



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY, 10 JANUARY 2018**
Time: **2.00 PM**
Venue: **COUNCIL CHAMBER - CIVIC CENTRE, DONCASTER ROAD, SELBY, YO8 9FT**
To: **Councillor J Cattanach (Chair), Councillor D Peart (Vice-Chair, in the Chair), Councillor I Chilvers, Councillor J Deans, Councillor M Jordan, Councillor Packham, Councillor P Welch, Councillor L Casling and Councillor C Pearson**

Agenda

1. Apologies for Absence

2. Disclosures of Interest

A copy of the Register of Interest for each Selby District Councillor is available for inspection at www.selby.gov.uk.

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

3. Chair's Address to the Planning Committee

4. Suspension of Council Procedure Rules

The Planning Committee is asked to agree to the suspension of Council Procedure Rules 15.1 and 15.6(a) for the committee meeting. This facilitates an open debate within the committee on the planning merits of the application

without the need to have a proposal or amendment moved and seconded first. Councillors are reminded that at the end of the debate the Chair will ask for a proposal to be moved and seconded. Any alternative motion to this which is proposed and seconded will be considered as an amendment. Councillors who wish to propose a motion against the recommendations of the officers should ensure that they give valid planning reasons for doing so.

5. Minutes (Pages 1 - 8)

To confirm as a correct record the minutes of the Planning Committee meeting held on 6 December 2017.

6. Reasons for Planning Decisions (Pages 9 - 12)

The Committee is asked to note the content of the report and agree the working protocol set out in paragraph 2.6 pending the update to the Code of Practice for Dealing with Planning Matters.

7. Planning Applications Received (Pages 13 - 14)

- 7.1. 2016/1322/OUTM – Colton Lane, Appleton Roebuck (Pages 15 - 74)**
- 7.2. 2016/1337/OUTM - School Road, Hemingbrough, Selby (Pages 75 - 114)**
- 7.3. 2017/0312/OUT - Land East Of Richardson Court, Hambleton, Selby (Pages 115 - 134)**
- 7.4. 2017/0866/FUL - Villino, 3 Lakeside Mews, Riccall Lane, Kelfield, York (Pages 135 - 154)**
- 7.5. 2017/0919/FUL - Old Street Farm, Moor Lane, Catterton, Tadcaster (Pages 155 - 176)**
- 7.6. 2016/0673/FUL - Windmill, Old Road, Appleton Roebuck (Pages 177 - 212)**
- 7.7. 2016/0675/LBC - Windmill, Old Road, Appleton Roebuck (Pages 213 - 234)**
- 7.8. 2017/0701/OUT - Yew Tree House, Main Street, Kelfield, York (Pages 235 - 256)**
- 7.9. 2017/0411/FUL - Land South Of Chapel View, Marsh Lane, Bolton Percy, York (Pages 257 - 272)**

G. Marshall

Gillian Marshall, Solicitor to the Council

<p>Dates of next meetings (5.00pm) Wednesday, 7 February 2018</p>

Enquiries relating to this agenda, please contact Victoria Foreman on 01757 292046 or vforeman@selby.gov.uk.

Recording at Council Meetings

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Minutes

Planning Committee

Venue:	Council Chamber
Date:	Wednesday 6 December 2017
Time:	2.00pm
Present:	Councillors J Cattanach (Chair), D Buckle, Mrs E Casling, I Chilvers, R Packham, D Peart, P Welch and Mrs D White.
Officers present:	Kelly Dawson, Senior Solicitor, Ruth Hardingham, Planning Development Manager; Diane Wilson, Planning Officer (for minute items 42.5); Keith Thompson, Senior Planning Officer (for minute item 42.1); Paul Edwards, Principal Planning Officer (for minute items 42.2 and 42.3), Andrew Martin, Principal Planning Officer (for minute item 42.4) and Victoria Foreman, Democratic Services Officer
Public:	17
Press:	1

37. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors J Deans, C Pearson and I Reynolds. Councillor D Buckle was in attendance as a substitute for Councillor C Pearson and Councillor Mrs D White was in attendance as a substitute for Councillor J Deans.

38. DISCLOSURES OF INTEREST

All Committee Members declared that they had received representations and pictures in relation to application 2017/0443/REM - Land Adj to Station Mews, Church Fenton, but had not expressed opinions on the scheme.

Councillor Mrs E Casling declared that she had spoken to a member of Skipwith Parish Council in relation to application 2016/1160/FUL – North House farm, Skipwith but had not expressed an opinion on the matter nor had she formed a view on the application.

39. CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chairman informed the Committee that applications 2016/0673/FUL and 2016/0675/LBC – Windmill, Old Road, Appleton Roebuck had been withdrawn from the agenda and would not be considered at the meeting.

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. 2017/0443/REM – Land Adj to Station Mews, Church Fenton
2. 2016/1170/FUL – North House Farm, Main Street, Skipwith
3. 2017/0272/FUL – Carlton Supermarket and Post Office, High Street, Carlton
4. 2017/0820/FULM – Hollygarth, 17 Holly Grove, Thorpe Willoughby
5. 2017/0706/FUL – Oakwood, Main Street, Healaugh

The Chairman also advised the Committee that an update note had been circulated by officers.

40. 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.

41. MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 8 November 2017.

The Committee noted that at minute number 34.6 the resolution should be reworded to say:

'To REFUSE the application for the reasons as set out in paragraph 5.0 of the report.'

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 8 November 2017 for signing by the Chairman, subject to the amendment to minute number 34.6 detailed above.

42. PLANNING APPLICATIONS RECEIVED

The Committee considered the following planning applications:

42.1 Application: 2017/0443/REM

Location: Land Adj to Station Mews, Church Fenton, Selby

Proposal: Reserved matters application relating to appearance, landscaping, layout and scale of 5 No. dwellings of approval 2016/0505/OUT outline application for the erection of 5 new dwelling houses with access (all other matters reserved)

The Senior Planning Officer presented the application that had been brought before the Committee due to there being more than 10 objections to the proposal.

The Committee was informed that the application was a reserved matters application relating to the appearance, layout and scale of 5 dwellings of approval 2016/0505/OUT outline application, for the erection of 5 new dwelling houses with access. All other matters were reserved.

The Committee noted that the application had been deferred at the November planning meeting to re-consult on amended plans; the publicity on the plans expired on 23 November 2017.

In reference to the officer update note, the Planning Officer explained that neighbours and the Parish Council had been re-consulted on an amended site layout plan, with further objections and comments submitted. A further amended site layout plan, 'REV P', had been received on 1 December 2017, and formed part of the introductory presentation given by the Senior Planning Officer and Condition 1 (plans list). The plan showed the distance from plot 5 to the red edge of the boundary to be 2.5m.

Alan Wilson, representing the objectors, spoke in objection to the application.

Rebecca Hunt representing Church Fenton Parish Council spoke in objection to the application.

Jason Papprell, agent, spoke in support of the application.

The Committee noted that original plans submitted for outline applications were only indicative, and as such would not necessarily reflect final schemes submitted for consideration.

Councillors expressed a number of concerns regarding the design and layout of the proposed development, its visual impact and the effects on the amenity neighbouring properties at Fieldside Close.

It was proposed and seconded that the application be deferred in order for a site visit to be arranged by the Committee.

The Committee noted that this time would enable further discussions between the Senior Planning Officer and the applicant to take place regarding the scheme's design in light of the concerns expressed by the Committee. However,

the Committee noted that it was within the gift of the applicant to decide whether they wished to engage in further discussions and/or alter the scheme in light of the Committee's comments and site visit.

RESOLVED:

To DEFER consideration of the application in order for the Committee to undertake a site visit.

42.2 Application: 2017/1170/FUL

Location: North House Farm, Main Street, Skipwith, Selby

Proposal: Proposed erection of nine dwellings and garages following demolition of existing farm buildings

The Principal Planning Officer presented the application that had been brought before the Committee since there were more than a total of ten objections to the proposal.

The Committee was informed that the application was for the proposed erection of nine dwellings and garages following demolition of existing farm buildings.

The Committee noted that there was an error in the crosshatching of the site location on the plan included in the agenda, but were reassured by the Principal Planning Officer that the application site was within development limits.

In reference to the officer update note, the Planning Officer explained that the views of the Highways Authority had been received, as had revised drawings from the agent addressing the concerns regarding space for service vehicle movements. To reflect the change in the proposed drawings, Condition 2 would be amended accordingly.

Chris Hale, representing the objectors, spoke in objection to the application.

Noel McCool, representing Skipwith Parish Council, spoke in objection to the application.

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

The Committee acknowledged the importance of the village amenity and mitigation of any impact on the landscape and character of the village. The Committee also felt that the use of opaque or obscured glass on the landing window of the building facing Mr Hale's property was important, and that a condition relating to the grade of obscured glass to be used should be agreed by the local planning authority before occupation of the property.

Councillors expressed their support for the positive way in which the dialogue between the applicant, residents and the Parish Council had been conducted, resulting in a more sympathetic scheme for the village.

It was proposed and seconded that the application be approved subject to conditions.

RESOLVED:

To APPROVE the application subject to

- i. the conditions set out in paragraph 6.0 of the report and
- ii. that the grade of obscured glass to be used on the landing window be discussed between the applicant and the Principal Planning Officer, and agreed by the local planning authority before occupation of the property.

42.3 Application: 2017/0272/FUL

Location: Carlton Supermarket and Post Office, High Street, Carlton
Proposal: Proposed erection of apartments on a brownfield site

The Principal Planning Officer presented the application that had been brought before the Committee because there were more than a total of ten objections to the proposal.

The Committee was informed that the application was for the proposed erection of apartments on a brownfield site. The scheme had been through three revisions since its original submission, and was now a two storey scheme for seven one-bedroom apartments with a parking space per apartment.

The Committee noted that the site had been used for parking for the supermarket without authority and at no time had been designated for this purpose.

Alan Bond, representing the objectors, spoke in objection to the application.

It was proposed and seconded that the application be approved.

RESOLVED:

To APPROVE the application subject to the conditions set out at paragraph 6.0 of the report.

42.4 Application: 2017/0820/FULM

Location: Hollygarth, 17 Holly Grove, Thorpe Willoughby, Selby
Proposal: Proposed demolition of former care home and construction of 17 residential units and highway improvements to the existing access

The Principal Planning Officer presented the application that had been brought before the Committee due to it being proposed on land owned by North Yorkshire County Council.

The Committee was informed that the application was for the proposed demolition of a former care home and construction of 17 residential units and highway improvements to the existing access.

The Committee noted that an independent review of the applicant's viability appraisal indicated that the development could afford a contribution of £46,000 towards affordable housing, as it was not being supplied on site. The Principal Planning Officer explained that the on-site provision of a single unit of accommodation would not be cost-effective for a registered provider, either in terms of construction or future management and maintenance.

In reference to the officer update note, the Planning Officer explained that the reference to Local Plan Policy ENV18 was incorrect; this was not a saved policy. The Committee also noted that no tree within or immediately surrounding the site was subject to a TPO.

Dawn Jenkins, agent, spoke in support of the application.

It was proposed and seconded that the application be approved.

RESOLVED:

To APPROVE the application subject to:

- i. the conditions set out in paragraph 6.0 of the report and
- ii. a unilateral undertaking to secure a) £46k as a contribution towards the off-site provision of affordable housing and b) a financial contribution of £65 per dwelling towards waste and recycling.

42.5 Application: 2017/0706/FUL

Location: Oakwood, Main Street, Healaugh, Tadcaster

Proposal: Proposed conversion of existing disused agricultural buildings to form two residential dwellings with associated garaging

The Planning Officer presented the application that had been brought before the Committee as Officers considered that although the proposal was contrary to Criterion 1 of Policy H12 of the Local Plan, there were material considerations which would justify approving the application.

The Committee was informed that the application was for the proposed conversion of existing disused agricultural buildings to form two residential dwellings with associated garaging.

The Committee noted that the site was not near any heritage assets or listed buildings.

In reference to the officer update note, the Planning Officer explained that Condition 11 had been amended to specify that no buildings on the land north and east of the application site were to be used for animals, livestock or for agricultural purposes as these would give rise to noise and odour nuisance.

It was proposed and seconded that the application be approved.

RESOLVED:

To APPROVE the application subject to conditions set out in paragraph 6.0 of the report.

43. Exclusion of Press and Public

The Committee were asked to consider if they wished to exclude the press and public for the following item of business.

RESOLVED:

That, in accordance with Section 100(A) (4) of the Local Government Act 1972, in view of the nature of the business to be transacted, the meeting be not open to the Press and Public during discussion of the following item as there will be disclosure of exempt information as defined in paragraph 3 of Schedule 12(A) if the Act (information relating to the financial or business affairs of any particular person, including the authority holding that information).

Private Session

44. Outline planning application for residential development including access (all other matters reserved) – Appeal of Members' decision

The Senior Solicitor introduced the report brought before the Committee regarding a planning permission that had been refused contrary to the Officer recommendation.

Members noted that the report was being considered in private session as it was linked to the tactical business of how an appeal relating to the aforementioned decision was to be run.

Members were content with the detailed explanation given by the Senior Solicitor and supported the recommendation of the report to concede ground 1 for the reason for refusal.

RESOLVED:

To concede ground 1 for the reason for refusal and progress the appeal only on grounds 2 and 3.

The meeting closed at 4.10pm.

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Public Session

Report Reference Number: P/17/1

Agenda Item No: 5

To: Planning Committee
Date: 10 January 2018
Author/Lead Officer: Gillian Marshall Solicitor to the Council

Title: Reasons for planning decisions

Summary:

The report summarises a recent decision of the Supreme Court regarding the requirement to give reasons in planning matters. The decision will require changes to be made to the Code of Practice for the determination of Planning Matters. In the interim the report recommends that planning committee adopt a working protocol to ensure that decisions made are legally defensible.

Recommendations:

- i. To note the content of the report and agree the working protocol set out in paragraph 2.6 pending the update to the Code of Practice for Dealing with Planning Matters.**

Reasons for recommendation

To ensure that decisions made are legally defensible.

1. Introduction and background

- 1.1 Until 2003, there was no statutory duty on an LPA to give reasons for granting planning permission. There was then a change of thinking and between 2003 and 2013, summary reasons for the grant of planning permission had to be given. This duty was repealed by the Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2013 (SI 2013/1238). The explanatory memorandum suggested that the duty had become "burdensome and unnecessary"
- 1.2 However, since 2014, there has been a duty on a local authority officer making any decision involving the "grant [of] a permission or licence" to

produce a written record of the decision "along with the reasons for the decision" and "details of alternative options, if any, considered or rejected" (*Openness of Local Government Bodies Regulations 2014 (SI 2014/2095) (OLGB Regulations 2014)*). This includes the grant of planning permission.

- 1.3 An LPA must give reasons for refusing planning permission or for imposing conditions (*Town and Country Planning (Development Management Procedure) (England) Order 2015 (SI 2015/595)*).

2 The Report

- 2.1 On 6 December 2017, the Supreme Court gave judgment in *Dover DC & China Gateway International Ltd v CPRE Kent* [2017] UKSC 79 concerning the duty on local authorities to give reasons for planning decisions. The decision affirmed a recent Court of Appeal ruling in *Oakley v South Cambridgeshire*. The Supreme Court upheld the principle that, although there is no general common law duty to give reasons for a decision to grant planning permission, fairness may in certain circumstances require reasons to be given, even where there is no statutory duty to provide them. The justifications underlying that principle include the fact that the giving of reasons is essential to enable the Court to review the legality of the decision (which, in the case of planning decisions, may be of legitimate interest to a wide range of parties, private and public) and because of the importance of ensuring that "justice should not only be done, but also be seen to be done".
- 2.2 While each case will turn on its facts, the common law will "typically" require reasons to be given, Lord Carnwath stated, "where, permission has been granted in the face of substantial public opposition and against the advice of officers, for projects which involve major departures from the development plan, or from other policies of recognised importance (such as the "specific policies" identified in the NPPF). Such decisions call for public explanation, not just because of their immediate impact; but also because they are likely to have lasting relevance for the application of policy in future cases." Lord Carnwath rejected the suggestion that there would be uncertainty as to when reasons would be required, stating that it "should not be difficult" for local planning authorities to identify cases where they are necessary.
- 2.3 The Court held that there was nothing unduly burdensome in requiring members of a planning committee to provide reasons for their decision so far as those reasons could not be gleaned from the documents available as part of the planning application given, in particular, that the Local Government Model Council Planning Code and Protocol (2013 update) requires planning committee members to "understand the planning reasons leading to [the decision in question]".
- 2.4 As to the standard of the reasons required, the Supreme Court rejected the distinction previously drawn in *R (Hawksworth Securities PLC) v Peterborough CC* [2016] EWHC 1870 (*Admin*) between the standard of reasons required of a planning inspector conducting an appeal and a local planning authority determining a planning application. In all cases, the

question for the court is whether, by reference to all of the information available, the reasons for the decision-maker's decision leave "genuine doubt ... as to what (it) has decided and why".

