mitigation and a Deed of Variation in respect of the Section 106 associated with application 2015/0518/OUT. An updated ecological report had been submitted by the applicant, which contained specific mitigation enabling a more precise condition to be added. The County Ecologist had been re-consulted on the updated report and it was confirmed that the development would not be detrimental to the maintenance of the Great Crested Newt population; condition 12 had been revised accordingly, and condition 21 revised to make specific reference to the habitat survey.

Lucie Jowett, agent, spoke in support of the application.

Officers confirmed that the District Valuer had been consulted in relation to the level of affordable housing.

It was proposed and seconded that the application be approved.

RESOLVED:

To APPROVE the application subject to:

- i. the conditions set out in paragraph 5 of the report and the officer update note;
- ii. clarification in relation to newt migration; and
- iii. a deed of variation in respect to the Section 106.

52 2017/0872/FUL - LAND AT WHARFE BANK, TADCASTER

Application: 2017/0872/FUL

Location: Land At Wharfe Bank, Tadcaster

Proposal: Proposed installation of a recreational raised seating area over the existing temporary bridge foundation

The Senior Planning Officer presented the application which had been brought before Planning Committee at the discretion of the Head of Planning.

The Committee noted that the application was for the proposed installation of a recreational raised seating area over the existing temporary bridge foundation.

In relation to the officer update note, the Committee acknowledged that all pre-commencement conditions that had been recommended had the prior written agreement of the applicant.

Members queried the accessibility of the site for non-ambulant members of the public; Officers advised that 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 was advised that to the north west of the application site (outside of the red edge) there 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.

Lisa Teasdale, objector, spoke in objection to the application.

It was proposed and seconded that the application be approved.

RESOLVED:

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

53 2018/0450/FULM - DOVECOTE PARK, BANKWOOD ROAD, STAPLETON, PONTEFRACT

Application: 2018/0450/FULM

Location: Dovecote Park, Bankwood Road, Stapleton, Pontefract

Proposal: Proposed erection of a new dry aged chiller and extension to the

fat processing room and retrospective extensions to the venison lairage facility

The Senior Planning Officer presented the application which had been brought before Planning Committee as it constituted inappropriate development in the Green Belt.

The Senior Planning Officer stated that the applicant had coherently and cogently demonstrated that there were overwhelming benefits arising from the proposal. The case for very special circumstances considered cumulatively had been made. Members acknowledged therefore that the case put forward for very special circumstances by the applicant outweighed any harm by virtue of inappropriateness, and any other harm in terms of openness or the visual amenities of the Green Belt.

The Committee noted that the application was for the proposed erection of a new dry aged chiller and extension to the fat processing room and retrospective extensions to the venison lairage facility.

It was proposed and seconded that the application be approved.

RESOLVED:

- i. The Committee were MINDED TO APPROVE the application subject to the conditions set out at paragraph 7 of the report.**
- ii. That authority be given to refer the application to the Secretary of State under the 2009 Consultation Direction with the indication that the authority is minded to approve it.**
- iii. That in the event that the application is not called-in, authority be delegated to the Planning Development Manager to approve the application in accordance with the conditions set out paragraph 7 of the report and the officer update note, and subject to any necessary changes to them subsequent to the Minister's decision.**
- iv. That in the event the application is called-in, a further report be presented to Committee to outline the authority's case in support and the other and financial implications.**

54 2018/1141/OUT - 25 SAND LANE, SOUTH MILFORD, LEEDS

Application: 2018/1141/OUT

Location: 25 Sand Lane, South Milford, Leeds

Proposal: Outline application (with all matters reserved) for demolition of existing buildings and erection of a residential development

The Senior Planning Officer presented the application which had been brought

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

The Committee noted that the application was an outline application (with all matters reserved) for demolition of existing buildings and erection of a residential development.

Members acknowledged that with regards to the loss of the shop there was alternative provision of a similar type within walking distance, therefore satisfying the requirements of policy S3(B).

The Committee expressed their support for the informative that the indicative layout plans submitted with the application had been dealt with on that basis and did not form a part of the approval; it had been advised that the indicative three pairs of semi-detached properties would not be in keeping with the character of the locality and would therefore, without prejudice, not have the authority's support.

It was proposed and seconded that the application be approved.

RESOLVED:

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

55 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

Application: 2018/1424/DOV

Location: Mill Hill Cottage, Hull Road, Osgodby

Proposal: 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

The Senior Planning Officer presented the matter to Planning Committee for consideration due to it being a proposal to amend the affordable housing contribution agreed by Members on 9 September 2015.

The Committee noted that the matter was a 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.

In relation to the officer update note, the Committee acknowledged that since the report in the agenda had been written, the Parish Council had commented on the application and stated that there should be no additions to the site if the affordable housing requirement was removed. As set out in the report at paragraph 3.2, no further reserved matters applications could be submitted pursuant to outline planning permission; Officers would not accept any amendments to the current application which would result in an increase in the number of dwellings over the threshold of 10.

It was proposed and seconded that the request for the Deed of Variation be approved.

RESOLVED:

To APPROVE the request for a Deed of Variation, 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. The variation shall be time limited for a period of 3 years from the date of the decision.

The meeting closed at 4.40 pm.

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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

6 February 2019

Item No.	Ref	Site Address	Description	Officer	Pages
6.1	2018/0051/FULM	Park Farm, Main Street, Skipwith	Erection of 14 dwellings with associated access, garages and parking	MACO	19-46
6.2	2018/0226/FUL	East End Cottage, Main Street, Thorganby	Proposed demolition of existing dwellings, outbuildings and garages and the erection of 3 No. residential dwellings, garages and associated works and infrastructure (amendment to planning permission 2016/1029/FUL)	JETY	47-88
6.3	2018/0398/FUL	Partridge Hill Farm, Oxmoor Lane, Church Fenton	Proposed conversion of an agricultural barn building into a residential dwelling and necessary associated operational and remedial works including demolition of redundant agricultural buildings	PAED	89-102
6.4	2018/0415/OUT	4 Sutton Lane, Byram, Knottingley	Outline planning application for residential development of 4no 2 bedroom town houses and 2no 3 bedroom houses to include details of access and scale at number 6 (Including access and scale)	MACO	103-122
6.5	2018/0646/FUL	A19 Caravan Storage Limited, Hazel Old Lane, Hensall	Proposed erection of a two storey dwelling and detached double garage	SIEA	123-138
6.6	2018/1108/FUL	Land To The Rear Of The Lodge, 23 Selby Road, Riccall	Proposed erection of amenity block following demolition of existing stables	LAHO	139-154
6.7	2018/1111/FULM	Dovecote Park, Bankwood Road, Stapleton	Proposed construction of an extension to the existing facility to provide a new burger production building	SIEA	155-170
6.8	2018/0681/FULM	Viner Station, Roe Lane, Birkin	Retrospective application for the following works: 1. Change of use of the buildings and land from agricultural use	RUHA	171-188

			<p>to industrial B2 use which includes:</p> <ul style="list-style-type: none"> • Installation and the use of 5 biomass boilers for the drying and heating woodchip • Storage of the logs on the hardstanding • Processing logs to woodchip • Storage of woodchip within the buildings • Drying the woodchip for wholesale • Drying and using the woodchip for the heating for the proposed agricultural building under application reference number 2017/1381/FULM <ol style="list-style-type: none"> 2. The improvement and replacement of a hard standing area; 3. The creation of a soil heap 'bund' along the northern boundary; and 4. The installation external extractor vents and flues to the building; 5. The installation of a weighbridge; 6. The creation of a new access road. 	
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Accommodation

Plot	Description
1	Semi detached house with 2no parking spaces
2	Semi detached house with 2no parking spaces
3	Detached house with dg + 2no parking spaces
4	Detached single storey with dg +2no parking spaces
5	Detached house with dg +2no parking spaces
6	Detached house with dg + 2no parking spaces
7	Detached house with dg + 2no parking spaces
8	Semi detached house with sg + 2no parking space
9	Semi detached house with sg + 2no parking space
10	Detached house with double garage + 4no parking spaces
11	Detached house with double carport with store
12	Detached single storey with sg + 2no parking spaces
13	Detached house with dg + 2no parking spaces
14	Detached house with dg + 2no parking spaces

- ### Key
- TREE RETAINED
 - TREE REMOVED
 - INDICATIVE PLANTING
 - TURF
 - BLOCK PAVING
 - GRAVEL DRIVE
 - COBBLES
 - SCREEN FENCE
 - SCREEN WALL
 - POST+RAIL FENCE

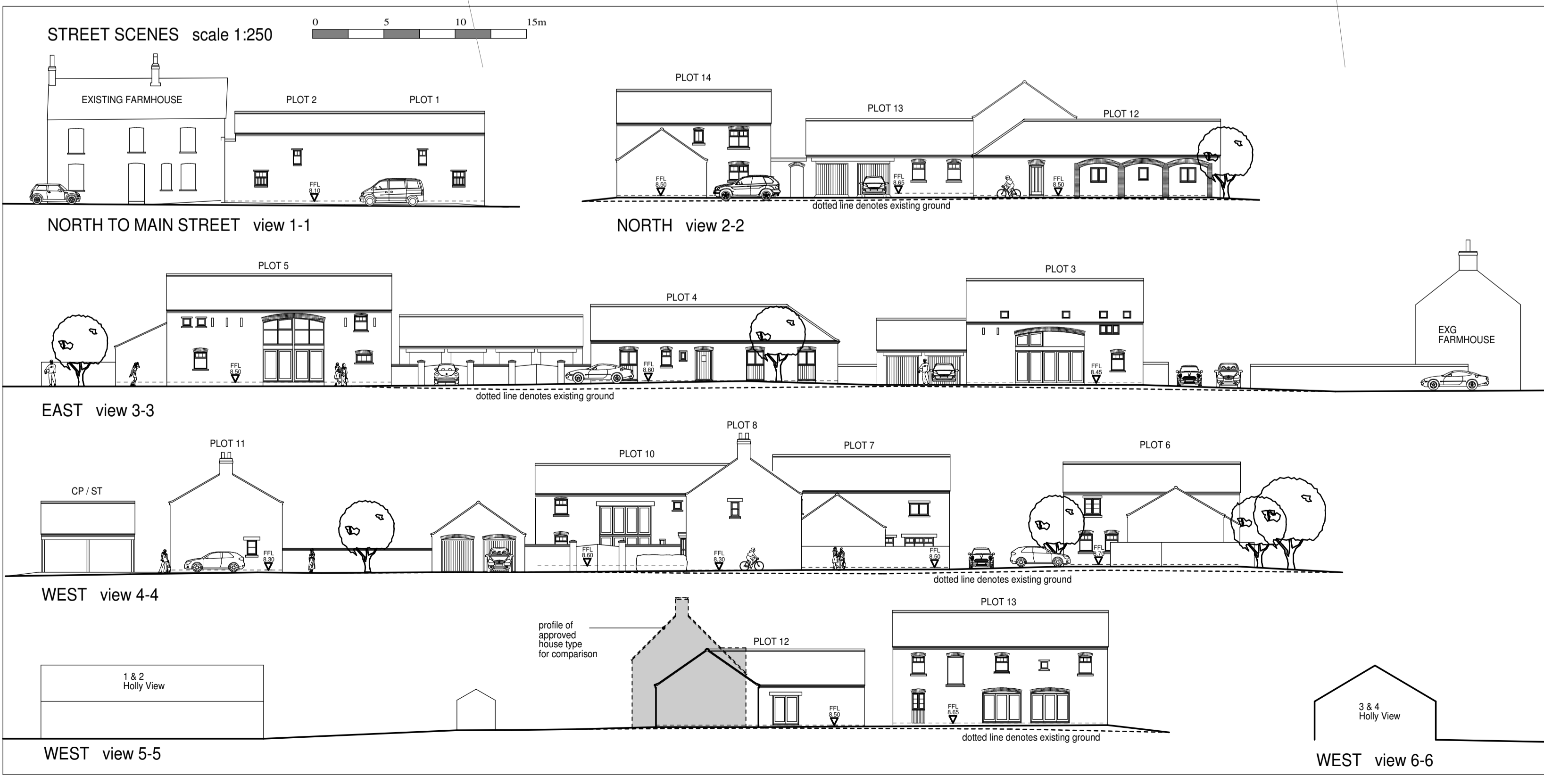
THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL OTHER PROJECT DRAWINGS. NOT TO BE SCALED. CDM 2015 REGULATIONS APPLY - REFER TO HSE WEBSITE <http://www.hse.gov.uk/construction/cdm.htm> TO UNDERSTAND YOUR LEGAL OBLIGATIONS

YOUR DUTIES UNDER CDM 2015 INCLUDE (INTER ALIA) APPOINTING THE RIGHT PEOPLE AT THE RIGHT TIME; ENSURING ARRANGEMENTS FOR MANAGING & ORGANISING THE PROJECT; ALLOWING ADEQUATE TIME; PROVIDING INFORMATION TO & COMMUNICATION WITH YOUR DESIGNERS & CONTRACTORS; ENSURING ADEQUATE WELFARE FACILITIES ON SITE; ENSURING A CONSTRUCTION PHASE PLAN IS IN PLACE; KEEPING THE HEALTH & SAFETY PLAN; PROTECTING MEMBERS OF THE PUBLIC INCLUDING YOUR EMPLOYEES; ENSURING WORKPLACES ARE DESIGNED CORRECTLY & NOTIFYING THE HSE OF THE PROJECT IF APPLICABLE.

REV	DATE	DESCRIPTION
A	12/03/18	DOTTED LINE OF ACCESSWAY, POST-RAIL FENCE TO WEST BOUNDARY, BIN COLLECTION TO PL.12-14, SECTIONS THROUGH HOLLY VIEW ADDED
B	05/10/18	Bryan G Hall FFL's ADDED & STREETSCENES ADJUSTED

AMENDED DRAWING

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scale 1:500

0m 1 2 3 4 5

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CLIENT	Yorvik Homes	
PROJECT	Residential Development Park Farm, Skipwith	
DRAWING TITLE	Site Layout	
SCALE	DRAWN BY	DATE
1 : 500 @ A1	PW	NOV 2017
DRG NO	REVISION	
3776-10	B	

ALL DIMENSIONS TO BE CHECKED ON SITE. DISCREPANCIES, AMBIGUITIES AND/OR OMISSIONS BETWEEN THIS DRAWING AND INFORMATION GIVEN ELSEWHERE MUST BE REPORTED TO THIS OFFICE AND CLARIFICATION SOUGHT BEFORE PROCEEDING

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Report Reference Number: 2018/0051/FULM

To: Planning Committee
Date: 6 February 2019
Author: Mandy Cooper (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0051/FU LM	PARISH:	Skipwith Parish Council
APPLICANT:	Yorvik Homes Limited	VALID DATE: EXPIRY DATE:	16th January 2018 17th April 2018
PROPOSAL:	Erection of 14 dwellings with associated access, garages and parking		
LOCATION:	Park Farm, Main Street, Skipwith, Selby, North Yorkshire, YO8 5SQ		
RECOMMENDATION:	GRANT subject to a Section 106 Agreement		

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 and Context

- 1.1 The application site is located to the south side of Main Street, Skipwith and within the grounds of Park Farm. The site comprises of 0.85ha in total area. There are existing brick/tile as well as steel agricultural buildings and a tall grain silo with a former foldyard to the street frontage, which are to be demolished as part of the proposal. There are many areas of concrete hardstanding and associated circulation areas.
- 1.2 There are farm buildings on the opposite side of the road associated with Red House Farm and established residential development on both sides of Main Street extending east and west. A paddock with a pond adjoins the site to the west, beyond which is Skipwith Hall on the north side of Main Street (northwest of site) a

Grade II* Listed Building. In addition, is the Church of St Helen (Grade I) approximately 250m west of the proposal site. Skipwith also has a Village Design Statement (December 2009).

- 1.3 The site is within Flood Zone 1 which represents the lowest possible risk of flooding by rivers or the sea. However, the Government's online flood risk mapping does show an area of low to medium risk of flooding from surface water within *Holly View*, a small courtyard of bungalows sandwiched between the application site and Main Street.
- 1.4 A Public Right of Way (PROW) runs immediately adjacent to the southern boundary of the site. Also adjoining the site to this boundary is agricultural land and approximately 300m beyond is Skipwith Common which is a Site of Special Scientific Interest (SSSI); National Nature Reserve (NNR) and a Special Area of Conservation(SAC).

The Proposal

- 1.5 The proposal has been implemented and therefore a "live" consent (approval under application reference 2014/0894/FUL) prior to the date it was due to expire in December of 2018. This is a full application again proposing 14 dwellings with associated access, garages and parking on the southern side of Main Street in Skipwith. The northern half of the site, containing four of the dwellings (Plots 1, 2, 3 and 11), is within the development limits of the village; the southern half containing the remaining ten dwellings is outside but adjoins the development limits.
- 1.6 The rationale behind the proposed changes is that the applicant considers that the approved dwellings are too large and would be too costly to build (and hence too expensive to sell) in the local housing market. By reducing the scale of a number of the dwellings this results in improvements to internal parking and circulation arrangements. In addition, the benefit of improved relationships between the new dwellings within the site and relationships between the new dwellings and existing dwellings on adjacent sites.
- 1.7 The site is effectively being developed in two parcels, each with its own vehicular access. The eastern parcel contains 12 units arranged as an elongated courtyard, but with two units (plots 1 and 2) abutting Main Street. The vehicular access is to the east of *Park Farm*, a detached dwelling in separate ownership. The western parcel contains 3 dwellings, also arranged in a small courtyard set to the rear of *Holly View*.
- 1.8 The Design and Access Statement describes a general design philosophy of 'Farmhouse', 'Workers Cottages' and 'Agricultural buildings' which establishes a hierarchy of buildings across the site. A majority of the buildings have what is described as an "agricultural aesthetic", giving the appearance of converted, former farm buildings. Each of the house designs is described briefly in the Design section. The Design and Access Statement advises that "*The house types will share a consistent palette of materials (to be established by planning condition).*" The number of bedrooms in each case refers to the maximum indicated on the drawings, including rooms indicated for flexible use where the potential to be used as a bedroom is explicit.

Planning History

- 1.9 2014/0894/FUL, Proposed redevelopment of farmstead (including the conversion of former agricultural buildings) to provide 14 No dwellings, garaging, and hard and soft landscaping, APPROVED, 03.12.2015

2. CONSULTATIONS AND PUBLICITY

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

- 2.1 **Skipwith Parish Council** - Agreement the revised plans are an improvement on original plans and represent a more appropriate development for the village.

However, there were a number of concerns raised and it was agreed to make Selby DC planning department aware of the following issues and request they consider them whilst they appraise revised plans.

1. *The access to plots 12/13/14 is via a gravel driveway - it is considered the noise that may be resultant will disturb residents of existing Council bungalows which house elderly residents*
2. *The access to plots 12/13/14 details a Screen Fence along the western boundary of the site, residents of Holly View bungalows are concerned their view across open aspect will be unnecessarily restricted. It would be favourable for screen fencing to terminate local plot 12 rather than continue to Main Street.*
3. *Holly View bungalow, numbered 4 on plans, has a continued problem of flooding during periods when the water table rises- seasonal - despite recent works by SDC. It is noted the height of buildings on plots 12 and 13 have been lowered to a single storey - however the plan to lower the land area by 1M is now omitted. The impact of not doing so needs to be considered in context of impact on drainage.*
4. *Access to rear of bungalows requires clarification - residents have preference for vehicle access rights to be granted so that access to bungalow 2 garage can continue and potential for access to bungalows 3 and 4 is maintained/re-established. Parking on Main Street has been problematic - damage to verges- since historical access to rear of bungalows was restricted during marketing of development site.*

- 2.2 **NYCC Highway Authority** - No objection subject to the inclusion of conditions relating to the widening of access; parking and turning areas; precautions to prevent mud on the highway and a construction management plan.

- 2.3 **Historic England** - The application site is within an area known to have a high archaeological potential. It is expected that the application therefore would be supported by an archaeological evaluation of the impact of the proposals and an appropriate mitigation strategy.

Historic England has concerns regarding the application on heritage grounds and that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraph 128 of the NPPF.

- 2.4 **Principal Archaeologist, North Yorkshire County Council** - No objection to the proposal and have no further comments make.

- 2.5 **County Ecologist** - A Habitat Regulations Assessment screening report has been completed which has concluded that it is unlikely that significant effects would arise

from the proposal on Skipwith Common SAC. This concurs with Natural England's response.

2.6 **Lead Officer Environmental Health and Housing, Selby District Council** - No objections.

2.7 **North Yorkshire County Council Local Education Authority** - No financial contribution sought

2.8 **Contracts Team Leader, Selby District Council** - A swept path diagram has been provided for this proposal showing access for refuse collection vehicles. However, collection vehicles will not access private drives or use them for turning and so bin presentation points will need to be provided at the junction with the main road. The presentation points must allow for unobstructed access to containers and waste collection vehicles should be able to gain access to within 10 metres. The presentation points should be large enough to accommodate 2 x 240 litre wheeled bins per property one week and 3 x 55 litre kerbside recycling boxes per property the following week.

Finally as there are more than 4 properties, the developer will be required to purchase the waste and recycling containers for this development.

2.9 **North Yorkshire Bat Group** - (Following updated Bat Survey dated June 2018) - The North Yorkshire Bat Group have commented on an updated Bat Assessment and advice that a small number of Pipistrelle bats are using the existing buildings as roost sites which would be lost as a result of the development. The response states that providing the mitigation measures referred to are carried out, they are satisfied that the impact on the bats would be minimal and on this basis have no objection.

2.10 **Ouse and Derwent Internal Drainage Board**

"If the Planning Authority can be satisfied with the design and technical aspects of the drainage arrangements, as a long term sustainable drainage system for the development, the Board have no objections to this application."

2.11 **North Yorkshire Police** - The overall design and layout of the proposed scheme is considered acceptable.

2.12 **North Yorkshire County Council Public Rights of Way** - No comments but suggested informative to be included.

2.13 **Natural England** - No objections

2.14 **Environment Agency** - No objections to the proposals

2.15 **Fire Service** - No objection/observation to the proposal

2.16 **Yorkshire Water Services** - Include condition stating that development to be carried out in accordance with submitted plans (January 2018). Amended plans have been submitted but the LLFA advice a further condition.

2.17 **North Yorkshire Contaminated Land –**

Submitted Phase 2 report provides sufficient information regarding the site's history and setting. Report and conclusions are generally acceptable and state the site's suitability based on removing made ground from the site in addition to oil drum containers. Conditions to be included requiring the submission of a verification report to the LPA.

2.18 **Neighbour comments**

One letter of objection has been received raising the following points:

- Plans are better than the last ones

- Issue of parking for disabled residents at 3 and 4 Holly View has not been addressed.
- The land behind 3 and 4 Holly View needs to be lowered by 1 metre as previous plans to avoid overshadowing.
- Windows (bedroom and kitchen) at proposed plot 14 look into property at 4 Holly View.

3. SITE CONSTRAINTS AND POLICY CONTEXT

3.1 The application site is located partially inside and partially outside the development limits of Skipwith. The site is also within proximity of an Ancient Monument and two Listed Buildings and in an Archaeological Consultation Zone. Due to the former agricultural use of the site, there is also the possibility that the land may be contaminated. The site is within a Coalfield Area and the Sherburn Airfield Air Protection area.

National Guidance and Policy – National Planning Policy Framework (NPPF)

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.

Paragraph 47 of the NPPF 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

3.3 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 Scale and Distribution of Housing
- SP8 Housing Mix
- SP9 Affordable Housing
- SP15 Sustainable Development and Climate Change
- SP16 Improving Resource Efficiency
- SP18 Protecting and Enhancing the Environment
- SP19 Design Quality

Selby District Local Plan

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

3.5 *“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)."

ENV1	Control of Development
ENV2	Environmental Pollution and Contaminated Land
ENV15	Conservation & Enhancement of Locally Important Areas
ENV27	Scheduled Monuments & Important Archaeological Sites
T1	Development in Relation to Highway
T2	Access to Roads
RT2	Recreational Open Space

4. OTHER MATERIAL CONSIDERATIONS

- Developer Contributions Supplementary Planning Document (March 2007)
- Affordable Housing Supplementary Planning Document (February 2014)
- Skipwith Village Design Statement (December 2009).

5. KEY ISSUES

- Principle of Development
- Housing Land Supply
 - *Spatial Development Strategy*
 - *The Fall-back*
 - *Market Housing*
 - *Affordable Housing*
 - *Recreational Open Space*
- Visual Impact/Character of the Scheme
- Residential Amenity
- Impact on Heritage Assets
- Flood Risk/Drainage
- Highway Matters
- Biodiversity
- Contamination

6. PRINCIPLE OF DEVELOPMENT

Housing Land Supply

- 6.1 A key objective of the NPPF is to significantly boost the supply of homes (para. 59 and criterion c) of paragraph 72 sets out the expectation that development should comprise of high quality homes. Accordingly, the NPPF requires LPA's to identify and update annually a supply of specific deliverable sites for housing, ensuring that there is sufficient to provide for a five year supply against local requirements. Paragraph 73 of the NPPF advises that, in circumstances where a deliverable 5-year housing land supply cannot be demonstrated policies relating to the supply of

housing should not be considered up-to-date and that applications should be considered in the context of a presumption in favour of sustainable development.

- 6.2 The Council's housing land supply position was updated in September 2018 and indicates that as of 31st March 2018 the district had a 6.5 year deliverable supply of housing. This is an increase from the position in December 2017 of 6.2 years supply. The broad implications are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.
- 6.3 Case law establishes that if an applicant can demonstrate a 'fall-back' position, this may constitute a material consideration to be taken into account when determining the application. A 'fall-back' is an existing consent which is capable of being implemented regardless of the decision on this 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 where: (1) the basic principle is that for a prospect to be a "real prospect", it does not have to be probable or likely: a possibility will suffice; (2) there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand.

Spatial Development Strategy

- 6.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that this application be determined in accordance with the development plan unless material considerations indicate otherwise.
- 6.5 Skipwith is identified as a Secondary Village within the spatial development strategy established by the Core Strategy and has development limits on the Local Plan Proposals Map. A large extent of the application site extends beyond those limits and is therefore within an area regarded as open countryside for the purposes of planning. The approach toward development in the open countryside is set out in Policy SP2A(c) of the Core Strategy which restricts non-allocated development in such circumstances to specific categories, none of which apply in this case. Even within the development limits of Skipwith, Policy SP2A (b) restricts limited amounts of residential development where it will enhance or maintain the vitality of rural communities and which conform to the provisions of Policy SP4. Policy SP2 broadly reflects the advice provided in paragraph 78 of the NPPF, which states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
- 6.6 The extent to which that part of the current application within the development limits of the village meets the expectations of Policy SP2A(b) is discussed further below. However, given that that part of proposal outside of the development limits fails to meet the stated exceptions set out in either the NPPF or the Core Strategy, the proposed development would be contrary to Policy SP2A(c).

The Fall-back

- 6.7 The current application site benefits from an implemented planning permission which was granted in 2015 under reference 2014/0894/FUL and therefore represents a “fall back” to be weighed in the planning balance.
- 6.8 The implemented permission was partly justified on a fall back itself: the permitted development right conferred by Class Q in the Town and Country Planning (General Permitted Development) Order 2015 (“GPDO”) would allow the existing barns on the site, many of which are outside the development limits of the village, to be converted into up to five residential units subject to a combined floor space of up to 865 sq. m from a combination of larger and smaller dwelling houses. It is accepted however, that the redevelopment of the whole site is a more favourable form of development. That fall-back, plus the more significant fact that at the time the now implemented permission was granted Selby District Council was unable to demonstrate a deliverable 5-year housing land supply, meant that the authority was satisfied that the proposal was acceptable.
- 6.9 Although Selby District Council can now demonstrate a deliverable 6.5-year housing land supply, the permitted development rights given by Class Q and the extant permission from 2015 are both material considerations. If the current scheme is no less acceptable in planning terms than the development associated with the two fall back positions, then this is a material consideration which weighs heavily in favour of granting permission notwithstanding the other factors weighing against approval.

Market Housing

- 6.10 Core Strategy policy SP8 states that “All proposals for housing must contribute to the creation of mixed communities by ensuring that the types and sizes of dwellings provided reflect the demand and profile of households evidenced from the most recent Strategic Housing Market Assessment (SHMA) and robust housing needs surveys whilst having regard to the existing mix of housing in the locality.”
- 6.11 In this case the market element of the proposal compares as follows with the requirements of the Selby District Council (2015) (SHMA):

Unit Size	SHMA (%)	Approved (no. / %)	Proposed (no. /%)
1 Bedroom	6.1	1/7	0/0
2 Bedroom	35.6	4/29	2/14
3 Bedroom	46.4	5/36	2/14
4+ Bedroom	11.8	4/29	10/71

Affordable Housing

- 6.12 Policy SP9 “Affordable Housing” of the Core Strategy and the accompanying Affordable Housing Supplementary Planning Document set out the affordable

housing policy context for the District. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District. The Policy notes that the target contribution will be equivalent to the provision of up to 10% affordable units. The calculation of the extent of this contribution is set out within the Affordable Housing Supplementary Planning Document which was adopted on 25 February 2014.

- 6.13 It is established case law that if an applicant can demonstrate a fall-back position i.e. an existing consent which could be implemented in the absence of a new permission; this constitutes a material consideration to be taken into account in determining the application. In this case there is an implemented and live planning consent for the erection of 14 dwellings under application number 2014/0894/FUL.
- 6.14 Having had regard to Policy SP9, the fall-back position, the need to provide both market and affordable housing, and that the proposed affordable dwellings can be delivered at a reasonably early stage it is considered, on balance, that, subject to the completion of a section 106 agreement the proposal is acceptable in terms of the provision of affordable housing. The development proposes the delivery of two affordable homes which would be sold at 80% of open market value. The proposal complies with Policy SP9 and the SPD.