- 2.5** In the light of this clarification of the common law duty to give reasons Officers have considered the Code of Practice for the Determination of Planning matters which forms part of the constitution and consulted with the Chair of Planning Committee. It is considered that the Code will require updating, particularly at paragraph 10.5 which provides

'...where the Planning Committee is minded to approve or refuse a planning application contrary to the recommendations of the Lead Officer – Planning or the Development Plan, if agreement can be reached at the meeting rather than deferring the item, the planning reasons shall be fully minuted.'

This section was intended to avoid deferrals wherever possible in the light of the then recently introduced performance measures and the implications of being designated as underperforming. However the implementation of the Planning Service Review has significantly improved performance. The Head of Planning and the Planning Development Manager consider that the issue of legally defensible decisions should be the priority over the speed of decision.

- 2.6** It is recommended that Planning Committee adopt a working protocol in advance of the review of the Planning Code as follows:

Where a Councillor wishes to move a proposal contrary to the recommendation of the planning officer he/she should:

- Confirm whether they accept the officer's view on whether the application in question is or is not in conflict with the Development Plan, and if not, give reasons for that view.
- Identify any relevant policy reasons for their view
- Confirm whether they agree with the identification of material considerations set out in the report and if not
 - o Identify what additional material considerations exist and/or
 - o Identify where different weight has been given to that in the officer report
- All such proposals will then be deferred to the next committee cycle so that officers can assess the proposed reasons and advise the Committee on the adequacy of the proposed reasons (rather than delaying the meeting and seeking to draft and advise on these at the time)..
- When the matter returns to Committee, Members will need to consider the drafted reasons and officer advice before voting on whether to accept the drafted reasons or amend the drafted reasons. Members who were not present at the initial meeting will need to consider (on a case by case basis) whether they have sufficient information to form a properly informed view such that they take part in the vote.

3 Legal/Financial Controls and other Policy matters

Legal Issues

- 3.1 The issue of decisions contrary to the officer recommendations without adequate reasons leaves the Council vulnerable to legal challenge.

Financial Issues

- 3.2 None.

4. Conclusion

- 4.1 That a working protocol should be adopted to comply with the law in advance of a full review of the planning code.

5. Background Documents

Judgement in Dover District Council v CPRE Kent [2017] UKSC 79

Contact Officer:

Gillian Marshall
Solicitor to the Council
Selby District Council
gmarshall@Selby.gov.uk

Appendices:

None.

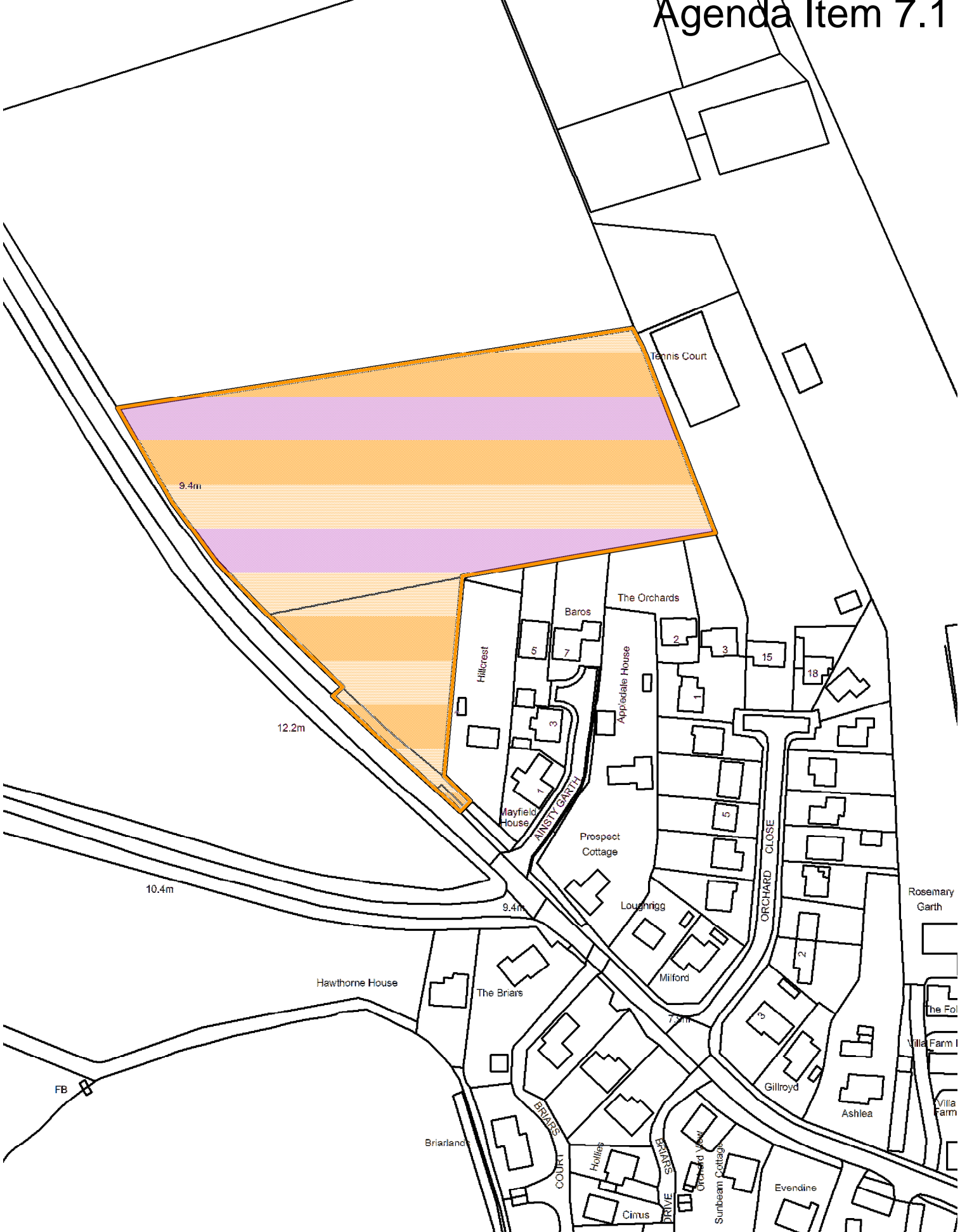
Agenda Item 7

Items for Planning Committee

10 January 2018

Item No.	Ref	Site Address	Description	Officer	Page
7.1	2016/1322/OUTM	Colton Lane, Appleton Roebuck	Outline application with means of access for approval (all other matters reserved) for the erection of up to 28 dwelling with associated infrastructure and open space provision	YVNA	
7.2	2016/1337/OUTM	School Road, Hemingbrough, Selby	Outline application for residential development of up to 21 dwellings (with all matters reserved) on land to the east of School Road, Hemingbrough	LOMI	
7.3	2017/0312/OUT	Land East Of Richardson Court, Hambleton, Selby	Outline application for residential development with all matters reserved	JETY	
7.4	2017/0866/FUL	Villino, 3 Lakeside Mews, Riccall Lane, Kelfield, York	Proposed conversion of existing outbuilding to a dwelling (Use Class C3)	JETY	
7.5	2017/0919/FUL	Old Street Farm, Moor Lane, Catterton, Tadcaster	Proposed conversion of existing barn to create 1no. dwelling	DIWI	
7.6	2016/0673/FUL	Windmill, Old Road, Appleton Roebuck	Proposed conversion of windmill to form a dwelling with new extension	YVNA	
7.7	2016/0675/LBC	Windmill, Old Road, Appleton Roebuck	Listed building consent for the proposed conversion of windmill to form a dwelling with new extension	YVNA	
7.8	2017/0701/OUT	Yew Tree House Main Street, Kelfield, York	Outline application for demolition of garage, farm buildings and glasshouse and erection of residential development (all matters reserved)	JETY	
7.9	2017/0411/FUL	Land South Of Chapel View, Marsh Lane, Bolton Percy York	Erection of three dwellings	FIEL	

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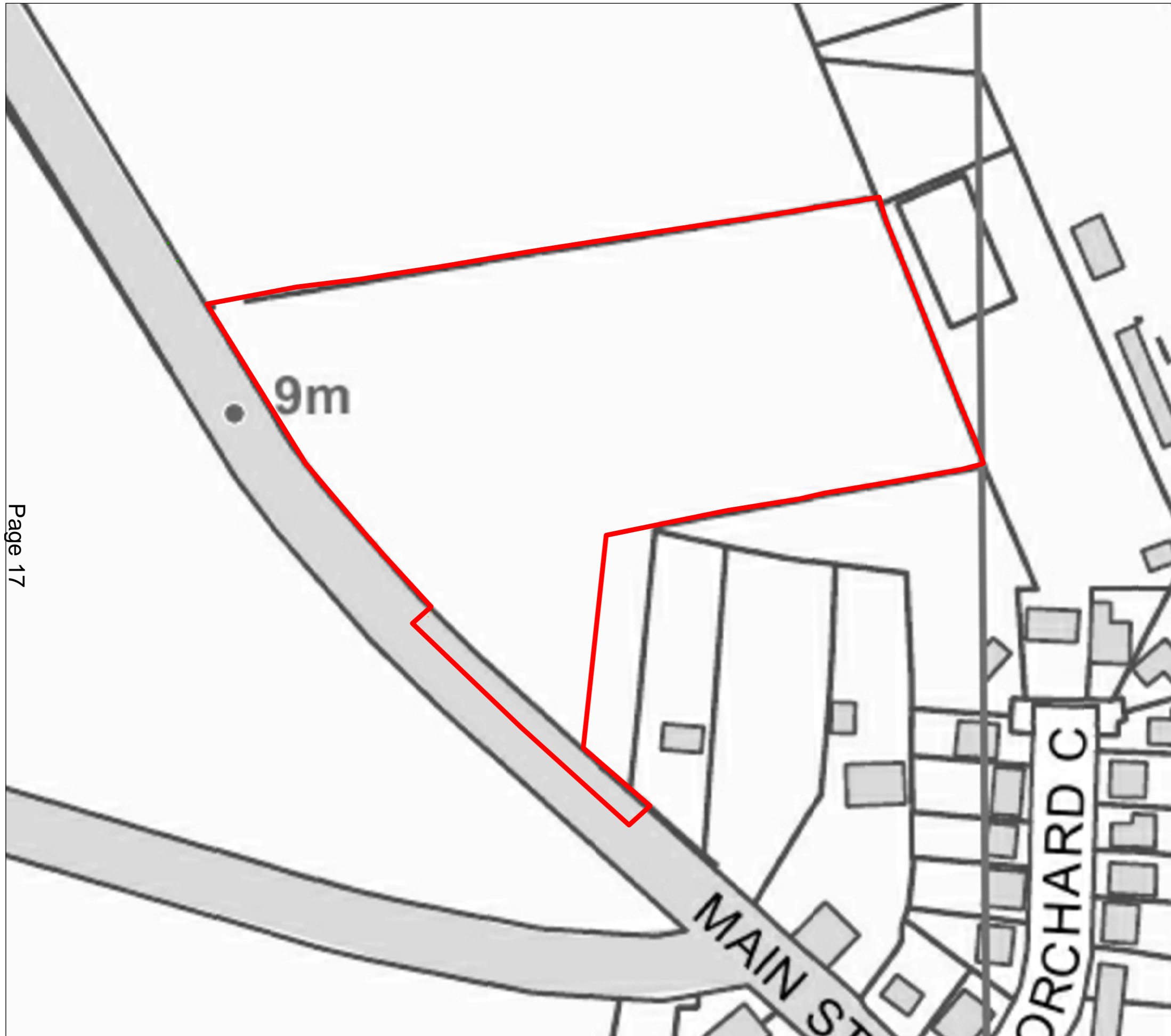
APPLICATION SITE

Item No: 2016/1322/OUTM

Address: Colton Lane, Appleton Roebuck

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— Site boundary (c.1.34ha)



Project
Hillcrest (land adj. to)
Appleton Roebuck
Drawing Title
Block Plan

RECEIVED
08 November 2016
BUSINESS SUPPORT

Date 27.04.15	Scale 1:1000@A3	Drawn by SW	Check by SG
Project No 24575	Drawing No 01	Revision A	

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Revision	Date	Drn	Chk
- A	- 21.04	- SW	- SG

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Report Reference Number: 2016/1322/OUTM

Agenda Item No: 7.1

To: Planning Committee
Date: 10 January 2018
Author: Yvonne Naylor (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2016/1322/OUT M 8/79/233A/PA	PARISH:	Appleton Roebuck
APPLICANT:	Baylis & Baylis Ltd	VALID DATE: EXPIRY DATE:	9 November 2016 8 February 2017
PROPOSAL:	Outline application with means of access for approval (all other matters reserved) for the erection of up to 28 dwellings with associated infrastructure and open space provision		
LOCATION:	Colton Lane, Appleton Roebuck		
RECOMMENDATION:	REFUSE		

This application has been brought to Planning Committee following the quashing of the initial decision of the 27 February 2017, as a result of Court submissions made by Sam Smiths Old Brewery Tadcaster (SSOBT) which resulted in the said decision being quashed on the 13 April 2017.

As such the application needs to be re-considered by Committee in the context of any changed circumstances or new material considerations since the original consent was issued and a new decision needs to be issued by the Authority accordingly on the application.

1.0 Introduction

1.1 This application was initially considered at Planning Committee on the 8 February 2017, with a recommendation for Approval subject to the completion of a S106 Agreement and a series of Conditions attached to the consent. The Officers report and associated Update Note are attached to this report as **Appendix A**. The Legal Agreement in line with the Planning Committee resolution was progressed and the consent was issued on the 27 February 2017 by the Council.

- 1.2 Subsequent to the issuing of the Decision Notice, papers were lodged by Sam Smiths Old Brewery Tadcaster (SSOBT) with the High Court seeking a Judicial Review of the Decision. The “Pre-Action Protocol Letter” was received by the Council’s Legal Team via email on the 30 March 2017. This Pre-Action Protocol Letter was accompanied by a “Draft Statement of Facts and Grounds” and the Council was also invited to agree to consent to an order of the High Court to quash the decision.
- 1.3 In challenging the decision SSOBT noted that they considered that “...*the Council manifestly erred in granting the planning permission...*”, in granting consent under 2016/1322/OUTM on the basis that:
- i) The Council had failed to take into account a number of fundamental material considerations relevant to the decision and
 - ii) It had acted inconsistently with another decision being taken by an officer on behalf of the Council shortly beforehand in which development on an adjoining site was refused.
- 1.4 The noted grounds of challenge can be summarised as follows:
1. The Council assumed an absence of a five year housing supply based on an unexplained concession in October 2016 at a Public Inquiry, when the Council was in fact required to assess the position as at February 2017;
 2. The Council failed to take account of the Neighbourhood Plan as a material consideration which seeks to limit the scale/extent of development for the settlement;
 3. The Council failed to take into account/address prematurity to PLAN Selby and / or reason for previous rejection of development of this type;
 4. The Council failed to take into account the Conservation Area given the role of the historic character of the village and the scale of development set as appropriate in the emerging Neighbourhood Plan;
 5. The Council did not consider the impact on the landscape setting;
 6. There was inconsistency between Officer decisions on adjoining sites, despite the position noted in the Officer Update Report to the February 2017 Committee; and
 7. It represents an irrational decision.
- 1.5 Following discussions between the Council’s Solicitor and the Solicitor acting on behalf of the Brewery a Consent Order was issued by the Court which quashed the Decision.
- 1.6 The final Consent Order notes that the Defendant (the Council), accepts:

“Having considered the draft Grounds the Defendant (the Council) accepts that under the provision of the Planning Practice Guidance, the Neighbourhood Plan reached the end of the Local Planning Authority publicity stage after the resolution to grant but before the decision was issued. Accordingly, the Council could have considered whether the application was premature to the Neighbourhood Plan as an emerging part of the development plan. That represented a material consideration which should have been addressed before the decision was issued. On this basis the Council will consent to an Order quashing the decision dated 27th February 2017”.

The Consent Order also notes that “...without prejudice to the Claimants (SSOBT) other grounds of challenge set out in its claim which set out what the Claimants considers to be other serious errors in the Council’s decisions, the Claimant recognises that the Defendants (the Council) concession on the ground identified and its consequential consent to the quashing of the planning permission leads to the relief that the Claimant is seeking to claim. This therefore renders it otiose for the Court to determine the Claimants other grounds of challenge. In the interest of saving Court time and costs the Claimant has therefore filed a reduced amount of material in support of its claim for Judicial Review and seeks the approach of this Consent Order by the Court in light of the Defendant’s concession as recorded above”.

- 1.7 As such the Consent is quashed by consent on the 4 May 2017 and the application needs to be reconsidered.
- 1.8 This report having reconsidered the application against the policies of the Development Plan and having regard to other material considerations makes the revised recommendation at Section 4 of the report.

2.0 Assessment

2.1 The changed circumstances since the application was considered by Planning Committee on 8 February 2017 and arising from the acknowledged flaws in the earlier decision mean that the issues are now reappraised based on the current and up to date position which has changed. The changed circumstances for consideration are summarised as follows:

- 1. Reconsideration of the principle of the location in terms of the Appropriateness of the Location for Residential Development in respect of Current Housing Policy, the Council’s position on Housing Land Supply, the Development Plan and Guidance contained within the NPPF in context of the Supreme Court decision of the 10 May 2017;
- 2. Effect of the proposals of the Appleton Roebuck and Acaster Selby Neighbourhood Plan
- 3. The relationship of the proposed scheme to the Appleton Roebuck Conservation Area and the Heritage Settlement.
- 4. The weighing of the benefits of the scheme

The report will take these aspects in turn.

- 2.2 Reconsideration of the principle of the location in terms of the Appropriateness of the Location for Residential Development in respect of Current Housing Policy, the Council's position on Housing Land Supply, the Development Plan and Guidance contained within the NPPF in context of the Supreme Court decision of the 10 May 2017**
- 2.2.1 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.
- 2.2.2 Relevant policies in respect of the principle of this proposal include Policy SP2 "Spatial Development Strategy" and Policy SP5 "The Scale and Distribution of Housing" of the Core Strategy.
- 2.2.3 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.
- 2.2.4 The site lies outside the defined development limits of Appleton Roebuck and therefore is located in open countryside. 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.
- 2.2.5 In light of the above policy context the proposals to develop this site for residential purposes are contrary to Policy SP2A(c) of the Selby District Core Strategy. The proposal should therefore be refused unless material considerations indicate otherwise. One such material consideration is the National Planning Policy Framework and the Council's position on its 5 year housing land supply.

- 2.2.6 The National Planning Policy Framework states that to boost significantly the supply of housing, local planning authorities should identify and update annually a supply of specific deliverable sites to provide five years' worth of housing against their housing requirements. In accordance with this the Council produces a report every year which monitors our housing supply, the latest is the "2017-2022 Five Year Housing Land Supply Statement", which is underpinned by the assessment done as part of the "Strategy Housing Land Availability Study" (SHLAA). When Members considered the Appendix A report in February 2017 then the Council did not have a five year housing land supply, however in July 2017, the Council has confirmed a five year housing land supply based on assessment date of the 30th September 2017.
- 2.2.7 This latest position on housing land supply needs to be considered in re-assessing this scheme following the April 2017 Quash. In the context of the latest stated position on housing land supply then this means that in line with paragraph 49 of the NPPF relevant policies that relate to the supply of housing are now considered to be up-to-date once again. Paragraph 12 of the NPPF states that: "development that accords with an up to date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise". Moreover, this is no longer a case to which the tiled balance under Paragraph 14 NPPF applies. This is a key difference between the earlier decision and together with the other matters identified in this report leads to the change of recommendation. Whilst the earlier approval may give rise to an expectation of consistency if circumstances, as here, change, this gives rise to a reconsideration of the issues, which have themselves changed over the subsequent passage of time.
- 2.2.8 Policy SP5(A) of the Core Strategy notes that "Provision will be made for the delivery of a minimum of 450 dwellings per annum and associated infrastructure in the period to March 2027", with Policy SP5(B) noting that Designated Service Villages are to provide a minimum of 2000 units between 2011-2027, and SP5(E) noting that "Allocations will be sought in the most sustainable villages (Designated Service Villages) where local need is established through a Strategic Housing Market Assessment and/or other local information. Specific sites will be identified through the Site Allocations part of the Local Plan".
- 2.2.9 In light of the above policy context, the proposals for residential development on the site are contrary to Policy SP2A(c) of the Core Strategy given that the proposed site is located outside the defined development limits of the settlement of Appleton Roebuck and any proposed development is limited to those types identified in criterion (c) of Policy SP2A in order to achieve sustainable patterns of growth as set out in the Spatial Development Strategy which is outlined in Policies SP1 and SP5(A), SP5(B) and SP5(E) of the Core Strategy.
- 2.2.10 Given the context of Policies SP2A(c), SP5 (A) and SP5 (B) and SP5 (E) the proposal should therefore be refused unless material considerations indicate otherwise.

2.2.11 One such material consideration is that despite the Council confirming that housing policies are up to date, as it now has a supply of deliverable housing land, this supply needs to be maintained until PLAN Selby is adopted and this should be done in such a way that it does not cause significant harm to acknowledged interests, which are discussed within this report and the **Appendix A** report.

2.2.12 Policy SP2A (a) makes it clear that the location of future development will be based upon a series of settlement hierarchy principles, one of which focuses upon the growth of Designated Service Villages (DSVs), such as Appleton Roebuck. In the case of this settlement it is considered to have some scope for additional residential and small-scale employment growth to support rural sustainability. The commentary in the Core Strategy details 'additional limited growth or limited further growth' (paragraphs 4.12 and 4.27). The rationale for supporting limited growth in Designated Service Villages through the Core Strategy was intended to meet local demand for housing and employment opportunities (Core Strategy paragraph 4.12). It was not intended to create new high growth villages which could contribute towards unsustainable patterns of commuting and potentially the creation of dormitory settlements. While the DSV's have a level of sustainability which is often a function of their size and range of services, the focus for large scale growth is orientated in the Core Strategy towards the more sustainable Principal Town and Local Service Centres.

2.2.13 On balance although it is considered that although this site could potentially contribute towards the Council's housing supply, the Council does have a robust supply and has exceeded supply levels for Designated Service Villages and in particular the growth options level for Appleton Roebuck until PLAN Selby is adopted. As such it is not considered that there are material considerations which support the granting of planning permission in this context. As such granting of consent on this site would be contrary to Policies SP5 (A) and SP5 (E) of the Core Strategy.

Previous Levels of Growth and the Scale of the Proposal

2.2.14 Core Strategy Policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability, it is important to determine in housing applications the impact a proposed scheme has on this level of growth, taking into account previous levels of growth since the start of the plan period and the scale of the proposal itself. Policy Officers have confirmed that as of the 8th of December 2017, Appleton Roebuck has seen, since the start of the Plan Period in April 2011, 29 gross dwellings (22 net) built in the settlement and has extant gross approvals for 4 dwellings (2 net), giving a gross total of 33 dwellings (24 net).

2.2.15 It is accepted that Core Strategy Policy SP5 does not set a minimum dwelling target for individual service villages, and therefore it is not possible to fully ascertain exactly whether Appleton Roebuck has exceeded its dwelling target. As a guide, Policy Officers have confirmed that the Council consulted on various growth options for the Designated Service Villages as part of the development of PLAN Selby in July/August 2015 and at this point the research indicated minimum growth options of between 17 - 23 dwellings for Appleton Roebuck.

2.2.16 So although, it could be argued that the while the level of development in the settlement may be above that identified in the potential growth options, the policy does not set a cap on development level. However, this needs to be balanced against the settlements identification as a Designated Service Village, the growth aims of the Core Strategy and the impact of any scheme on the open countryside as well as any contribution development can make to housing land supply. A balanced view needs to be taken to consider whether the application should be supported contrary to the Core Strategy and Local Plan, it is not considered to be of significant weight to outweigh the development plan.

2.2.17 Whilst the Development Limits were set some time ago, the Court of Appeal made clear in Gladman Development Limited Appellant vs Daventry District Council and the Secretary of State for Communities and Local Government [2016] EWCA Civ 1146 that “the mere age of a policy does not cause it to cease to be part of the development plan” (para 40). Furthermore, it held that, since the planning authority in that case was able to demonstrate a five-year supply, there was no reason that conventional countryside protection policies (adopted in the 1990s) which restricted development outside settlement boundaries should be considered necessarily out of date or inconsistent with the Framework, even though permission had been granted for development elsewhere outside those boundaries in other cases, because:

“The fact that the Council is able to show that with current saved housing policies in place it has the requisite five year supply tends to show that there is no compelling pressure by reason of unmet housing need which requires those policies to be overridden in the present case; or – to use Mr Kimblin’s metaphor – it tends positively to indicate that the current policies are not “broken” as things stand at the moment, since they can be applied in this case without jeopardising the five year housing supply objective...” (para.44)

This is supported by Paragraph 17 of the NPPF which notes that in the planning system should set core land-use planning principles to underpin both plan-making and decision-taking which includes taking into account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.

- 2.2.18 The Council can here, likewise, can now demonstrate a five-year supply. Therefore, in view of this, and given the scale of housing already permitted in Appleton Roebuck in particular, there is no overriding need for new housing that would justify setting the Limits aside. Furthermore, the Limits were carried over in the Core Strategy, which was examined and adopted after the publication of the Framework, and includes a housing requirement (450 dpa) based on meeting the objectively assessed for housing in full, in accordance with para.47 of the Framework.
- 2.2.19 The 450 requirement is lower than that required initially by the Local Plan (620 dpa) and, as para.4.27 of the Core Strategy noted, “the overriding strategy of concentrating growth in Selby and to a lesser extent in the Local Service Centres means that there is less scope for continued growth in [the DSVs] on the scale previously experienced.”
- 2.2.20 Consultation has just finished on the ‘Pool of Sites’ which will inform the Site Allocations document. The sites document will allocate sites in accordance with the adopted Core Strategy. At this stage it is only proposed to amend development limits to accommodate the new allocations. These changes alone can accommodate the 450dpa requirement in the Core Strategy.
- 2.2.21 In conclusion, it is considered that although this site could potentially contribute towards the Council’s housing supply, the Council now has a robust supply and has exceeded supply levels for Designated Service Villages until PLAN Selby is adopted. Consequently, there is no reason to regard the relevant Development Limits in this case, or the policies which seek to restrict development outside them, as being anything other than up to date and consistent with the Framework. The proposed development of 28 (net) dwellings is located outside of the development limits of the settlement on greenfield land, and so does not accord with the form of development expected in Policies SP2. Policy SP2A (a) makes it clear that the location of future development will be based upon a series of settlement hierarchy principles, one of which focuses upon the growth of Designated Service Villages (DSVs), such as Appleton Roebuck. In the case of this settlement it is considered to have some scope for additional residential and small-scale employment growth to support rural sustainability. The commentary in the Core Strategy details ‘additional limited growth or limited further growth’ (paragraphs 4.12 and 4.27).
- 2.2.22 The rationale for supporting limited growth in Designated Service Villages through the Core Strategy was intended to meet local demand for housing and employment opportunities (Core Strategy paragraph 4.12). It was not intended to create new high growth villages which could contribute towards unsustainable patterns of commuting and potentially the creation of dormitory settlements. While the DSV’s have a level of sustainability which is often a function of their size and range of services, the focus for large scale growth is orientated in the Core Strategy towards the more sustainable Principal Town and Local Service Centres.

2.3 Effect of the proposals of the Appleton Roebuck and Acaster Selby Neighbourhood Plan

2.3.1 Pursuant to Section 1 of the Neighbourhood Planning Act 2017 the law as in force from 19th July 2017 states that a neighbourhood development plan forms part of the development plan for the area if it has been approved by referendum. The Appleton Roebuck and Acaster Selby Neighbourhood Plan was examined in summer 2017 and was recommended to proceed to referendum. The Referendum took place on the 23rd November 2017 and was supported by the community. Given the clear affirmative result of the referendum it is considered that full weight should be attached to the relevant policies of the Neighbourhood Plan (NP).

2.3.2 The Neighbourhood Plan includes a range of Policies including the following:-

- Policy DBE2 – Respecting Traditional Building Design and Scale
- Policy DBE3 – Green Infrastructure
- Policy DBE4 – Drainage and Flood Prevention
- Policy ELH1- Maintaining Agricultural Land
- Policy ELH2 – Conserving, Restoring and Enhancing Biodiversity
- Policy ELH3 – Green Corridors
- Policy ELH4 – Historic Rural Environment
- Policy H2 – Housing Mix
- Policy H3 – Car Parking

2.3.3 The site is partly within the area noted as being a “Local Green Corridor” on the map at page 23 of the Neighbourhood Plan, and as such Policy ELH3 should be considered. The policy seeks in terms of the Local Green Corridor development “Proposed development must not serve to disrupt the functions the corridor(s) performs” and notes that “in all circumstances proposals for new development in and adjacent to these corridors must demonstrate how the functions of the corridor(s) in question will be enhanced by the development.” The scheme is an outline application with all matters reserved other than access, the proposed access into the site would be taken from Colton Lane within an area within the ELH3 corridor. However, given that the purpose of ELH3 is to protect the “Brumber Car Drain” which follows watercourses and this was used to define the extent then in terms of this application it is considered that the impact will not negatively impact on the corridor and landscaping of the site will only enhance the corridor.

2.3.4 The above policies cover technical issues that were all considered as part of the assessment of the scheme within the **Appendix A** Report. The scheme is considered to be acceptable in terms of context of green infrastructure, biodiversity, loss of agricultural land, and visual impacts. The details of the scheme, that would be considered at the Reserved Matters stage, would confirm details of the layout which would need to account for the approaches within the Design and Access Statement and would include consideration of the design, landscape, open space provision, car parking provision and mix.

2.3.5 In addition all the policies within the AR & AC Neighbourhood Plan are cross referenced not only to the NPPF and Core Strategy Policies, as such full account has been taken within the Appendix Report to these matters, the key matter in considering the principle of development of the site is therefore Policy H1 and within the AR & AC Neighbourhood Plan.

2.3.6 Policy H1 of the AR & AC Neighbourhood Plan stipulates that new housing developments should be small in scale (under 10 units) and not overwhelm their surroundings. In this regards the proposals are contrary to the Neighbourhood Plan and a scale of 28 units would not be in accordance with Policy H1 of the Neighbourhood Plan.

2.4 The relationship of the proposed scheme to the Appleton Roebuck Conservation Area and the Heritage Settlement.

2.4.1 The application site is not within the Conservation Area, nor is the proposed access. The Appleton Roebuck Conservation Area boundary lies to the east of the application site (shown by the red star) on the plan at **Appendix B**.

2.4.2 The February 2017 Committee Report noted comments made by objectors on the relationship of the scheme to the Conservation Area and the sites location at the entrance to the village, which objectors note as being a heritage asset. This matter was also raised in the grounds of the SSBOT submissions to the High Court.

2.4.3 The Planning (Listed Building and Conservation Area) Act 1990 is not a relevant act in the determination of this application. The proposals do not affect a listed building or its setting and therefore this consideration is not required to be considered in this case.

2.4.4 The application site is not on land nor affects a building within a conservation area and therefore the provision to pay special attention to the desirability of preserving or enhancing the character or appearance of that area is not a statutory duty and therefore section 72 (1) is again not applicable in this case.

2.4.5 Relevant policies in respect to protecting and enhancing the character and local distinctiveness of the historic settlement includes Policy ENV25 of the Local Plan and Policy SP18 "Protecting and Enhancing the Environment" of the Core Strategy. Relevant policies within the NPPF also include paragraphs 126-141. Historic England's "The Setting of Heritage Assets Good Practice Advice in Planning: 3" also provides useful guidance.