Recreational Open Space

- 6.15 Policy SP19 criterion e) (SDCS) is the relevant policy on open space which provides that development should incorporate new and existing landscaping. Policy RT2 (SDLP) sets the threshold for the provision of open space and residential developments of five or more dwellings. The policy adds that for schemes of more than 10 but less than 50 dwelling, open space can be provided via several options including the provision of recreation open space within the site or locality. If however this is not practical or desirable, the Local Planning Authority (LPA) may accept a financial contribution to the funding of provision elsewhere.
- 6.16 It should be noted that the recreational open space obligation required in connection with the earlier approved scheme has been discharged by the previous Applicant by making land available to the Parish Council for a children's play area. Therefore the approach to open space will be carried forward to this proposal and the S106 Agreement currently being drafted will not, therefore, include provision for a further ROS contribution.

7. VISUAL IMPACT/CHARACTER OF THE SCHEME

- 7.1 The design rationale for the scheme advises that the proposal has been carefully designed to reflect the character of the adjacent farmstead with buildings of varying sizes, heights etc. grouped around courtyard spaces and with roofs orientated in much the same direction as the existing farm buildings. Views toward the fields particularly looking south to Skipwith Common, are retained within the scheme. The details of the proposal are discussed in more detail below but compared to the live approval it is considered that the design details are more favourable visually and now with the inclusion of flexible living space.

Plots 1 and 2

Plots 1 and 2 are a pair of semi-detached two-storey, 2-bedroom cottages fronting Main Street and positioned between 'Park Farm' to the east and 'The New House' to the west. This area of the site is currently occupied by an agricultural building,

referred to as a fold yard. The design represents domestic-style dwellings but with the principal elevations facing (south) into the site with only two agricultural style windows (per dwelling) facing Main Street. Each property has a pair of tandem parking spaces accessed from the new estate road.

Plot 3

Plot 3 is a one and a half storey, 4-bedroom detached house which faces the east (side) garden of The New House. It has been designed in the style of a large converted barn, an impression reinforced by a part infilled full height opening to the east elevation. It has a double garage to the south, with space for at least two more cars in front.

Plot 4

Plot 4 is a single-storey, 3/4-bedroom house positioned to the south of the The New House and backing onto Plot 14. It has been designed to represent a converted agricultural outbuilding. It shares a semi-detached double garage with Plot 5.

Plot 5

Plot 5 is a two-storey, 4/5-bedroom house situated to the south-west of the eastern access. Its southern and western boundaries adjoin open countryside. As with Plot 3 it has been designed in the style of a large converted barn. It shares a semi-detached pair of double garages with Plot 4.

Plot 6

Plot 6 is a two-storey, 4-bedroom house which sits in the south-eastern corner of the site. It has an L-shaped plan which incorporates an integral double garage. Its overall appearance hints at the conversion of a substantial converted agricultural building, albeit less obvious than the buildings proposed for Plots 3 and 5.

Plot 7

Plot 7 is a part single and part two-storey, 4/5-bedroom house facing the eastern boundary of the site. The west facing projection is a single storey wing incorporating a double garage and a flexible space identified as "snug/dining/bed 5". As with Plot 6 its appearance can be likened to the conversion of a substantial agricultural building.

Plots 8 and 9

Plots 8 and 9 appear as a pair of traditional semi-detached, two-storey, 3-bedroom cottages and include chimneys. They are positioned immediately east of the main access and provide a strong focal point. Each has a single garage (to the north); contained within a larger structure that also provides a double garage for Plot 10. There are additional parking spaces in front of the garages.

Plot 10

Plot 10 is a two-storey, 4/5-bedroom house to the eastern boundary and directly south of 'Applegarth.' Its design represents a large agricultural conversion, exhibiting what appears to be a full height, glazed (cart shed) opening to the west (front) elevation. It has a double garage, which adjoins a larger structure that also provides single garages for Plots 8 and 9. Additional parking is provided within an adjoining courtyard.

Plot 11

Plot 11 is a two-storey, 4-bedroom house that faces Main Street, but set back from Main Street and the eastern entrance to the site. It has a double garage to the front. It has a traditional, domestic appearance, including chimneys.

Plot 12

Plot 12 is the first of three properties in the western half of the development. It is a single-storey, 2/4-bedroom unit that forms the focal point of the western access. It has an L-shaped plan and includes an integral single garage. It has the character of a converted agricultural outbuilding, with the appearance of three infilled openings on the north elevation facing the access to Main Street. Additional parking is provided to the front (east) of the garage.

Plot 13

Plot 13 is two-storey with a single storey element which projects east and forms a full height lounge, with adjoining double garage. The dwelling is a 4/5-bedroom house positioned in the south-west corner of the development. It has an L-shaped plan which includes an integral double garage. The building again can be likened to the character of an agricultural conversion, with inset openings to the north and east elevations.

Plot 14

Plot 14 is a two-storey dwelling with a single storey element which houses a hall/utility/w/c and snug. Attached is a double garage which projects slightly forward. The property is a 4-bedroom and positioned on the eastern boundary of the western half of the development. It has an L-shaped plan and is has a mix of both domestic and agricultural elements to its appearance.

- 7.2 The proposed housing ranges in scale and orientation and utilises materials which reflect existing local materials and building forms, with steeply pitched roofs (a characteristic noted in the Village Design Statement) to provide a wide choice of properties. Smaller dwellings are included to provide a balanced community and reverse the pattern of the later twentieth century development for large “executive” house types; also to reflect the mix of properties which occurred historically in the village. “The homes are designed to have a familiar appearance and be sympathetic to local distinctiveness but respecting the Village Design Statement that new development should not be designed to look old.”

Layout

- 7.3 The proposed development demonstrates two accesses onto Main Street – the eastern access being the existing main access serving the farm. These are set out in a similar form to those originally approved under application ref: 2014/0894/FUL.
- 7.4 The positioning and layout of the proposed dwellings has however changed with plots 12, 13 and 14 situated to the south side of the access to the western portion of the site, which now separates these plots from the existing dwellings fronting Main Street and referred to as 1,2,3 and 4 Holly View.
- 7.5 Previously, both accesses linked the central area of the site but this has now changed so that the access to the west of the site serves only plots 12-13 and that proposed to the east side serves the bulk of the proposed properties being plots 1-11.
- 7.6 The submitted Design & Access & Planning Statement makes reference to the historic grain of Skipwith “*now represented in the main by the remaining farmsteads and the looser groupings of the predominantly older buildings towards the western end of Main Street.*”

Appearance/Scale

- 7.8 The scale and massing of the previously approved proposal has been reduced with a large extent of buildings being a mix of single storey with (a maximum) two storey elements. The appearance represents a traditional cottage so as to reflect the character of the residential properties beyond the site to the east. Plots 8 and 9 also have the appearance of small workers cottages.
- 7.9 The frontage dwellings to the west of the (retained) farmhouse (plots 1 and 2) have been altered to those approved to have shallower depth with a simple pitch roof and a reduction to the overall scale and massing.
- 7.10 Materials would consist of a facing brick in a soft red/brown and a mixture of pantiles and slates to the roofs of the proposed dwellings.
- 7.11 Given the mix of built form and dwellings within the vicinity of the application site, it is considered that the visual appearance of the proposed dwellings would not have a significant adverse impact on the character and appearance of the area. The proposal would result in the provision of additional housing in the locality and would improve the visual character of the site. The proposal is therefore considered acceptable in accordance with Policies ENV1 (1) and (4), EMP13 and H13 of the Selby District Local Plan, Policies SP4 and SP19 of Core Strategy and the advice contained within the NPPF.

8. RESIDENTIAL AMENITY

- 8.1 Policy ENV1 (1) of the Selby District Local Plan requires proposals to take account of the impacts on residential amenity.
- 8.2 To the rear of 'The New House' would be plot 4 where the ridge height has been reduced by 3m than that previously approved. In addition plot 12 which is situated to the south of the gardens of No's 2 and 3 Holly View has had the ridge height reduced by 2m and now single storey, removes the element of overlooking to these properties. Plot 11 remains a two storey dwelling and situated immediately west of 'Applegarth' but with a reduction in the ridge height of 1.3m than the approved dwelling and the principal elevation now faces north. Plot 10 is one of the larger properties which would be sited south of 'Applegarth' but at a distance of 18m from the rear of this property. In addition, facing windows to ground and first floor would serve a utility room and en-suite respectively.
- 8.3 Having considered the layout plan and the relationship between the proposed and existing dwellings which immediately adjoin the site, sufficient separation distances are achieved in order to ensure that there would be no detriment caused through overlooking, overshadowing or creation of an oppressive outlook. The scheme also results in an appropriate level of amenity for occupiers of the residential element of the development
- 8.4 As such it is considered that the amenities of the adjacent properties would be preserved in accordance with Policy ENV1 (1) of the Selby District Local Plan and the advice contained within the NPPF.

9. IMPACT ON HERITAGE ASSETS

- 9.1 Criterion 2.of Policy SP18 (SDCS) is (amongst other things) concerned with conserving historic assets which contribute to the distinctive character of the district.

- 9.2 Relevant policies within the NPPF which relate to impact on heritage assets include paragraphs 189 to 198.
- 9.3 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”*.
- 9.4 According to paragraph 190 *“Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.”*
- 9.5 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”*.
- 9.6 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”*.
- 9.7 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”*.
- 9.8 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.
- 9.9 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'.

- 9.10 The proposal has the potential to significantly impact on the setting of the two adjacent listed buildings, which are situated to the north side of Main Street. They are both located at a considerable distance from the proposal but there are views from within the site which is more low lying. In accordance with paragraph 196 of the NPPF, the public benefits need to be considered and as a result of the development, long range views from the listed buildings would be substantially improved. The proposal would involve the removal of barns to the site frontage which dominate the street scene and have no heritage value due to the materials used. It is considered therefore that less than substantial harm would arise as a result of the improved setting of the listed buildings and the street scene from the development.
- 9.11 The preamble to Policy ENV 27 (SDLP) advises that the district is *“rich in archaeological remains”* and that the NPPF (Section 16) affords protection for such remains.
- 9.12 Historic England in their response state concerns that the submission is not *“supported by an archaeological evaluation of the impact of the proposals and an appropriate mitigation strategy”* and advise that the NYCC Principal Archaeologist is consulted.
- 9.13 The Principal Archaeologist (PA) has been consulted at NYCC and advises that the existing farm buildings, hard standings and access would have severely impacted on archaeological remains within the site. He adds that the two areas of Greenfield are toward the rear of the plots where medieval activity would be more agricultural in nature and concludes that there is no objection, no further comments and no requirement to consult him again in respect of this application.
- 9.14 In conclusion and based on the PA’s comments, there are no outstanding issues or concerns in respect of the archaeological implications of the proposal and development would comply with policy ENV27 and Section 16 of the NPPF.

10. DRAINAGE/FLOOD RISK

- 10.1 Criterion d) of policy SP15 (SDCS) applies in respect of ensuring development is located which avoids flood risk areas.
- 10.2 Amendments to the means of surface water drainage advise that surface water from the site would be discharged to the adjacent Yorkshire Water Service (YWS) sewer (having secured permission from YWS) in Main Street at the rate of 10 l/s. The Internal Drainage Board (IDB) have commented and advise that the proposed rate of discharge is within their expectations for a mixed Brownfield and Greenfield site and subject to the LLFA agreeing to these arrangements, the IDB have no objection.
- 10.3 The LLFA has responded favourably to the proposal but include a condition. It is therefore considered the proposals are acceptable in respect of flood risk and drainage and therefore accord with policy SP15 and the advice within the NPPF.

11. HIGHWAY MATTERS

- 11.1 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.

- 11.2 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.”* Policy T2 (SDLP) adds that proposals which result in intensification or creation of new accesses will be permitted providing there is no detriment in respect of highway safety and the access can be accommodated to a standard which is acceptable to the highway authority. Policy ENV1 criterion c) (SDLP) that when assessing new development consideration is given to the proposals relationship with the highway network.
- 11.3 The garaging and parking arrangements have been altered, with each plot having a minimum of two private allocated spaces, with the majority of plots having four, allowing for ease of access, manoeuvrability and turning of other highway users within the development.
- 11.4 The Highway Officer has not made any comments in his response other than stating that a number of conditions be attached to any permission granted.
- 11.5 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.

12. BIODIVERSITY

- 12.1 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.
- 12.2 Relevant policies in respect of nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 of the Core Strategy.
- 12.3 Natural England state in their response that the application site is close to a European designated site (Natura 2000 site) and has the potential to impact on its interest features. They add that such sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended by the “Habitats Regulations.” The site is also close to Skipwith Common Site of Conservation (SAC) which is a European site and also a Site of Special Scientific Interest and therefore the LPA should consider potential impacts of a development. They do however state “no objection” to the proposal.
- 12.4 The submitted Planning Statement advises that the site itself is currently a “sterile environment” and that the proposal would provide a “potential net gain in biodiversity” due to the introduction of hedgerows, trees, bat tiles and bird boxes as part of the development.

Bats

- 12.5 The updated submitted Bat Survey has identified three bat roosts within the buildings on site. These house individual/small numbers of common and soprano pipistrelle. The report advises that the roosts are of low conservation value due to the small number and common species utilising them. There is no evidence to suggest that the site could support either a maternity colony or hibernating bats.

Great Crested Newts

- 12.6 The proposed development is located within 250m east of a pond and an Amphibian Survey has been submitted with the application. The survey results indicate that the pond supports some of the best foraging habitat for newts in the surrounding area. A European Protected Species (EPS) Mitigation Licence would be required as stated in Natural England's advice for site clearance and demolition works. Any conditions would need to be discharged.
- 12.7 A population of great crested newts is situated within 100m of the development site and because the site itself contains suitable "great crested newt hibernacula, refugia and foraging areas there is a risk of great crested newt being harmed during the development." Loss of native habitat is not considered significant due to the presence of high quality habitat in the surrounding area – however mitigation and compensation is being offered in the form of additional habitat enhancement and this is welcomed.
- 12.8 It is considered that the proposal would not impact on nature conservation interests or protected species and therefore accords with policy ENV1 (SDLP), policy SP18 (SDCS) and the advice contained within the NPPF.

13. CONTAMINATION

- 13.1 Policy ENV2 (SDLP) advises that development which contributes to noise, nuisance and contamination will not be acceptable unless sufficient mitigation measures are provided by way of relevant conditions. Criterion k) of policy SP19 (SDCS) states that development should not contribute to the above.
- 13.2 The proposal is accompanied by a Phase 1 Preliminary Risk Assessment and a Phase 2 Report. The LCO has stated that the details are acceptable but subject to two conditions which require the submission of a verification report in respect of the made ground and removal of oil drums in respect of the suitability of the land for development.
- 13.3 The proposal is therefore considered to be in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

14. CONCLUSION

- 14.1 This application seeks approval for full details for 14 dwellings, originally approved under application ref: 2014/0894/FUL.
- 14.2 The principle of development on this site has been established under this approval, which remains extant.
- 14.3 The submitted plans demonstrate that an appropriate layout can be achieved which regards to the context of the area, including a good mix of dwelling sizes. Furthermore, appropriate property designs have been incorporated into the scheme which provides an acceptable appearance, form and scale.
- 14.4 Matters relating to drainage, flood risk, heritage, highways and biodiversity have been addressed.

15. RECOMMENDATION

15.1 That the proposal be Granted subject to a Section 106 Agreement and no objections from the Council's Contaminated Land Consultant and subject to the following conditions:

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

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

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

2328AB/1 (1 of 4) – Layout views as received on 15.01.2018

2328AB/2 (2 of 4) – Layout views as received on 15.11.2018

2328/AB/3 (3 of 4) – Layout views as received on 15.01.2018

2328/AB/4 (4 of 4) – Layout views as received on 15.01.2018

3776-10 Rev B – Amended site plan including finished floor levels as received on 19.11.2018

3776-11 – Location plan as received on 15.01.2018

17/432/ATR/001 – Vehicle swept path analysis as received on 15.01.2018

17/432/ATR/002 – Vehicle swept path analysis as received on 15.01.2018

17/432/ATR/003 – Vehicle swept path analysis as received on 15.01.2018

17/432/ATR/004 – Vehicle swept path analysis as received on 15.01.2018

3776-PD-01 – Plots 1 & 2 floor plan as received on 15.01.2018

3776-PD-02 Rev A - Plot 3 floor plans as received on 15.01.2018

3776-PD-03 – Plot 4 floor plans as received on 15.01.2018

3776-PD-04 – Plot 5 floor plans as received on 15.01.2018

3776-PD-05 Rev A – Plot 6 floor plans as received on 15.01.2018

3776-PD-06 Rev A – Plot 7 floor plans as received on 15.01.2018

3776-PD-07 – Plots 8 & 9 floor plans as received on 15.01.2018

3776-PD-08 – Plot 10 floor plans as received on 15.01.2018

3776-PD-09 – Plot 11 floor plans as received on 15.01.2018

3776-PD-11 Rev A – Plot 13 floor plans as received on 15.01.2018

3776-PD-12 – Plot 14 floor plans as received on 15.01.2018

3776-PD-13 – Plots 1 & 2 elevations as received on 15.01.2018

3776-PD-14 Rev A – Plot 3 elevations as received on 15.01.2018

3776-PD-15 – Plot 4 elevations as received on 15.01.2018

3776-PD-16 – Plot 5 elevations as received on 15.01.2018

3776-PD-17 – Plot 6 elevations as received on 15.01.2018
3776-PD-18 – Plot 7 elevations as received on 15.01.2018
3776-PD-19 – Plot 8 & 9 elevations as received on 15.01.2018
3776-PD-20 – Plot 10 elevations as received on 15.01.2018
3776-PD-21 – Plot 11 elevations as received on 15.01.2018
3776-PD-22 – Plot 12 elevations as received on 15.01.2018
3776-PD-23 – Plot 13 elevations as received on 15.01.2018
3776-PD-24 Plot 14 elevations as received on 15.01.2018
3776-PD-25 Plots 3, 4 & 5 as received on 15.01.2018
3776-PD-26 Plots 8, 9 & 10 as received on 15.01.2018

Reason: For the avoidance of doubt.

3. Notwithstanding any details shown on the submitted plans and forms, no development shall take place above slab level until details of the materials to be used in the construction of the external surfaces for the walls, roof, windows, doors, and areas of hard hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

This condition is imposed in accordance with Policies ENV1 (SDLP) and SP19 (SDCS) and because it is considered that the use of inappropriate materials could be harmful to the character and appearance of the area and that the Council therefore needs to retain a measure of control.

4. The development to which this planning permission relates shall not be implemented above natural ground level if any part of the development for which planning permission was granted pursuant to planning application reference no. 2014/0894/FUL is begun.

This condition is imposed as it is not considered appropriate for both permissions to be implemented in the interest of residential amenity; highway safety and area character.

5. Development shall not commence until a scheme restricting the rate of development flow runoff from the site has been submitted to and approved in writing by the Local Planning Authority. The flowrate from the site shall be restricted to a maximum flowrate of 10 litres per second for up to the 1 in 100 year event. A 30% allowance shall be included for climate change effects and a further 10% for urban creep for the lifetime of the development. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility and any of the other features of the drainage network which are not offered for adoption. No part of the development shall be brought into use until the development flow restriction works comprising the approved scheme has been completed. The approved maintenance and management scheme shall be implemented throughout the lifetime of the development. Provision shall be made to preserve the water quality of the receiving water body or network, and protect it from pollution from the development site.

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

6. The external face of the frame to all windows and doors shall be set in reveals of at least **50mm** from the front face of the adjoining brickwork.

This condition is imposed in the interests of the character and appearance of the area.

7. A minimum of two bird nesting boxes such as a Nest Box 1B, 2H robin box or sparrow terrace 1SP (or direct woodcrete equivalent of the above) shall be erected on the site in accordance with the manufacturer's installation recommendations, prior to first occupation of the dwellings hereby permitted and shall thereafter be retained for the lifetime of the development.

This condition is imposed to comply with the National Planning Policy Framework (NPPF) and the Natural Environment and Rural Communities Act (NERC) 2006.

8. The development hereby permitted shall be implemented in strict accordance with the mitigation measures specified in Section 7 of the Amended Bat Assessment prepared by Wold Ecology Ltd (received 29.08.2018) and Sections 7, 8 & 9 of the Amended Great Crested Newt Survey Report prepared by Wold Ecology Ltd (received on 29.08.2018).

This condition is imposed 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.

9. Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:
 - a. The existing access shall be improved with 6 metre radius kerbs, to give a minimum carriageway width of 4.5 metres, and that part of the access road extending 6 metres into the site shall be constructed in accordance with Standard Detail number E6d.
 - b. Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
 - c. Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway and shall be maintained thereafter to prevent such discharges.

Reason: In accordance with policies ENV1, T1 and T2 (SDLP) 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.

INFORMATIVE

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

10. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number 9 have been constructed in accordance with the submitted drawing (Reference 3776-10 Rev. B) Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times

Reason: In accordance with policies ENV1, T1 and T2 (SDLP) and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development

11. There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the Local Planning Authority in consultation with the Highway Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the Local Planning Authority in consultation with the Highway Authority agrees in writing to their withdrawal.

Reason: In accordance with policies ENV1, T1 and T2 (SDLP) and to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.

12. 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 in consultation with the Local Highway 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:

- a. the parking of vehicles of site operatives and visitors
- b. loading and unloading of plant and materials
- c. storage of plant and materials used in constructing the development
- d. erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
- e. wheel washing facilities
- f. measures to control the emission of dust and dirt during construction

Reason: In accordance with policies ENV1, T1 and T2 (SDLP) and in the interests of highway safety and residential amenity.

13. No development shall take place on site until full details of both hard and soft landscape works for the whole site together with a programme of implementation have been submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved prior to the occupation of any part of the development or as may be otherwise agreed in writing by the Local Planning Authority. 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.

This pre-commencement condition is imposed in accordance with policy ENV1 of the Selby District Local Plan and because a well-designed landscaping scheme can enhance the living environment of future residents, reduce the impact of the development on the amenities of existing residents and help to integrate the development into the surrounding area.

14. No development above slab level shall take place on site until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the use hereby permitted is commenced, or in accordance with a programme of implementation that has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and retained and maintained in accordance with the approved details.

This condition is imposed in accordance with policy ENV1 of the Selby District Local Plan and in the interests of the visual amenities of the area.

15. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of the occupation of the building for its permitted use, or occupation of the final dwelling on the site to be occupied.

(a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard (3998 Tree Work).

(b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size, species and maturity, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

This condition is imposed as the Council is under a statutory obligation when considering planning applications to consider whether it is necessary to take steps to preserve existing trees. There are trees within or near the site and these contribute to the character and appearance of the area. If these trees are to be retained it is important that they are protected from accidental damage during construction work. It is considered that the above details are required in accordance with policy ENV1 of the Selby District Local Plan and are necessary to enable the Council to consider the effect of the proposed development on these trees.

16. No development shall take place on site (including site clearance works and any other preparatory works) until the trees shown for retention on the approved plan 3776-10 Rev B have been protected by protective fencing. The protective fencing shall be maintained during the whole period of site excavation and construction.

The area within the protective fencing shall remain undisturbed during the course of the works in accordance with the following:

- I. There shall be no changes in ground levels;
- II. No materials, vehicles or plant shall be stored;
- III. No buildings or temporary buildings shall be erected or stationed;
- IV. No materials or waste shall be burnt or liquid disposed of; and
- V. No excavation of services, without the prior written consent of the Local Planning Authority.

This pre-commencement condition is imposed because the Council is under a statutory obligation when considering planning applications to consider whether it is necessary to take steps to preserve existing trees. There are existing trees within or in the vicinity of the site and these contribute to the character and appearance of the area. It is considered that the above details are required in accordance with policy ENV1 of the Selby District Local Plan as it is important that they are protected from damage before, during and after construction works.

17. Demolition or construction works shall take place only between:

7.30am and 6.00pm Monday to Friday
8.00am and 1.00pm on a Saturday

and shall not take place at any time on Sundays or on Bank or Public Holidays.

Reason: In the interest of protecting residential amenity in accordance with Policies ENV1 and ENV2 of the Selby District Local Plan.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (or any Order revoking or re-enacting or amending that Order with or without modification), the garage(s) hereby permitted shall not be converted to habitable accommodation without the grant of a separate planning permission from the Local Planning Authority.

Reason: This condition is imposed in accordance with policy ENV1 of the Selby District Local Plan and in the interests of residential amenity.

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development shall be undertaken within Part 1, Class A, B or C including the installation of windows, dormer windows or other openings (other than those expressly authorised by this permission) within the front and rear elevations without the grant of a separate planning permission from the Local Planning Authority

Reason: in accordance with policy ENV1 of the Selby District Local Plan as the Local Planning Authority considers that further development could cause detriment to the amenities of the occupiers of nearby properties/ detriment to the character of the area and for this reason would wish to control any future development.

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

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

21. 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.

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.

Adjacent Public Rights of Way

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. Applicants are advised to contact the County Council's Access and Public Rights of team at County Hall, Northallerton via paths@northyorks.gov.uk to obtain up-to-date information regarding the line of the route of the way. The applicant should discuss with the Highway Authority any proposals for altering the route.

14. Legal Issues

14.1 Planning Acts

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

14.2 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.

14.3 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.

15. **Financial Issues**

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

16. **Background Documents**

Planning Application file reference 2018/0051/FULM and associated documents.

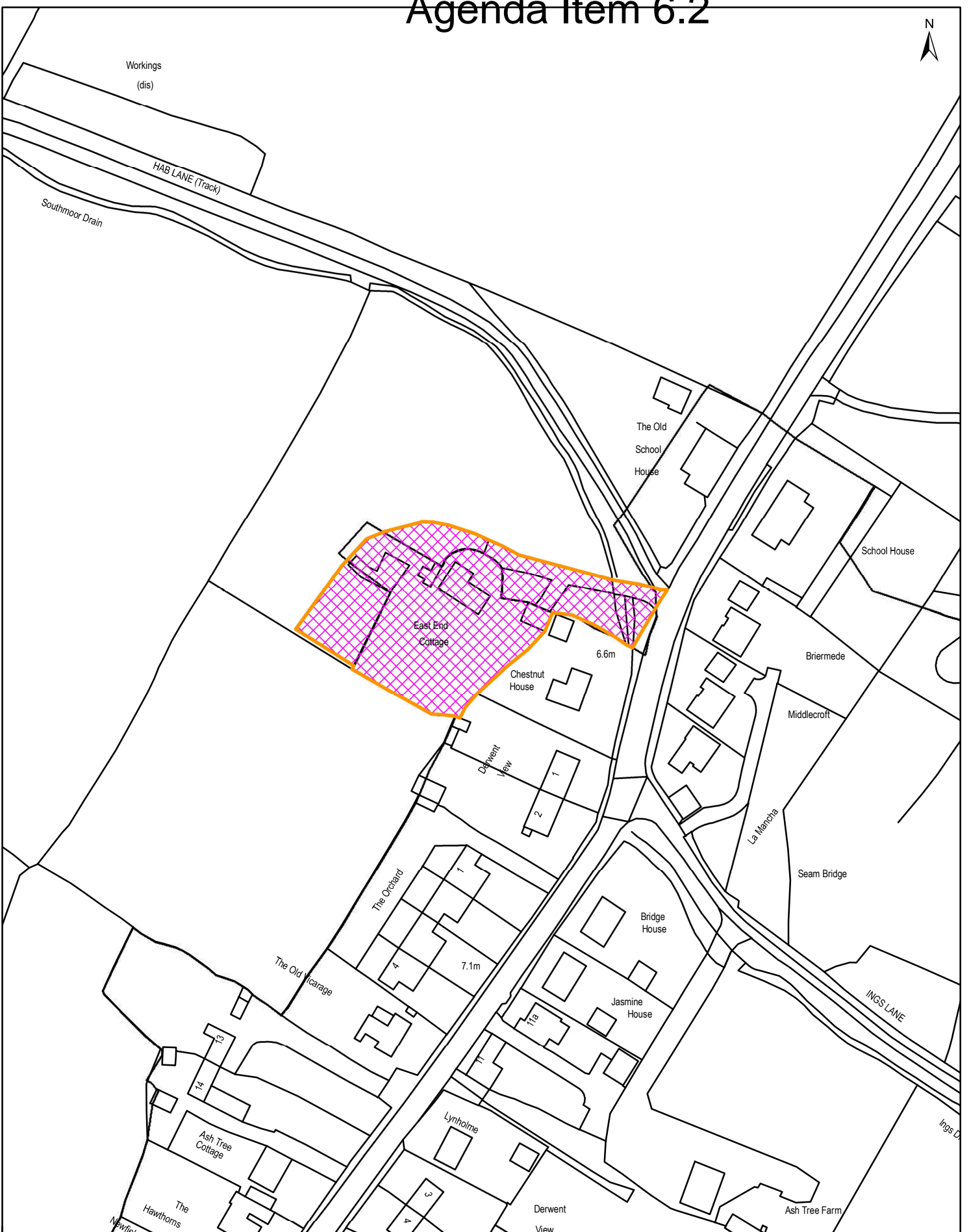
Contact Officer:

Mandy Cooper

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Agenda Item 6.2



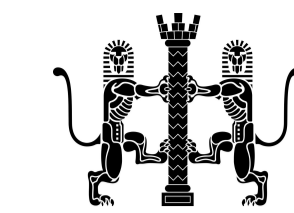
APPLICATION SITE

East End Cottage, Main Street, Thorganby
2018/0226/FUL

1:1,250



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This drawing has been produced for Swanhome Developments Ltd. for the Full Planning Application for the Residential redevelopment at East End Cottage, Thorganby and is not intended for use by any other person or for any other purpose.

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Measurements scaled from plans cannot be guaranteed to be accurate. Use figured dimensions only. Only original drawings should be relied upon.