2.4.6 The scheme's relationship to the Conservation Area, its relationship to the settlement and the submissions of SSBOT have all been considered by the Council's Conservation Consultant and they have noted that "Appleton Roebuck Conservation Area was designated in February 2000 under section 69 of the Planning (listed Building and Conservation Areas)Act 1990. The

application site is not located within or adjacent to the conservation area, as such their review focusses on whether the application would impact on the setting of the conservation area for Appleton Roebuck and the setting of the settlement.

- 2.4.7 In terms of the impact on the Conservation Area the Council's Consultant has advised that:

"The proposed development site is located on Colton Lane to the west of the Appleton Roebuck. It is not located within or immediately adjacent to the conservation area and is not located adjacent to or within the setting of a listed building. There will be no impact on any listed buildings. The main consideration of this proposal, in relation to heritage, is whether the proposed development would have an impact on the setting of the conservation area or Appleton Roebuck as an historic settlement".

- 2.4.8 The Council's Conservation Consultant also notes that:

"The setting of a heritage asset is the surroundings in which a heritage asset is experienced, its extent is not fixed and may change as the area around the asset evolves. The conservation area is located around the historic core of the settlement and contained within the built up area of the village. There is later development that surrounds the conservation area boundary that is not of sufficient architectural or historic interest to be included within the conservation area. This large area of later development is located between the proposed site and the boundary of the conservation area and is a feature of the village. This area of later development is located on the periphery of the settlement and creates a visual buffer between the proposed site and the conservation area. There is no intervisibility between the application site and the conservation area and although visual connections are not the only assessment of setting, it is an important consideration. In terms of historic links, there appear to be no historic links or relationships between any of the listed buildings or the buildings within the conservation area and therefore there will be no harm caused to the setting of the designated heritage assets within Appleton Roebuck. Whilst the proposed development site does contribute to the settlement by providing an agricultural setting to the village, it is not viewed in context with the conservation area. Therefore, the development of the site would not be harmful to the conservation area as a designated heritage asset".

- 2.4.9 In terms of the impact on the village of Appleton Roebuck the Council's Consultant has advised that:

"The proposed development site is located on the western edge of the village and would be visible when entering and exiting the village. The development would alter the gateway into the village and change the view of the village from the west. The development would also result in loss of agricultural land which surrounds the village. These concerns are not related to heritage assets, however, the farmland has a historic relationship with Appleton Roebuck as it is a traditional farming village. The farmland is considered to contribute to the local distinctiveness of Appleton Roebuck and its setting and can be assessed against the Core Strategy policy SP18".

2.4.10 Therefore, the Council's Conservation Consultant has concluded in their assessment that:

“Due to lack of intervisibility and lack of historic relationship between the application site and the designated heritage assets within the Appleton Roebuck Conservation Area, the proposed development site does not form part of the setting of the conservation area or any listed buildings within Appleton Roebuck. Therefore, in line with the NPPF and Historic England guidance GP3, as the site does not form part of the setting of the conservation area, no harm will be caused to the significance of the designated heritage assets.

In terms of the historic settlement of Appleton Roebuck, the village cannot be classed as a heritage asset as a whole and therefore will not be assessed against the policies within section 12 of the NPPF. The proposal can be assessed against the Selby Core Strategy Policy SP18 which requires development to safeguard the historic and natural environment and enhance the landscape character. The farmland to the west of Appleton Roebuck is a key contributor to the local distinctiveness of the village and by building on this land it will enlarge the size of the settlement and weaken its rural village character. The development would detract from the rural character of Appleton Roebuck to the detriment of its countryside setting”.

2.4.11 The comments of the Conservation Officer, confirm that there is no justification for the refusal of the scheme in terms of the impact on heritage assets by way of listed buildings / monuments or in terms of the impact on the Appleton Roebuck Conservation Area. The comments note concern which relates purely to the landscape impact of an increase in the size of the settlement and the settlements countryside setting.

2.4.12 In assessing the impact of the scheme in landscape terms Members were advised in the February 2017 Report at Section 2.9 (as attached at Appendix A and associated Update Note) on the assessment done by Officers and Landscape Consultants acting on behalf of the Council on the submitted information. It was in this context that Members were advised even though the proposal extends into the countryside, when looking at the development limit boundary this site would effectively create a defensible landscaped boundary which would ensure that the development would be neither visually prominent, nor discordant within the landscape as such a refusal on

landscaping grounds was not supported. Having reviewed the submitted information, had an independent review and visited the site Officers would advise that given the site's location on the edge of the settlement then subject to landscaping and the retention of existing hedgerows in line with the parameters plan it is considered that a suitable landscaping scheme and boundary treatment could be achieved at reserved matters stage to ensure that the scheme has an acceptable impact on landscape and the character and form of the area and accords with Policy SP18. In addition we advised Members that "Having taken all of the above into account it is considered that the site could provide an appropriate layout, appearance, scale and landscaping at reserved matters stage". Furthermore, we would advise Members that it is considered that the level of visual and landscape harm subject to a suitable scheme of mitigation can be mitigated such that the level of harm is not so significant to warrant refusing planning permission. An appropriate design, could be achieved as such the scheme is considered to accordance with the provisions of Policies ENV1(1) and (4) of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

2.4.13 Members were also advised that a condition could be used to secure additional planting on the boundary to the open countryside as part of the Reserved Matters submissions, which was on the consent subsequently quashed in April 2017.

2.4.14 The issue of landscaping was also considering in the re-consideration of the initial quash under Application 2015/0448/OUT, this was not refused on landscape grounds and as such in the context of the above although the comments of the Council's Conservation Officer are noted, given the advice the Council has had from the same Landscape Consultants and looking at the previous reasons for refusal on 2015/0448/OUT it is not considered that a reason for refusal on landscape / landscaping grounds can be defended or considered to be robust as an appropriate design, could be achieved as such the scheme is considered to accordance with the provisions of Policies ENV1(1) and (4) of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

2.4.15 The weighing of the benefits of the scheme

2.5.1 In the Appendix A report the benefits of the scheme were considered in the context of the lack of five year housing land supply and Paragraph 7 of the NPPF. The fact that Council now has a five year land supply does not negate the fact that the NPPF is a material consideration in the determination of a Planning Application, although the weight that can be applied to such benefits has to be balanced by the determining authority i.e. the Council. The noted benefits were as follows:

Social

The proposal would deliver both open market and affordable housing in Appleton Roebuck and hence promote sustainable and balanced communities and would assist in the Council meeting the objectively assessed need for housing in the district. The proposals would provide 40% on-site provision of affordable housing which would improve the tenure mix in this location. In addition the scheme would incorporate an area of recreational open space on-site.

Environmental

The proposal would deliver high quality homes for local people and take into account environmental issues such as flooding and impacts on climate change.

Economic

The proposal would generate employment opportunities in both the construction and other sectors linked to the construction market. The proposals would bring additional residents to the area who in turn would contribute to the local economy through supporting local facilities and services. Any loss of agricultural land would be marginal, both within a parish or at a district level.

- 2.5.2 These benefits would be derived from development of this scale, however provision of affordable housing in the settlement would be limited if only smaller scale development under Policy H1 of the ARNP. As the Council would not be able to request Affordable Housing on schemes under 10 units or 1000sqm in the context of the West Berkshire case and as such no new affordable housing would be able to be secured. Clearly, such a situation is not ideal and the reliance would then be on Rural Exception Sites around the settlement which would be limited also to the restrictions under Policy H1 of the AR & AC NP. Such exception sites have been developed previously in Appleton Roebuck which is occupied. This is something Members may wish to consider but Officers do not consider this to be of sufficient weight to support the scheme in the context of the 5 Year Housing Land Supply position and the context of the Development Plan including the Neighbourhood Plan.

2.6 Other Applications in the Settlement

- 2.6.1 There are other schemes recently considered or being considered by the Council within the settlement. There is an application for small scale developments being considered by the Council at this time for 8 units on land at Orchard Close (adjacent to this application site) under 2017/0753/OUT. A recent Appeal in relation to Application 2016/0201/OUT was withdrawn on the 18 December 2017 by the Appellants. All applications should be considered on their merits, as would be case for any future development within or adjoining the settlement. There is no requirement for the Council to consider the relative merits of this proposal in comparison with the adjoining scheme. Both, neither or one of the schemes could be permitted having been determined on their own merits and case law has advised that it is not the role of the planning system to inhibit competition in respect of meeting needs than can be met from competing sites.

2.7 S106 Requirements

- 2.7.1 The consent as issued by the Authority in February 2017 and had an associated S106 Agreement relating to the provision of 40% of units for Affordable Housing (at a mix of 70% rent and 30% intermediate), Waste and Recycling and Provision of On Site Recreational Open Space. These requirements would still be appropriate for the development should Members be minded to approve the application contrary to the Officer's recommendation.

3.0 Conclusion

- 3.1 The proposed scheme is made in outline with access to be agreed for up to 28 dwellings and all matters reserved for residential development on land outside the development limits of Appleton Roebuck which is a Designated Service Village and is therefore located within the open countryside.
- 3.2 As noted in the report at **Appendix A**, in respect of matters of acknowledged importance such as climate change, flood risk, ecology, drainage, impact on residential amenity, highway safety, landscape impact, contaminated land and protected species it is considered that the scheme is acceptable in all of these regards.
- 3.3 However, the development proposal is contrary to the Development Plan in terms of the spatial strategy and the Neighbourhood Plan in terms of Policy H1. The Council can demonstrate a five year supply of deliverable housing land and Policy SP2A (a) makes it clear that the location of future development will be based upon a series of settlement hierarchy principles, one of which focuses upon the growth of Designated Service Villages (DSVs), such as Appleton Roebuck. In the case of this settlement it is considered to have some scope for additional residential and small-scale employment growth to support rural sustainability. The commentary in the Core Strategy details 'additional limited growth or limited further growth' (paragraphs 4.12 and 4.27).
- 3.4 The rationale for supporting limited growth in Designated Service Villages through the Core Strategy was intended to meet local demand for housing and employment opportunities (Core Strategy paragraph 4.12). It was not intended to create new high growth villages which could contribute towards unsustainable patterns of commuting and potentially the creation of dormitory settlements. While the DSV's have a level of sustainability which is often a function of their size and range of services, the focus for large scale growth is orientated in the Core Strategy towards the more sustainable Principal Town and Local Service Centres.
- 3.5 As such the development of the appeal site for housing would be in conflict with Core Strategy Policies SP2 and SP5. The Core Strategy envisages only "limited" growth in DSVs to support rural sustainability. Any other approach would inevitably lead to unsustainable levels of housing development in the villages and a fundamental undermining of the spatial strategy.

- 3.6 If this scheme were to be permitted it would result in 33 dwellings permitted for the parish of Appleton Roebuck overall. This is over the 23 dwellings recommended in the Growth Options for Appleton Roebuck. As such, it is clear that there is a notable difference between any of the potential growth options and the amount of development built and approved in Appleton Roebuck. This disproportionate level of growth for a Designated Service Village, in the third tier behind the Principal Town and Local Service Centres for sustainability in the Councils settlement hierarchy, would undermine the spatial strategy and policies of the Core Strategy.

4.0 Recommendation

This application is recommended to be **REFUSED** on the following grounds:

01. The proposal would be located within the countryside wherein development is limited to those types identified in criterion (c) of Policy SP2A in order to achieve sustainable patterns of growth set out within the Spatial Development Strategy. The proposal for 28 dwellings, when added to the 33 dwellings that have been built or approved in Appleton Roebuck since the start of the Plan Period to June 2017 would substantially exceeds the minimum growth options of between 17 – 23 dwellings for Appleton Roebuck identified by research in connection various growth options for the Designated Service Villages as part of the development of PLAN Selby in July / August 2015. The proposal would therefore lead to an unacceptable level of growth which would be inappropriate to the size and role of Appleton Roebuck and conflict with the Spatial Development Strategy set out in Policy SP2A of the Selby District Core Strategy Local Plan and Policy H1 of the Appleton Roebuck and Acaster Selby Neighbourhood Plan 2017-2027.
02. The proposal would be located within the open countryside and approval of this application for housing is in conflict with the recently adopted Core Strategy's spatial development strategy for this Designated Service Villages in Selby District Core Strategy Policies SP2 (A) (a) and SP5 (A) and (E) and Policy H1 of the Appleton Roebuck and Acaster Selby Neighbourhood Plan 2017- 2027.
03. The site is outside the development limits of Appleton Roebuck and the proposed scheme does not fall within any of the acceptable forms of development included in Policy SP2 (c) of the CS. It would be a substantial encroachment into a Greenfield site in the open countryside. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village.

5.0 Legal Issues

5.1 Planning Acts

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

5.2 Human Rights Act 1998

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

5.3 Equality Act 2010

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

4.0 Financial Issues

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

5. Conclusion

5.1 As stated in the main body of the report.

6. Background Documents

6.1 Planning Application file reference 2016/1322/OUTM and associated documents.

Contact Officer:

Yvonne Naylor
Principal Planning Officer

Appendices:

Appendix A – Report and Officer Update Note Extract considered on 8 February 2017

Appendix B – Appleton Roebuck Conservation Area and the Site Relationship



Report Reference Number 2016/1322/OUTM

Agenda Item No:

To: Planning Committee
Date: 8 February 2017
Author: Yvonne Naylor (Principal Planning Officer)
Lead Officer: Jonathan Carr (Lead Officer – Planning)

APPLICATION NUMBER:	2016/1322/OUTM 8/79/233A/PA	PARISH:	Appleton Roebuck
APPLICANT:	Baylis & Baylis Ltd	VALID DATE: EXPIRY DATE:	9 November 2016 8 February 2017 (EOT 13 March 2017)
PROPOSAL:	Outline application with means of access for approval (all other matters reserved) for the erection of up to 28 dwelling with associated infrastructure and open space provision		
LOCATION:	Colton Lane, Appleton Roebuck		

This application has been brought before Planning Committee as Officers consider that although the proposal is contrary to the provisions of the Development Plan there are material considerations which would justify approval of the application. There has also been a level of objections that mean the application is considered to be locally controversial.

Summary:

The proposed scheme is made in outline with all matters reserved for residential development on land abutting the development limits of Appleton Roebuck which is a Designated Service Village. The proposal is contrary to Policy SP2A(c) of the Core Strategy and should be refused unless material considerations indicate otherwise. On such material consideration is the NPPF.

The Council accepts that it does not have a 5 year housing land supply and proposals for housing should be considered in the context of the presumption in favour of sustainable development and paragraph 49 of the NPPF. Having had regard to paragraph 49 of the NPPF, it is considered that Policies SP2 and SP5 are out of date in so far as they relate to housing supply. However, in assessing the proposal, the development would bring economic, social and environmental benefits to the village of Appleton Roebuck.

The proposal is considered to be acceptable in principle. In respect of matters of acknowledged importance such as climate change, flood risk, ecology, drainage, impact on residential amenity, highway safety, contaminated land and protected species it is considered that any harms arising from the development would not significantly and demonstrably outweigh the benefits of the application when assessed against the NPPF taken as a whole.

Therefore the proposal is considered acceptable when assessed against the policies in the NPPF taken as a whole, Selby District Local Plan and the Core Strategy.

Recommendation

This application is recommended to be GRANTED subject to a S106 to secure the provision of 40% of units for affordable housing (at a mix of 70% rent and 30% intermediate), waste and recycling and provision of on-site recreational open space and the noted conditions at Section 2.21.

1. Introduction and background

1.1 The Site

1.1.1 The application site is located within the countryside but sits in very close proximity to, and abuts in part, the defined development limits of Appleton Roebuck. It comprises an area of 1.34 hectares of land currently in use by the occupiers of Hillcrest House in association with the occupation of the dwelling and agricultural land.

1.1.2 The site is immediately to the west of Hillcrest House and has a defined boundary to this property. The frontage to Colton Lane is comprised of a low hedgerow with a number of trees in the highway verge, and a gated entrance serving the site at the eastern end of the site. The remainder of the boundaries are formed by a low hedgerow.

1.1.3 The properties in proximity to the site are mixed in design and materials and there is a single bungalow adjacent to the site, known as Hillcrest House.

1.1.5 The site is located within Flood Zone 1.

1.2. The Proposal

- 1.2.1 The application seeks outline planning permission for residential development with the means of access for approval and all other matters reserved. The application indicates a maximum of 28 dwellings with associated infrastructure and open space provision.
- 1.2.2 The application is accompanied by an indicative layout plan and a parameters plan. The indicative layout shows how the site could be laid out to provide a total of 28 dwellings, 11 of which are shown as affordable units and 17 for private sale, giving a density of 24 dph. The layout also shows provision of 1,697 square metres of onsite recreational open space.

1.3 Planning History

- 1.3.1 Application 2015/0448/OUT was for “Outline application with means of access for approval (all other matters reserved) for the erection of up to 28 no. dwellings with associated infrastructure and open space provision on land adjacent to Hillcrest House”. This application was initially considered by Planning Committee in September 2015 and planning permission was granted on the 1st December 2015 following signing of the required S106 Agreement. However, this decision was quashed as a result of Court submissions by Sam Smiths Old Brewery Tadcaster (SSOBT). As such the application was re-considered by Committee in September 2016 in the context of any changed circumstances or new material considerations since the original consent was issued and a new decision issued by the Authority accordingly on the application.

- 1.3.2 The application was therefore refused on 7th September 2016, on the basis that

01. The proposal would be located within the open countryside wherein development is limited to those types identified in criterion (c) of Policy SP2A in order to achieve sustainable patterns of growth set out within the Spatial Development Strategy. The proposal for 28 dwellings, when added to the 27 dwellings that have been built or approved in Appleton Roebuck since the start of the Plan Period in April 2011 would substantially exceed the minimum growth options of between 17 – 23 dwellings for Appleton Roebuck identified by research in connection various growth options for the Designated Service Villages as part of the development of PLAN Selby in July / August 2015. The proposal would therefore lead to an unacceptable level of growth which would be inappropriate to the size and role of Appleton Roebuck and conflict with the Spatial Development Strategy set out in Policy SP2A of the Selby District Core Strategy Local Plan.

02. The proposal would be located within the open countryside and approval of this application for housing is in conflict with the recently adopted Core Strategy’s spatial development strategy for this Designated Service Villages in Selby District Core Strategy Policies SP2 (A) (a) and SP5 (A)

and (E)

1.4 Consultations

1.4.1 Appleton Roebuck and Acaster Selby Parish Council

- Noted history of the site and the refusal of consent in September 2016
- Consider only resubmitted to there being some doubt over SDC's 5 year housing land supply
- Since September 2016 circumstances in the village remain unchanged in that Appleton Roebuck is still the least sustainable village in Selby District which accounts for it being ranked lowest in their list of 29 villages capable of sustainable growth.
- The 'substantial unsustainability' of the proposal has been accepted, inter alia, by SDC in its previous refusal, therefore the application should fail for this reason alone.
- The application is contrary to ENV 1, SP18, SP19, 3.4 & 4.21 of the Core Strategy. These all require new development to fit in with the current form and character of a settlement, reinforcing its distinct identity and contributing to its heritage in terms of scale, density and layout. This proposed development would do the opposite, and increase the size of the village by 9%.
- In June 2016 the draft PLAN Selby evidence document "Settlement Setting, Landscape Assessment" changes the status of the landscape to "High sensitivity to development due to the distinctive picturesque rural settlement. Large scale development entirely up to the boundary of AR would be very visually intrusive to the existing distinctive view as it would change the existing mature and dense wooded rural setting to the village. These areas should be protected and enhanced." Concluding that that the entire settlement boundary should be protected from development.
- If this proposal were to go ahead, up to 28 houses would be built on a rise just before the entrance to the village, clearly visible from a distance, thus changing the form and character of the settlement. This is completely contrary to SP18 of the Core Strategy.
- The impact of the development cannot be mitigated by planting
- There is no need for further affordable housing in the settlement
- The application is also Contrary to the NPPF sustainable transport policy
- The proposal will take out productive arable land.
- The application recognises that from examination of the site soakaways are not viable and still plans to use Brumber Carr Drain as its surface water drainage strategy. However, the adjacent landowner has refused permission for access across his land, therefore the drainage strategy is out of date.
- The development would put further unacceptable strain on a failing infrastructure
- Since September 2016 is that Appleton Roebuck and Acaster Selby Neighborhood Development Pan has now been approved by Selby DC,

and submitted for examination. As such it is considered an emerging plan (Para 216 NPPF) and must be given weight when considering planning applications. In our NDP it clearly states that whilst the parish is in favor of sustainable small scale development it does not support groups of more than 10 houses. In fact, the NDP household survey revealed support for groups of 5 houses or fewer, but the number was increased to 10 to align our policy with those of SDC whereby 'small scale development' is considered to be 10 houses.

1.4.2 Yorkshire Water Services Ltd

No objections subject to conditions on:

- Provision of satisfactory outfall
- Implementation in accordance with the submitted Flood Risk Assessment (prepared by Royal Haskoning DHV - Report RDCPB3578R001F03 dated 24/06/2015) is satisfactory from Yorkshire Water's viewpoint which confirms that the Sub-soil conditions may support the use of soakaways and therefore that all surface water will discharge to watercourse (Brumber Car Drain) which exists near to the site.

1.4.4 Sustainable Drainage Officer

No objection subject to conditions on submission of a detailed design and associated management and maintenance plan of surface water drainage.

1.4.5 Ainsty Internal Drainage Board

- Noted that the Board does have assets adjacent to the site in the form of various watercourses; these watercourses are known to be subject to high flows during storm events.
- Request a condition on any consent that requires submission and agreement of a scheme and notes that 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.
- The suitability of soakaways
- Evidence that surface water from the existing site currently discharges to the adjacent watercourse and shall provide details of those points of discharge and the ability of the watercourse to accept this flow should be determined by the Applicant prior to works commencing.

1.4.6 NYCC Highways

Note that concerns raised on the previous application (2015/0448/OUT) were addressed during the life of that application and this was not refused on highways grounds, Officers have noted that “The Village sign and tree were placed in the highway with the approval of the County Council at the request of the Parish Council, but to date, I have not been provided with written agreement of any conditions which prevent its relocation, so as long as the County Council as well as the District Council have been consulted and a new location has been agreed for the tree and Village sign as well as the relocation of the 30mph limit with all the interested parties, an appropriate condition should ensure they are placed in a safe location”. In this context, the Local Highway Authority recommends Conditions in relation to:

- Detailed plans or road and footway layout
- Construction of Roads and Footways prior to occupation of dwellings
- Discharge of Surface Water
- Visibility Splays
- Approval of Details for Site Works in the Highway
- Construction Management Plan

And an informative on Traffic Order requirements to secure works.

1.4.7 Council’s Contaminated Land Consultants

Advised on the earlier application for the site (Reference 2015/0448/OUT) and confirmed that the submitted report was acceptable there are no significant contaminant linkages that are likely to impact receptors associated with residential development with gardens. As such noted that “it would be prudent for the consultant to maintain a watching brief and if necessary prepare a report detailing and assessing any currently unknown issues with contamination and standard conditions would cover the potential requirement for such reporting and assessment.

The same information and report has been submitted as part of this application and there has been no intervening land use.

1.4.11 North Yorkshire Bat Group

Referred officers back to their comments on 2015/0448/OUT where they noted

- Concern that the ecologists have not carried out a data search for existing records of bats in the area, nor have they done any bat activity surveys of the site.
- Agreed that the development site itself is very unlikely to support roosting bats and note that the ecologists acknowledge the likely importance of hedgerows to commuting and foraging bats and recommend their retention and enhancement.
- We support the inclusion of built-in bat roost features into any new properties built on the site and would also suggest the inclusion of nesting boxes for Swifts; conditioning inclusion of these features would be appropriate. We also support the proposals to restrict exterior lighting, though how this would be done is rather vague

1.4.12 NYCC Education

Note a requirement for a contribution to be sort, if appropriate in the context of CIL Schedule.

1.4.9 Primary Care Trust

No response in the statutory consultation period

1.5 Publicity

- 1.5.1 The application was advertised by site notices, press notices and neighbour notification letter resulting in 13 letters of objection (as received by the 9th January 2017). The issues raised can be summarised as follows:

Principle of Development

- The development is outside the village envelope / development limits
- There have been numerous residential developments in the village over recent years and the settlement has grown significantly, providing more than its fair share of additional housing
- Will set a precedent for more development outside the development limits
- Unsustainable location for development – no employment, no transport and no services
- Benefits of the development, such as affordable housing / open space monies, do not outweigh the harm
- The settlement should not be a Designated Service Village (DSV)
- Development should not be supported simply because there is a lack of 5 year housing land supply
- If and to what extent the District is underperforming on housing supply, is clearly material to the determination of the application but the issue is not fully understood and it is not possible to correctly apply weight to this consideration when reaching the planning balance

- The applicant's approach to the application of guidance within the NPPF is flawed and should not be relied upon in the determination of the proposal. The failure to provide adequate information in support of the application directly leads to the applications failure to trigger the guidance within paragraph 14 of the NPPF
- Development outside the settlement would provide a level of growth entirely inappropriate for the settlement and its role within the emerging spatial strategy, and its overarching aim of achieving sustainable development patterns in the district.
- The proposal is fundamentally an unsustainable type of development to be developed in this location, therefore doesn't represent any of the special circumstances set out within the guidance and as such the proposal is directly contrary to the policies within the NPPF and development plan policies SP1, SP2, SP6 and SP15.
- The sustainability of the development in the open countryside is the main issue at the heart of this application and it must be refused planning permission.
- The PLAN Selby strategy envisages a series of growth scenarios for the settlement which for Appleton Roebuck is noted a between 17 and 23 dwellings during the plan period.

Character

- Visual impact of the development would harm the nature and character of the entrance to this conservation village
- Development will significantly increase the size of the village
- The scheme is to dense a form of development
- Development of this scale will impact on character of the settlement
- Will have significant impact on the landscape character

Highways

- Would impact on highway safety given the location of the site on the edge of the settlement and as a result of interactions with other users
- Road network is congested particularly A64 on race day
- The layout plans show inadequate parking provision for the number of dwellings
- Will result in unsafe overtaking and parking issues

Effect on Services and Amenities

- School is oversubscribed and landlocked
- The village lacks open space provision which would be an issue for new occupiers
- There are no facilities in walking distance of the site.
- Unclear how waste and recycling will be accommodated and where they would be collected from by the Council

Other Matters

- Existing issues with sewerage capacity will be exacerbated and instances of flooding will increase
- Submission of the application just before Christmas is tactical
- Development should not be supported ahead of the progression of the Local Development Plan and at this scale the development is not in accordance with this Plan
- The views of the local community should be considered in the context of the Localism Act 2010
- Will result in loss of agricultural land and Officers have insufficient information to assess this impact
- The proposal is premature to both the emerging Sites and Policies Plan and the Parish Neighbourhood Plan. Approval of the proposal would be pre-judge not only the quantum of development to be housed within the settlement, but also the location of growth (if any is identified). On this basis, the grant of planning permission for the proposals would render the plan making process of both components of the development plan academic exercises with no value to guiding the approach to development in the settlement.

2. Report

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

2.2 Selby District Core Strategy Local Plan

2.2.1 The relevant Core Strategy Policies are as follows:

Policy SP1	Presumption in Favour of Sustainable Development
Policy SP2	Spatial Development Strategy
Policy SP5	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

2.3 Selby District Local Plan

Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, the guidance in paragraph 214 of the NPPF does not apply and therefore 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)".

The relevant Selby District Local Plan Policies are:

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- Policy ENV1: Control of Development
- Policy ENV2: Environmental Pollution and Contaminated Land
- Policy T1: Development in Relation to Highway
- Policy T2: Access to Roads
- Policy T7: Provision of Cyclists
- Policy RT2: Recreational Open Space
- Policy CS6: Developer Contributions to Infrastructure and Community Facilities

2.4 National Guidance and Policy – National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG)

On the 27th March 2012 the Government published the National Planning Policy Framework (NPPF). The NPPF replaced the suite of Planning Policy Statements (PPS's) and Planning Policy Guidance Notes (PPG's) and now, along with the Planning Policy Guidance (PPG), provides the national guidance on planning.

The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development. Paragraph 14 of the NPPF states "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".

The NPPF and the accompanying PPG provides guidance on wide variety of planning issues the following report is made in light of the guidance of the NPPF.

2.5 Other Policies/Guidance and Local Authority Guidance Notes

- Affordable Housing Supplementary Planning Document, February 2014.
- Appleton Roebuck Village Design Statement, February 2012
- Five Year Supply Guidance Note for Applicants, January 2017

2.6 Key Issues

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

1. The appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability contained within the Development Plan and the NPPF
2. Impacts arising from the development:
 1. Impact on the character, form, locality and landscape
 2. Impact on residential amenity
 3. Impact on the highway network
 4. Loss of agricultural land
 5. Flood risk, drainage and climate change
 6. Impact on nature conservation interests and protected species
 7. Contaminated land and ground conditions
 8. Affordable housing
 9. Recreational open space
 10. Education / healthcare and waste and recycling
 11. Other matters
3. Taking into account the presumption in favour of sustainable development determining whether the adverse impacts of the development significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

2.7 The Appropriateness of the Location of the Application Site for Residential Development in Respect of Current Housing Policy and Guidance on Sustainability Contained within the Development Plan and the NPPF.

2.7.1 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.

2.7.2 The site lies outside the defined development limits of Appleton Roebuck and therefore is located in open countryside.

2.7.3 Relevant policies in respect of the principle of this proposal include Policy SP2 "Spatial Development Strategy" and Policy SP5 "The Scale and Distribution of Housing" of the Core Strategy.

2.7.4 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.

2.7.5 In light of the above policy context the proposals to develop this land for residential purposes are contrary to policy SP2A(c) of the Core Strategy. The proposal should therefore be refused unless material circumstances exist that would indicate otherwise. One such material consideration is the National Planning Policy Framework.

2.7.6 The Local Planning Authority, by reason of paragraph 47 of the NPPF, is required to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against its policy requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for housing land. Furthermore where, as in the case of Selby District, there has been a record of persistent under delivery of housing, the LPA is required to increase the buffer to 20%. The Council conceded in the appeal APP/N2739/W/16/3144900 of October 2016 that it did not have a 5 year supply of deliverable housing land as required by paragraph 47 of the NPPF. The Appeal Decision confirms that the level of supply in December 2016 was around 4.3 years supply.

2.7.7 Given the above, the principle of residential development on the site must be assessed against paragraph 49 of the NPPF which states that

“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

2.7.8 Paragraph 14 is therefore relevant to the assessment of these proposals and states that “at the heart of the framework is a presumption in favour of sustainable development”, and for decision taking this means, unless material considerations indicate otherwise,

Approving development proposals that accord with the development plan without delay; and

Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole; or

Specific policies in this framework indicate development should be restricted.

2.7.8 In the footnote to paragraph 14 it indicates that the reference to specific policies is a reference to area specific designations including those policies relating to sites protected under the Birds and Habitats Directives and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion. In this case the site does not fall within any special landscape designation and is not Green Belt, and the site is located within Flood Zone 1. Therefore, in this case, the site does not fall within any of the specific policies listed, the proposals should therefore be considered on the basis of whether any adverse impacts significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole.

2.7.9 As set out above the development plan policies with respect to housing supply (SP2 and SP5) are out of date so far as they relate to housing supply and therefore the proposals should be assessed against the criteria set out above.

2.7.10 The Council's Guidance Note "Five Year Supply Guidance Note for Applicants January 2017" describes how proposals will still be assessed for their economic and social benefits and environmental impacts and in accordance with the adopted Core Strategy and saved policies from the 2005 Selby District Local Plan. In particular, the settlement hierarchy remains a key consideration in the determination of planning applications for housing; in terms of the level of services and facilities within the settlement i.e. education and health, shops, transport services and sports and recreational facilities. Policies which are 'out of date' can still be given weight in the planning balance however the adverse impacts identified must 'significantly and demonstrably' outweigh the benefits of the development when assessed against the policies in the NPPF as a whole including the need to increase housebuilding, provide for identified housing need and maintain a supply of deliverable sites. As such each application will be judged on its own merits and take into account factors such as :

- Visual impact on the character and form of the area
- Flood risk, drainage and climate change
- Residential amenity & availability of services
- Impact on highways & capacity of public transport
- Impact on heritage assets
- Affordable housing
- Recreational open space
- Nature conservation and protected species
- Contamination
- Impact on the Green Belt
- The deliverability of the scheme and its likelihood of adding to the 5 year supply of housing

2.7.11 In respect of sustainability, the site is in part adjacent to the development limits of the village of Appleton Roebuck which is a Designated Service Village as identified in the Core Strategy where there is scope for additional residential growth to support rural sustainability. The village has a primary school, two public houses, a petrol filling station that does MOT's, two churches and village hall. There is also a mobile library service into the village and recreational opportunities including a tennis club and a riding stables and a local playgroup. The village also benefits from a bus service, the bus stop is within 375m of the site entrance which provides a Monday to Saturday services linkage to York and Selby. It is therefore considered that the settlement is served by local services which weigh in favour of a conclusion that in terms of access to facilities and a choice of mode of transport, that despite the site being located outside the defined development limits of the settlement, the site can be considered as being in a sustainable location.