WG origin filename: WG395 PLF_post decision.pln

KEY

- denotes development completed by 1892.
- denotes development completed by 1910.
- denotes development completed by 1975.
- denotes development completed by 2016.



- rev. G - (13.03.18) Highways annotation added.
- rev. F - (25.02.18) Revised to Client comments received 23.02.18.
- rev. E - (23.02.18) Revised following design review held 19.02.18.
- rev. D (09.02.18) Revised to new Client brief.
- rev. C (08.11.16) Revised following meeting with Case Officer.
- rev. B (24.08.16) Foul drainage proposal.
- rev. A (23.08.16) Scaled line of development limit added.



Project:
Residential redevelopment
East End Cottage, Thorganby
 for
 Swanhome Developments Ltd.

Drawing title:
Proposed Site Plan

Drawing scale: **1:500 at A1**
 Drawing date: **August 2016**

Drawing no.: **WG395 - 04 G**

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Report Reference Number: 2018/0226/FUL

To: Planning Committee
Date: 6 February 2019
Author: Jenny Tyreman (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0226/FUL	PARISH:	Thorganby Parish Council
APPLICANT:	Swanhome Developments Ltd	VALID DATE: EXPIRY DATE:	1st March 2018 26th April 2018
PROPOSAL:	Proposed demolition of existing dwellings, outbuildings and garages and the erection of 3 No. residential dwellings, garages and associated works and infrastructure (amendment to planning permission 2016/1029/FUL)		
LOCATION:	East End Cottage, Main Street, Thorganby, York, North Yorkshire, YO19 6DB		
RECOMMENDATION:	GRANT		

1. INTRODUCTION AND BACKGROUND

- 1.1 This application has been brought back before Planning Committee following consideration at the 6th June 2018 meeting, where Members resolved “To DEFER the application to a future meeting of the Committee in order for Officers to give further consideration to the application”.
- 1.2 This resolution was made after the then Case Officer had advised the Planning Committee that an additional letter of representation had been received since the Officers report had been written, advising that buildings on the site had been demolished and raising concerns regarding the potential impact on wildlife. A subsequent site visit by the then Case Officer confirmed that the outbuildings to the rear of the site had been demolished, which would have required planning permission given the location of the site within the Conservation Area. The acceptability of the proposal in principle relied upon the existence of an extant

planning permission (reference: 2016/1029/FUL) which was not considered to have been lawfully implemented due to the demolition of the outbuildings prior to the discharge of pre-commencement conditions attached to the extant planning permission. Therefore, Planning Committee were advised that it was no longer considered that there was a fall-back position of an extant planning permission and the recommended acceptability of the proposal in principle relied upon the existence of an extant planning permission. Officers therefore recommended that consideration of the application be deferred to a future meeting of the Planning Committee in order for Officers to consider whether there were any other material considerations that could outweigh the existing conflict with Policies SP2 and SP4 of the Core Strategy.

- 1.3 Since the 6th June 2018 resolution of Planning Committee the applicant's agent has submitted information justifying why the outbuildings were demolished prior to the discharge of pre-commencement conditions attached to planning permission reference 2016/1029/FUL and a discharge of condition application pursuant to planning permission reference 2016/1029/FUL has been submitted to and determined by the Local Planning Authority.
- 1.4 In addition, since the application was previously brought before Planning Committee, the revised National Planning Policy Framework (NPPF) was published in July 2018.
- 1.5 As such, Planning Committee is required to re-consider this application in light of these material changes.

2. CONSULTATION AND PUBLICITY

Since the resolution at Planning Committee on 6 June 2018 the following additional comments have been received.

- 2.1 **NYCC Ecology** – 17.12.2018: The updated Barn Owl Report, shows that the remaining buildings on the site are not currently used for either nesting or roosting by this species. Given that an outbuilding on the site (now demolished) had previously been found to be used occasionally by Barn Owls, the mitigation recommendations contained in Section 7 of the report are appropriate and proportionate. These involve a further precautionary check of the buildings immediately prior to demolition and erection of a pole-mounted Barn Owl box in the location specified. Should the Local Planning Authority be minded to grant permission, it is recommended that adherence to these recommendations is secured by way of condition.
- 2.2 **Neighbour Comments** – No further letters of representation have been received from neighbouring properties since this application was heard at the 6 June 2018 Planning Committee.

3. POLICY CONTEXT

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

- 3.1 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

- 3.2 The relevant Core Strategy Policies are:

- SP1 – Presumption in Favour of Sustainable Development
- SP2 – Spatial Development Strategy
- SP4 – Management of Residential Development in Settlements
- SP5 – 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

- 3.3 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).”

- 3.4 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
- ENV28 – Other Archaeological Remains
- T1 – Development in Relation to the Highway Network
- T2 – Access to Roads

4. APPRAISAL

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

- The Principle of the Development
- Impact on Heritage Assets
- Design and Impact on the Character and Appearance of the Area
- Nature Conservation and Protected Species
- Affordable Housing
- Impact on Residential Amenity
- Impact on Highway Safety

- Impact on Archaeology
- Flood Risk and Drainage
- Land Contamination

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 The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Thorganby, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Thorganby and is therefore located within the open countryside in policy terms.
- 4.4 The proposed site plan (drawing no. WG395-04G) demonstrates how the proposed dwellings and part of the garden areas associated with those dwellings would be located within the defined development limits of Thorganby, while part of the proposed garden areas and the proposed access road would be located outside the defined development limits of Thorganby and would therefore be located within the open countryside in policy terms.
- 4.5 Policy SP2A (b) of the Core Strategy states that "Limited amounts of residential development may be absorbed inside Development Limits of Secondary Villages where it will enhance or maintain the vitality of rural communities and which conform to the provisions of Policy SP4 and Policy SP10". Policy SP4 (a) of the Core Strategy states that, in Secondary Villages, "conversions, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built up residential frontages, and conversion/ redevelopment of farmsteads" will be acceptable in principle.
- 4.6 The application proposes the demolition of a pair of semi-detached dwellings and associated outbuildings and garages and the erection of 3No. dwellings, garages and associated works and infrastructure, including an access road. The proposal would not result in a conversion; would only partly result in replacement dwellings (as three dwellings would be erected in lieu of the existing two); would not strictly result in the re-development of previously developed land, as garden land is excluded from this definition in the NPPF; would not result in the filling of a small linear gap in an otherwise built-up residential frontage; and would not result in the conversion or redevelopment of a farmstead. The proposal would therefore not be in accordance with Policies SP2A (b) and SP4 (a) of the Core Strategy. The application should therefore be refused unless material considerations indicate otherwise.
- 4.7 It is established case law that if an applicant can demonstrate a 'fall-back' position, this may constitute a material consideration to be taken into account in determining the application. A 'fall-back' is an existing consent which is capable of being implemented irrespective of the decision on this current application. Under *Mansell v Tonbridge And Malling Borough Council [2017] EWCA Civ 1314*, which concerned

the redevelopment of a site of a large barn and a bungalow to provide four dwellings, Lindblom LJ confirmed the legal considerations in determining the materiality of a fall-back position as a planning judgement were: (1) the basic principle is that for a prospect to be a "real prospect", it does not have to be probable or likely: a possibility will suffice; (2) there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand.

- 4.8 When the application was taken to the 6th June Planning Committee, the Case Officer's Report (Appendix 1) set out there was an extant planning permission for the demolition of existing dwellings, outbuildings and garages at the site and the erection of 4No. residential dwellings, garages and associated infrastructure which was granted planning permission in February 2017 (under application reference 2016/1029/FUL). The extant planning permission was considered to be a clear fall-back position that was a material consideration of significant weight to outweigh the conflict with Policies SP2 and SP4 of the Core Strategy.
- 4.9 However, at the 6th June Planning Committee, the then Case Officer informed Members the outbuildings to the rear of the site had been demolished, which would have required planning permission given the location of the site within the Conservation Area. The acceptability of the proposal in principle relied upon the existence of an extant planning permission (reference: 2016/1029/FUL) which was not considered to have been lawfully implemented due to the demolition of the outbuildings prior to the discharge of pre-commencement conditions attached to the extant planning permission. Therefore, Planning Committee were advised that it was no longer considered that there was a fall-back position of an extant planning permission and the recommended acceptability of the proposal in principle relied upon the existence of an extant planning permission. The application was therefore deferred to a future meeting of the Planning Committee in order for Officers to consider whether there were any other material considerations that could outweigh the conflict with Policies SP2 and SP4 of the Core Strategy.
- 4.10 Since the 6th June Planning Committee, the applicant's agent has submitted information justifying why the outbuildings were demolished prior to the discharge of pre-commencement conditions attached to planning permission reference 2016/1029/FUL. The applicant's agent has advised that the outbuildings which were demolished were unsound and unsafe, and at the time of demolition it was considered that they needed to be demolished imminently for two main reasons: (1) they posed a significant health and safety risk and (2) to allow the applicant to discharge pre-commencement conditions.
- 4.11 While the above justification is noted, the applicant made no attempt to advise the Local Planning Authority of their intentions prior to the demolition or seek the Local Planning Authority's views on the demolition to it taking place.

- 4.12 Notwithstanding the above, since the 6th June Planning Committee, a discharge of condition application pursuant to planning permission reference 2016/1029/FUL has been submitted to and subsequently determined by the Local Planning Authority. The determination of the aforementioned discharge of condition application by the Local Planning Authority, effectively serves as an acknowledgement by the Local Planning Authority that planning permission reference 2016/1029/FUL remains extant and can therefore be considered as a fall-back position.
- 4.13 Having regard to the above, it is considered that there is an extant planning permission for the demolition of existing dwellings, outbuildings and garages at the site and the erection of 4No. residential dwellings, garages and associated infrastructure which was granted planning permission in February 2017 (under application reference 2016/1029/FUL). The extant planning permission is considered to be a clear fall-back position that is a material consideration of significant weight to outweigh the conflict with Policies SP2 and SP4 of the Core Strategy. The proposal is therefore considered to be acceptable in principle.

Impact on Heritage Assets

- 4.14 The application site lies with the Thorganby Conservation Area, which is a designated heritage asset.
- 4.15 Relevant policies in respect of the effect upon heritage assets include Policies SP18 and SP19 of the Core Strategy and Policy ENV25 of the Selby District Local Plan. 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. Policy ENV25 requires development within or affecting a conservation area to preserve or enhance the character and appearance of the conservation area.
- 4.16 Relevant policies within the NPPF which relate to impact on heritage assets include paragraphs 189 to 198.
- 4.17 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"*.
- 4.18 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”.*

- 4.19 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”.*
- 4.20 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”.*
- 4.21 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.
- 4.22 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.
- 4.23 The application proposes the demolition of a pair of semi-detached dwellings and associated outbuildings and garages and the erection of 3No. dwellings, garages and associated works and infrastructure, including an access road. This is an amendment to an extant planning permission for the demolition of existing dwellings, outbuildings and garages at the site and the erection of 4No. residential dwellings, garages and associated infrastructure which was granted planning permission in February 2017 (under application reference 2016/1029/FUL).

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

- 4.24 The application has been supported by a Heritage Statement undertaken by Gallagher Planning dated February 2018. The Heritage Statement begins by setting out the applicant’s view that the application site does not fall within the Thorganby Conservation Area. This view is formed on the basis that while the application site is shown to be within the Conservation Area on the Conservation Area Maps provided on the Council’s website, the application site is not shown to be in the Conservation Area on the Proposals Maps within the Selby District Local Plan. Notwithstanding this, the applicant acknowledges that the Council

consider the application site to be within the Conservation Area and have therefore undertaken a Heritage Impact Assessment.

- 4.25 The submitted Heritage Statement describes the historic development of the area and the significance of the Conservation Area based on archaeological, architectural, artistic and historic interest. The Heritage Statement concludes that the buildings to be demolished as part of the proposals do not contribute to the setting, character or appearance of the Conservation Area. This view has been taken with reference to Historic England guidance. Their demolition is therefore not considered to result in any harm to the Conservation Area. In terms of the proposed dwellings, the submitted Heritage Statement sets out that the design of the proposed development would ensure that the proposal would be in-keeping with the character and appearance of the Conservation Area and would not result in any harm.

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

- 4.26 The Local Planning Authority are of the firm view that the application site is located within the Thorganby Conservation Area. This was designated in 1997 and extended in 1997 as shown on the Conservation Area maps provided on the Council's website (<https://www.selby.gov.uk/conservation-areas>). The boundary was reviewed in 2003 but was not changed. The Selby District Local Plan, which was adopted in 2005 (and relevant policies saved in 2008) is an Adoption Draft version and the Conservation Area boundaries shown on those Policies Maps are those which stood in 1995 (at the Pre-Deposit Consultation Draft stage). It was intended (see notes in Policies Map key) that the final printed plans would show the most up-to-date Conservation Area boundaries - but that final Adopted Plan version was never published. It is therefore the case that all the Conservation Area boundaries shown in the Selby District Local Plan are superseded in all cases by the Conservation Area maps published separately on the Council's website.
- 4.27 The application proposes the demolition of a pair of semi-detached dwellings and associated outbuildings and garages and the erection of 3No. dwellings, garages and associated works and infrastructure, including an access road. This is an amendment to an extant planning permission for the demolition of existing dwellings, outbuildings and garages at the site and the erection of 4No. residential dwellings, garages and associated infrastructure which was granted planning permission in February 2017 (under application reference 2016/1029/FUL).
- 4.28 In terms of the demolition of the existing buildings at the site, it is noted that the existing dwellings originally formed a single dwelling and were converted into two dwellings in the 1970s. The existing dwellings are typical of the area's lower status vernacular and despite forming part of the conservation area historic fabric; it is considered that they hold limited architectural or historic interest. Furthermore, it is considered that the outbuildings and garages at the site (which have already been demolished) held limited architectural and historic interest.
- 4.29 While the proposal would result in the loss of a part of the historic fabric of the conservation area, it is noted that under the extant planning permission it was considered that given the expanse of the area included within the conservation area and the site occupying a small part of this area, the demolition of the existing

buildings at the site would result in less than substantial harm to the significance of a designated heritage asset which would need to be weighed against the public benefit in accordance with paragraph 134 (now 196) of the NPPF.

- 4.30 In respect of the extant planning permission and the balancing test, it was considered that there would be a public benefit as a result of the proposal which included housing provision and improving the visual character of the site and conservation area. The scheme was considered to be of a good design and layout and was considered to be enhancement to the character and appearance of the conservation area. Therefore, it was concluded that while the proposal would lead to less than substantial harm to the significance of a designated heritage asset, namely the Thorganby Conservation Area, when the harm is weighed against the public benefits of the scheme, the proposal was considered to be acceptable.
- 4.31 The above consideration was the position taken in respect of the extant planning permission which can be implemented on the site. However, it is important to consider the proposed changes under the current application and whether this position would remain the same.
- 4.32 It can be seen from the submitted plans that the existing buildings at the site are still proposed to be demolished, but the proposal seeks permission to replace the previously approved pair of semi-detached dwellings with a single detached dwelling resulting in the provision of one less dwelling than the extant planning permission. It is proposed to increase the scale and height of the proposed dwellings (from the extant planning permission) given that there would be a reduction of one dwelling. It is also proposed to make some slight amendments to the proposed siting and design of the proposed dwellings and garages, from the extant planning permission.
- 4.33 The proposed design, appearance and use of materials of the proposed dwellings would be very similar to those approved under the extant planning permission. It is considered that the proposed slight change to positioning/siting is not consequential in respect of whether the proposal would preserve or enhance the character and appearance of the Conservation Area.
- 4.34 The proposed dwellings, as shown on the submitted plans, would be less than 500mm higher than the previously approved dwellings and less than 500mm wider than the approved dwellings. There would be no change in width to plot one dwelling from the building already approved in this location. It is considered that the proportions of the proposed dwellings, although relatively large would not be dissimilar to existing dwellings situated to the north east and east of the site and would not result in material increase over that already approved under the extant planning permission.
- 4.35 Therefore the proposal is not considered to be a significant increase in scale nor significant change to the elevational treatments, in the context of the existing extant planning permission.
- 4.36 Overall, having regard to the above discussion, the current proposal involving the demolition of the existing buildings at the site would result in less than substantial harm to the significance of a designated heritage asset, namely the Thorganby Conservation Area. 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.

- 4.37 In terms of public benefits, the proposal would result in the provision of additional housing in the District and would improve the visual character of the site and the Conservation Area. The scheme is considered to be of a good design and layout and is considered to result in an enhancement to the character and appearance of the Conservation Area. Furthermore, it is noted that there is an extant planning permission for the demolition of existing dwellings, outbuildings and garages at the site and the erection of 4No. residential dwellings, garages and associated infrastructure which was granted planning permission in February 2017 (under application reference 2016/1029/FUL).
- 4.38 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 Thorganby Conservation Area. 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 and ENV25 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.

Design and Impact on the Character and Appearance of the Area

- 4.39 The application proposes the demolition of a pair of semi-detached dwellings and associated outbuildings and garages and the erection of 3No. dwellings, garages and associated works and infrastructure, including an access road. This is an amendment to an extant planning permission for the demolition of existing dwellings, outbuildings and garages at the site and the erection of 4No. residential dwellings, garages and associated infrastructure which was granted planning permission in February 2017 (under application reference 2016/1029/FUL).
- 4.40 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.

Nature Conservation and Protected Species

- 4.41 The application site is within proximity of a number of European designated sites which are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the Habitat Regulations). The application site is within proximity to Skipwith Common Special Area of Conservation (SAC), River Derwent SAC and the Lower Derwent Valley SAC and Special Protection Area (SPA) which are European Sites. The Lower Derwent Valley SAC and SPA are also listed as the Lower Derwent Valley Ramsar site and is notified at a national level as Derwent Ings and the River Derwent Sites of Special Scientific Interest (SSSIs). Skipwith Common SAC is also listed as Skipwith Common SSSI. However, the application site is not designated itself as a formal or informal site for nature conservation.
- 4.42 Natural England have advised that if undertaken in strict accordance with the details submitted, the proposal is not likely to have a significant effect on the interest features for which Lower Derwent Valley (SPA, SAC & Ramsar) and River Derwent (SAC) has been classified and that it is not necessary for the Local Planning Authority to undertake an Appropriate Assessment to assess the implications of the proposal on the site's conservation objectives.
- 4.43 In addition, Natural England have also advised that they are satisfied that the proposed development if carried out in strict accordance with the details of the application, as submitted, would not damage or destroy the interest features for which the Derwent Ings and River Derwent SSSI have been notified.
- 4.44 A Bat Survey Report (reference: CE0223) undertaken by Curtis Ecology dated 20 July 2016 was originally submitted with the application. The survey concluded that there was no evidence of roosting bats and the site was considered to be of low significance as bat foraging habitat. However, the survey set out that there was evidence of Barn Owl roosting in the most westerly of the existing buildings, a dilapidated former poultry shed (Building 4 in the Bat Survey Report), though it was not considered that Barn Owls used the building for nesting. A condition was recommended to be attached to any planning permission granted requiring the development to be carried out in strict accordance with the mitigation measures set out in Section 7 of the Bat Survey Report.
- 4.45 At the 6th June Planning Committee, the then Case Officer had advised the Planning Committee that an additional letter of representation had been received since the Officers report had been written, advising that buildings on the site had been demolished and raising concerns regarding the potential impact on wildlife. A subsequent site visit by the then Case Officer had confirmed the outbuildings had been demolished. The demolition of the outbuildings had not been done in strict accordance with the mitigation measures set out in Section 7 of the Bat Survey Report.
- 4.46 Following advice from the County Ecologist, an updated Ecological Survey Report in Relation to Barn Owls (reference: CE0550) undertaken by Curtis Ecology dated 12 December 2018 has been submitted. The County Ecologist has been consulted on the updated report and has advised *"the updated Barn Owl report shows that the remaining buildings on the site are not currently used for either nesting or roosting by this species. Given that an outbuilding on the site (now demolished) had*

previously been found to be used occasionally by Barn Owls, the mitigation recommendations contained in Section 7 of the [updated] report are appropriate and proportionate. These involve a further precautionary check of the buildings immediately prior to demolition and erection of a pole-mounted Barn Owl box in the location specified. Should the Local Planning Authority be minded to grant planning permission, it is recommended that adherence to these recommendations is secured by way of condition”.

- 4.47 Subject to the aforementioned condition, it is considered that the proposal would not harm any acknowledged nature conservation interests or protected species and is therefore in accordance with Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

Affordable Housing

- 4.48 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.
- 4.49 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”.
- 4.50 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, on balance, the application is acceptable without a contribution for affordable housing.

Impact on Residential Amenity

- 4.51 The layout of the site, the design of the units and the siting results in separation distances, and orientation that is considered acceptable so as to ensure that the proposals would not result in a significant detrimental impact through overlooking, overshadowing, loss of light or the creation of an oppressive outlook for neighbouring residential properties. In addition the scheme design has resulted in an internal layout which would ensure an appropriate level of residential amenity is secured.
- 4.51 It is noted that in respect of the potential impact on the closest neighbouring dwelling, Chesnut House, located to the south of the site, that the closest dwelling would be approximately 0.9 metres taller. However this dwelling would now be positioned further away from the neighbour than originally approved. The rear of

Chesnut House would face onto the side elevation of the nearest proposed dwelling at a distance of approximately 12.5 metres, at the closest point and this would be at an offset/oblique angle, as opposed to directly facing. It is noted that the proposed ground floor rear projection to this dwelling would be increased in size and as such a window is now proposed to be inserted into the flank elevation. This would be at a distance of approximately 14 metres from the rear elevation of Chestnut House. Given this window would be at ground floor level, it is not considered it would result in any significant adverse effects of overlooking to Chestnut House, however, it would be considered reasonable and necessary to attach a condition restricting permitted development rights for the insertion of any additional windows at first floor level in this elevation to any planning permission granted in order to protect the amenities and privacy of the adjoining occupiers. It would also be considered reasonable and necessary to attach such a condition in respect of Plot 3.

- 4.53 Subject to the aforementioned conditions, it is considered that the proposal would 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.

Impact on Highway Safety

- 4.54 The application site has an established vehicular access onto Main Street and the proposed dwellings would be accessed from a shared driveway leading from this existing vehicular access. The layout plan shows that vehicles can enter and leave the site in a forward gear and there is adequate space for on-site parking for each dwelling.
- 4.55 The Highways Authority have been consulted on the application and have not raised any objections, subject to the imposition of conditions.
- 4.56 Subject to the aforementioned conditions, it is considered that the proposal would be acceptable in terms of highway safety and is therefore in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Archaeology

- 4.57 The site is situated at the very edge of the historic medieval settlement at Thorganby. The adjacent fields contain ridge and furrow and it is likely that the site lay outside of the village. The County Archaeologist has advised that the archaeological potential is therefore fairly low for the medieval period.
- 4.58 The County Archaeologist has advised that the proposed development would involve the demolition of the existing dwellings and that these would have had a negative impact on any archaeological deposits should they have been present. As such they advise that they have no objections to the proposals and no further archaeological investigation would be required.
- 4.59 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.

Flood Risk and Drainage

- 4.60 The application site is located in Flood Zone 1 (low probability of flooding).
- 4.61 The submitted application form states that foul sewage would be disposed of via the main sewer with surface water disposed of via soakaways. Yorkshire Water have not responded to the proposal (although it is noted that they raised no objections to the previous application) and the Internal Drainage Board have raised no objections to the proposals subject to the imposition of conditions requiring drainage works to be agreed prior to the commencement of development. The Lead Flood Authority have provided detailed advice in respect of surface water drainage and flooding and it is considered appropriate to ensure that a satisfactory scheme for the disposal of surface and foul water be achieved, via imposition of an appropriately worded planning condition which captures the requirements of their advice given that the eastern part of the site is known to be subject to surface water flooding.
- 4.62 The comments of the Parish Council and the advice given by the LLFA is noted (in respect of the recommended submission of a Flood Risk Assessment). It is however acknowledged that a flood risk assessment should be submitted for all planning applications for development within Flood Zones 2 & 3, development on sites of 1 hectare or greater; development or changes of use to a more vulnerable class that may be subject to other sources of flooding. The proposed development does not fall within any of the above category's, the site is within Flood Zone 1, the site is not 1 hectare in size and the site is not changing use as such it is considered that there is no reasonable requirement for a flood risk assessment to be required for this proposed development.
- 4.63 Subject to a condition relating to drainage, it is considered that the proposals are acceptable in terms of flood risk and drainage in accordance with the advice contained within the NPPF.

Land Contamination

- 4.64 The application has been supported by a Phase 1 Environmental Assessment undertaken by DetlaSimons, dated November 2016. The Councils Contaminated Land Consultant has reviewed the aforementioned report and has recommended that four conditions should be attached to any planning permission granted relating to: (1) investigation and risk assessment; (2) the submission of a remediation scheme; (3) the implementation of a remediation scheme; and (4) the discovery of any unexpected contamination.
- 4.65 Subject to the aforementioned conditions, it is considered that the proposal would be acceptable in respect of land contamination in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

5. CONCLUSION

- 5.1 The application proposes the demolition of a pair of semi-detached dwellings and associated outbuildings and garages and the erection of 3No. dwellings, garages and associated works and infrastructure, including an access road.

- 5.2 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".
- 5.3 The application is contrary to Policies SP2A (b) and SP4 (a) of the Core Strategy. However, there is an extant planning permission for the demolition of existing dwellings, outbuildings and garages at the site and the erection of 4No. residential dwellings, garages and associated infrastructure at the site, which was granted planning permission in February 2017 (under application reference 2016/1029/FUL). This represents a fall-back position of significant weight. Having regard to the aforementioned fall-back position, it is considered that although the proposal is a departure from the Development Plan, the fall-back position represents a material consideration which would justify approval of the application in principle.
- 5.4 In terms of the impacts of the proposal, the proposed development would not have a detrimental effect on the 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), the character and appearance of the area, nature conservation and protected species, affordable housing, residential amenity, highway safety, archaeology, flood risk and drainage, or land contamination.
- 5.5 The application is therefore considered to be in accordance with the relevant policies of the development plan, namely, Policies ENV1, ENV2, ENV25, ENV28, T1 and T2 of the Selby District Local Plan, Policies SP1, SP2, SP4, SP5, SP9, 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:

WG395-01B - Location Plan
WG395-02A – Existing Layout Plan
WG395-03 – Existing Floor Plans and Elevations
WG395-04G - Proposed Layout Plan
WG395 -05J - Proposed Ground Floor Plan
WG395-06F- Proposed First Floor Plan

WG395-09D - Individual House Elevations
WG395-07H - Proposed Elevations
WG395-10C - Garage Elevations and Fence Elevations

Reason:

For the avoidance of doubt.

03. No development above foundation level shall commence until details of the materials to be used in the construction of the exterior walls, roof(s), windows and doors of the proposed development have been submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

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

04. Prior to the occupation of the dwellings hereby permitted details of boundary treatments to be erected within the application site shall be submitted to and approved by the Local Planning Authority and erected in accordance with the approved details. Once erected, the boundary treatments shall be retained as such for the lifetime of the development.

Reason:

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

05. Prior to the occupation of the dwellings hereby permitted a scheme of soft and hard landscaping and tree planting for the site entrance, indicating inter alia the number, species, heights of planting and positions of all trees, shrubs and bushes and details for measures to protect existing trees has been submitted to and approved in writing by the Local Planning Authority. The approved scheme should thereafter be carried out in its entirety within the period of twelve months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. All trees, shrubs and bushes should be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses should be made good as and when necessary.

Reason:

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

06. Notwithstanding the provisions of Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order (2015) (or any order revoking or re-enacting that Order) no windows and/or new openings shall be placed at first floor level or above in the east flank elevations of Plots 1 and 3 hereby permitted.

Reason:

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

07. No construction works shall take place on site outside the hours of 8am to 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.

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

a. The existing access shall be improved by widening the access for the first 6 metres into the site and the crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E6d.

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

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

All works shall accord 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.

09. 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 Main Street 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.

10. The development hereby permitted shall be carried out in strict accordance with the recommendations contained within Section 7 of the updated Ecological Survey Report in Relation to Barn Owls (reference: CE0550) undertaken by Curtis Ecology dated 12 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.

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

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

Reason:

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

12. Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) shall be prepared and is subject to the approval in writing of the Local Planning Authority, if required following the investigation and risk assessment undertaken in relation to Condition 11. 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.

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 2018/0226/FUL and associated documents

Contact Officer: Jenny Tyreman, Senior Planning Officer



Report Reference Number: 2018/0226/FUL

To: Planning Committee
Date: 6 June 2018
Author: Ann Rawlinson (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0226/FUL	PARISH:	Thorganby Parish Council
APPLICANT:	Swanhome Developments Ltd	VALID DATE:	1st March 2018
		EXPIRY DATE:	26th April 2018
PROPOSAL:	Proposed demolition of existing dwellings, outbuildings and garages and the erection of 3 No. residential dwellings, garages and associated works and infrastructure (Amendment to planning permission 2016/1029/FUL)		
LOCATION:	East End Cottage, Main Street, Thorganby, York, North Yorkshire, YO19 6DB		

This application is to be determined by the Planning Committee as Officers consider that although the proposal is contrary to the provisions of the Development Plan there are material considerations that would justify approving the application.

1. Introduction and Background

The Site and Context

- 1.1 The application site comprises a pair of two storey semi-detached dwellings and a cluster of outbuildings (including a double brick built garage, a large shed/workshop and some smaller sheds) with garden land mainly to the rear of the buildings. The site is accessed off a private drive from Main Street, Thorganby. The site is bounded to the south, north east and east by other residential properties within the village of Thorganby and to the north and west by paddocks, beyond which lie agricultural land.

The Proposal

- 1.2 Planning permission is sought for the demolition of a pair of semi-detached dwellings and outbuildings and the erection of three dwellings, garages and associated works and infrastructure. It is proposed to construct three two storey

detached dwellings with rear single storey extensions and to erect three single storey detached garages.