2.7.12 In addition to the above it is noted that the village of Appleton Roebuck has been designated as a Designated Service Village, both within the Selby District Local Plan and within the Core Strategy which demonstrates that the Council has considered the village a sustainable location. Although the village is considered to be "least sustainable" in Background Paper 5 "Sustainability Assessment of Rural Settlements" of the Core Strategy this does not mean that the village is an unsustainable location. Having taken these points into account, despite the fact that the site is located outside the defined development limits of Appleton Roebuck it is noted that it abuts the boundary and would be served by the facilities within this settlement and as such it is considered that the site performs appropriately on balance with respect to its sustainability credentials in these respects.

2.7.13 Paragraph 7 of the NPPF, states that there are three dimensions to sustainable development, these being of an economic, social and environmental nature. These dimensions give rise to the need for the planning system to perform a number of roles. In response to this the applicant has commented as follows: -

Social

The proposal would deliver both open market and affordable housing in Appleton Roebuck and hence promote sustainable and balanced communities and would assist in the Council meeting the objectively assessed need for housing in the district. The proposals would provide 40% on-site provision of affordable housing which would improve the tenure mix in this location. In addition the scheme would incorporate an area of recreational open space on-site.

Environmental

The proposal would deliver high quality homes for local people and take into account environmental issues such as flooding and impacts on climate change.

Economic

The proposal would generate employment opportunities in both the construction and other sectors linked to the construction market. The proposals would bring additional residents to the area who in turn would contribute to the local economy through supporting local facilities and services. Any loss of agricultural land would be marginal, both within a parish or at a district level.

2.7.14 These considerations weigh in favour of the proposal.

2.7.15 A number of comments have been made by local residents as to the size of the development in relation to the scale of the village. As set out above, the policies in the Core Strategy which relate to housing provision within each of the settlements are considered out of date due to the lack of a five year supply. As such the proposals are assessed on their own merits with respect to the impacts of this size of development on the existing services and facilities which are considered in detail below and concluded to be acceptable.

2.7.16 Objectors have also referenced that the PLAN Selby strategy envisages a series of growth scenarios for the settlement which for Appleton Roebuck is noted a between 17 and 23 dwellings during the plan period. In any instance the settlement has seen new net completions in the settlement between 1 April 2011 and 31st March 2016 have equated to 20 units and as of the 31/03/2016 there were 3 dwellings with outstanding permissions. However, a recent Appeal decision (Ref APP/N2739/W/16/3151448 – Land North of Weeland Road Eggborough dated 28th December 2016) noted that these growth options do not form part of the development plan and therefore have only limited weight.

2.7.16 It is therefore concluded that the location of the site is appropriate for residential development in respect to current housing policy and guidance on sustainability contained within the Development Plan and the NPPF.

2.8 The Impacts of the Proposal

2.8.1 Paragraph 14 of the NPPF requires the decision taker to determine whether any adverse impact of granting planning permission significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This sections looks at the impacts arising from the proposal.

2.9 Impact on the Character and Form of the Locality

2.9.1 Relevant policies in respect to design and the impacts on the character of the area include Policy ENV1(1) and (4) of the Selby District Local Plan, and Policies SP18 “Protecting and Enhancing the Environment” and SP19 “Design Quality” of the Core Strategy.

2.9.2 Significant weight should be attached to the Local Plan Policy ENV1(1) and (4) as it is broadly consistent with the aims of the NPPF.

- 2.9.3 Relevant policies within the NPPF, which relate to design, include paragraphs 56, 60, 61, 65 and 200.
- 2.9.4 The proposed scheme seeks outline consent with means of access for approval and all other matters reserved. The description of development states that up to 28 units would be provided alongside associated infrastructure and open space provision. The application is also accompanied by a Design and Access Statement and a Landscape and Visual Appraisal. The applicants have also submitted a Parameters Plan and Indicative Layout Plan.
- 2.9.5 In terms of landscaping, the submitted Landscape and Visual Assessment has assessed the scheme in terms of the relationship with landscape context of the area and the topography of the site and context. The report accepts that there will be some visual change in the landscape context as a result of the development of the site for residential development, however it concludes that the development would not result in an uncharacteristic or unacceptable impact on the landscape. Having reviewed the submitted information and visited the site Officers would advise that given the site's location on the edge of the settlement then subject to landscaping and the retention of existing hedgerows in line with the parameters plan it is considered that a suitable landscaping scheme and boundary treatment could be achieved at reserved matters stage to ensure that the scheme has an acceptable impact on the character and form of the area. In this instance given the sites relationship to the open countryside it is consider prudent to utilise a condition on the outline consent to ensure that a landscape buffer and planting is secured as part of the reserved matters submissions for the northern boundary of the site.
- 2.9.6 The emerging PLAN Selby evidence on the sensitivity of the landscape to development has yet to be published and therefore it carries limited weight at this stage, in addition further assessments / reviews are still to be undertaken to underpin this base information. This information will now not be published in its current form and will be formally reviewed in due course.
- 2.9.7 On balance, it is considered that the even though the proposal extends into the countryside, when looking at the development limit boundary this site would effectively create a defensible landscaped boundary which would ensure that the development would be neither visually prominent, nor discordant within the landscape. Having reviewed the submitted information, had an independent review and visited the site Officers would advise that given the site's location on the edge of the settlement then subject to landscaping and the retention of existing hedgerows in line with the parameters plan it is considered that a suitable landscaping scheme and boundary treatment could be achieved at reserved matters stage to ensure that the scheme has an acceptable impact on landscape and the character and form of the area and accords with Policy SP18.
- 2.9.8 The design and materials on the surrounding properties are a mixture and as such it is considered that proposals could incorporate appropriate materials and detailed design finishes at reserved matters stage which would respect the character of the surroundings reflective of the approaches outlined in the Village Design Statement and the submitted Design and Access Statement.

2.9.9 Having taken all of the above into account it is considered that the site could provide an appropriate layout, appearance, scale and landscaping at reserved matters stage. Furthermore it is considered that an appropriate design, could be achieved that would be in accordance with the provisions of Policies ENV1(1) and (4) of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

2.10 Impact on Residential Amenity

2.10.1 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.

2.10.2 In respect to the NPPF it is noted that one of the twelve core planning principles of the NPPF is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Paragraph 200 of the NPPF relates to the removal of national permitted development rights which should be limited to situations where this is necessary to protect local amenity.

2.10.3 The key considerations in respects of residential amenity are considered to be the potential of the proposal to result in overlooking, overshadowing and overbearing.

2.10.4 With respect to other residential properties surrounding the application site then the only potential impact would be on Hillcrest, Orchard Close and on Ainsty Garth. The indicative layout shows no direct overlooking of Hillcrest and appropriate separation distances to Ainsty Court and Orchard Close. As such it is considered that a scheme could be designed to provide appropriate separation distances from these properties. It is therefore considered that an appropriate scheme could be designed at reserved matters stage which would ensure that no significant detrimental impact is caused to existing residents through overlooking, overshadowing or creating an oppressive outlook in accordance with policy ENV1(1) of the Local Plan and the NPPF.

2.10.5 It is therefore considered that the proposed development would not result in a significant detrimental impact on the residential amenities of the area and that a good standard of residential amenity would be achieved in accordance with Policy ENV1(1) of the Local Plan and the NPPF.

2.11 Impact on the Highway Network

2.11.1 Policy in respect to highway safety and capacity is provided by Policies ENV1(2), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and Paragraphs 34, 35 and 39 of the NPPF.

2.11.2 Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.

2.11.3 The application seeks agreement of the access to the site and the applicants have submitted a Highways Plan (Ref 15/105/001 Rev A) which would be a listed plan on any consent. The submitted highways plan shows provision of a single access point into the site, visibility splays of 2.4m by in excess of 200m to the south east (into the village) and 2.4m x 88m to the south west (out of the village). The plan confirms that the existing hedgerow will be maintained by agreement, that the new access will be constructed to adoption standards, the provision of pedestrian cross tactile paving to allow crossing of the access road within the site, the provision of a 2.0m footway on Colton Lane towards the village along the frontage of Hillcrest House, the relocation of the village sign to outside the visibility splay and provision of 30mph road marking and signs. The internal layout and parking provision for the units will be confirmed at the reserved matters stage.

2.11.4 North Yorkshire County Council Highways have confirmed that they have no objections to the application and have noted a series of conditions which given that the application is seeking approval of access are supported by the Officers. It is also noted that appropriate cycling provision could be made at the reserved matters stage.

2.11.5 Having had regard to the above it is considered that the scheme is acceptable and in accordance with policies ENV1(2), T1, T2 and T7 of the Local Plan and Paragraphs 34, 35 and 39 of the NPPF.

2.12 Loss of Agricultural Land

2.12.1 Policy in respect to the loss of agricultural land is provided by Policy SP18(9) of the Core Strategy and paragraph 112 of the NPPF. Paragraph 112 of the NPPF states local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Such land comprises grade 1-3a agricultural land.

2.12.2 The Parish Council and objectors have raised the issue of the potential loss of agricultural land through the proposed development.

2.12.3 The application is accompanied by an assessment of the agricultural land prepared by Soil Environment Services, dated April 2105. This shows that although the site is shown as Grade 2 on the MAFF (1983) Maps the testing has shown the site to constitute 1 hectare of Grade 3b and 0.3 hectare non-agricultural grade land. The proposal would therefore not result in the loss of best and most versatile agricultural land and in this respect the proposal is not contrary to Paragraph 112 of the NPPF.

2.12.4 Members are also advised that the majority of land within the district is Grade 3 also.

2.12.5 Therefore, having had regard to Policy SP18(9) of the core Strategy and paragraph 112 of the NPPF, it is considered that although the loss of agricultural land and associated loss of economic and other benefits weighs against the proposal, given the size of the application site and the agricultural grading of the land, only very limited weight should be afforded to this matter.

2.13 Flood Risk, Drainage and Climate Change

- 2.13.1 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design. These policies should be afforded significant weight.
- 2.13.2 The application site is located in Flood Zone 1 thus is considered to be at a low probability of flooding.
- 2.13.3 The application is accompanied by a Flood Risk Assessment prepared by Royal Haskoning DHV which examines potential flood risks from a series of sources and outlines discussions with statutory bodies. The report notes that there is a low level of flood risk to the site and that there is no specific need for any flood risk mitigation measures.
- 2.13.4 The Report also considers the approach to the site drainage strategy and notes the need for separate systems with surface water not being discharged to public sewers and foul sewerage connected to the main sewer.
- 2.13.5 The SUDs Officer, Yorkshire Water and the Internal Drainage Board have been consulted on the proposals and have raised no objections subject to a series of drainage conditions.
- 2.13.6 With respect to energy efficiency, the supporting statement confirms in terms of Policy SP16 then the applicants would be prepared to accept a condition to require that 10% of the total predicted energy requirements to the development be provided from renewables, low carbon or decentralised energy sources as part of the development. It is considered that this can be secured via condition and as such the proposals accord with Policies SP15 and SP16 of the Core Strategy.
- 2.13.7 Other matters in respect of policy SP15 and SP16 can be met either compliance with current buildings regulations or through the reserved matters stage wherein the layout, design and landscaping would be considered (with the exception of criterion A which relates to plan making and wherein issues raised are, where appropriate, dealt elsewhere in this report).
- 2.13.8 Having taken the above into account it is therefore considered that the proposals adequately address flood risk and drainage subject to appropriate conditions and that climate change and energy efficiency measures can be secured either via condition to ensure that these are incorporated at reserved matters stage, or specifically dealt with at reserved matters stage, in accordance with Policies SP15, SP16 and SP19 of the Core Strategy and the NPPF.

2.14 Impact on Nature Conservation and Protected Species

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

- 2.14.2 Relevant policies in respect to nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 “Protecting and Enhancing the Environment” of the Core Strategy. These Local Plan policies should be afforded substantial weight as they are broadly consistent with the aims of the NPPF.
- 2.14.3 The application included an Ecological Appraisal prepared by Tyler Grange which assesses the site. The report states that the site is not covered by, or adjacent to, any sites that are the subject of statutory or non-statutory protection, however several such sites are located within the study area. The report also notes that the closest non statutory site lies 1.2km to the north, the site boundaries offer suitable foraging and commuting habitat for bats and nesting birds and there are marginal habitats which offer potential to support badgers and hedgehogs. The Report notes that “the most significant issue with respect to development of the site is the loss of the hedgerows and the potential for adverse effects on bats. As such it is recommended that development designs retain and enhance the existing hedgerows and include the creation of new native species rich hedgerows. This will increase the ecological value of habitat on site and increase the foraging opportunities for bats”. In addition it notes that “during construction the retained hedgerows should be adequately buffered to reduce the risk of disturbance and or damage to a key feature of the site” and that the “lighting layout of the future development should be designed to retain dark, unlit corridors and avoid lighting the existing hedgerows, especially hedges H1 and H4 which connect the site to the wider area”.
- 2.14.5 The comments of the North Yorkshire Bat Group are noted. However, officers note that the applicant’s Ecological Appraisal states that the applicant has carried out a data search using the North and East Yorkshire Ecological Data Centre which returned that they had no bat records within 1km of the site. Whilst the records provided by the bat group are accepted, it is clear from the site visit, and the proposed plans, that only a small part of a species poor and heavily flail cut hedgerow would be removed. This would have no significant impact on bats. In addition officers note that the ecological appraisal does accurately assess the importance of the site for bats (and other species of conservation concern) and contains adequate proposals for enhancement, protection and mitigation. These can be controlled via a condition to ensure the above measures are secured.
- 2.14.6 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 a condition that the proposals be carried out in accordance with the recommendations set out in the Ecological Appraisal.

2.15 Affordable Housing

- 2.15.1 Policy SP9 states that the Council will seek to achieve a 40/ 60% affordable/ general market housing ratio within overall housing delivery. In pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at, or above, the threshold of 10 dwellings.

2.15.2 The policy goes on to state that the actual amount of affordable housing to be provided is a matter for negotiation at the time of a planning application, having regard to any abnormal costs, economic viability and other requirements associated with the development.

2.15.3 The applicant has confirmed that they are prepared to provide 40% affordable units and that this would be secured via a Section 106 agreement. The Council's Rural Housing Enabler has advised that the developer should identify a partner Registered Provider at an early state to confirm the number, size and tenure of the units. The Selby District Council Strategic Housing Market Assessment 2009 has identified a need for both 2 and 3 bedroom affordable homes with a required tenure split of 30-50% Intermediate and 70-50% Rented as a starting point for negotiation.

2.15.4 The Section 106 agreement would secure the 40% provision on-site and would ensure that a detailed Affordable Housing Plan is provided setting out the size and tenure mix based on a split of 70% rent and 30% intermediate provision.

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

2.16 Recreational Open Space

2.16.1 Policy in respect of the provision of recreational open space is provided by Policy RT2 of the Local Plan which should be afforded significant weight, the Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and paragraphs 70 and 73 of the NPPF.

2.16.2 The proposed indicative layout demonstrates that there would be on-site provision for recreational open space, although the detailed position and type of provision to be provided would be established in detail at reserved matters stage. It is noted that Policy RT2 sets out the requirements for provision to equate to 60sqm per dwelling and as such it would be appropriate to ensure that this is secured by Section 106 agreement given that the detailed layout and design could alter at reserved matters stage.