- 1.3 Proposed materials would consist of slate roof, brickwork, timber fascias, soffits and bargeboards, art stone cills and lintels/brick soldier heads and grey plastic double glazed windows. Design features include porches, chimneys, soldier courses. Post and rail facing and hedgerow would be incorporated to boundaries.

Relevant Planning History

- 1.4 2016/1029/FUL (Approved-22.02.2017). Proposed demolition of existing dwellings, outbuildings and garages and the erection of 4 No. residential dwellings, garages and associated works and infrastructure
- 1.5 CO/1977/01159 (Approved) Alterations & Extensions
- 1.6 CO/1977/01158 (Approved) Erection of A Double Garage & Coal Store
- 1.7 CO/1974/01093 (Approved) Proposed alterations To Dwelling House

2 CONSULTATION AND PUBLICITY

- 2.1 **Highways Authority** – No objections subject to the impositions of conditions.
- 2.2 **Thorganby Parish Council** – Raise concerns that the site is located in between Flood Zone 2 and Flood Zone 3.
- 2.3 **Conservation Officer** – No consultation response received.
- 2.4 **County Ecologist** – No objections subject to the imposition of a condition.
- 2.5 **HER Archaeology Officer** – No objections.
- 2.6 **Natural England** – No objections.
- 2.7 **The Ouse & Derwent Internal Drainage Board** - No objections subject the impositions of conditions.
- 2.8 **Sustainable Drainage Systems** – Detailed advice provided in respect of flooding and drainage which includes run-off destinations and rates, soakaway testing, peak flow and volume control, pollution control, climate change and urban creep, designing for exceedance, construction and maintenance.

It is also advised that a Flood Risk Assessment (FRA) should be submitted. The site is situated adjacent a flood zone warning area and close to flood zones 2 and 3. Surface water flooding appears to be an issue for the site and should be explored to ensure that it does not pose a risk to the development.

- 2.9 **Environmental Health Team**– No objections raised.
- 2.10 **Historic England** - Do not wish to offer any comments. Suggest seek the views of specialist conservation and archaeological advisers, as relevant.

- 2.11 **North Yorkshire Bat Group** – No consultation response received within the statutory consultation period.
- 2.12 **Yorkshire Wildlife Trust** - No consultation response received within the statutory consultation period.
- 2.13 **Neighbour Notification** - The application has been advertised as a Departure from the Development Plan and as affecting the character and appearance of the conservation area by site notice, neighbour notification letter and advertisement in the local newspaper. Two letters of representation have been received outlining the follows concerns, as summarised below.

1)The barn is occupied by owls. 2) The surrounding wildlife meadow is an important wildlife corridor. 3) The reduction in house quantity from the existing agreed permission will put further pressure on the field to yield to make up the shortfall with new development. 4) The field is also of historic interest, being the last field of a series of medieval "Rig and Furrow" paddocks that run from Westfield Lane to Hab Lane. 5) Concern is raised regarding hedgerows and trees and the visual appearance adjacent the Conservation area. 6) Concern is raised that it seems an easier project for the owner to knock down the existing cottage and replace. 7) This is an old cottage and part of the character of the village. 8) This is purely for financial reasons to be able to have larger properties on the same footprint.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The development site lies inside the defined development limits of Thorganby and within the Thorganby Conservation Area. There is land to the north that is described as a paddock of which lies outside the defined development limits and does not form part of this proposal. The site is situated within Flood Zone 1 which is at low probability of flooding.

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

- 3.2 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.
- 3.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by

the direction of the Secretary of State and which have not been superseded by the Core Strategy.

Selby District Core Strategy Local Plan

3.4 The relevant Core Strategy Policies are:

Policy SP1:	Presumption in Favour of Sustainable Development
Policy SP2:	Spatial Development Strategy
Policy SP4:	Management of Residential Development in Settlements
Policy SP5:	The Scale and Distribution of Housing
Policy SP8:	Housing Mix
Policy SP9:	Affordable Housing
Policy SP15:	Sustainable Development and Climate Change
Policy SP16:	Improving Resource Efficiency
Policy SP18:	Protecting and Enhancing the Environment
Policy SP19:	Design Quality

Selby District Local Plan

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

3.6 The relevant Selby District Local Plan Policies are:

Policy ENV1:	Control of Development
Policy ENV2:	Environmental Pollution and Contaminated Land
Policy ENV25:	Conservation Areas
Policy T1:	Development in relation to the Highway Network
Policy T2:	Access to Roads

4.0 APPRAISAL

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

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

Principle of Development

- 4.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF.
- 4.3 The application site is situated inside the defined development limits of Thorganby and thus Policy SP2Ab states that limited amounts of residential development may be absorbed inside development limits of Secondary Villages where it will enhance and maintain the vitality of rural communities and conform to the provisions of Policy SP4.
- 4.4 Policy SP4a states that in secondary villages certain types of development are acceptable and include conversions, replacement dwellings, redevelopment of previously developed land and filling of small linear gaps in otherwise built up residential frontages.
- 4.5 The proposal involves the replacement of two dwellings with three dwellings with a significantly larger footprint and mass. Part of the development includes development of previously developed land, but garden land development is explicitly excluded from this definition in the NPPF. It is therefore considered that the proposal would not fall under any of the exceptions listed in Policy SP4a. The application should therefore be refused unless material circumstances indicate otherwise.
- 4.6 It is established case law that if an applicant can demonstrate a fallback position i.e. an existing consent which could be implemented in the absence of a new permission; this constitutes a material consideration to be taken into account in determining the application. In this case there is an extant planning permission for the demolition of existing dwellings, outbuildings and garages and the erection of four residential dwellings, garages and associated infrastructure which was granted planning permission in February 2017 and this remains valid for the current application site. The extant planning permission is considered a clear fallback position that is a material consideration of sufficient weight to outweigh the provisions of SP2 and SP4 of the Core Strategy.

Design and Impact on the Character of the Conservation Area

- 4.7 The application site lies within the Thorganby Conservation Area. The agent has submitted a Heritage Statement which has carried out an assessment of the impact of the development on the Conservation Area. There is no Conservation Area appraisal for the conservation area and the statement has described the historic development of the area and the significance of the conservation area based on archaeological, architectural, artistic and historic interest. The buildings to be demolished are noted as not contributing to the setting, character or appearance of the conservation area. This view has been taken with reference to Historic England guidance.
- 4.8 Whilst the statement notes some of the paragraphs in the NPPF that are applicable (129, 137, 138) to the assessment of impact on the conservation area, it fails to explicitly assess the proposal against paragraphs 132 and 133/134 where applicable. However, the case officer has explored these NPPF tests.

- 4.9 Paragraph 131 of the NPPF states that in determining planning applications, local planning authorities should take account of:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - the desirability of new development making a positive contribution to local character and distinctiveness.
- 4.10 Paragraph 132 of the NPPF is most relevant. This requires 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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
- 4.11 The proposal involves the demolition of a pair of semi-detached dwellings and outbuildings. The dwellings on site were originally a single dwelling and converted into two dwellings in the 1970s. The dwellings are typical of the area's lower status vernacular and despite forming part of the conservation area historic fabric, they hold limited architectural or historic interest. The outbuildings hold limited architectural or historic weight, as they are run down and structurally unsound in parts.
- 4.12 Paragraph 134 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 securing its optimum viable use.
- 4.13 The proposal would result in the loss of a part of the historic fabric of the conservation area. In respect of the extant planning permission, it was considered that, given the expanse of the area included within the conservation area and the site occupying a small area of this area, the loss would result in less than substantial harm. Paragraph 134 of the NPPF would thereby be engaged and the less than substantial harm should be weighed against the public benefits of the proposal.
- 4.14 In respect of the extant planning permission and the balancing test, the principle of redevelopment of the site was noted in the previous application as enhancing the character and appearance of the conservation area as the site currently detracts from the area. Bringing forward housing located within the village was supported and the proposal was considered to be a positive attribute to the public benefit case given that the site has been neglected over recent years since being vacant and this has contributed to the negative appearance the site has on the character and appearance of the conservation area. It was noted however that at paragraph 130 of the NPPF, this states that, where there is evidence of deliberate neglect or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision. This is not necessary explicitly evidenced as being the case.

- 4.15 In respect of the extant permission, it was previously considered that there would be a public benefit as a result of the proposal which included housing provision and improving the visual character of the site and conservation area. The scheme was considered to be of a good design and layout and was considered to be enhancement to the character and appearance of the conservation area.
- 4.16 The above consideration was the position taken in respect of the existing extant permission which can be implemented on the site. However it is important to consider the proposed changes and whether this position would remain the same.
- 4.17 It can be seen from the submitted plans that the proposal seeks permission to replace the previously approved pair of semi-detached dwellings with a single detached dwelling resulting in one less dwelling than the extant permission. It is proposed to increase the scale and height of the proposed dwellings (from the extant permission), given that there would be a reduction of one dwelling. It is also proposed to make some slight amendments to the proposed siting and design of the proposed dwellings and garages, from the extant permission.
- 4.18 The proposed design, appearance and use of materials of the proposed dwellings would be very similar to that already approved. It is considered that the proposed slight change to positioning/siting is not consequential in respect of whether the proposal would preserve the character and appearance of the Conservation Area.
- 4.19 The proposed dwellings, as now indicated on submitted amended drawings, would be less than 500mm higher than the previously approved dwellings and less than 500mm wider than the approved dwellings. There would be no change in width to plot one dwelling from the building already approved in this location. It is considered that the proportions of the proposed dwellings, although relatively large would not be dissimilar to existing dwellings situated to the north east and east of the site and would not result in material increase over that already approved.
- 4.20 Therefore the proposal is not considered to be a significant increase in scale nor significant change to the elevational treatments, in the context of the existing extant permission.
- 4.21 Having taken all of the above into account officers consider that the proposal would preserve the character and appearance of the Thorganby Conservation Area, required by the statutory duty of S72 (1) of the Planning (Listed Building and Conservation Area Act) 1990. It is considered that the proposal accords with Policy ENV1 and ENV25 of the Selby District Local Plan (2005), SP18 and SP19 of the Selby District Core Strategy Local Plan (2013) and Section 12 of the NPPF.

Impact on Residential Amenity

- 4.22 The layout of the site, the design of the units and the siting results in separation distances, and orientation that is considered acceptable so as to ensure that the proposals would not result in a significant detrimental impact through overlooking, overshadowing, loss of light or the creation of an oppressive outlook for neighbouring residential properties. In addition the scheme design has resulted in an internal layout which would ensure an appropriate level of residential amenity is secured.

- 4.23 It is noted that in respect of the potential impact on the closest neighbouring dwelling, Chesnut House, located to the south of the site, that the closest dwelling would be approximately 0.9 metres taller. However this dwelling would now be positioned further away from the neighbour than originally approved. The rear of Chesnut House would face onto the side elevation of the nearest proposed dwelling at a distance of approximately 12.5 metres, at the closest point and this would be at an offset/oblique angle, as opposed to directly facing. It is noted that the proposed ground floor rear extension to this dwelling would be increased in size and as such a window is now proposed to be inserted into the flank elevation. This would be at a distance of approximately 14 metres from the rear elevation of Chestnut House. Therefore in order to protect the amenity of Chesnut House in respect of overlooking, it is recommended that this window be opaque glazed. The proposed garage in respect of the dwelling located closest to Chesnut House would have a similar impact as that approved.
- 4.24 Having taken into account the matters discussed above it is considered that the proposal would 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.

Impact on the Highway Safety

- 4.25 The site has an established vehicle access and the proposal would use the same access. The layout plan shows that vehicles can enter and leave the site in a forward gear and there is adequate space for on-site parking for each dwelling.
- 4.26 The Highways Authority have assessed the application and raise no objection subject to the imposition of conditions.
- 4.27 It is therefore considered that the scheme is acceptable and in accordance with policies ENV1(2), T1 and T2 of the Local Plan, Policy SP19 of the Core Strategy and Paragraph 39 of the NPPF with respect to the impacts on the highway network subject to conditions.

Impact on Nature Conservation and Protected Species

- 4.28 The application site is within proximity of a number of European designated sites which are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the Habitat Regulations). The application site is within proximity to Skipwith Common Special Area of Conservation (SAC), River Derwent SAC and the Lower Derwent Valley SAC and Special Protection Area (SPA) which are European Sites. The Lower Derwent Valley SAC and SPA are also listed as the Lower Derwent Valley Ramsar site and is notified at a national level as Derwent Ings and the River Derwent Sites of Special Scientific Interest (SSSIs). Skipwith Common SAC is also listed as Skipwith Common SSSI. However, the application site is not designated itself as a formal or informal site for nature conservation.
- 4.29 Natural England have advised that if undertaken in strict accordance with the details submitted, the proposal is not likely to have a significant effect on the interest features for which Lower Derwent Valley (SPA, SAC & Ramsar) and River Derwent (SAC) has been classified and that it is not necessary for the Local Planning

Authority to undertake an Appropriate Assessment to assess the implications of the proposal on the site's conservation objectives.

- 4.30 In addition, Natural England have also advised that they are satisfied that the proposed development if carried out in strict accordance with the details of the application, as submitted, would not damage or destroy the interest features for which the Derwent Ings and River Derwent SSSI have been notified.
- 4.31 The application is accompanied with a Bat Survey. A preliminary bat roost assessment followed by a dusk emergence survey was undertaken by Curtis Ecology in June 2016. The level of survey effort conforms to good practice standards. No evidence of roosting bats was detected and the site was considered to be of low significance as bat foraging habitat.
- 4.32 However, there was evidence of Barn Owl roosting in the most westerly of the existing buildings, a dilapidated former poultry shed (Building 4 in the bat survey report). It was not considered that Barn Owls used the building for nesting. Section 7 of the Curtis Ecology report provides recommendations for wildlife mitigation.
- 4.33 The County Ecologist has recommended that should planning permission be granted a condition should be imposed requiring compliance with the recommendations set out in the Curtis Ecology report.
- 4.34 In respect of concerns raised by the objector in relation to impact on trees and hedgerows, it is noted that the proposed redevelopment would result in some loss of hedges within the site. In this respect is considered appropriate that a condition be imposed should planning permission be granted to ensure that the site is appropriately landscaped. Indeed the submitted plans do indicate that native species hedges would be planted and landscaping would take place.
- 4.35 Having had regard to all of the above it is considered that the proposal would accord with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation subject to conditions that the proposals be carried out in accordance with the mitigation measures set out in the Bat Survey Section 7.1

Archaeology

- 4.36 The site is situated at the very edge of the historic medieval settlement at Thorganby. The adjacent fields contain ridge and furrow and it is likely that the site lay outside of the village. The County Archaeologist has advised that the archaeological potential is therefore fairly low for the medieval period.
- 4.37 The County Archaeologist has advised that the proposed development would involve the demolition of the existing dwellings and that these would have had a negative impact on any archaeological deposits should they have been present. As such they advise that they have no objections to the proposals and no further archaeological investigation would be required.
- 4.38 The proposals are therefore considered acceptable with respect to the impact on designated and non-designated heritage assets in accordance with Policies ENV1

and ENV28, of the Local Plan, Policies SP18 and SP19 of the Core Strategy and Part 12 of the NPPF.

Affordable Housing

- 4.39 In the context of the Court of Appeal Judgement in relation to the West Berkshire Case the Council is no longer able to seek a contribution for Affordable Housing under SP9 of the Core Strategy and the Affordable Housing SPD. The proposal is contrary to the provisions of the Development Plan but there are material considerations – the High Court decision on the West Berkshire case - which would justify approving the application without the need to secure an affordable housing contribution. The application has to be determined at committee in accordance with the scheme of delegation.

Flood Risk and Drainage

- 4.40 The application site is located in Flood Zone 1 (low probability of flooding), albeit it is close to flood zone 2/3. The application form states that foul sewage would be disposed of via the main sewer with surface water disposed of via soakaways. Yorkshire Water have not responded to the proposal (although it is noted that they raised no objections to the previous application) and the Internal Drainage Board have raised no objections to the proposals subject to the imposition of conditions. The Lead Flood Authority have provided detailed advice in respect of surface water drainage and flooding and it is considered appropriate to ensure that a satisfactory scheme for the disposal of surface and foul water be achieved, via imposition of an appropriately worded planning condition which captures the requirements of their advice given that the eastern part of the site is known to be subject to surface water flooding.
- 4.41 The comments of the Parish Council and the advice given by the LLFA is noted (in respect of the recommended submission of a Flood Risk Assessment). It is however acknowledged that a flood risk assessment should be submitted for all planning applications for development within Flood Zones 2 & 3, development on sites of 1 hectare or greater; development or changes of use to a more vulnerable class that may be subject to other sources of flooding. The proposed development does not fall within any of the above category's, the site is within Flood Zone 1, the site is not 1 hectare in size and the site is not changing use as such it is considered that there is no reasonable requirement for a flood risk assessment to be required for this proposed development.
- 4.42 Subject to imposition of a condition to ensure a satisfactory drainage scheme being brought forward to adequately address flood risk, drainage and climate change in accordance with Policies SP15, SP16 and SP19 of the Core Strategy Local Plan, and the NPPF, the proposal is considered acceptable.

Land Contamination

- 4.43 It is noted that the Council's Contaminated Land Consultant was consulted in respect of the previous application on the site. The Council's Contaminated Land Officer reviewed the proposal and considered that it was appropriate to recommend that conditions could be imposed to ensure that the site was safe for its intended use. Notwithstanding this the applicant has submitted a phase 1 investigation report

has been considered by the Council's Contaminated land Consultant who advised that the conditions set out below should be imposed on any grant of planning permission to ensure that the site is safe for its intended use.

- 4.44 The proposals, subject to the imposition of the previously recommended conditions are therefore considered to be acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan, Policy SP19 of the Core Strategy and Part 11 of the NPPF.

5.0 CONCLUSION

- 5.1 It is proposed to demolish the existing dwellings, outbuildings and garages and erect three residential dwellings, garages and associated works and infrastructure. The proposal does not meet any of the forms of development which are considered to be appropriate under Policy SP4 (A) of the Selby District Core Strategy.
- 5.2 Notwithstanding the above, it is established case law that if an applicant can demonstrate a fallback position i.e. an existing consent which could be implemented in the absence of a new permission; this constitutes a material consideration to be taken into account in determining the application. In this case there is an extant planning permission for the erection of four dwellings under application number 2016/1029/FUL which is cable of being implemented. The extant planning permission is considered as a clear fallback position that is a material consideration of sufficient weight to outweigh the provisions SP2 of the Core Strategy, as the erection of four dwellings can constructed in this location.
- 5.3 Matters of acknowledged importance such as impact on the character and appearance of the conservation area, layout, scale, design, flood risk, drainage, contamination, archaeology, nature conservation, impact on residential amenity, impact on the highway network and affordable housing contributions are considered to be acceptable, subject to the imposition of the planning conditions set out below.

6.0 RECOMMENDATION

The application be approved subject to the imposition of 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:

WG395-01B-Location Plan
WG395 -05J-Proposed Ground Floor Plan
WG395-06F- Proposed First Floor Plan
WG395-07H-Proposed Elevations
WG395-09D-Individual House Elevations
WG395-10C-Garage Elevations and Fence detail

WG395-04G-Proposed Site Plan

Reason:

For the avoidance of doubt.

03. No development shall commence above foundation level until details of the materials to be used in the construction of the surfaces, boundary treatment, exterior walls, roofs, windows and doors of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

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

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

a. The existing access shall be improved by widening the access for the first 6 metres into the site and the crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E6d.

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

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

All works shall accord with the approved details.

INFORMATIVE:

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

Reason:

To ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience having regard to Policies T1 and T2 of the Selby District Local Plan

05. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splay is provided giving clear visibility of 45 metres measured along both channel lines of the major road Main Street from a point measured 2 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height

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

INFORMATIVE:

An explanation of the terms used above is available from the Highway Authority.

Reason: In the interests of road safety having regard to Policies T1 and T2 of the Selby District Local Plan.

06. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number 4 have been constructed in accordance with the submitted drawing (Reference WG395-04G). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

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

07. No development shall be commence until a scheme for the provision of surface water drainage works and temporary flood risk measures during the construction phase has been submitted to and approved in writing by the Local Planning Authority. Any such scheme shall be implemented as approved before the development is brought into use and in respect of the approved temporary flood measures, before construction commences.

The following criteria should be incorporated:

- 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 litre/second/hectare (1:1year storm).
- Storage volume should accommodate a 1:30 year event with no surface flooding and no overland discharge off the site in a 1:100 year event to include for urban creep.
- 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 proposed SuDS attenuation features should be able to provide the 1 in 100 year design flood event plus with an allowance for climate change and for urban creep. This should be incorporated into the detail drainage design.
- Mitigation measures should be incorporated to minimise the risk of flooding to properties.
- Site design must be such that when SuDS features fail or are exceeded, exceedance flows do not cause flooding of properties on or off site.
- Runoff must be completely contained within the drainage system (including areas designed to hold or convey water) for all events up to a 1 in 30 year event.

- The design of the site must ensure that flows resulting from rainfall in excess of a 1 in 100 year rainfall event are managed in exceedance routes that avoid risk to people and property both on and off site.
- The suitability of soakaways, as a means of surface water disposal, by percolation tests to determine soil infiltration rate should be ascertained in accordance with BRE Digest 365 Soakaway design (2003) and CIRIA Report 156 Infiltration drainage – manual of good practice (1996). Method of test must be relevant to proposed SuDS.
- Pollution from surface water runoff from the development from parking areas and hardstanding areas should be mitigated against by the use of oil interceptors, road side gullies, reedbeds or alternative treatment systems.

There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.

Reason:

To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding as required by NPPF Part 10.

INFORMATIVE:

Testing must be carried out at or as near as possible to the proposed soakaway location (No greater than 25m from proposed soakaway for uniform subsoil conditions. For non-uniform subsoil conditions testing must be carried out at the location of the soakaway). Testing must be carried out at the appropriate depth for proposed SuDS (e.g. invert level, base level of soakaway etc.) relative to existing ground levels. Three percolation tests are to be performed at each trial pit location to determine the infiltration rate, where possible. Where slower infiltration rates are experienced, testing must be carried out over a minimum period of 24 hours (longer if 25% effective depth is not reached). 25% effective depth must be reached. Extrapolated test data will not be accepted.

Summary of acceptable infiltration rates for development surface water drainage (m/sec): > $\times 10^{-6}$ - Appropriate for soakaways - Infiltration tests to BRE 365 standards and information of the ground conditions and groundwater levels. = $\times 10^{-6}$ – Borderline - Infiltration tests to BRE 365 standards and information of the ground conditions and groundwater levels. < $\times 10^{-6}$ - Not Viable - Seek alternative means of disposal of surface water.

Should infiltration prove unfavourable, surface water discharged to one of the following will need to be considered in order of the priority shown and in accordance with the Building Regulations: Part H: a. Discharge to a surface water body. b. Discharge to a surface water sewer, highway drain or other drain. c. Discharge to combined sewer. Micro Drainage calculations would confirm the required Surface water attenuation volume. An exceedance plan would show overland flow during an extreme flood event, exceeding the capacity of the proposed drainage system.

08. The development hereby permitted shall be carried out in strict accordance with the recommendations outlined in the Bat Survey Report dated July 2016 in Section 7 of the report.

Reason:

In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1(5) of the Local Plan and Policy SP18 of the Selby District Core Strategy Local Plan (2013).

09.No development shall commence until an investigation and risk assessment (in addition to any assessment provided with the planning application) shall 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. This shall be submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

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

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

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

10.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 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, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

11. 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 submitted to and approved in writing by 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, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

12. 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, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

13. No development shall take place until details of the proposed means of disposal of foul drainage, have been submitted to and approved by the local planning authority. Any such scheme shall be implemented as approved before the development is brought into use.

Reason:

To ensure that the site is properly drained in accordance with Policies SP15, SP16 and SP19 of the Core Strategy.

14. The development hereby permitted shall not be occupied until the window at ground floor level in the east elevation to House One to the east of the site has been fitted with obscure glazing. The obscure glazing shall thereafter be retained for the lifetime of the development.

Reason:

To ensure a satisfactory standard of residential amenity for adjacent occupiers having regard to Part 11 of the National Planning Policy Framework.

15. No demolition or construction shall commence until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include

- indications of all existing trees and hedgerows on the land
- identify those to be retained and set out measures for their protection throughout the course of development
- Details of the species, location, planting density and stock size on planting of all trees, hedgerows and shrub planting.
- Details of the measures for the management and maintenance of the approved landscaping

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner. Any trees which die, are removed or become seriously damaged or diseased within the first five years shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity and ecological value and in order to comply with Policies ENV1 and ENV25 of the Selby District Local Plan and Parts 11 and 12 of the NPPF.

Contact Officer: Ann Rawlinson, Principal Planning Officer

Appendices: None

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APPLICATION SITE

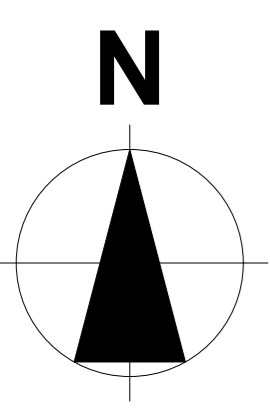
Partridge Hill Farm, Oxmoor Lane, Church Fenton
2018/0398/FUL

1:2,500



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Partridge Hill Farm



GENERAL NOTES :
 Building 'GREYED OUT' being considered as part of a separate Prior Approval Application or a Planning Application
 Conversion of Barn Building 2 and 3 to two residential dwelling units to be considered under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 Number 596

D ryden
W ilkinson
P artnership Architectural Design Consultants
 Building Surveyors

Norwood Barn, Norwood Farm, Lower Norwood Road, Norwood, Leeds, LS21 2RA
 Telephone 01943 566249 e-mail: enquiries@dwp-partners.co.uk

AMENDMENTS :	

CLIENT : Mrs A Marshall

JOB : Proposed Barn Conversions
 Partridge Hill Farm
 Oxmoor Lane
 Church Fenton

Scale : 1:200 @ A1	JOB NO. : LDS 2495/B1/002
Date : October 2017	Drawn by : SW Rev :
Rev Date :	DRWG : Proposed Site Plan BARN 1
STATUS: PLANNING	

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Report Reference Number: 2018/0398/FUL

To: Planning Committee
Date: 6 February 2019
Author: Paul Edwards (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0398/FUL	PARISH:	Church Fenton Parish Council
APPLICANT:	Ms and Mr Marshall	VALID DATE: EXPIRY DATE:	12 April 2018 7 June 2018 E of T agreed until 18 January 2019
PROPOSAL:	Proposed conversion of an agricultural barn building into a residential dwelling and necessary associated operational and remedial works including demolition of redundant agricultural buildings		
LOCATION:	Partridge Hill Farm Oxmoor Lane Church Fenton Tadcaster North Yorkshire		
RECOMMENDATION:	APPROVE		

This application is to be determined by the Planning Committee since it does not accord with development plan policy in that the proposed rear extension will involve extensive removal of existing lean-to structures. Since this is all to be within the existing footprint of the current developed area, it is considered that there are material considerations which support the application and the recommendation for approval.

1. Introduction and background

The Site

- 1.1 The application site is the entire former pig farm site (0.64ha), understood to have ceased operation in 2010 on this south side of Oxmoor Lane, some 400m south of its junction with Brackenhill Lane which is then some 0.5km east of the eastern outskirts of Church Fenton. On this larger site the application barn is Barn 1, whilst other buildings to the rear are referred to as Barn 2 and Barn 3 but are not a part of these proposals. Neighbouring to the west is the former farm house, a two storey detached cement rendered house with various brick outbuildings. On the north side of the Lane is a detached farm building and a separate detached house in large grounds. Oxmoor Lane is without footways or lighting here; the frontage of the application building is set back behind a wide grasses highway verge.

The proposal

- 1.2 The application seeks the change of use of and alterations to the principal frontage building which is of single and two storey composition. The principal elevation shows various phases of infilling and is devoid of openings but for diamond ventilation holes in the brickwork. The two storey component is under a failing clay pantile roof, whilst the single storey wing to the west is under a corrugated asbestos/tin roof.
- 1.3 To the rear, accessed from a gated access to the east are a series of barns and former pig rearing units mostly orientated with their long axes north/south. Some are block work with timber or sheet metal uppers, others are fibre board construction mostly under monopitch roofs/ and a smaller number of brick outbuildings to the eastern site boundary. There are various tanks and vertical silos also on the site.

Planning History

- 1.4 There have been two previous submissions (2018/0431/ATD and 2018/0400/ATD) which were notifications under Part Q of the General Permitted Development Order relating Barns 2 & 3 (not the application barn) for a permitted change of use from agricultural to residential use via the Part Q prior notification process. These applications were withdrawn by the applicants following discussions with Officers on the basis that it had been considered that the extent of demolition went beyond permitted development rights.
- 1.5 There are two more recent Part Q notifications for Barn 2 and Barn 3, 2018/1134/ATD and 2018/1133/ATD respectively. The former has been determined that prior approval is not required and the second has been determined that prior approval is required but it has been granted.
- 1.6 There have been no other applications registered since the pig farm use ceased and nothing of relevance previously.

2 Consultation and Publicity

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

2.2 **Natural England**

Replied with No comment and refers to its standing advice.

2.3 **Environmental Health**

In commenting on this application and the two Part Qs consulted on at the same time, has replied with no objections on the basis that the pig use has ceased. Also comments that any new foul system will need Building Regulations approval.

2.4 **York Environmental Consultancy**

Agrees that site investigation is necessary and the proposed works are generally acceptable. It has been confirmed that gas monitoring is also necessary due to the slurry stores - and then recommends four conditions to do with requirement for site investigation and risk assessment; submission and approval of a remediation scheme; verification of remediation scheme and an unexpected contamination condition.

2.5 **County Ecology Services**

Confirms acceptance of the Great Crested Newt (GCN) report and the one probably rouge DNA record but supports the further investigation controlled by condition. On bats the County Ecologist agrees that the buildings are unlikely to support bats.

2.6 **County Highways**

Replies with no objection, recommends a condition relating to no works until the site access has been constructed to a standard specification.

2.7 **Shire Group of IDBs**

Has replied that the site will increase the impermeable areas and the applicant should satisfy themselves that any system has adequate capacity to deal with run-off.

2.8 **Publicity**

No neighbour representations have been received.

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 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".

3.3 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)."

- 3.4 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.
- 3.5 The principal Core Strategy Policies are:
- SP1 - Presumption in Favour of Sustainable Development
 - SP2 - Spatial Development Strategy
 - SP19 - Design Quality
- 3.6 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.
- 3.7 Development in the countryside is limited in SP2 to the replacement or extension of existing buildings, the re-use preferably for employment and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy.
- 3.8 Policy SP19 promotes high quality design and provides that development proposals should have regard to local character, identity and context including being accessible to all.

Selby District Local Plan

- 3.9 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
 - H12 – Conversion to residential use in the countryside
- 3.10 Policy H12 is the principal policy which would support the conversion of rural buildings to residential use in the countryside. The relevant criteria include where it is unsuited for or there is no demand for business use; it is the best means of conserving a building of interest; the building is structurally sound and capable of re-use without substantial re-building; it will not require extensive alteration, rebuilding or extension outside of the fabric of the building and there will be no adverse effect upon local character and no effect upon highway safety.

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

- 3.11 The guidance in the July 2018 Framework discourages isolated homes in the countryside unless, *'the development would re-use redundant or disused buildings and enhance the immediate setting'* (para 79).

4. APPRAISAL

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

1. Principle of the use
2. Conversion not requiring substantial rebuilding or extensive alteration
3. Impact upon amenity
4. Ecology and Protected Species
5. Contamination

Principle of the Use

- 4.2 The principle of the re-use of agricultural buildings for residential use is supported by Policy SP2 and its commentary (para 4.31). The re-use of redundant or disused buildings is seen as an exception to avoiding isolated new homes and the commentary to the Policy includes that it would lead to an enhancement to the immediate setting. Policy SP2 (c) qualifies the re-use as preferably for employment purposes whereas the Framework which is more up to date, at para 79, has no such qualification.

Conversion/ not require substantial rebuilding or extensive alteration.

- 4.3 The principal tests in SDLP Policy H12 of relevance here are summarised below together with officer comments :

A) Unsuitable for business use.

The location of the site next to an existing residential property and the footprint and appearance of a building being of essentially domestic scale and appearance would suggest that it is unsuitable to business use

B) Best reasonable means of conserving a building of interest

The building has a pleasing composition and appearance of the local vernacular and the scheme would conserve its appearance and bring it back into use in the local environment

C) Structurally sound and capable of re-use without substantial rebuilding

The application is accompanied by a Structural Survey Report. It describes the needs for repairs and some rebuilding in some locations and given the failures in part of the two storey roof and missing pantiles, it anticipates that the whole roof structure will need to be stripped back and replaced. The single storey roof is likely to need timber repairs but will likely be retained once the asbestos sheeting has been removed.

The main exterior walls have experienced some structural movement and the Report concludes that the left gable wall will need underpinning and other fractures will require restraining to tie in to existing but reconstruction, it concludes is unlikely. The interior walls are described as needing general repairs to the brickwork but are in a reasonable condition and capable of being retained and refurbished.

D) Re-use and adaptation generally take place within the fabric and not require extensive alteration/ rebuilding or extension.

The front range of the barn would be retained and the two existing openings made use of with a new ground floor dining room window. This is in keeping and respects previous agricultural vernacular. The area to the rear of the main range is covered over with an extensive timber and metal sheeting roof and lean-tos and this is to be removed to expose the existing rear of the principal barn. The piggery beyond to which the roof extends lends itself to simple use as a garage without any extension.

A two storey rear projection is then proposed to the rear of the exposed range, within the footprint of the existing developed area. The height, gable and the ridged roof would be lower than the existing barn. This is subservient to the main range; it is to the rear and will not be prominent.

In view of the removal of the lean-tos and covered areas attached to the rear, and that the proposed extension is taking place within the current footprint, although the works are extensive, the nett removal exceeds what is proposed of a higher quality in its place and since it will be subservient as set out above and of better quality it is considered that the advantages outweigh any presumption against extensive alterations. The openings in the rear of the single storey element seek to respect/ mirror the existing and all other openings are to the rear/ on the returns and are thus also acceptable/ appropriate with arched lintels. The materials are not specified and it would be appropriate to condition timber fenestration. The application forms state that the reroof would be in pantiles, this similarly may be conditioned.

E) Conversion and creation of curtilage not to have a significant adverse effect on local character

The rear curtilage will need to be correctly defined following demolition of the redundant agricultural buildings and hedge planting and boundary treatments are shown to demarcate curtilage, not all of that fencing need arise out of the development and the specification of the hedge is needed.

F) Not create conditions prejudicial to highway safety

The site is served from an existing agricultural access that served 0.64ha. It is an existing access into the site and thus in terms of traffic generation and in the light of no highway authority objections, the access is acceptable.

- 4.4 The policy concludes that conditions may be imposed on any permission to control future extensions or alterations; this can be addressed by the removal of permitted development rights. Foul water is going to a new package treatment plant which is shown on the drawings and surface water to a culverted drain at the front so similarly this does not need conditioning since it will be on any approved drawings.

Impact upon Amenity

- 4.5 The neighbours have made no comments and given the separation and the alignment between the two properties, they would remain in line so there are no effects in either direction and Policy ENV1 is satisfied.

Ecology and Protected Species

- 4.6 The application is accompanied by Great Crested Newt and Bat survey Reports that have been assessed by the County Ecologist. Since there is a very low likelihood of any such species being present, there are no outstanding objections and implementation in accordance with those report recommendations can be controlled by condition on any approval.

Contamination

- 4.7 The need for on-site investigation and those conditions as necessary recommended by the Environmental Consultancy are addressed in the recommendation below (Conditions 6, 7 and 8).

Legal Issues

- 4.8 Planning Acts: This application has been determined in accordance with the relevant planning acts.
- 4.9 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.
- 4.10 Equality Act 2010: This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

Financial Issues

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

5. Conclusion

- 5.1 This type of conversion of an agricultural barn to residential is acceptable in principle in the NPPF and in development plan policy. The Framework is more up to date and more flexible since it does not include criteria requiring the building to be 'structurally sound' or not require 'extensive rebuilding' criteria. In any event those local plan criteria are, it is concluded, satisfied.
- 5.2 The works are appropriate to this agricultural building in terms of openings and materials/ and a standard use of reclaimed/matching materials to make good condition would be appropriate. It would also be appropriate to seek a detail of new roof materials so that clay rather than concrete pantile is achieved. In view of the size of the site, the extent of new residential curtilage needs to be restricted. Due to

the agreement from consultees that there would not be any impact upon the very low likelihood of the presence of bats or GCNs, implementation in accordance with those surveys can be achieved by the standard strict conformity condition (Condition 2).

- 5.3 The contamination conditions have been amended so that they are not pre-commencement and are linked to the first acts of demolition. The draft conditions and any interpretation of them being pre-commencement have in any event been agreed with the applicant in line with good practice.
- 5.4 Thus, subject to the recommended conditions set out below, this application complies with the up to date Framework guidance and with, principally SDLP Policy H12 and compliance with the conditions would create a scheme in compliance with the development plan.

6. Recommendation

6.1 The application is recommended for APPROVAL 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 following approved plans and documents:

- Red Line site Location Plan Scale 1:1250
- Existing Site Plan Barn 1 Dwg No LDS 2495/B1/001
- Existing and Proposed Elevations Barn 1 Dwg No LDS 2495/B1/201
- Existing Floor Plans Barn 1 Dwg No LDS 2495/B1/101
- Proposed Floor Plans Barn 1 Dwg No LDS 2495/B1/102
- Proposed Site Plan Barn 1 Dwg No LDS 2495/B1/002
- Brooks Ecological Great Crested Newt Survey R-2892-101 dated July 2017
- Brooks Ecological Bat Survey R-2892-02 dated September 2017

Reason: For the avoidance of doubt.

- 03: The materials to be used in the repairing or making good of the existing external surfaces shall use reclaimed materials to match in size, colour and texture the existing materials used on the building.

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

- 04: Details of the new pantile roof covering and the facing brickwork of the extension hereby approved shall be submitted to and approved by the local planning authority prior to the commencement of development above new slab level.

Reason: In order to ensure that the local planning authority is satisfied with the detail of materials and in order to match the existing building in the interests of the character and appearance of the area and the design and appearance of the building to accord with local plan policies ENV1 and H12.

- 05: Prior to the first occupation of the dwelling hereby approved the boundary of the curtilage of the dwelling shall be identified through the installation of the approved fence and the planting of the hedge in accordance with planting specifications that have previously been submitted to and approved by the local planning authority.

Reason: In accordance with the details of the application and to protect the amenities of the prospective occupants and in order to comply with local plan Policy ENV1.

- 06: No works of demolition shall commence until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site has been submitted to and approved by the local planning authority:

- A site investigation scheme, based upon the Dunelm Report D8560 desk study to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- The results of the site investigation and the detailed risk assessment referred to in and based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken, including details of necessary gas monitoring.

Reason: To ensure that the risks from land contamination to future users are minimised and to ensure that the development can be carried out safely having regard to local plan Policies ENV1 and ENV2.

- 07: Prior to the first occupation of the dwelling the approved remediation scheme shall be carried out in accordance with its terms and a verification report to be submitted to and approved in writing by the local planning authority.

Reason: To ensure that the risks from land contamination to future users are minimised and to ensure that the development can be carried out safely having regard to local plan Policies ENV1 and ENV2.

- 08: If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

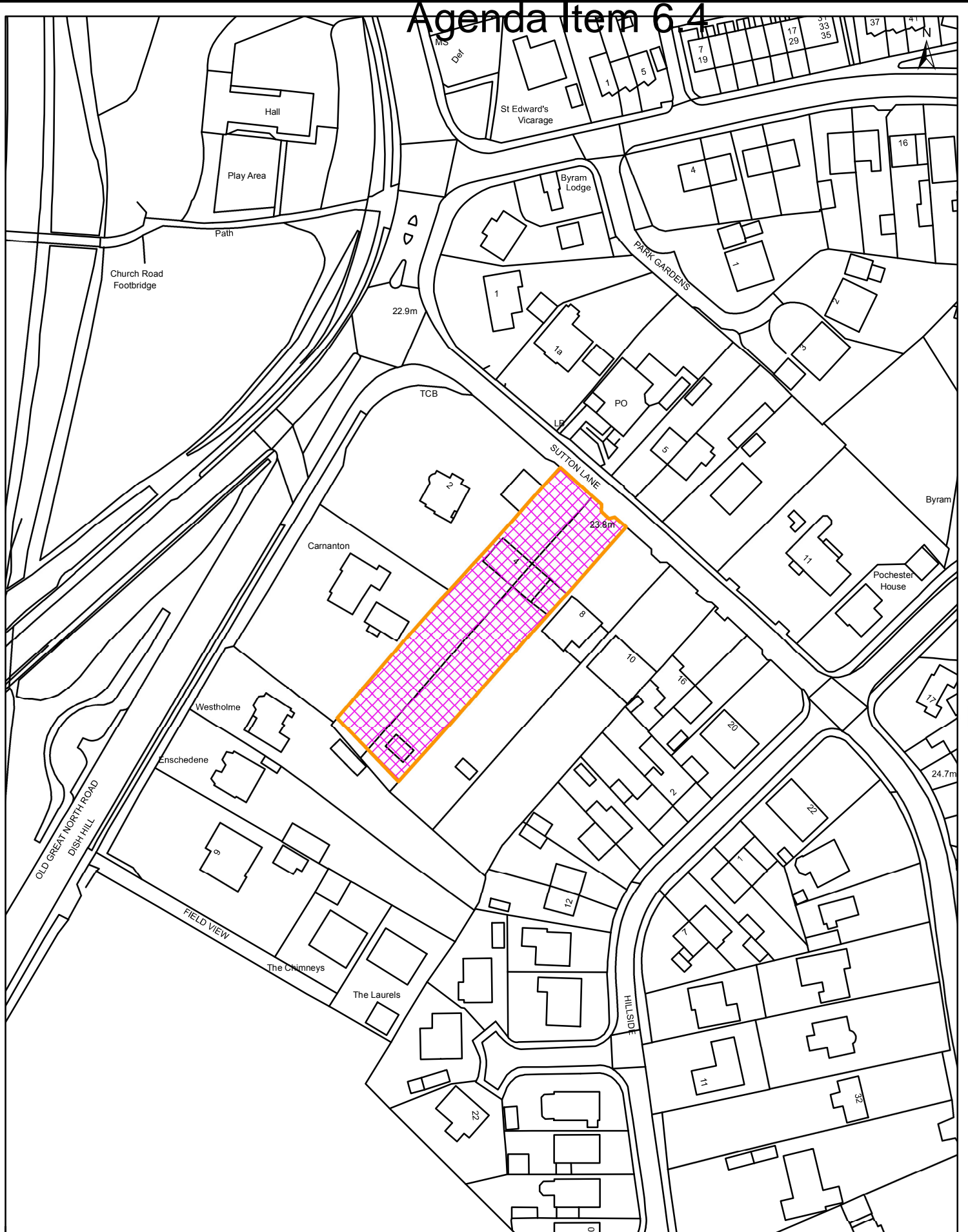
Reason: To ensure that the risks from land contamination to future users are minimised and to ensure that the development can be carried out safely having regard to local plan Policies ENV1 and ENV2.

- 09: The use hereby approved shall not first commence until the redundant agricultural buildings have been demolished sufficient and necessary to define the residential curtilage of the dwelling hereby approved.

Reason: In accordance with the details of the application and to provide for sufficient residential curtilage to the property hereby approved to comply with local Plan Policy ENV1.

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

Appendices: None



APPLICATION SITE

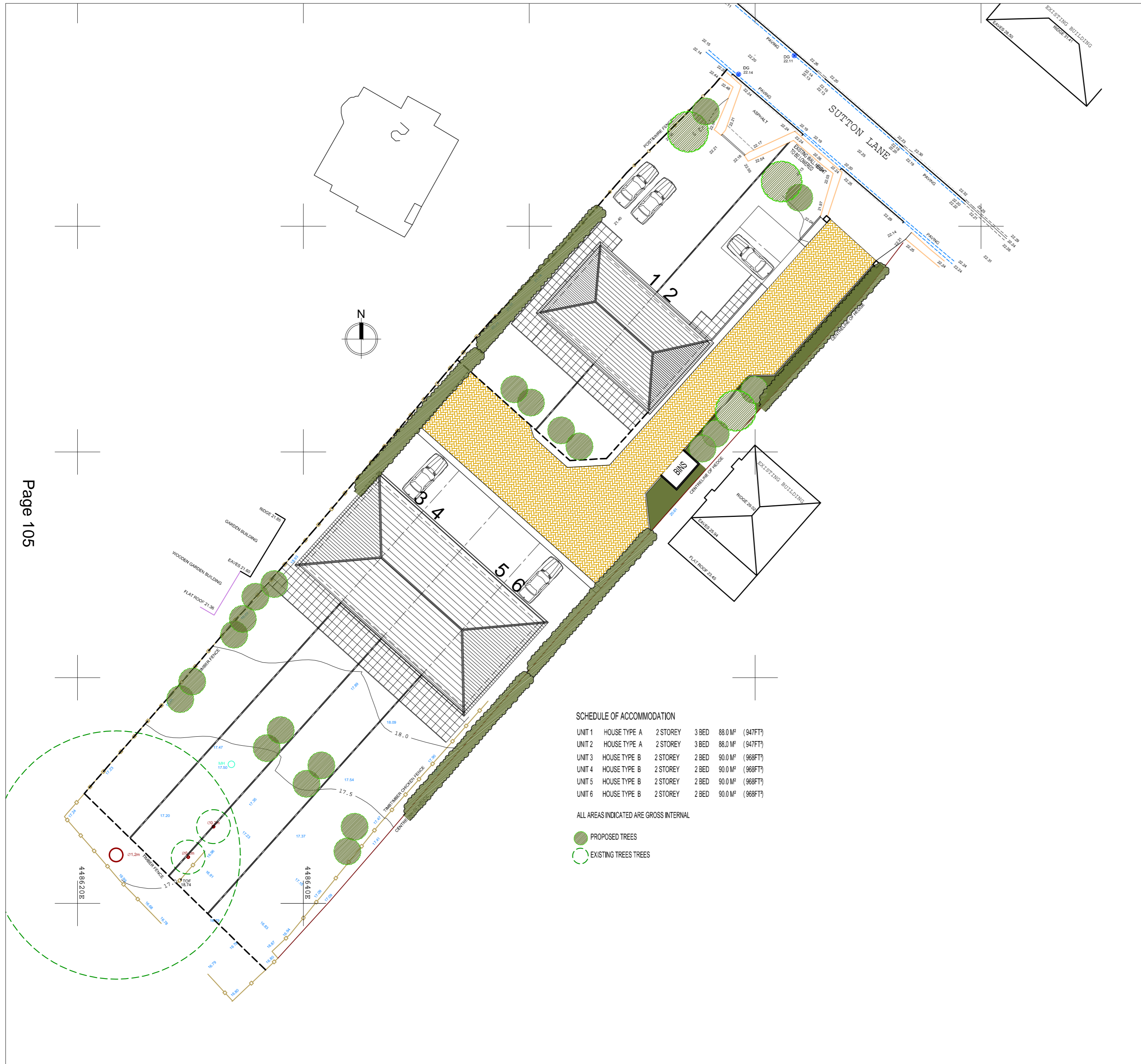
2018/0415/OUT
4 Sutton Lane, Byram

1:1,250



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SCHEDULE OF ACCOMMODATION

UNIT	HOUSE TYPE	STOREY	BED	AREA (M ²)	AREA (FT ²)
UNIT 1	HOUSE TYPE A	2 STOREY	3 BED	88.0 M ²	(947FT ²)
UNIT 2	HOUSE TYPE A	2 STOREY	3 BED	88.0 M ²	(947FT ²)
UNIT 3	HOUSE TYPE B	2 STOREY	2 BED	90.0 M ²	(968FT ²)
UNIT 4	HOUSE TYPE B	2 STOREY	2 BED	90.0 M ²	(968FT ²)
UNIT 5	HOUSE TYPE B	2 STOREY	2 BED	90.0 M ²	(968FT ²)
UNIT 6	HOUSE TYPE B	2 STOREY	2 BED	90.0 M ²	(968FT ²)

ALL AREAS INDICATED ARE GROSS INTERNAL

- PROPOSED TREES
- EXISTING TREES



REV	DRAWN	DATE	DESCRIPTION
B	AJ	20.04.18	SITE PLAN BOUNDARY ADJUSTED
A	AJ	12.04.18	RED LINED BOUNDARY ADJUSTED

JMA ARCHITECTS

- SUITE 1, SECOND FLOOR
- 60 GREEN ROAD LEEDS LS6 4 JP
- TEL: 0113 2177051
- FAX: 0113 2161273
- E: info@jma-consulting.co.uk

PROJECT TITLE	- RESIDENTIAL DEVELOPMENT ON - 4-6 SUTTON LANE, BROTHERTON - WF11 9 DL
TITLE	- SITE PLAN & LOCATION PLAN

FILE STATUS	- PLANNING APPLICATION	SCALE	- 1:250, 1250 @ A2	DRAWN	WO	CHECKED	AJ
FILE	- D:\DRAWINGS\SUTTON LANE	DATE	MARCH 2018	PROJECT	- 1599.1793	DRAWING	- P01
REVISION	B	DATE		DATE		DATE	

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Report Reference Number: 2018/0415/OUT

To: Planning Committee
Date: 6 February 2018
Author: Mandy Cooper (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0562/FULM	PARISH:	Byram
APPLICANT:	Mr Morrall	VALID DATE:	26 April 2018
		EXPIRY DATE:	19 June 2018
PROPOSAL:	Outline planning application for residential development of 4no 2 bedroom town houses and 2no 3 bedroom houses to include details of access and scale at number 6 (Including access and scale)		
LOCATION:	4 Sutton Lane, Byram, Knottingley, West Yorkshire, WF11 9DL		
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

1.1 Site and context

- 1.2 The application site is located on the southwest side of Sutton Lane, Byram and comprises the redevelopment of a Brownfield site within a designated service village.
- 1.3 The site currently consists of a pair of vacant semi-detached houses (Nos 4 & 6), which both have direct access to Sutton Lane. The area does not have conservation area designation and there are no listed buildings in the vicinity. There are no local or national landscape designations close to the site or any trees protected by Tree Preservation Orders.

- 1.4 There is a variety of dwelling types surrounding the site and immediately south east are large detached properties set in long narrow gardens. South west is a similar arrangement and directly northwest of the application site the pattern of development changes with two large square plots with centrally situated detached dwellings. To the opposite side of Sutton Lane (northeast) the plots are much shallower; plot widths also vary and a pair of semi-detached properties face the site; along with the post office.

2 The Proposal

- 2.1 The proposed development comprises the demolition of an existing pair of semi-detached houses, and the construction of dwellings with a mix of 2 No. 3-bedroom houses and a block of 4 Nos 2-bedroom Town houses.
- 2.2 This is an outline proposal but includes an indicative layout plan with access shown. The agent has confirmed however that **all** matters will be submitted at the Reserved Matters stage.
- 2.3 The application site has also been the subject of pre-application discussions where changes to the general layout and access were suggested; which is now reflected in the current proposal.

3. Site History

- 3.1 The following application is considered to be relevant to the determination of this application:
- CO/1976/21037 (8/50/18/PA) - Bedroom/kitchen/bathroom Extension at 4 Sutton Lane, Byram – Approved 28.09.1976

4. Consultations

4.1 Parish Council –

No concerns in respect of the outline application

4.2 NYCC Highway Authority –

Recommends conditions relating to visibility splays and a Construction Management Plan

4.3 Yorkshire Water –

Recommends conditions

4.4 Internal Drainage Board (IDB) –

The above 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 area.

4.5 Environmental Health –

State no comments

4.6 Natural England –

State no comments but refer to standing advice

4.7 North Yorkshire Bat Group –

No response (expiry date of 24.12.2018)

4.8 County Ecologist –

Following submission of a Bat Assessment clear that no evidence to suggest buildings are occupied by roosting bats. Response includes informative.

4.9 NYCC Heritage Officer –

There are no known archaeological sites in the area indicated or within the immediate vicinity, therefore no comments to make and not necessary for further consultation.

4.10 Waste & Recycling –

“A bin presentation point will need to be provided adjacent to the main road. The presentation point must allow for unobstructed access to containers and waste collection vehicles should be able to gain access to within 10 metres. The presentation point should be large enough to accommodate 2 x 240 litre wheeled bins per property one week and 3 x 55 litre kerbside recycling boxes per property the following week. Finally as there are more than 4 properties, the developer will be required to purchase the waste and recycling containers for this development.”

4.11 Internal Drainage Board –

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 greenfield runoff.

No obstructions within 7 metres of the edge of a watercourse are permitted without Consent from the IDB.

Advice/recommendations:

SHOULD Consent be required from the IDB as described above then we would advise 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

4.12 Environmental Health –

No comments to make on the application

4.13 Contamination Officer –

Officer advises that Phase 1 report provides good overview but a further investigation is required – planning conditions included relating to this; submission of remediation scheme remedial works and unexpected contamination.

4.14 Neighbour comments

The proposal was advertised by way of a site notice and direct neighbour notification. The following objections have been received as a result of publicity:

- Will add to existing high volumes of traffic along Sutton Lane which is already dangerous and this section is particularly narrow

- Out of character with existing development – proportions and position of plots and existing detached and semi-detached properties
- Parked cars outside the shops opposite to the proposed site entrance already result in a 'bottleneck' and proposed access is prejudicial to highway safety
- Reference made to a previously refused application (close to the site) on the grounds of highway safety (2016/0030/OUT)
- Number of mature trees would have to be cut down
- Refuse and recycling containers will cause further problems on this stretch of road
- Have been accidents on this road Hedge fronting application site is shared with No.4 Sutton Lane and no intention of cutting to provide better visibility for access/egress to and from the site
- Faced with a view of the fronts of new houses resulting in overlooking either way and loss of privacy for us
- Proposed drive is only 2.5m from our living room, a side window and main living room window (No. 8 Sutton Lane)
- Additional noise will result from the inhabitants of additional dwellings and use of drive by vehicles
- Large portion of the site closest to Sutton Lane contains no garden and as such there is loss of garden land and open aspect. That open space is important to the character of the area and surrounding properties. Due to the lack of garden there will be more surface water
- Three of the largest trees within the site have already been felled
- Unacceptable form of backland/tandem development
- Would result in a loss of open space which is intrinsically important to the character of the area
- Comments relating to scale, design; roof form all being out of keeping with adjacent development and objector states that there are no precise details of internal layout
- No footpath on the south side of Sutton Lane and the design and layout of the enlarged access to serve site is unsafe and on the inside of the bend therefore visibility is virtually nil looking east
- Loss of privacy to surrounding properties due to position of proposed dwellings
- Sewer system and drainage inadequate in this area
- Impact on wildlife in the area such as newts, pheasants and hedgehogs

5. SITE CONSTRAINTS AND POLICY CONTEXT

5.1 The application site is located within the Byram Development Limits within a Coalfield Area.

5.2 National Guidance and Policy – National Planning Policy Framework (NPPF)

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.

Paragraph 47 of the NPPF confirms that planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

5.3 Core Strategy

The relevant Core Strategy Policies are:

SP1	Presumption in Favour of Sustainable Development;
SP2	Spatial Development Strategy;
SP4	Management of Residential Development in Settlements
SP8	Housing Mix
SP15	Sustainable Development & Climate Change
SP16	Improving Resource Efficiency
SP18	Protecting and Enhancing the Environment;
SP19	Design Quality

5.4 Selby District Local plan

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
ENV2	Pollution
T1	Development in Relation to the Highway
T2	Access to Roads
VP1	Vehicle Parking Standards

6. Key Issues

The main Issues in determining this application are;

- **Principle of the Development**
- **Visual Impact on Character of the Area**
- **Residential Amenity**
- **Highway Safety**
- **Flood Risk/Drainage**
- **Land Contamination**
- **Ecology**
- **Trees/Landscaping**

7. Principle of Development

- 7.1 Policy SP1 of the Core Strategy states that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the new NPPF.
- 7.2 Byram is a Designated Service Village (DSV) where Core Strategy policy SP2 identifies *"some scope for additional residential and small-scale development employment growth to support rural sustainability ..."* Policy SP4 expands upon this stating that within the development limits of DSVs residential development will be acceptable in principle where (amongst other things) it involves *"appropriate scale development on greenfield land (including garden land and conversion/redevelopment of farmsteads)"*. In this case the site is both Greenfield (the garden) and Brownfield (the existing dwellings) land within the development limits of the village and comprising a gap in an otherwise built up frontage.

8 Visual Impact on Character of the Area

- 8.1 The proposal is for outline permission to determine the principle of development with all matters reserved but the submitted details include an indicative layout for six dwellings and means of access. It is considered that suitably designed dwellings would have an acceptable visual impact.
- 8.2 Objections have been raised in regards to the proposal being 'back land' (or tandem) development. The back land location of the proposed house is not unprecedented in Byram. Park Gardens to the northwest of the site is a small cul-de-sac of three dwellings that has been developed to the rear of existing frontage development fronting onto Byram Park Road. Additionally, land to the rear of 11

Sutton Lane on the opposite side of the road, has had a dwelling approved accessed to the side and to the rear of existing properties.

- 8.3 Objectors have also stated that the proposal is out of context with the existing pattern of development. The indicative layout plan for this proposal shows a block of 4 town houses which are adjacent (but separated by a timber shed) to the property known as Carnanton (accessed from Dish Hill). In addition, the pair of semi-detached properties closer to the site frontage are roughly level with No. 8 Sutton and to the southeast and No. 2 Sutton Lane to the northwest. When viewed in the context of existing development and based on the presumption that the Reserved Matters would follow these parameters as required; the layout reflects the adjacent development in terms of siting.
- 8.4 It is considered that the proposed scheme is of an appropriate scale in relation to the density, character and form of the local area and, as such, is consistent with the requirements of Core Strategy policies SP4 and SP19 and Local Plan policy ENV1.

9. Residential Amenity

- 9.1 Policies ENV1 (1) and ENV2 (SDLP) require development proposals to take account of the impact upon the amenity of adjacent occupants. Policy SP19 of the Core Strategy further supports a good standard of amenity.
- 9.2 Objections have been received from neighbours who are concerned about overlooking, loss of open views and the height of the dwellings. The proposal is for outline permission to determine the principle of development. Whilst all matter are reserved. However, in view of the distance from adjoining properties it is considered that two storey dwellings would be acceptable without causing a harmful impact on residential amenity.
- 9.3 The residential properties which lie adjacent to the application site are at a minimum distance from the site boundary of 13m to the northwest of No. 2 Sutton Lane and Carnanton (Dish Hill) again to the northwest, whereby the side elevations on the indicative site plan would face these two properties. No. 8 Sutton Lane to the southeast is a minimum of 2m from the site (side boundary). Other surrounding properties are at such a significant distance from the site boundary that there would be no impact from the proposed development.
- 9.4 There are no objections in principle to the proposal in terms of residential amenity, provided that the scale of the development is appropriate, that the separation distances shown on the indicative site plan can be maintained between the proposed and existing dwellings. It is therefore considered that the site can be developed whilst maintaining an acceptable relationship with adjacent properties so that residential amenity is not compromised.
- 9.5 Provided that any changes in land levels and the impact upon the adjacent dwellings is taken into account, it is considered that a well-designed scheme would not have a detrimental impact upon the area's key features and would therefore comply with current development plan policies and also compliance with the NPPF.