2.16.3 It is therefore considered that subject to a Section 106 agreement to secure the on-site provision of Recreational Open Space, the proposals are appropriate and accord with Policies RT2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

2.17 Contamination

2.17.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. These policies should be afforded significant weight.

2.17.2 The Council's Contamination Consultant has assessed the submitted report from Royal Haskoning DSV, dated April 2014, and has advised that it would be prudent for the consultant to maintain a watching brief and if necessary

prepare a report detailing and assessing any currently unknown issues with contamination to the Environmental Health Officer who may refer the matter to them for further review and as such they have proposed use of a Condition to cover the potential requirement for such reporting and assessment.

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

2.18 Education, Healthcare, Waste and Recycling

2.18.1 Policies ENV1 and CS6 of the Local Plan and the Developer Contributions Supplementary Planning Document set out the criteria for when contributions towards education, healthcare and waste and recycling are required. These policies should be afforded significant weight but considered in the context of the CIL requirements.

2.18.2 Having consulted North Yorkshire County Council Education they have confirmed that a contribution of £95,172 would be required towards education provision at Appleton Roebuck Primary School and this would be secured via Section 106 agreement. NYCC Education has confirmed that no contribution would be sought for secondary school facilities from the development. However it is considered that such a contribution cannot be sought in this instance now that the Council has CIL in place.

2.18.3 A consultation has been sent to the Healthcare Service in relation to this application and an update will be provided to Committee, if a response is received, however, it is considered that such a contribution cannot be sought in this instance now that the Council has CIL in place.

2.18.4 With respect to Waste and Recycling, a contribution of £65 per dwelling would be required and this would therefore be secured via Section 106 agreement.

2.18.5 Having had regard to the above the proposals comply with policies ENV1 and CS6 of the Local Plan, Policy SP19 of the Core Strategy and the Developer Contributions SPD with respect to developer contributions.

2.19 Neighbourhood Plan

2.19.1 The "Appleton Roebuck and Acaster Selby Neighbourhood Development Plan" (AR&AS NDP) was subject of a pre-submission consultation between 6th June 2016 and the 24th July 2016 and at present the "Publication Consultation" is underway which closes on the 15th February 2017. The AR & AS NDP will then be submitted to the Planning Inspectorate for scheduling of an Examination.

2.19.2 At any examination the Examiner will determine whether the plan meets the basic conditions and recommends whether it proceeds to referendum or not and the Examiner may also require changes to be made to the plan.

2.19.3 NPPG Neighbourhood Planning paragraph 7 states that

“An emerging neighbourhood plan may be a material consideration.Factors to consider include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies....Decision makers should respect evidence of local support prior to referendum when seeking to apply weight to an emerging neighbourhood plan.It is for the decision maker in each case to determine what a material consideration is and what weight to give it.’ (NPPG Neighbourhood Planning para 07)

2.19.4 The weight that should be attached to the AR&AS NDP in considering application for development is considered to be increased should be given to the plan once it has been submitted for examination, however account also needs to be taken of the comments made during the consultation and the fact that the Examiner can require changes to the plan and the Councils position in terms of the position of the 5 year housing land supply.

2.19.4 The AR&AS NDP considers the scale, location and density culminating in Policy H1, this states that

“a) New housing developments should be small in scale (under 10 units) and not overwhelm their surroundings. Support will be given for small developments that integrate with their immediate neighbours in terms of:

- Design of new homes
- Design of the overall development
- Car parking arrangement
- Appropriate landscaping, greenspace and green infrastructure
- Non-vehicular links, including public rights of way linking the development to other parts of the village and the surrounding countryside, where practicable.

b) New developments should be located wherever possible to minimise through traffic in Appleton Roebuck village.

c) Density of new housing developments should reflect that of their immediate surroundings.

d) Development must be located in an acceptable location in relation to the highway network and must not generate a level of vehicle movements that would result in a loss of residential amenity for neighbours in relation to safety, noise and air quality.”

2.19.5 As noted above the scheme is an Outline Application with all matters reserved, the details of the detailed design of the scheme will come forward at the reserved matters stage. Consultations on the application have confirmed no objections to the scheme from the drainage bodies or North Yorkshire County Council Highways as consultees. In addition Officers consider that an appropriate scheme could be submitted at the Reserved Matters stage to reflect the design characteristics of the area, secure appropriate car parking, landscaping, greenspace and green infrastructure.

2.19.6 In terms of the proposed 10 unit level noted in Policy H1 then SDC Officers have advised the Parish Council (as the body preparing the NDP) that they “advise the explanation of this policy is expanded and that there is evidence and background documents to support the proposed numbers”. It is considered without such evidence and background in place an Examiner would be unlikely to support the approach as draft in Policy H1.

2.19.2 As such, although the Neighbourhood Plan does have some weight in terms of the determination of the application given its stage of progression. It is considered that the scheme even at 28 units is still acceptable, when balanced against the approach of the Core Strategy in defining the settlement as a Designated Service Village, the approach of the Local Plan and the Councils position 5 year housing land supply.

2.20 Other Matters

2.20.1 A series of other matters have been raised by Objectors in relation to the proposed development, taking these in turn.

2.20.2 Objectors have argued that the settlements should not have been classified as a Designated Service Village and should have remained as a Secondary Village and they have thus requested that the settlement designation be re-examined by an independent body and no applications determined till this has been done. The Core Strategy which is part of adopted policies utilised for decision making has been subject of independent examination and the settlement is included as a DSV. There is no requirement for a re-examination of this matter and a decision on this application cannot be delayed in the context of these comments.

2.21 Taking into account the presumption in favour of sustainable development determining whether the adverse impacts of the development significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

2.21.1 In assessing the proposal, the development would bring economic, social and environmental benefits to Appleton Roebuck and Selby. There would not be any further significant impact on the highway from the proposed development and there would not be a significant impact on the amenity of neighbouring residential properties or significant harm to the character of the area. Although there would be some loss of agricultural land, this would not result in loss of best and most versatile land and given the grading and size of the site it is considered that only limited weight should be afforded to this issue. Subject to conditions there would not be any significant impact on nature conservation issues.

2.21.2 Having assessed the proposal, it is considered that any harms arising from the development would not significantly and demonstrably outweigh the benefits of the application when assessed against the NPPF taken as a whole.

2.22 Conclusion

- 2.22.1 The proposed scheme is made in outline with all matters reserved for residential development on land abutting the development limits of Appleton Roebuck which is a Designated Service Village. The proposal is contrary to Policy SP2A(c) of the Core Strategy and should be refused unless material considerations indicate otherwise. On such material consideration is the NPPF.
- 2.22.2 The Council accepts that it does not have a 5 year housing land supply and proposals for housing should be considered in the context of the presumption in favour of sustainable development and paragraph 49 of the NPPF. Having had regard to paragraph 49 of the NPPF, it is considered that Policies SP2 and SP5 are out of date in so far as they relate to housing supply. However, in assessing the proposal, the development would bring economic, social and environmental benefits to the village of Appleton Roebuck.
- 2.22.3 The proposal is considered to be acceptable in principle. In respect of matters of acknowledged importance such as climate change, flood risk, ecology, drainage, impact on residential amenity, highway safety, contaminated land and protected species it is considered that any harms arising from the development would not significantly and demonstrably outweigh the benefits of the application when assessed against the NPPF taken as a whole.
- 2.22.4 Therefore the proposal is considered acceptable when assessed against the policies in the NPPF taken as a whole, Selby District Local Plan and the Core Strategy.

2.23 Recommendation

This application is recommended to be Granted subject a S106 Agreement in relation to the provision of 40% of units for Affordable Housing (at a mix of 70% rent and 30% intermediate), Waste and Recycling and Provision of On Site Recreational Open Space and the following conditions:

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

Reason:

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

02. Applications for the approval of the reserved matters referred to in No.1 herein shall be made 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.

03. The development hereby approved shall be designed at the reserved matters stage in accordance with the principles of Section 6.0 and Section 11 of the submitted Design and Access Statement dated April 2015.

Reason:

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

04. The landscaping details as to be submitted at the Reserved Matters stage shall include a planting and landscape buffer to the northern boundary of the site.

Reason:

To ensure that the proposal is carried out in accordance with the parameters of the Design and Access Statement and in the interest of securing a long term boundary to the open countryside.

05. The development hereby approved on the area of land off Colton Lane Appleton Roebuck (Application Site Boundary Ref 24575/02/A as received 8th November 2016) shall be restricted to a maximum of 28 dwellings.

Reason:

In order to ensure that the development is carried out in accordance with the scale noted in the Description of Development.

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

Reason:

To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading.

07. 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, in order to comply with Policy ENV1 of the Selby District Local Plan.

08. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage design should demonstrate that the surface water runoff generated during rainfall events up to and including the 1 in 100 years rainfall event, to include for climate change and urban creep, will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The approved drainage system shall be implemented in accordance with the approved detailed design prior to completion of the development. The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance.

Reason:

To prevent the increased risk of flooding; to ensure the future maintenance of the sustainable drainage system, to improve and protect water quality and improve habitat and amenity.

09. No development shall commence on site until a detailed site investigation report (to include soil contamination analysis), a remedial statement and an unforeseen contamination strategy have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the agreed documents and upon completion of works a validation report shall be submitted certifying that the land is suitable for the approved end use.

Reason:

To secure the satisfactory implementation of the proposal, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

10. No dwelling shall be occupied until a scheme to demonstrate that at least 10% of the energy supply of the development has been secured from decentralised and renewable or low-carbon energy sources including details and a timetable of how this is to be achieved, including details of physical works on site, has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interest of sustainability, to minimise the development's impact in accordance with Policy SP16 of the Core Strategy.

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

- a. Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:
 - the proposed highway layout including the highway boundary
 - dimensions of any carriageway, cycleway, footway, and verges
 - visibility splays
 - the proposed buildings and site layout, including levels
 - accesses and driveways
 - drainage and sewerage system
 - lining and signing
 - traffic calming measures
 - all types of surfacing (including tactiles), kerbing and edging.
- b. Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:
 - the existing ground level
 - the proposed road channel and centre line levels
 - full details of surface water drainage proposals.
- c. Full highway construction details including:
 - typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
 - when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
 - kerb and edging construction details
 - typical drainage construction details.
- d. Details of the method and means of surface water disposal.
- e. Details of all proposed street lighting.
- f. Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.
- g. Full working drawings for any structures which affect or form part of the highway network.
- h. A programme for completing the works. The development shall only be carried out in full compliance with the approved drawings and details.

Reason:

In accordance with Policy ENV1 of the Selby District Local Plan and to secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of highway users.

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

Reason

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

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

Reason

In accordance with Policy ENV1 of the Selby District Local Plan and in the interests of highway safety

14. 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 88 metres (north west) and 215 metres (south east) measured along both channel lines of the major road (Colton Lane) from a point measured 2.4 metres down the centre line of the access road. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason

In accordance with Policy ENV1 of the Selby District Local Plan and in the interests of highway safety

15. 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 in connection with the construction of the access road or building(s) or other works until:

- (i) The details of the following off site required highway improvement works, works listed below have been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority:

- a. Provision of 2 metres wide footway linking the site with the existing footway on the north west side of Colton Lane

- b. Relocate the Village Sign/ Tree in the Public Highway (position to be agreed)
 - c. Relocate (after undertaking the Statutory Procedure) the 30mph speed limit signs and provide all appropriate road markings
- (ii) A programme for the completion of the proposed works has been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.

Reason

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

16. 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
- g. a scheme for recycling/disposing of waste resulting from demolition and construction works
- h. HGV routes

Reason

In accordance with Policy ENV1 of the Selby District Local Plan and in the interests of highway safety.

17. The development hereby approved shall be carried out in accordance with the conclusions of the Ecological Appraisal prepared by Tyler Grange, dated 28th April 2015, and in particular the development shall not commence until

- (1) A scheme for the retention and improvement and subsequent management of hedgerows is submitted to and approved in writing by the local planning authority
- (2) A scheme to ensure that adequate buffers are retained between hedgerows and construction activities
- (3) A scheme for external lighting
- (4) A scheme to avoid impacts on retained habitats of value, bats and nesting birds and hedgehogs

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

Reason:

In the interests of protecting bats nature conservation interest in accordance with Policy ENV1, SP18(3)(b) and the National Planning Policy Framework.

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

- Application Site Boundary Ref 24575/02/A as received 8th November 2016
- Parameters Plan Ref 24575/04/A as received 8th November 2016
- Proposed Access Arrangements Plan Ref 15/105/001/A as 8th November 2016

Reason:

For the avoidance of doubt.

Informatives

Informative on Condition 11

In imposing Condition 11 it is recommended that before a detailed planning submission is made a draft layout is produced for discussion between the applicant, the Local Planning Authority and the Highway Authority in order to avoid abortive work. The agreed drawings must be approved in writing by the Local Planning Authority for the purpose of discharging this condition.

Informative to Condition 16

There shall be no site clearance, demolition, excavation or depositing of material in connection with the construction of the development until information (under the requirements of the Road Traffic Regulation Act 1984) showing the proposed position of the 30mph extension for consultation has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The approved details shall, at the applicant's expense, undergo the legal process required. Subject to the successful completion of this legal process the measures will be implemented at the applicant's cost prior to the development being brought into use.

3.1 Legal Issues

3.1.1 Planning Acts

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

3.1.2 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.

3.1.3 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.

3.2 Financial Issues

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

4. Conclusion

4.1 As stated in the main body of the report.

5. Background Documents

5.1 Planning Application file reference 2016/1322/OUTM and associated documents.

Contact Officer:

Yvonne Naylor
Principal Planning Officer

Appendices:

None.

Relevant Extract from Officer Update Note for 7 February 2017 Planning Committee

Agenda Item 6.3

APPLICATION NUMBER:	2016/1322/OUTM 8/79/233A/PA	PARISH:	Appleton Roebuck
APPLICANT:	Baylis & Baylis Ltd	VALID DATE:	9th November 2016
		EXPIRY DATE:	8th February 2017 (EOT 13th March 2017)
PROPOSAL:	Outline application with means of access for approval (all other matters reserved) for the erection of up to 28 dwelling with associated infrastructure and open space provision		
LOCATION:	Colton Lane, Appleton Roebuck		

On the 2nd February 2017 Appleton Roebuck and Acaster Selby Parish Council submitted a letter to SDC following a Parish Council meeting to discuss the Officers Report on the above application. This letter raised concerns that given that Officers should consider applications “in the light of current planning legislation and the facts surrounding the application, and then arrive at a conclusion as to recommendation”, then they noted that “It is the opinion of the P.C. that it is very apparent this report demonstrates the opposite approach has been taken, the desired conclusion reached first, and the facts and planning requirements twisted or ignored to fit the conclusion”.

A subsequent letter dated the 5th February 2017 was received setting out further details of the Parish Council’s objections. This was submitted as a corporate complaint, however Officers would advise Members that having reviewed the submission the content of the letter is not considered to amount to such a complaint but is considered to be a further comment on the application and should be taken into account when the application is determined. As such it is being reported to Committee accordingly.

A further letter has also been received (dated 7th February 2017) from Consultants acting on behalf of Samuel Smith Old Brewery (Tadcaster). This letter re-emphasises their earlier comments on the application and also references Application 2016/0201/OUT as recently refused by the Council.

	Observation / Comment	Officer Response
1	The site is not “in part adjacent to the development limits of the village”, it simply touches the north western corner of the development limit	The site is in part adjacent to the settlement boundary, this will be demonstrated to Members in the Slide Presentation and see plan at end of this Update Note

2	There is no mobile library service to the village only a 2 hour long mobile post office service funded by the Parish Council	Comment noted
3	The reference to the settlement having transport linkage to York and Selby is misleading – the service is limited and does not match working hours and Selby connections are by a connecting bus or train from York	Comment noted There is a bus service (No 21) linking the settlement to York via a 2 hours daytime service operating every day except Sunday and Bank Holidays.
4	The settlement was ranked “least sustainable” in the Council’s Background Paper on the basis that there is a limited bus service, no shops and no medical facilities. So the settlement does not perform “appropriately” with respect to sustainability criteria as noted at Para 2.7.12 of the Officers Report	The settlement is a Designated Service Village and as DSV are considered to be a location where there is scope for additional residential growth and Appeal decisions have supported this approach. The status of the settlement as a DSV was confirmed via the Inspectors Report on the Core Strategy.
5	Growth of Settlement - Para 2.7.16’s references to the completion rates for development which are considered inaccurate and they consider the village will have grown by 9% since 2011.	This reflects the latest position compared with the earlier reports for the earlier application for this site.
6	Landscape – Para 2.9.6 - question why now the work done by the Council is not been considered and is not being progressed	The issue of the landscape studies has been discussed previously with the Head of Planning and Planning, Planning Policy Manager and AR Parish Councillors and consider this matter resolved.
7	Landscape - Para 2.9.7 - The report fails to advise members that the site is on a “significant rise” and “the highest point of the village” and “can be seen from over 2 miles away”. Thus note that “it will completely alter the character and form of the village”.	The site characteristics and context will be demonstrated via the Officers presentation. The site is gently sloping and can be seen as entering / approaching the village. It is not considered that the scheme will “completely alter” the character and form of the village. A condition is also proposed in the Officers Report to secure additional planting on the boundary to the open countryside as part of the Reserved Matters submissions.