9.6 On the basis of the above assessment, 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.

10. Highway Safety/Access

10.1 Public comments received in regards to highway safety are noted.

10.2 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.'*

10.3 Paragraph 109 adds that Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

10.4 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."

10.5 Whilst all matters are reserved, the plans indicate that access would be taken from Sutton Lane. There have been a number of objections received from local residents, most of which are on the basis of highway safety. Residents are concerned that Sutton Lane is a narrow street which is busy with traffic and that the proposal would exacerbate existing issues as they see it.

10.6 The Highways Officer has commented on the proposal on the basis of the indicative layout plan. He raises no concerns or comments but simply recommends conditions relating to visibility splays along with the requirement for a Construction Management Plan.

10.7 It is considered that the proposal would be acceptable in respect of highway safety if in accordance with the parameters of the submitted information. The proposal is therefore in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and the advice contained within the NPPF.

11. Flood Risk/Drainage

11.1 The application site is located in Flood Zone 1 and therefore has a low probability of flooding.

11.2 The submitted information advises that foul sewage would discharge to the existing mains sewer and that surface water would be via a sustainable means of drainage.

11.3 The Internal Drainage Board (IDB) has made a number of advisory comments in regards to sustainability and the increase in surface water. The advice given however is based on various means of surface water drainage and this is not currently explicit in the proposal.

11.4 Yorkshire Water Services raise no objections but include a number of conditions. They also advise that a 300mm diameter public combined sewer crosses the site but the current layout does not appear to impact on the required stand-off distance required.

11.5 Providing the existing layout is adhered to under the Reserved Matters proposal, there are no concerns in regards to the public sewer. An informative shall be included should the application be permitted advising the agent/applicant of this.

12. Ecology

12.1 Policies relevant with regards to nature conservation and protected species include criterion 5) of policy ENV1 (SDLP) which advises that development should take account of the potential loss or adverse impact on (amongst other things) wildlife habitats. Sub-section 3.c) of Policy SP18 (SDCS) requires new development to *“produce a net gain by designing –in wildlife.”*

12.2 Protected species include those protected under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material consideration.

12.3 The application has been supported by a Bat Assessment undertaken by Whitcher Wildlife Ltd dated 7th July 2018. The report advises that no roosting bats were identified and on this basis there is no requirement for further survey work. It adds however that in the unlikely event that a bat is found work would cease and further advice sought.

12.4 There are opportunities to integrate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. Providing the guidance and conditions are adhered to, the application would comply with policy ENV1 of the SDLP and policy SP18 (SDCS), which advise development should contribute to conserving and enhancing the natural environment by moving from a net loss of biodiversity to achieving net gains for nature.

13. Trees/Landscaping

13.1 Criterion 4) of Policy ENV1 (SDLP) requires development to (amongst other things) take account of *“associated landscaping.”* Policy SP19 criterion e) (SDCS) states that developments should *“incorporate new and existing landscaping as an integral part of the design of schemes.”*

13.2 A Tree Survey plan has been submitted with the proposal which assesses existing trees, most being in the adjoining gardens. The trees are all classed as low category in terms of their quality and it is proposed to remove a Weeping Willow and a Wild Cherry within the site due to their poor condition.

13.3 Subject to the implementation of additional planting, the proposal would not result in visual harm and therefore accords with policies ENV1 (1) of the SDLP; SCDP policy SP19 criterion e) and the relevant provisions of the revised NPPF.

14. Contamination

14.1 Policy ENV2 (SDLP) advises that development which contributes to noise, nuisance and contamination will not be acceptable unless sufficient mitigation measures are provided by way of relevant conditions. Criterion k) of policy SP19 (SDCS) states that development should not contribute to the above.

- 14.2 A Phase 1 Report has been submitted with the proposal. The Contamination Officer (CO) advises that the information identifies potential land contamination resulting from domestic litter and an adjacent gravel pit and the potential for asbestos. The CO states however that the report doesn't assess the potential risk from infilled land and on this basis recommends four conditions (Investigation of Land Contamination; Submission of Remediation Scheme; Verification of Remediation Works and Reporting of Unexpected Contamination). Subject to the submission and implementation of the stated conditions, the proposal is considered to be acceptable.
- 14.3 The proposal is therefore considered to be in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

15. Conclusion

- 14.2 It is considered that the principle of residential development on this site which lies within the development limits of Byram, would be an appropriate sustainable and accessible form of development; which would contribute towards the housing requirements of the settlement.
- 14.3 The application is in 'outline' but it is considered that a suitable detailed scheme of development could be achieved at the Reserved Matters stage, which would have an acceptable impact on the character and appearance of the locality and the amenities for occupants of the surrounding dwellings and environment.
- 14.4 The development therefore complies with the general thrust of advice within the above policies within the Selby District Local Plan; the Selby District Core Strategy and the National Planning Policy Framework, which would seek to direct limited residential development toward such locations.

15 Recommendation

That the proposal be Granted subject to a Section 106 Agreement and no objections from the Council's Contaminated Land Consultant and subject to the following conditions:

1. Approval of the details of the appearance, landscaping, scale, access and layout (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced and the development shall be carried out as approved.

Reason: This is an outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority.

2. Applications for the approval of the reserved matters referred to in condition No.1 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.

3. The total number of dwellings authorised by this permission shall not exceed 6 and any reserved matters application(s) submitted pursuant to Conditions 1 and 2 shall be in accordance with these requirements.

Reason: To ensure that the proposal is carried out in accordance with the design parameters and impact of the development on existing infrastructure on which the outline application has been assessed.

4. The development hereby permitted shall be carried out in accordance with the design parameters of the following plans:

P01 Rev. B – Location and Layout as received on 24th April 2018

Reason: In order to maintain a reasonable level of amenity for existing adjacent occupiers and to ensure an acceptable level of amenity for future occupiers of the proposed development.

5. The exterior walls and roof(s) of the dwellings and garages hereby permitted shall be constructed of materials that shall first have been agreed in writing by the local planning authority.

Reason: In the interests of visual amenity and in order to comply with Policy SP19 of the Selby District Core Strategy Local Plan and Policy ENV1 of the Selby District Local Plan.

6. The development hereby approved shall not be commenced until details of the works for the disposal of foul and surface water have been submitted to and approved in writing by the Local Planning Authority. The development shall then not be first occupied until these works have been carried out in accordance with these approved details.

Reason: In order to ensure that foul and surface water drainage can be disposed of in a manner which does not cause risks of pollution or injury to public health.

7. The development hereby permitted shall be implemented in strict accordance with the amended Bat Assessment prepared by Whitcher Wildlife Ltd and received on the 13th July 2018 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.

8. No access or egress by any vehicles between the highway and the application site (except for its existing use) until splays are provided giving clear visibility of 43m measured along both channel lines of the major road (Sutton Lane) from a point measured 2m down the centre line of the access road. The object height shall be no more than 1m and once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purposes at all times.

Reason: In accordance with policy T1 (SDLP) and in the interests of road safety.

Informative: An explanation of the terms used above is available from the Highway Authority.

9. 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 in consultation with the Local Highway 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:
- a. the parking of vehicles of site operatives and visitors
 - b. loading and unloading of plant and materials
 - c. storage of plant and materials used in constructing the development
 - d. wheel washing facilities
 - e. measures to control the emission of dust and dirt during construction

Reason: In accordance with policy T1 (SDLP) 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.

10. No building or other obstruction including landscape features shall be located over or within 3 metres either side of the centre line of the 300mm diameter public sewer i .e. a protected strip width of 6 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 for maintenance and repair work at all times.

11. 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.

12. 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.

13. No development shall commence until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- (i) planting plans (indicating the retention of existing trees where practicable);

- (ii) written specifications and schedules of proposed plants noting species, planting sizes and proposed numbers/densities;
- (iii) an implementation timetable; and
- (iv) a schedule of landscape maintenance proposals for a period of not less than five years from the date of completion of the scheme.

Reason: In the interests of the character and appearance of the area having regard to policies SP19 of the Selby District Core Strategy Local Plan and policy ENV1 of the Selby District Local Plan.

14. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of the occupation of the building for its permitted use, or occupation of the final dwelling on the site to be occupied.

- (a) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard (3998 Tree Work).
- (b) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size, species and maturity, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

This condition is imposed as the Council is under a statutory obligation when considering planning applications to consider whether it is necessary to take steps to preserve existing trees. There are trees within or near the site and these contribute to the character and appearance of the area. If these trees are to be retained it is important that they are protected from accidental damage during construction work. It is considered that the above details are required in accordance with policy ENV1 of the Selby District Local Plan and are necessary to enable the Council to consider the effect of the proposed development on these trees.

15. Development shall not commence until a scheme of details of finished floor levels of each building together with corresponding finished ground levels, ground levels of land around the site and details of surface and land drainage associated with any works, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the details so approved and no dwelling shall be occupied until the works relating to that building have been completed. These shall be so retained for the lifetime of the development, unless otherwise approved in writing by the Local Planning Authority.

Reason: To protect the living conditions of local residents and in accordance with Policy ENV1 of Selby District Local Plan.

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

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

17. 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.

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

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

19. 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.

INFORMATIVES

Bat Assessment

The applicant should be mindful of the advice contained in section 5 of the bat survey report by Whitcher Wildlife Ltd (July 2018).

Surface Water

Any surface water discharge into a watercourse in, on, under or near the site requires consent from the Drainage Board.

Combined Public Sewer

On the Statutory Sewer Map, there is a 300mm diameter public combined water sewer recorded to cross the site. It is essential that the presence of this infrastructure is taken into account in the design of the scheme. Currently it would appear that the public sewer is unlikely to be affected by building-over proposals.

There is also a 150mm combined sewer within the site but in this case, Building Regulations can control the matter.

For further information regarding the sewers, the developer should contact our Developer Services Team: telephone 0345 120 84 82 or email

technical.sewerage@yorkshirewater.co.uk

Surface Water

Yorkshire Water promotes the surface water disposal hierarchy. The developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse is 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 also be 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.

16. Legal Issues

16.1 Planning Acts

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

16.2 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.

16.3 Equality Act 2010

It is considered that a decision made in accordance with this recommendation would not result in any breach of Rights under the Equality Act and fulfils the Council's duties and obligations accordingly.

17. Financial Issues

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

18. Background Documents

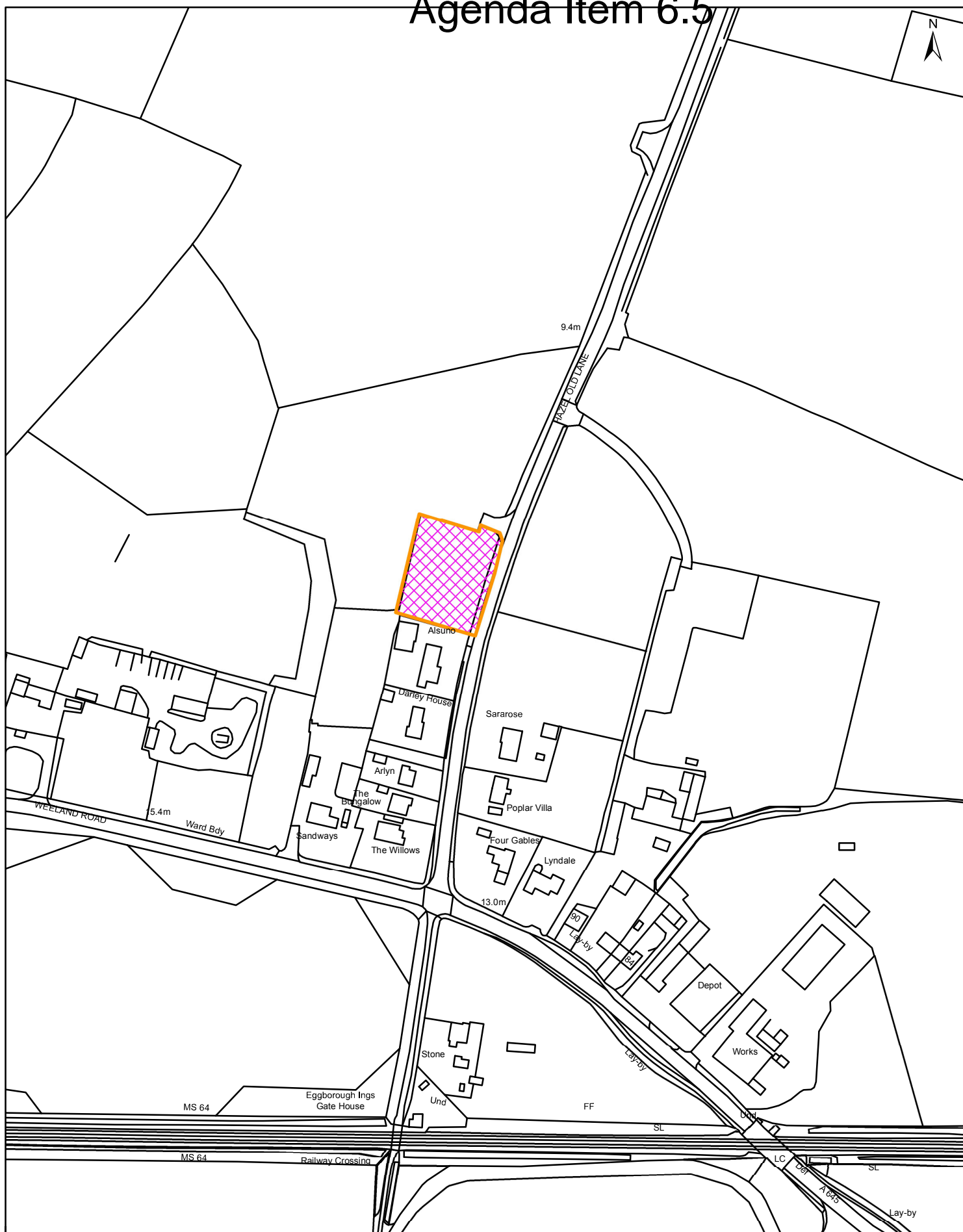
Planning Application file reference 2018/0415/OUT and associated documents.

Contact Officer:

Mandy Cooper

Principal Planning Officer

mcooper@selby.gov.uk



APPLICATION SITE

2018/0646/FUL

A19 Caravan Storage Limited, Hazel Old Lane, Hensall

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1:2,500



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Mulberry Red and Cinnabar Red work throughout
 Grey concrete ridge to main dwelling
 Grey concrete roof tile to main dwelling and garage
 White Upvc windows throughout
 White Upvc fascia and soffit throughout
 White plastic downpipes, gutters and svp
 White garage doors

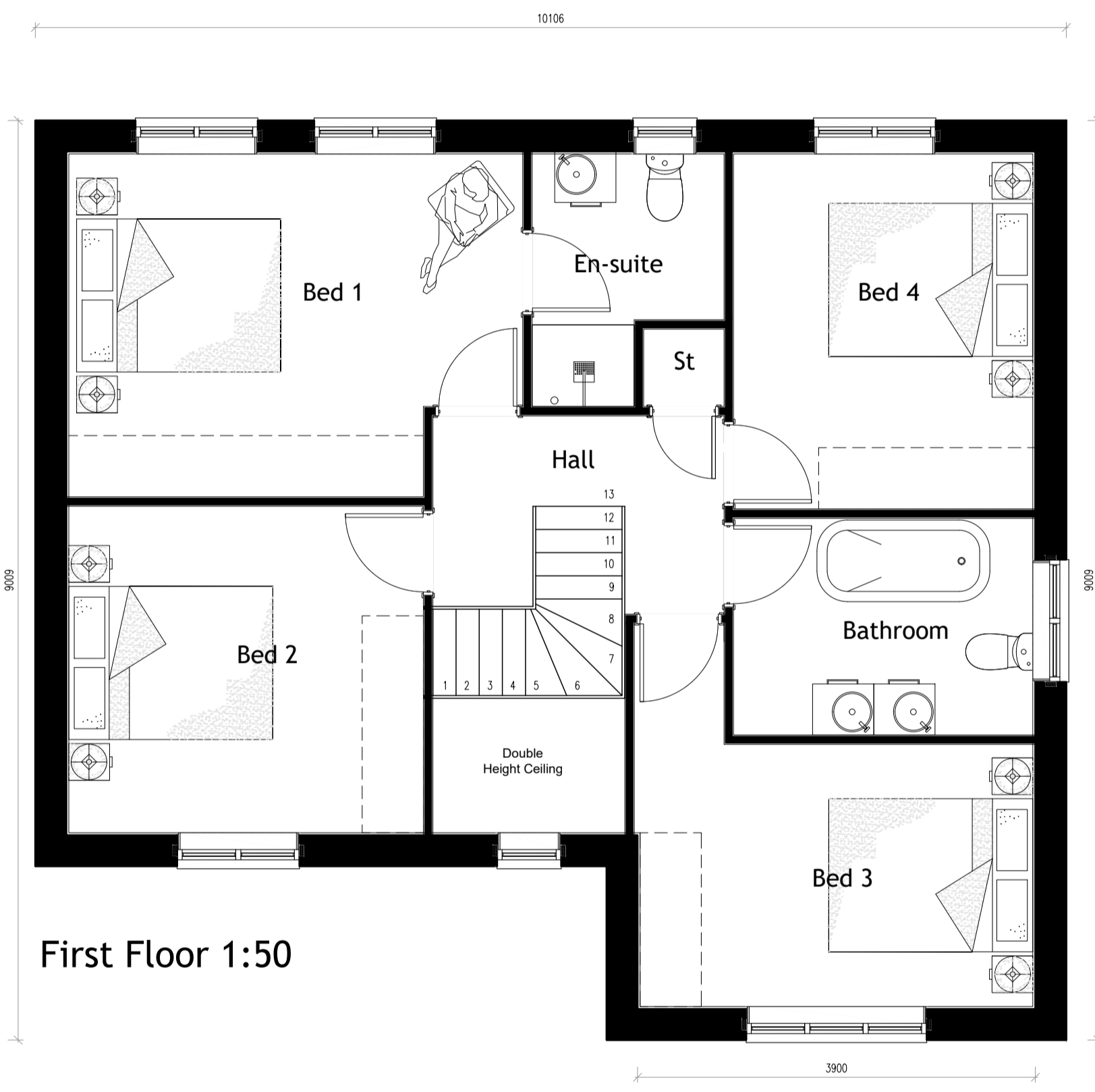
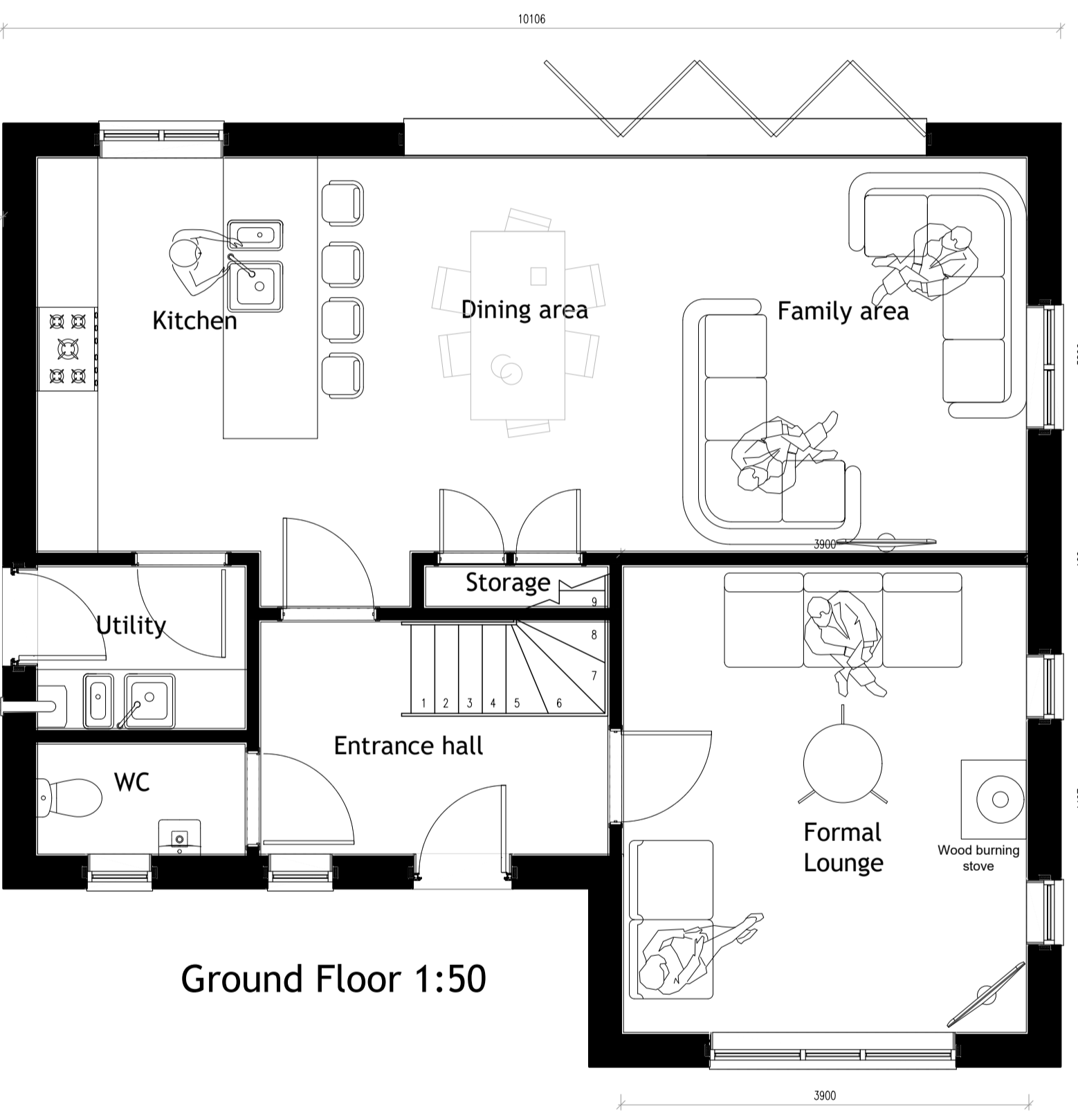
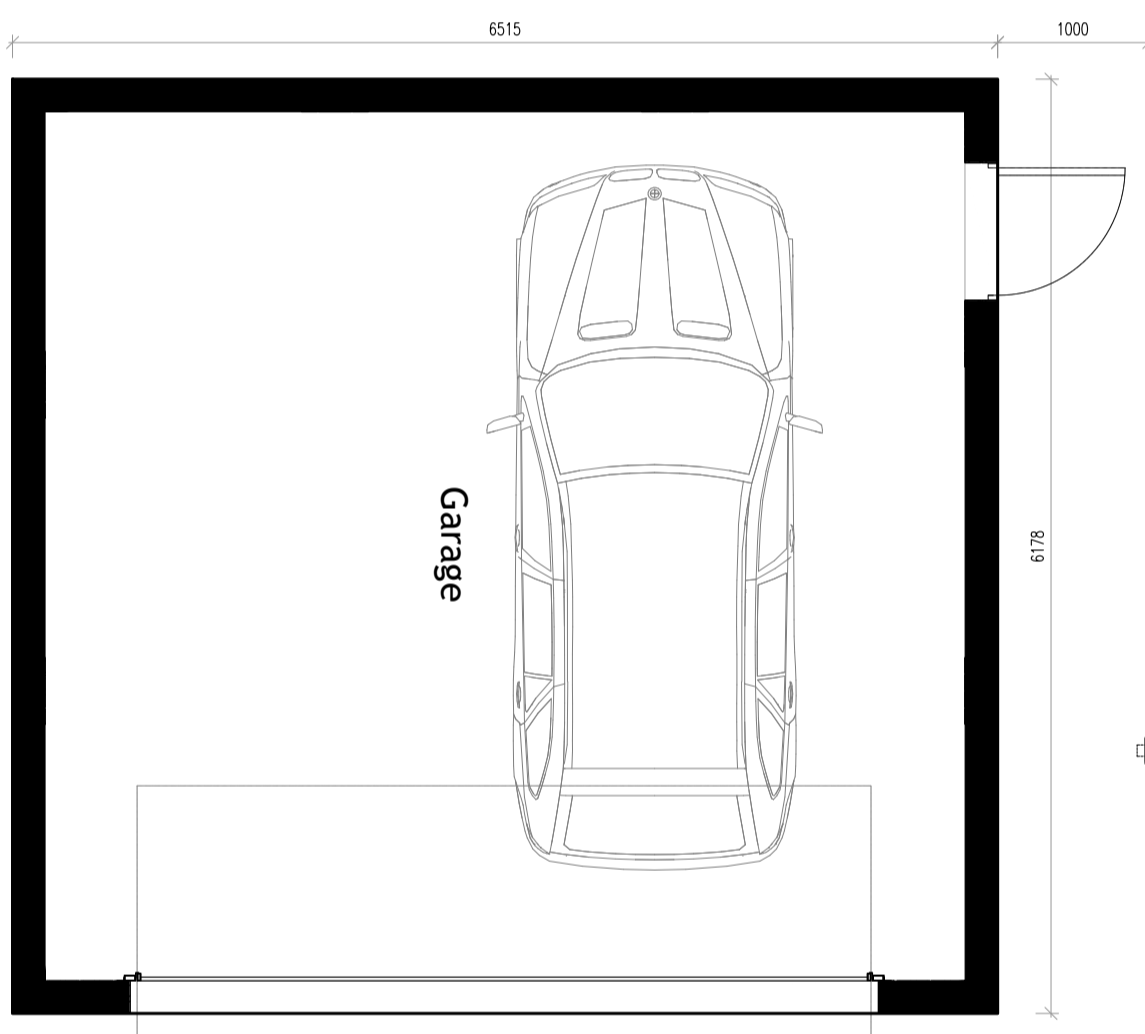
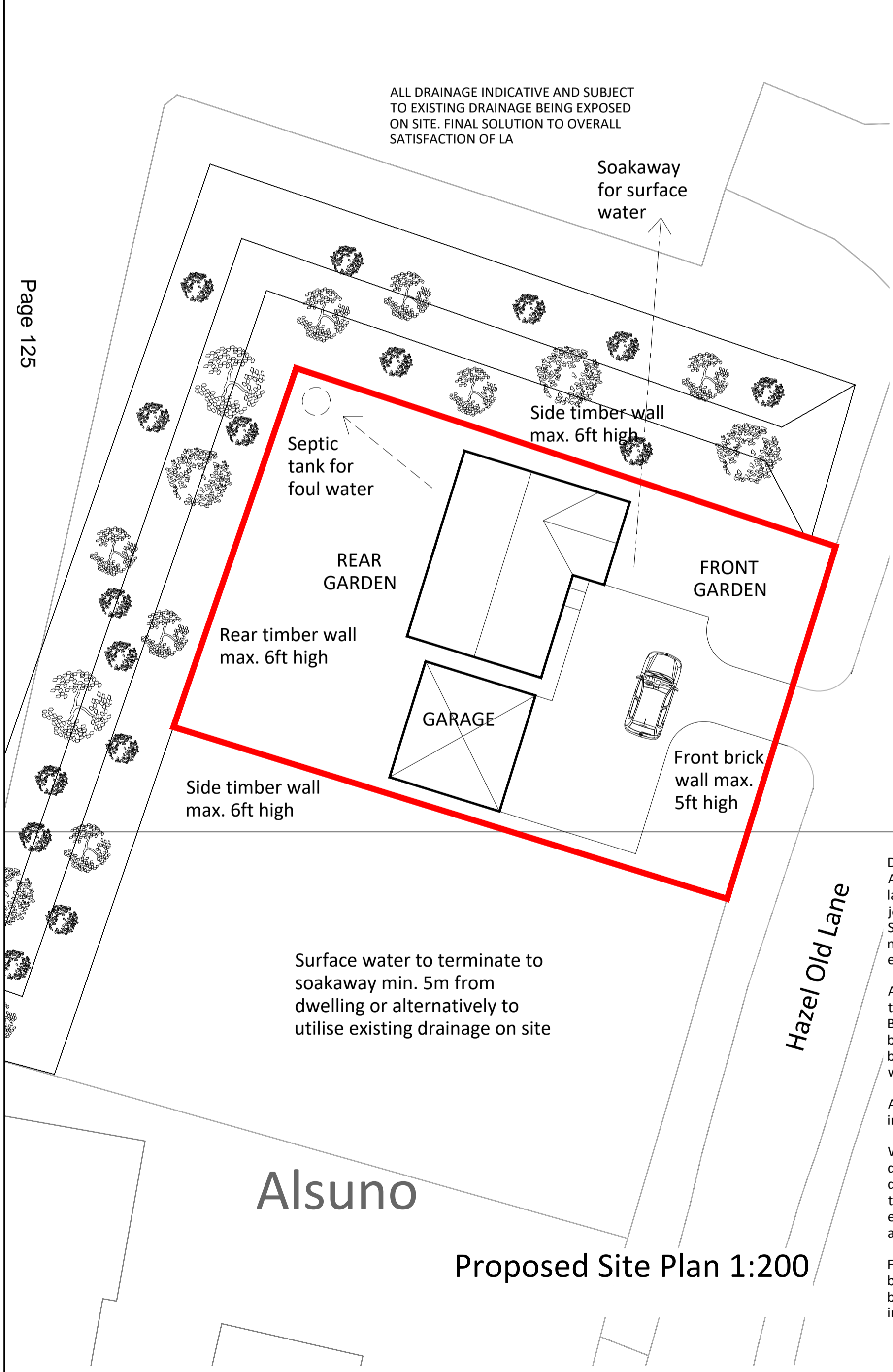
Front Elevation 1:100

Side Elevation 1:100

Rear Elevation 1:100

Side Elevation 1:100

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Drainage :
 Any New foul & surface water drains to be laid in 100mm dia. v.c. pipes with flexible joints in pea gravel to min. falls of 1 in 40. Surface water drains to run above foul. All new drainage works to be connected to existing systems.

All drainage works and connections subject to final agreement with Local Authority Building Inspector. Drains passing under building to be retained flexible. Drains to be bridged over with concrete lintels where passing through external walls.

All foundations to be taken down below invert level of localised drains within 1.0m.

Where appropriate surface water to discharge via soakaway min. 5m from dwelling subject to percolation tests and to satisfaction of LA. Surface water to existing system where percolation tests are insufficient.

Final drainage solution to be determined by contractor once existing system has been exposed and agreed with LA building inspector.

AMENDED DRAWING

A		Garage position amended		6.10.18	H51	H51
Rev		Details		Date	By	CHK
Proposals						
HAZEL OLD LANE, HENSALL, EAST YORKSHIRE, DN14 0BA						
Dwg No: 03			Drawn: H51			
Date: April 2018			Check: H51			
Scale: as shown			Copyright © AI			

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Report Reference Number: 2018/0646/FUL

To: Planning Committee
Date: 6 February 2019
Author: Simon Eades (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0646/FUL	PARISH:	Hensall Parish Council
APPLICANT:	Mr Stephen Hill & Mrs Deborah Hill	VALID DATE: EXPIRY DATE:	7th June 2018 2nd August 2018
PROPOSAL:	Proposed erection of a two storey dwelling and detached double garage		
LOCATION:	A19 Caravan Storage Limited Hazel Old Lane Hensall Goole East Yorkshire DN14 0QA		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as application is recommending approval contrary to Policy SP2 of the Core Strategy.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located outside the defined development limits of Hensall and is therefore located within the open countryside.
- 1.2 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 1.3 The proposed scheme is located on grassed land which is adjacent to A19 Caravan Storage which is located on the north and west boundaries of the application site. To the north and west of the site there are 2metre high grass bunding which

provides screening to the application site and there is 2metre high galvanised metal fence to the east boundary. To the south of the site there are a cluster of residential properties which vary in height, size, scale, design and materials used.

The Proposal

- 1.4 The application seeks full planning permission for the erection of a two storey dwelling and detached double garage.

Relevant Planning History

- 1.5 The following historical applications are considered to be relevant to the determination of this application.
- 1.6 Application Number: 2009/0013/COU,; Change of Use of land from HGV parking and agriculture to storage of caravans and leisure vehicles, PERMITTED
- 1.7 Application Number: 2014/1314/OUT,; Outline application with all matters reserved for the erection of a single dwelling, PERMITTED
- 1.8 Application Number: 2015/0918/REM,; Reserved matters application for the erection of a detached dwelling following outline approval 2014/1314/OUT (8/38/125J/PA), PERMITTED
- 1.9 Application Number: 2016/0251/FUL,; Proposed erection of single storey building for caravan maintenance, associated offices, storage and toilet facilities., PERMITTED
- 1.10 Application Number: 2016/0752/COU,; Extension to existing caravan parking site, removal of grassed embankment in part and erection of a 2.4m high replacement acoustic fence. Change of use from vacant scrubland to caravan parking site PERMITTED

2. CONSULTATION AND PUBLICITY

- 2.1 **Parish Council** – No response received.
- 2.2 **NYCC Highways** — No objections subject to conditions attached to any consent granted regarding:
- Private Access/Verge Crossings: Construction Requirements
 - Visibility Splays
 - Provision of Approved Access, Turning and Parking Areas
 - Garage Conversion to Habitable Room
 - On-site Parking, on-site Storage and construction traffic during Development
- 2.3 **Danvm Drainage Commissioners Shire Group Of IDBs** – No objection subject to a condition.
- 2.4 **Yorkshire Water** – No response received.

- 2.5 **Neighbour Summary** – 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.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site is located outside the defined development limits of Hensall and is therefore located within the open countryside.
- 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.

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
 - 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.

“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:

- 1) Principle of the development
- 2) Climate change
- 3) Flood Risk and Drainage
- 4) Design and Impact on the character and form of the area
- 5) Affordable Housing
- 6) Impact on Residential Amenity
- 7) Highway Safety Issues
- 8) Protected Species
- 9) Contaminated Land

The Principle of the Development

- 4.2 The site lies outside development limits of Hensall and the application is for the proposed erection of a two storey dwelling and detached double garage (amendment to dwelling previously approved under 2014/1314/OUT and 2015/0918/REM)
- 4.3 Policy SP2A(c) states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.
- 4.4 The proposal does not constitute any of the forms of development set out under SP2A(c). In light of the above policy context the proposals for residential development are considered to be contrary to Policy SP2 of the Core Strategy.
- 4.5 It is established case law that if an applicant can demonstrate a ‘fall-back’ position, this may constitute a material consideration to be taken into account in determining the application. A ‘fall-back’ is an existing consent which is capable of being implemented irrespective of the decision on this current application. Under *Mansell v Tonbridge And Malling Borough Council [2017] EWCA Civ 1314*, which concerned the redevelopment of a site of a large barn and a bungalow to provide four dwellings, Lindblom LJ confirmed the legal considerations in determining the materiality of a fall-back position as a planning judgement were: (1) the basic principle is that for a prospect to be a “real prospect”, it does not have to be probable or likely: a possibility will suffice; (2) there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the

alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand. In this case there is an extant planning permission for the erection of 1 dwelling under application number 2014/1314/OUT and 2015/0918/REM and officers consider that there is a real prospect of it being implemented.

- 4.6 Outline planning permission 2014/1314/OUT was granted consent on the 23rd April 2015 and the reserved matters application was granted on 12th May 2017 subject to conditions and therefore is capable of implementation up until 12th May 2019. The extant planning permission is considered as a clear fall-back position that is a material consideration of sufficient weight to justify development that does not accord with Policy SP2 of the Core Strategy, as the erection of 1 dwelling already has planning permission in this location.

Climate Change

- 4.7 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. It must be acknowledged that the proposal is for the creation of a dwelling on a site that is in close proximity to the services of designated service village. The proposed development therefore complies with parts (a), (f) and (g). The proposal's ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is therefore limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of SP15 (B) (b), (c) (d), and (e) of the Core Strategy Local Plan.
- 4.8 Part (h) of Policy SP15 (B) refers specifically to the requirement to fulfil part (a) of Policy SP16 of the Core Strategy Local Plan. The proposed development is below the threshold of 10 dwellings and this part of the policy is therefore not applicable in this case. Policy SP16(c) requires development schemes to employ the most up to date national regulatory standard for code for sustainable homes which the proposed development would do through the current Building Regulations regime. Therefore having had regard to policies SP15 (B) and SP16 (a) & (c) of the Core Strategy Local Plan it is considered that the proposal is acceptable.

Flood Risk and Drainage

- 4.9 Firstly addressing the issues of flood risk, the application site is within Flood Zone 1. The application form states the proposed scheme will dispose of surface water via a soakaway and foul sewerage via the septic tank. The application has received no response from Yorkshire Water and the IDB have stated "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." The scheme is therefore acceptable subject a planning condition attached to any consent granted which ensures that percolation tests are

undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year

- 4.10 On the basis of the above the proposed scheme is considered to be acceptable in terms of flood risk and drainage and therefore accords with Policies SP15, SP16, SP19 of the Core Strategy, and the advice contained within the NPPF.

Impact on the Character and Form of the area

- 4.11 The proposed scheme is located on grassed land which is adjacent to A19 Caravan Storage which is located on the north and west boundaries of the application site. To the north and west of the site there is a 2metre high grass bunding which provides screening to the application site and there is a 2metre high galvanised metal fence to the east boundary. To the south of the site there are a cluster of residential properties which vary in height, size, scale, design and materials used.
- 4.12 The application site has an extant planning permission for a detached 2 storey 4 bedroom dwelling, which measures 4.8metres to the eaves and 7.2metres to the ridge under application reference numbers 2014/1314/OUT and 2015/0918/REM. This proposed scheme is also seeking consent for a 2 storey 4 bedroom dwelling which would measure 4.8metres to the eaves and 8.6metres to the ridge. Through the submission of amended plans a detached garage has now been located to the side of the dwelling. This was previously located forward of the front wall of the dwelling as was considered by Officers to be out of keeping of the character and the form of the area.
- 4.13 The proposed layout has sufficient space in relation to neighbouring boundaries and the proposal has a simple symmetrical fenestration detail which is sympathetic to the character and form of the surrounding area. The proposed layout involves parking immediately adjacent to the front elevation with a grassed garden area to the rear. The proposed scheme shows a 1.8metre timber fencing to the side and rear boundaries and a 1.5metre high brick is proposed to the front boundary which is considered to be in keeping with the character and form of the area.
- 4.14 The proposed scheme therefore accords with Policy ENV1 of the Selby District Local Plan SP4, SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

Affordable Housing

- 4.15 Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District. The Policy notes that the target contribution will be equivalent to the provision of up to 10% affordable units. The calculation of the extent of this contribution is set out within the Affordable Housing Supplementary Planning Document which was adopted on 25 February 2014.
- 4.16 However, in the context of the West Berkshire decision it is considered that there is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. Officers therefore recommend that, having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

Impact on Residential Amenity

- 4.17 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 sheer size, scale and massing of the development proposed.
- 4.18 The proposed dwelling is 28metres away from the nearest dwelling Alsuno Old Hazel Lane and due to the combination of the orientation of the site, the size, scale orientation and siting of the proposed scheme and distance away from the neighbouring properties, the proposal is considered not to cause any significant adverse effects of overlooking, overshadowing or oppression.
- 4.19 Having had regard to the above, the proposed development by virtue of the separation distances, orientation and layout of the site ensures that the dwelling would not cause a significant detrimental impact on the residential amenities of the neighbouring properties in accordance with policies ENV1 (1) Selby District Local Plan SP19 of the Core Strategy and the advice contained within the NPPF.

Highway Safety Issues

- 4.20 The Highways Officer has been consulted on the proposals and has raised no objections subject to the following planning conditions attached to any consent granted:
- Private Access/Verge Crossings: Construction Requirements
 - Visibility Splays
 - Provision of Approved Access, Turning and Parking Areas
 - Garage Conversion to Habitable Room
 - On-site Parking, on-site Storage and construction traffic during Development
- 4.22 The above conditions are considered to meet the conditions test apart from the condition relating to Garage Conversion to Habitable Room. Officers considered this to be unnecessary as the development has a sufficient amount of space to park on the site. Therefore this condition will not be imposed. It is considered that the development would not cause a significant impact with regard to highway safety and the impact on the surrounding highway network in accordance with Policy SP19 of the Core Strategy Local Plan, Policies ENV 1 (2) & T2 of the Local Plan and the advice contained within the NPPF.

Protected Species

- 4.23 The site is not a protected site for nature conservation nor is it known to support, or be in close proximity to any site supporting protected species or any other species of conservation interest. As such it is considered that the proposed would not harm any acknowledged nature conservation interests and therefore accords with Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the NPPF.

Land Contamination

- 4.24 The submission of approved Reserved Matters application 2015/0918/REM discharged condition 7 of the outline 2014/1314/OUT consent. With this being the case a condition will be imposed that the development shall be carried out in accordance ground gas monitoring and risk assessment approved in planning permission 2015/0918/REM. The proposed scheme therefore accords with Policies ENV2 of the Local Plan and SP19 of the Core Strategy and the NPPF

5. CONCLUSION

- 5.1 The application is for the erection of one dwelling and the proposal does not constitute any of the forms of development set out under SP2A(c). In light of the above policy context the proposals for residential development are considered to be contrary to Policy SP2 of the Core Strategy. The proposed development doesn't accord with the development plan when looked at as a whole – even though it may be consistent with individual policies. However, outline planning permission 2014/1314/OUT was granted on the 23rd April 2015 and the reserved matters application was granted on 12th May 2017 subject to conditions and therefore is capable of implementation up until 12th May 2019 and officers consider that there is a real prospect of the extant planning permission being implemented. The extant planning permission is considered as a clear fall-back position that is a material consideration of sufficient weight to justify a departure from policy SP2 of the Core Strategy, as the erection of 1 dwelling already has planning permission in this location.
- 5.2 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposed development would not have a detrimental effect on the open countryside, form and character of the area, highway safety, climate change, flood risk, drainage, protected species, contaminated or the residential amenity of the occupants of neighbouring properties. The application is therefore considered to be in accordance with Policy ENV1 of the Selby District Local Plan, Policies SP1, SP4, SP15, SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

6. RECOMMENDATION

This application is recommended to be GRANTED 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 not be carried out otherwise in complete accordance with the approved plans and specifications.

Location Plan LOC01
Proposal Dwg No: 03

Reason:

For avoidance in doubt

3. The materials to be used in the construction of the exterior walls shall use Mullberry and Cinnabar Red Brick and shall use grey concrete tile on the exterior roofs.

Reason:

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

4. The development shall be carried out in accordance ground gas monitoring and risk assessment approved in planning permission 2015/0918/REM.

Reason

In the interests of contaminated land and in accordance with policies ENV2 of the Local Plan and SP19 of the Core Strategy and the NPPF

5. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:
 - The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E6.
 - Provision shall be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the Specification of the Local Highway Authority.

All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.HI-03

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

6. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 45m(south) and 215m (north) measured along both channel lines of the major road (Old Hazel 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. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason

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

7. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas. Once created these areas shall be

maintained clear of any obstruction and retained for their intended purpose at all times.

Reason

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

8. 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:
 - on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway
 - On-site materials storage area capable of accommodating all materials required for the operation of the site. The approved areas shall be kept available for their intended use at all times that construction works are in operation. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site.

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.

INFORMATIVES:

- 1) You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in this condition.
- 2) Mud on the Highway. You are advised that any activity on the development site that results in the deposit of soil, mud or other debris onto the highway will leave you liable for a range of offences under the Highways Act 1980 and Road Traffic Act 1988. Precautions should be taken to prevent such occurrences.

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

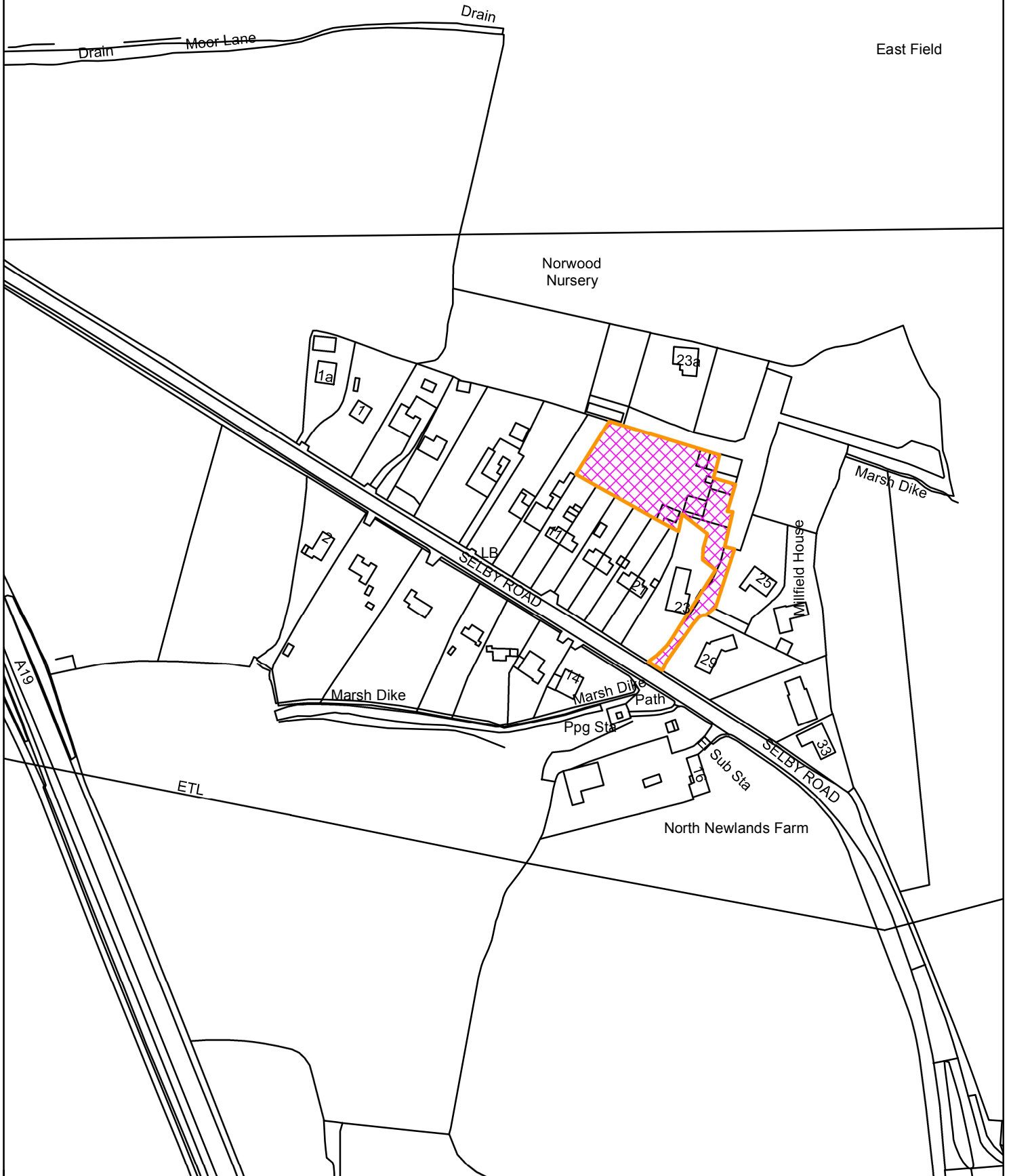
Planning Application file reference 2018/0646/FUL and associated documents.

Contact Officer: Simon Eades, Senior Planning Officer
seades@selby.gov.uk

Appendices: None

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Agenda Item 6.6



APPLICATION SITE

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

1:2,500



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**AMENDED
DRAWING**

REAR OF N^o 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
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N^o 23

ENTRANCE

LAKE

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Report Reference Number 2018/1108/FUL

To: Planning Committee
Date: 6 February 2019
Author: Laura Holden (Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/1108/FUL	PARISH:	Riccall Parish Council
APPLICANT:	Mrs C Northern	VALID DATE: EXPIRY DATE:	5th October 2018 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 back before Planning Committee following consideration at the 16th January 2018 meeting, where Members resolved to defer the application due to an objection which raised concerns over the ownership of the land.

Since the 16th January 2018 resolution of Planning Committee, the applicant's agent submitted information clarifying that the applicant does own the land and the correct ownership certificate has been signed.

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

CONSULTATIONS

- 1.6 **HER Officer** – No objections
- 1.7 **NYCC Highways Canal Rd** – No objections
- 1.8 **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.
- 1.9 **Environmental Health** – No objections
- 1.10 **National Grid** – No objections
- 1.11 **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

5.1.1 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.

5.2 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:

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.

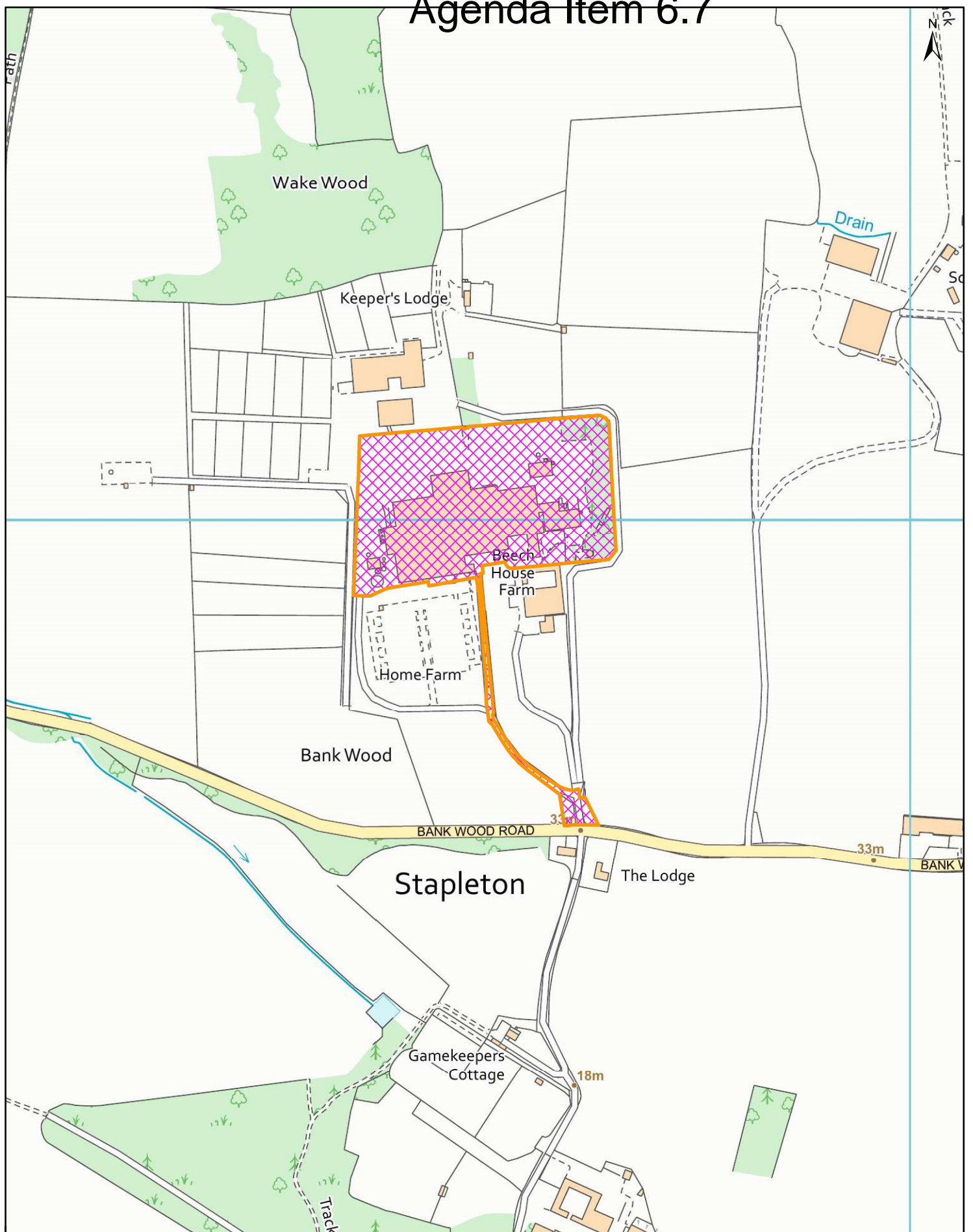
Background Documents

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

Contact Officer: Laura Holden, Planning Officer
lholden@selby.gov.uk

Appendices: None

Agenda Item 6.7



APPLICATION SITE

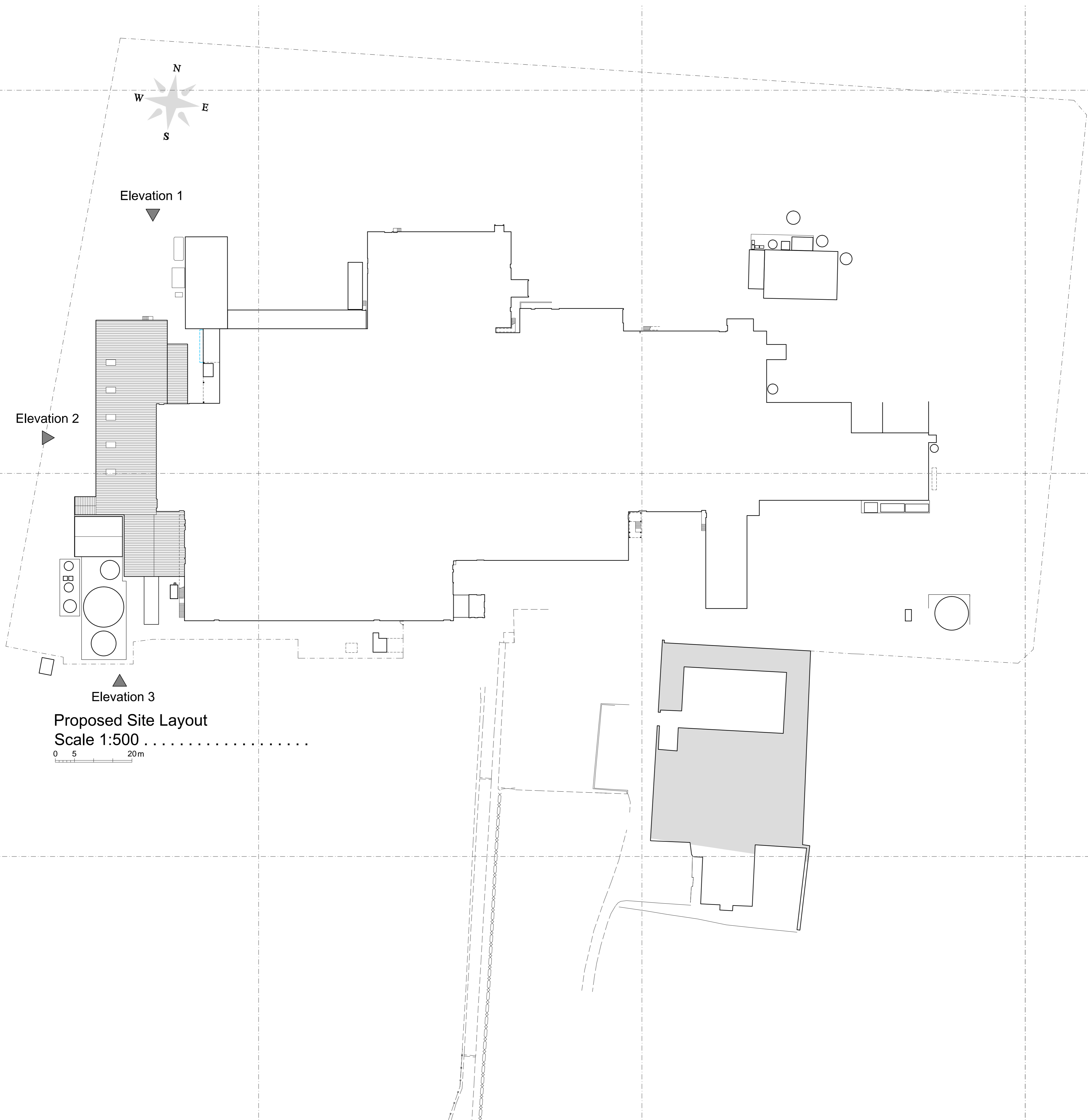
2018/1111/FULM

Dovecote Park, Bankwood Road, Stapleton

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Proposed Site Layout
Scale 1:500

0 5 20m

DP Architectural Services LTD 20 Merfield Ashley Village Chorley Lancashire PR7 1UR m. 07877 595100 t. 01257 671635 e. dparch69@gmail.com	Client Dovecote Park Ltd Dovecote Park Bank Wood Road Stapleton Portlough WFB 3DD	Project Burger Facility	Drawings Site plan as Proposed
	Paper size A1 Date AUG 2018	Job no 2018-28 Scale 1:500	Drawing no P02 Revision A

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Report Reference Number: 2018/1111/FULM

To: Planning Committee
Date: 6 February 2019
Author: Simon Eades (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Lead Officer – Planning)

APPLICATION NUMBER:	2018/1111/FULM	PARISH:	Stapleton Parish Council
APPLICANT:	Dovecote Park Ltd	VALID DATE: EXPIRY DATE:	26 September 2018 26 January 2018
PROPOSAL:	Proposed construction of an extension to the existing facility to provide a new burger production building		
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 the construction of an extension to the existing facility to provide a new burger production building which includes the following elements:

A: The proposed erection of a Burger facility building which measures 18.6m width, 46m depth, height to eaves 5.4metres and 8.5metres ridge height. A further element which measures 5.2m width, 15.5m depth, height to eaves 5metres and 5.6metres ridge height. This building is attached to the existing complex buildings.

B: The proposed erection of an inward loading bay building which measures 5.5m width, 5.1m depth, height to eaves 4.8metres and 5.6metres ridge height

C: The proposed erection of a pallet freeze building which measures 15.7m width, 16.9m depth, height to eaves 4.8metres and 5.6metres ridge height

D: Re-location of 3 existing CO2 tanks and the proposed erection new balance tank which is 5.6m in width and 4.6metres high.

The proposed floor area of the buildings would be 1320 square metres. All proposed buildings would have a metal profiled roof and timber clad wall with a brick plinth.

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, dray 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 to the Secretary of State and the authority concluded that very special circumstances existed to warrant the granting of this consent in May 2017.
- 1.7 There is currently a pending application for the proposed erection of a new dry aged chiller and extension to the fat processing room and retrospective extensions to the venison lairage facility under application number 2018/0450/FULM which was taken to 16th January 2019 Planning Committee and members resolved to a minded to approve recommendation subject to referral to the Secretary of State.

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** - Replied with no objections.
- 2.10 **Designing Out Crime Officer** - Replied with no objections.
- 2.11 **North Yorkshire Fire & Rescue Service** - Replied with no objections.

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).”

Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

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:

- 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

Policies in the NPPF which require development should be restricted.

Green Belt

4.2 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.

- 4.3 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 4.4 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'.
- 4.5 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 proposed burger facility, inward loading bay and pallet freeze building extension is located in between the gap of the west boundary of the site and the most western part of the complex buildings of the site. The proposed buildings would be seen against the back drop of the host buildings and would relate to the host buildings in terms of scale, bulk and mass.

- 4.19 The extensions to the host building would be positioned where the functional and operational demand for these new additions would be met. The position of the proposed 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.
- 4.20 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

- 4.21 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.
- 4.22 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

- 4.23 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

- 4.24 The application site is located in Flood Zone 1 (low probability of flooding). As such a sequential flood risk test is not required. There are existing drainage systems within the site and further details are not required at this stage. The proposed scheme therefore accords with Policies SP15 and SP19 of the Core Strategy.

Contamination

- 4.25 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.
- 4.26 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.

Case for Very Special Circumstances

- 4.27 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 *Wycharon 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.
- 4.28 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.
- 4.29 Each VSC will be discussed in turn.
- The Scope for Disaggregation.
- 4.30 The agent has stated:
- 4.31 *“The consideration of alternative sites has previously been a major consideration for the applicant in resolving the objective of meeting the identified need.*
- 4.32 *The possibility of processing the burgers at an alternate site has been explored by our client. However, the purchase or leasing of another processing site and the additional resources that would be required in terms of the equipment, production staff, quality assurance staff, administration staff and engineers could not be justified for the quantity of additional burger production.*
- 4.33 *Burger King have approached the applicant because of their integrated approach meant that the availability of all facilities on site imparts a great degree of confidence in the process, control, integrity and product traceability. The raw material for burgers consisting of forequarter cuts of beef, are prepared in the boning hall post slaughter, stored chilled or frozen and transferred internally from the main storage chiller that is adjacent to the proposed burger facility.*
- 4.34 *The setting up of a standalone site would require unrealistic returns on investment since many site functions would need to be duplicated at an alternative location, including supply chain, quality assurance, Human resources and production management. In addition, there are extra costs for setting up potential sewerage systems, power, boilers, compressed air and other services.*

- 4.35 *Purchase of a new site or leasing would add a prohibitive additional cost compared to the current site that is owned by Dovecote Park. When all these additional costs are analysed, the project is not economically viable.*
- 4.36 *Whilst these operations will be for a different end user they are still intricately interlinked with the existing facilities on site.*
- 4.37 *The purpose of the proposal is to provide a new facility on site which is interlinked to the existing facilities on site and will provide a high quality product for a new client. This will help the business adapt to the market demands which could not be achieved by splitting the operations across multiple sites.”*
- 4.38 *Due to the combination of the existing complex facility, technological techniques and requirements for the complex, the production line process, availability of local skilled labour force, the lack of land availability and that the facility is unique in the UK, officers consider that there are compelling reasons against the possible disaggregation of the site processes. It is considered that the case for the expansion for the Dovecote Park site has been established. Officers consider that these are VSC's and should be given significant weight.*

The need for the facility in both commercial and economic terms and operational considerations:

- 4.39 *The agent has stated:*
- 4.40 *“The need for the proposed development principally relates to Burger King's need to establish a UK supplier as it is currently supplied from facilities in the Republic of Ireland. In order to meet that need it requires a producer to meet its own ethical and high quality standards. Dovecote Park is the only producer in the UK as the leading large scale producer that meets those standards and can meet the requirements of the contract*
- 4.41 *The applicant has been approached as they are well recognised within the industry and have a very long pedigree for operating a high quality beef operation at Dovecote Park. The existing facilities on site are fully integrated and include cattle purchased from known farmers, abattoir, de-boning plant and retail packing operation. The facilities on site are particularly important to Burger King as they provide a product that can be fully traced in the one facility from one end of the process to the final burgers being produced.*
- 4.42 *In order to meet the requirements of Burger King, the production units for burgers would have to be operational by the end of February 2019.*
- 4.43 *Burger King would require 70 tonnes of frozen burgers to be produced per week, in order to produce this quantity there is the need to design and install a new production line in addition to the manufacturing and packing equipment that is already on site.*
- 4.44 *Dovecote Park currently operate 20 production lines for retail packing in the existing retail packing hall for fresh retail packs of mince, diced, joints and burgers. There is also an existing small freezer tunnel on site for a minor amount of frozen beef products for the existing main client, Waitrose. However, there is not sufficient space within the existing building to install a new production line of the required size.*

- 4.45 *The Burger King process requires specified production equipment to be provided on site which includes specialised blending and grinding equipment and a freezer tunnel to handle the volumes of produce. The existing freezer tunnel is far too small to handle the production output for Burger King. Therefore the existing facilities on site cannot be used for the Burger King process and both new equipment and facilities are required to be provided on site.*
- 4.46 *The new Burger King production line requires specialised sophisticated grinding, blending and burger formation equipment along with a 14m freezer tunnel that will freeze the products prior to packing into cases and onward despatch.*
- 4.47 *However, the Burger production building will use the existing facilities on site such as the abattoir therefore it is intrinsically linked to the existing operations on site. Constructing the burger production facility elsewhere along with additional facilities that would be required by the operation would not be viable nor would it be operational possible to disaggregate the unit from the site.*
- 4.48 *There are a number of other practical reasons as to why the operations cannot be disaggregated which are set out below highlighting that there are a number of operational requirements that would prevent these operations being separated on to more than one site:*
- *Cold Chain Control - Cold chain control is optimised by carrying out all operations on one site as the ability to control temperature is diminished as meat is moved over distance;*
 - *Just in time Delivery and Management Focus - The business needs to respond within very short timescales to process the orders for meat which come through from Burger King, and therefore needs to be able to meet that order as promptly as possible. If different elements of the process were situated on different sites the ability to meet the Burger King deadlines would be greatly diminished.*
 - *Legislation – The UK Beef Labelling Regulations and EU Directive requirements are such that there is a competitive advantage if labels for the entire production process are from the same factory. In addition there is a real advantage to being able to trace all stages in the process to one location.*
- 4.49 *Overall, the proposal will provide a new facility on site which will meet the needs of Burger King which is key to utilising the existing facilities on site.*
- 4.50 *A further significant benefit is that the proposed facility will help the business to diversify the business and protect it against potential market fluctuations therefore it will both protect existing jobs as well as create new jobs on site.”*
- 4.51 *Officers consider that proposal would create expansion of two businesses. The proposal the proposal will result in the expansion of Burger King in Selby. The proposal also allows the expansion of existing abattoir of Dovecote Park which currently has the existing workforce and some of the processing facilities for Burger King. The proposal creates expansion of the Dovecote Park business both economically and physically as there additional facilities required for the processing of burgers. The expansion of the Dovecote Park business will allow for any fluctuations in the market as the complex will be able meet market demand in the through the different products they produce.*

- 4.52 It is considered that the economic benefits associated with the expansion of the two businesses locally and the operational requirements of a local employer/employers is a VSC.

Employment considerations

- 4.53 The agent has stated that:

4.54 *“The revised NPPF provides that planning decisions should help to create the conditions in which businesses can invest, expand and adapt, and that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In addition, it also provides that decisions should enable the sustainable growth of all types of business in rural areas.*

4.55 *The protection of existing jobs from potential market down turns as well the creation of 25 additional jobs and the benefits that bring to the local economy should carry significant weight in the balance of considerations.”*

4.56 Officers consider that the application continues to utilise an existing skilled workforce and would create a further expansion of a skilled workforce through the creation of 25 new jobs. It is considered employment consideration VSC put forward through the creation of new jobs and utilisation of an existing workforce should be afforded significant weight.

Conclusion on very special circumstances

5.30 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.

5.31 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.

5.32 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 the local economy and will address operational requirements and that it would have a positive impact on local employment.

5.33 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 very considerable 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 the impact on openness or the visual amenities of the Green Belt.

6. CONCLUSION

- 6.1 The proposed development constitutes inappropriate development within the Green Belt. 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 of inappropriateness and any harm to the openness and visual amenities of the Green Belt. Having had regard to the development plan, all other relevant local and national policy considerations, consultation responses and all other material planning considerations. The proposal is acceptable in all other regards, according to 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 is 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**
- ii) 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:

Site Location Plan 1 Rev -
Site Plan as proposed Drawing no P02 Revision A
Elevations Existing and Proposed Drawing no P03 Revision –
Plan as proposed P05 Revision –
Burger Drainage MF-BP-230

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 submitted plan

Elevations Existing and Proposed P03 Revision - received by the Council on 26th September 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

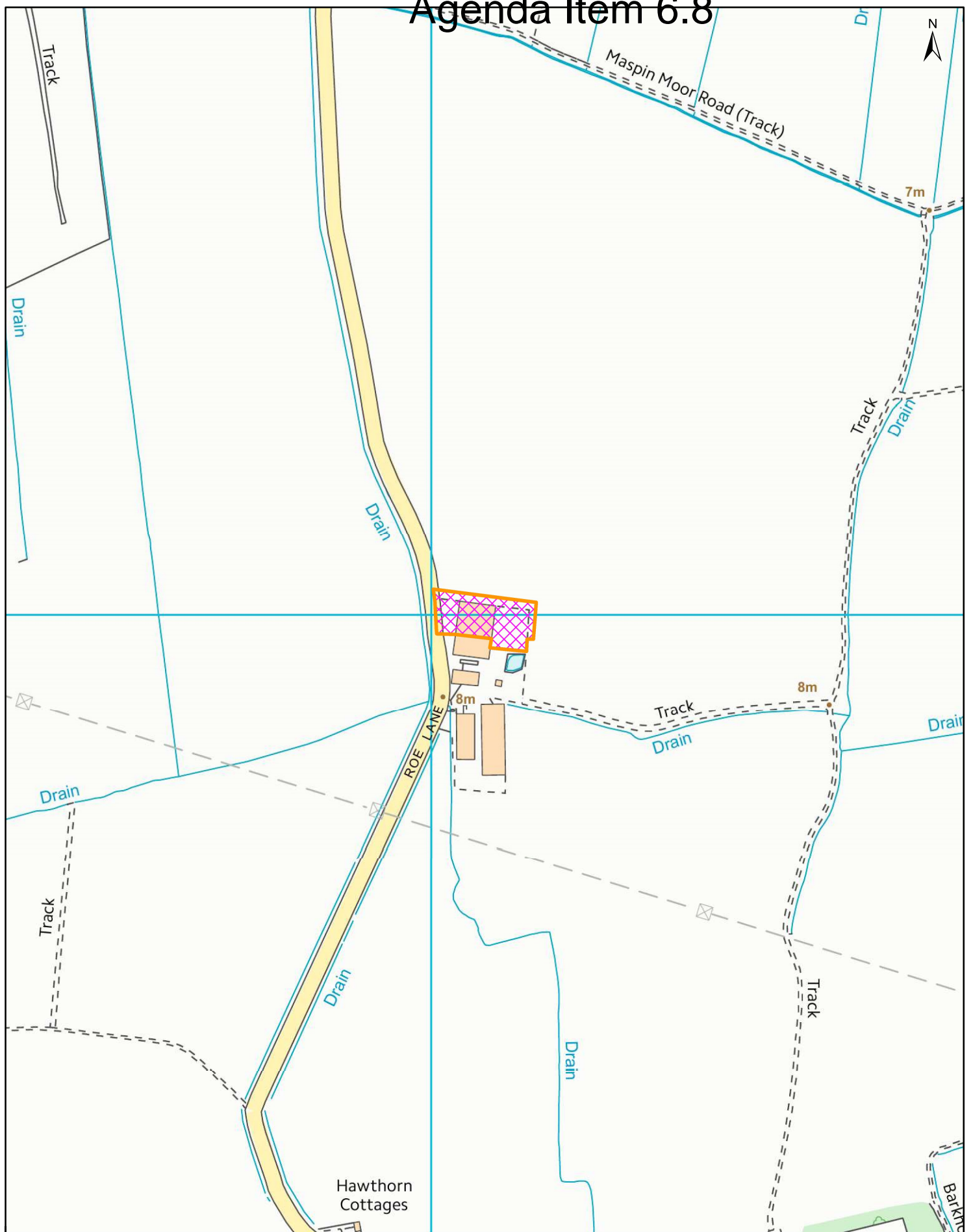
Financial issues are not material to the determination of this application.

10. Background Documents

Planning Application file reference 2018/1111/FULM and associated documents.

Contact Officer: Simon Eades, Senior Planning Officer
seades@selby.gov.uk

Appendices: None



APPLICATION SITE

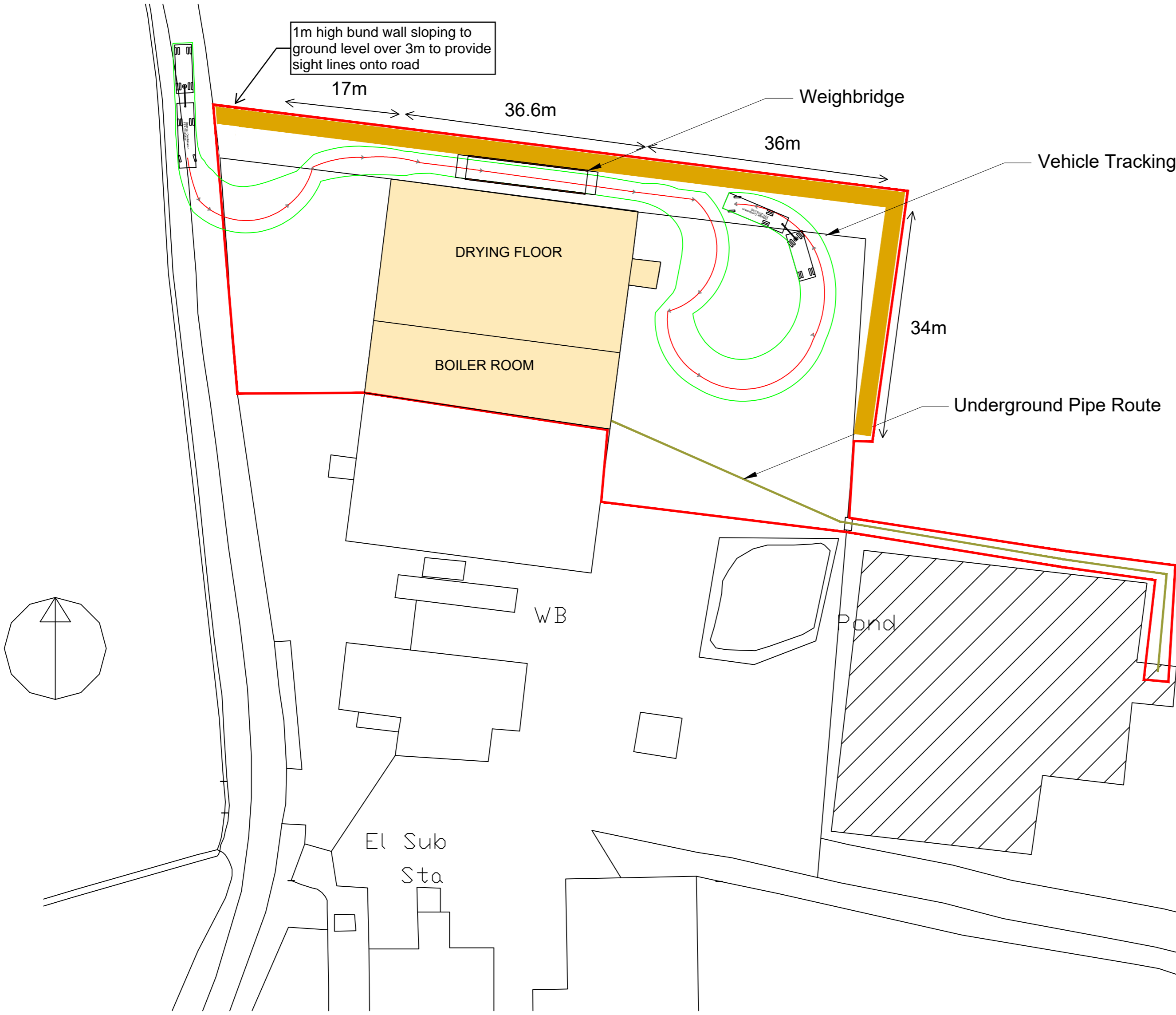
Viner Station, Roe Lane, Birkin
2018/0681/FULM

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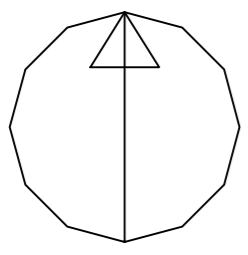
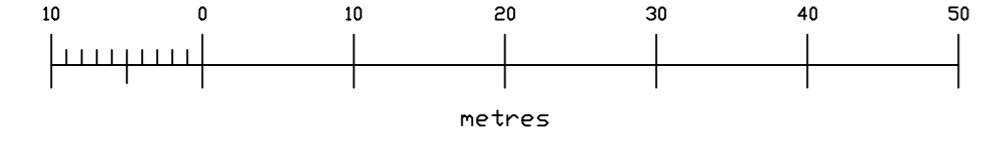


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AMENDED DRAWING



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



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

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Report Reference Number: 2018/0681/FULM

To: Planning Committee
Date: 6 February 2019
Author: Ruth Hardingham (Planning Development Manager)
Lead Officer: Ruth Hardingham (Planning Development Manager)

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

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

1. INTRODUCTION AND BACKGROUND

Site and Context

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

The Proposal

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

Relevant Planning History

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

There is currently an application pending for consideration Planning Reference: 2017/1381/FULM for the proposed erection of a new grain store including a chemical store and roof mounted solar PV this will be brought to Members following the determination of this current application.

2. CONSULTATION AND PUBLICITY

County Public Rights Of Way Officer - No response received.

Yorkshire Water - No response received.

Designing Out Crime Officer – No comments to make.

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

Selby Area Internal Drainage Board - No response received.

North Yorkshire County Council - No response received.

Parish Council – Object to the application.

Environmental Health – No objections.

Highways Authority - Since initially assessing the submitted proposals and reaching their recommendation, the Local Highway Authority has taken into account the highway network width and condition and has now recommended refusal of the application. The applicant has been looking at alternative routes and Members will be updated at Planning Committee.

Historic Officer – No objections.

NYCC Flood Risk Officer – More information required on:

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

Additional information has been submitted and Members will be updated at Committee.

Neighbour Comments

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

Objections are summarised below:

- Large vehicles and Farm vehicles cause windows to rattle
- Litter caused by the development
- Cause ruts and damage to the highway
- Small bridge in Birkin being damaged
- Business too large for the village
- Danger to walkers, walking dogs cyclists and riding horses
- Children cannot play on the street due to the vehicles
- It is an agricultural area not an industrial area
- The development should be beneficial to agriculture
- Too many HGV's, movements and inappropriate road infrastructure
- Affect character and landscape of the area
- Affect the Green Belt
- Carried out works without planning permission
- Will cause flood risk to the village
- Nearby roads too small
- Development will cause dust
- No mention how by-product will be monitored and controlled
- Too long hours of operation
- Noise and traffic pollution
- Increase traffic will increase potential for road accidents
- Will have an effect on agricultural jobs in the area
- The raw materials should be located near this type of development to reduce carbon footprint
- Council should serve a stop notice because of harm caused by excessive noise, smoke emission and excessive HGV movements
- The scheme has caused the loss of storage of grain capacity. New grain store unnecessary
- Traffic speeding

Supporting comments are:

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

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

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

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

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

- 3.2 The application site is located within Flood Zone 2.
- 3.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 3.4 The development plan for Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

Selby District Core Strategy Local Plan

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

Selby District Local Plan

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

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

- 3.7 The relevant Selby District Local Plan Policies are:

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

4. APPRAISAL

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

- 1) The Spatial Development Strategy
- 2) Rural Diversification
- 3) Renewable Energy

- 4) Impact on amenity
- 5) Impact on the Landscape
- 6) Highway safety and the impact on the Highway network
- 7) Protected species
- 8) Flood risk and drainage

The Spatial Development Strategy

- 4.2 Core Strategy Policy SP2 sets out the spatial development strategy for the district and states that the majority of new development will be directed towards the towns and more sustainable villages. The application site is located within the open countryside. Policy SP2 states that development in the open countryside will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy where it will enhance or maintain the vitality of rural communities, meet rural affordable housing need, or other special circumstances.
- 4.3 The application site is located within the open countryside. The proposal involves the re-use of a grain store for the storage and processing of logs to woodchip and the installation of 5 biomass boilers. This use is considered to be a B2/B8 use for the reasons outlined in the section below.

Rural Diversification

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

- 4.7 Policy SP13D requires that in all cases, development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.
- 4.8 Saved policy EMP8 also provides further guidance with relation to farm diversification and states that proposals for the conversion of rural buildings for commercial / industrial uses will be permitted subject to the following 6 criterion:
- The building is structurally sound and capable of re-use without substantial re-building
 - The proposed re-use or adaptation will generally take place within the fabric of the building
 - Conversion would not damage the fabric and character of a building of architectural or historic interest
 - The form, bulk and general design of the building is in keeping with its surroundings
 - The conversion of the building and ancillary works would not have a significant effect on the character and appearance of the area
 - The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity.
- 4.9 In assessing the application, it is important to form a view on whether the proposal constitutes appropriate farm diversification. Despite the description of the proposal, it is the view of officers that the application proposes the change of use from agricultural to a mixed use comprising B2 General Industrial uses and B8 Storage and Distribution uses. Whilst the processing of logs to woodchip is a B2 use, when determining the overall use of the site, consideration has been given to the purpose of the 5 biomass boilers. One of the boilers is intended to heat the proposed new grain store whilst the other four boilers are being used for drying woodchip as part of the distribution process. It is on this basis that officers' consider the use of the building to combine a mix of B2 and B8 uses.
- 4.10 Given that the majority of the biomass boilers are for drying woodchip for distribution and sale off-site, the dominant use is considered to be B2 and B8 Storage and Distribution uses. Furthermore, the existing agricultural facility cannot sustainably farm the amount of timber that is being chipped as part this process and as such timber is being brought onto the site by haulage vehicles. The lorry movements created by this proposal are considered to be unsustainable for such a rural location given intensification of the site. On this basis, the proposal is not considered to be sustainable or appropriate in scale and type to its location, as per Policy SP13D.
- 4.11 It is the view of officers that it is not the intention of relevant policies in the NPPF, Core Strategy and Selby District Local Plan relating to farm diversification to allow for the intensification of sites in the open countryside and to permit the introduction of B2 /B8 uses in rural locations on this scale. Whilst farm diversification is encouraged by policy, it does not allow for inappropriate commercial / industrial development in the open countryside and does not mean that agricultural buildings can be re-used for employment purposes, regardless of their nature and intensity. The retrospective application proposes a new operation which is industrial in nature and does not directly relate to the agricultural use of the site, other than one of the

biomass boilers which is proposed will heat the new grain store that is currently under consideration under planning ref. 2017/1381/FULM.

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

Renewable Energy

- 4.13 The application proposes the replacement of fossil fuel boilers with biomass boilers. The NPPF requires that the planning system should support the transition to a low carbon future by supporting (inter alia) renewable and low carbon energy and associated infrastructure. Para 154 of the NPPF states that when determining applications for renewable and low carbon development, local planning authorities should:
- a) Not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
 - b) Approve the application if its impacts are (or can be made) acceptable.
- 4.14 Core Strategy Policy SP17 states that all development proposals for new sources of renewable energy and low carbon energy generation and supporting infrastructure must be designed and located to protect the environment and local amenity; can demonstrate that wider environmental, economic and social benefits outweigh any harm caused to the environment and local amenity; and that impacts on local communities are minimised.
- 4.15 There is a high level of support at national level for renewable energy generation. There is a wider responsibility for the Council to facilitate other locally important renewable energy schemes within the district in line with Government Policy as reflected by Policy SP17 of the Core Strategy. The proposal would accord with Policies SP13 and SP17 of the Core Strategy and the advice contained within the NPPF. However, Officers do not consider that the benefits of renewable energy outweigh the harm that proposals would have on the character of this open countryside location through the intensification on this site form the use.

Impact on amenity

- 4.16 The Environmental Health team were consulted on the application who requested the submission of an air quality assessment and noise assessment. Environmental Health were consulted on these documents and raised no objections.
- 4.17 Having regard to the above, the proposed scheme is considered not to have a detrimental impact upon air quality and noise. Due to the combination of: the orientation of the site; the size, scale and siting of the proposed scheme; and the site's distance from the neighbouring properties, the proposal is considered not to cause any significant adverse effects on the amenity of adjacent residents. The

proposed scheme therefore accords with Policies ENV1 and EMP8 (6) of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Impact on the Landscape

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

Highway safety and the impact on the Highway network

- 4.23 The vehicular access for the site is from the road to the West of the site via the existing site entrance. Once on site, vehicles will be directed north and along the area of hardstanding situated next to the northern building. They will cross the weighbridge and then proceed to the eastern hardstanding area. Once they have deposited or collected material they will then proceed to exit the site from the same route they entered by.
- 4.24 The applicant has stated that there is:
- Approximately 1,427 lorry transport movements per annum;
 - Or approximately 27 per week;

- Or 5 per day of virgin wood deliveries to site (these movements only account for a one-way trip so will double if accounting for movements in and out of site).

- 4.25 NYCC Highways have been consulted on the application and initially they did not raise any objections to the proposal either singularly or cumulatively with application ref. 2017/1381/FULM. However, since this initial assessment and reaching their recommendation, the Local Highway Authority has taken into account the highway network width and condition and has now recommended refusal of the application. The Local Highway Authority recommendations were initially for conditions relating to visibility and mud of the highway on highway safety grounds. Since the original response was submitted, NYCC Highways Officers have been made aware of numerous local objections relating to an increase of large vehicles on narrow roads/through local villages. On further inspection, NYCC Highways have noted an increase of large vehicles and overrun of the verges of the public highway which can be attributed to vehicles visiting the site.
- 4.26 NYCC Highways Officers consider that the roads leading to the site by reason of their poor alignments/insufficient widths/poor condition and lack of footways are considered unsuitable for the traffic which would be likely to be generated by this proposal and would interfere with the free flow of traffic with consequent danger to highway users by virtue of its proximity to the public highway network. On the basis of this assessment the local highway authority recommends that this is proposal is refused. It is considered that the proposals would result in a significant detrimental impact on the existing highway network and highways safety and would therefore not accord with Policies EMP8 (6), ENV1 (2), T1 and T2 of the Selby District Local Plan, Core Strategy Policy SP19 and the NPPF. The applicant has been looking at alternative routes and Members will be updated at Planning Committee.

Protected species

- 4.27 A Preliminary Ecological Appraisal has been submitted in support of the related application ref. 2017/1381/FULM, which advises that based on the nature of the proposed development, the distance between the site and protected sites and the nature of the protected sites, means that the proposed development is not predicted to result in any significant effects on protected sites. No Habitats of Principal Importance are present at the site. None of the habitats at the site are assessed as being of value at greater than the site level. In addition to this the submitted report advises that based on the habitats present and the site location, the site is not considered likely to support a notable breeding bird assemblage, although Species of Principal Importance such as skylark potentially breed on the site in small numbers.
- 4.28 The submitted report states that no waterbodies potentially suitable for the breeding of great crested newts have been identified within 500 metres of the site. It is therefore considered very unlikely that great crested newts would occur at the site and no further surveys or mitigation measures for bats are considered necessary. In addition to this it states that no evidence of badger or other notable fauna was observed at the site. Brown hare, a Species of Principal Importance in England, could potentially be present within the site on an occasional transitory basis. No further surveys or mitigation measures for other fauna are considered necessary.

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

Flood risk and drainage

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

Legal Issues

- 4.36 Planning Acts
This application has been determined in accordance with the relevant planning acts.
- 4.37 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.
- 4.38 Equality Act 2010
This application has been determined with regard to the Council’s duties and obligations under the Equality Act 2010. However it is considered that the

recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

Financial Issues

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

5. CONCLUSION

- 5.1 Having regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations the proposal will significantly intensify the use of the site and introduce inappropriate industrial development to the open countryside. In addition the lorry movements created by this proposal are considered to unsustainable for this open countryside location and would affect the character of this open countryside location through the intensification form the use. It is therefore considered to be contrary to Policy SP13 of the Core Strategy, and paragraphs 83 and 84 of the NPPF.
- 5.2 The roads leading to the site are by reason of their poor alignments/insufficient widths/poor condition and lack of footways are considered unsuitable for the traffic which would be likely to be generated by this proposal and would interfere with the free flow of traffic with consequent danger to highway users by virtue of its proximity to the public highway network. It is considered that the proposals would result in a significant detrimental impact on the existing highway network and highways safety and would therefore not accord with Policies EMP8 (6), ENV1 (2), T1 and T2 of the Selby District Local Plan, Core Strategy Policy SP19 and the NPPF.
- 5.3 The applicant has failed to provide sufficient information in regards to drainage and the Council therefore cannot be satisfied that the proposals are acceptable in terms of flood risk and drainage. Therefore the proposals fail to accord with Policies SP15, SP16, SP19 of the Core Strategy, and the advice contained within the NPPF.
- 5.4 Other matters of acknowledged importance such as the impact on the character of the area and visual impact on the Green Belt, flood risk, residential amenity, renewable energy and nature conservation are considered to be acceptable.

6. RECOMENDATION

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

1. Having regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, the proposal will significantly intensify the use of the site and introduce inappropriate industrial development to the open countryside. In addition the lorry movements created by this proposal are considered to unsustainable for this open countryside location and would affect the character of this open countryside location through the intensification of the use. It is therefore considered to be contrary to policy SP13 of the Core Strategy, and paragraphs 83 and 84 of the NPPF.
2. The roads leading to the application site by reason of their poor alignments/insufficient widths/poor condition and lack of footways are considered

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

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

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Agenda Annex

Glossary of Planning Terms

Community Infrastructure Levy (CIL):

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

Curtilage:

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

Environmental Impact Assessment (EIA):

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

National Planning Policy Framework (NPPF):

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

Permitted Development (PD) Rights

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

Previously Developed Land (PDL)

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

Planning Practice Guidance (PPG)

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

Recreational Open Space (ROS)

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

Section 106 Agreement

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

Site of Importance for Nature Conservation

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

Site of Special Scientific Interest (SSI)

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

Scheduled Ancient Monument (SAM):

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

Supplementary Planning Document (SPD)

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

Tree Preservation Order (TPO):

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

Village Design Statements (VDS)

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



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Planning Committee 2018-19



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