8	Agricultural Land Classification – consider this to be “irrelevant” and amounts to a sweeping generalisation.	This matter has been addressed in the report given comments from other objectors. Given the scale of the proposed development the loss of agricultural land should be afforded limited weight.
9	Drainage – Para 2.13.8 – further testing should be done and detail provided on the drainage approach, as soakaways may not work and Brumber Carr Drain is unlikely to be available as owned by SSOBT who also object to the application. A clear strategy should be in place as was noted in the recent Appeal decision at Yew Tree House.	Given that this is an Outline application the approach of defining the final drainage solution will be a matter for further consideration of the Reserved Matters stage. Yew Tree House is not comparable as it is a single unit scheme and a full application.
10	Affordable Housing - Para 2.15.3 – The report fails to link provision of affordable housing to the limited level of services in the village and also does not recognise that previous provision of AH units in the village have been difficult to fill.	Policy SP9 requirement and therefore the scheme is required to provide.
11	Neighbourhood Development Plan (NDP) – Paras 2.19.5 and 2.19.6 – the report does not reference the evidence that the Parish Council has in place and seeks to “get round” the existence of the NDP and fails to take account of Appeal decisions on the weight to be afforded to an emerging NDP	The final draft of the neighbourhood plan was submitted by AR PC in late December 2016, it is generally recognised any consultation over a national holiday is extended by a number of weeks to take account of people being on holiday. In this particular case it was an unusual occurrence and given considerable national media attention, that this particular year would see an unprecedented amount of leave available from a very small amount of leave days actually taken. SDC therefore extended the consultation in line with standard protocols recognised locally and nationally when undertaking a consultation. This was done to avoid any complaints that the consultation had not been carried out properly and any potential delays to the process. It is disappointing this has somehow been interpreted as anything other than proper planning. This approach also had the full support of the PC's own consultant who has advised the PC on

		the plan preparation.
12	Benefits of the Scheme – Para 2.22.2 – minimal benefits arise from the scheme but significant environmental benefits would be caused.	<p>Noted</p> <p>The report confirms the benefits as</p> <p><u>Social</u></p> <p>The proposal would deliver both open market and affordable housing in Appleton Roebuck and hence promote sustainable and balanced communities and would assist in the Council meeting the objectively assessed need for housing in the district. The proposals would provide 40% on-site provision of affordable housing which would improve the tenure mix in this location. In addition the scheme would incorporate an area of recreational open space on-site.</p> <p><u>Environmental</u></p> <p>The proposal would deliver high quality homes for local people and take into account environmental issues such as flooding and impacts on climate change.</p> <p><u>Economic</u></p> <p>The proposal would generate employment opportunities in both the construction and other sectors linked to the construction market. The proposals would bring additional residents to the area who in turn would contribute to the local economy through supporting local facilities and services. Any loss of agricultural land would be marginal, both within a parish or at a district level.</p>
13	The approach on this application is “in direct contradiction” to the decision to refuse 2016/0201/OUT.	This application has being refused and the applicants have the ability to seek consent via Appeal. Reason for Refusal 2 noted that the scheme was considered to have a significant impact by means of its intrusion into the open countryside which would result in harm to the character and appearance of the area and conflicts with policies which seek to protect the countryside to which significant weight should be attached. This is not considered to be

		the case on this application as there are defensible boundaries in place, is not intrusive and the site has a materially different relationship to the existing form of the settlement.
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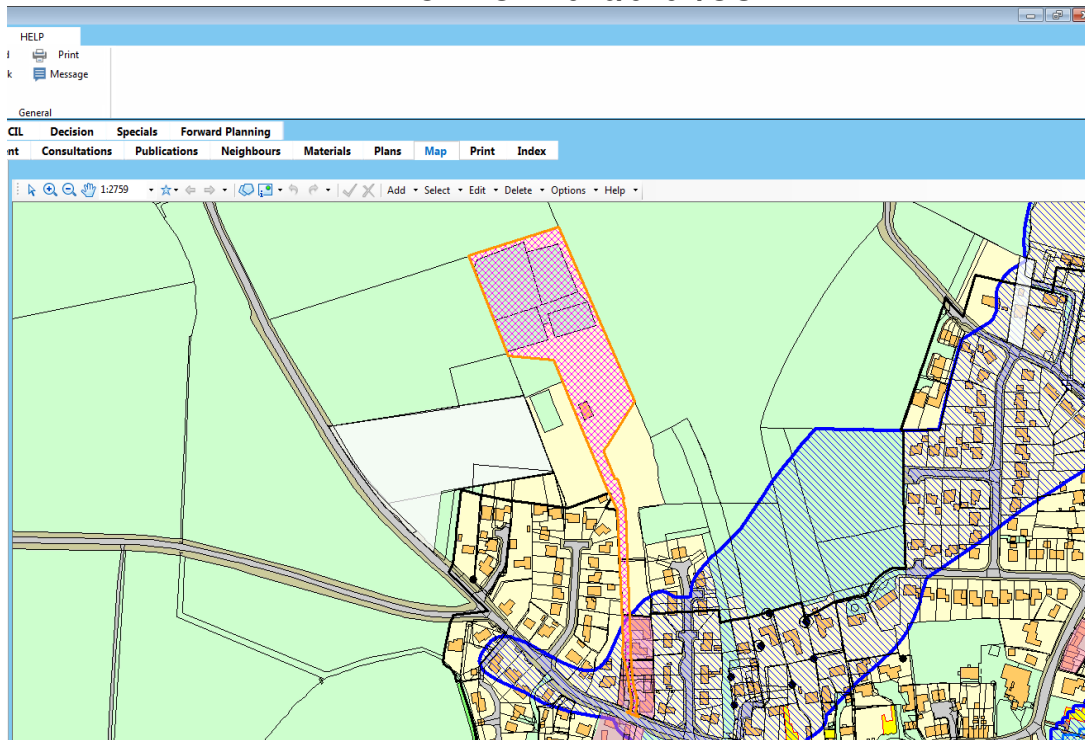
In the context of the above the Parish Council have asked that the application not be considered by Committee at this meeting and the report be reconsidered.

As noted above Officers have considered all those points raised by the Parish Council and the Objector and it is considered that the scheme should be supported by Members in line with the Officers recommendation.

DEVELOPMENT BOUNDARY RELATIONSHIP

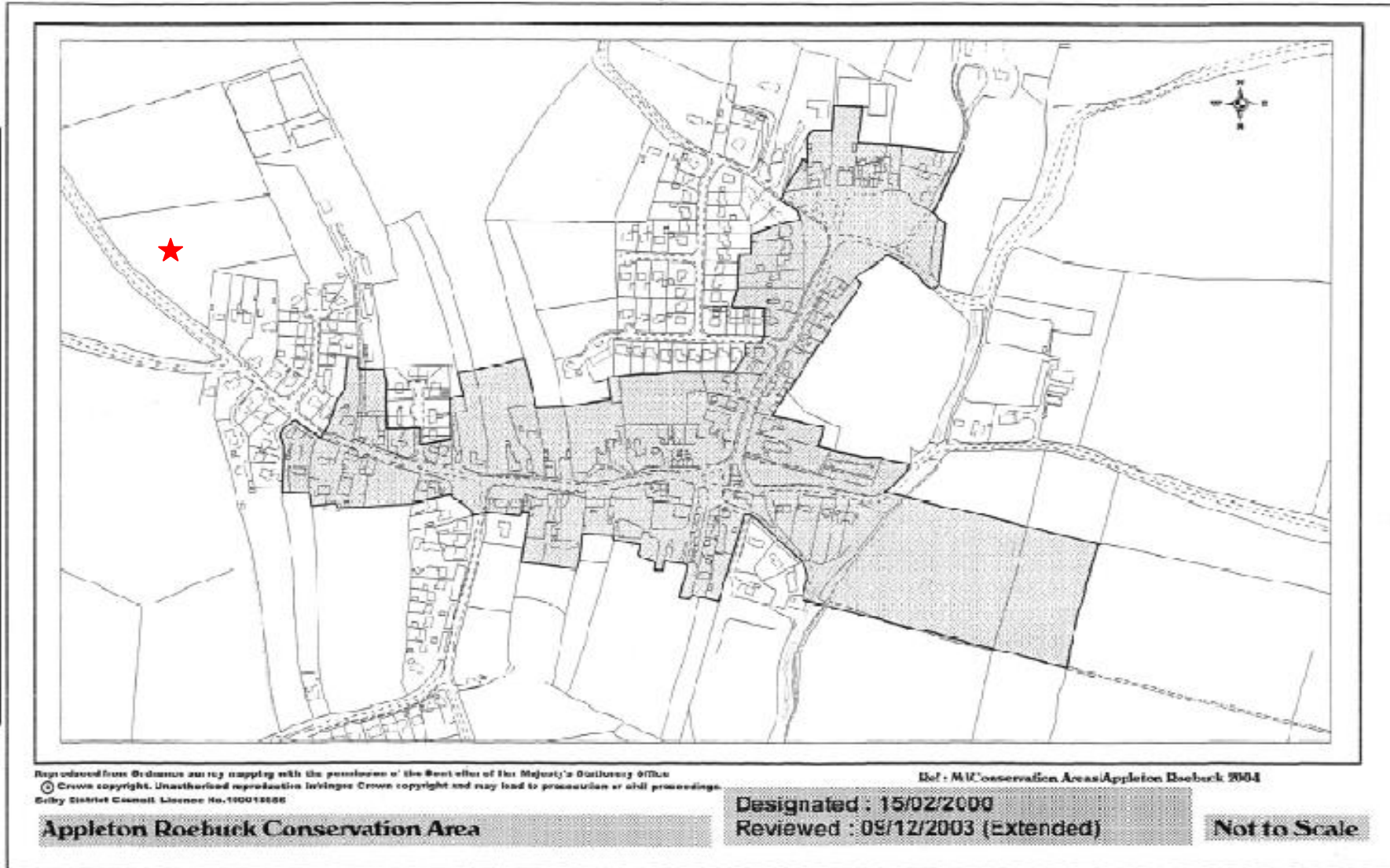


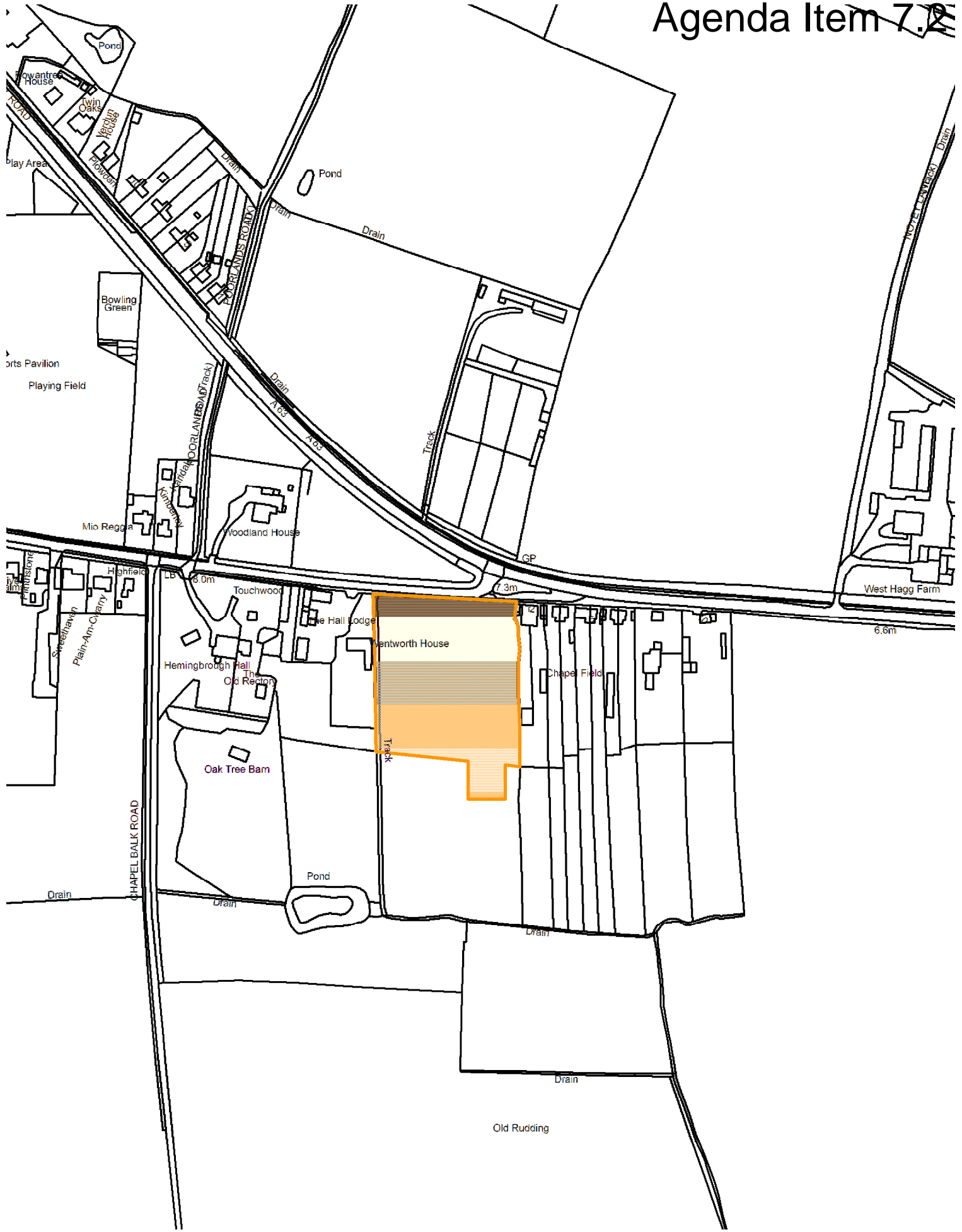
APPLICATION 2016/0201/OUT



APPLETON ROEBUCK CONSERVATION AREA AND SITE RELATIONSHIP

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APPLICATION SITE









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Address: School Road, Hemingbrough Page 75

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KEY

-  Distance from existing Properties
-  Site Boundary
-  Site Extents
-  Active Facade
-  Access to private Driveway
-  Active Frontage
-  Area of Proposed Driveway
-  Possible Area for Housing



**AMENDED
DRAWING**

RECEIVED
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 BUSINESS SUPPORT

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Report Reference Number: 2016/1337/OUTM (8/18/453A/PA) **Agenda Item No:** 7.2

To: Planning Committee
Date: 10 January 2018
Author: Louise Milnes (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2016/1337/OUTM 8/18/453A/PA	PARISH:	Hemingbrough
APPLICANT:	York Diocesan Board of Finance	VALID DATE: EXPIRY DATE:	3 January 2017 4 April 2017
PROPOSAL:	Outline application for residential development of up to 21 dwellings (with all matters reserved) on land to the east of School Road, Hemingbrough		
LOCATION:	School Road, Hemingbrough, Selby, North Yorkshire, YO8 6QT		
RECOMMENDATION:	REFUSE		

1. Introduction and background

- 1.1 This application has been brought back before Planning Committee following consideration at the 14 June 2017 meeting, where Members resolved to support the Officer recommendation to grant planning permission subject to the signing of a S106 Agreement.
- 1.2 The permission was not issued prior to the confirmation of the Council's 5 year housing land supply position which was endorsed on the 24 July 2017 and is as set out in the 2017-2022 Five Year Housing Land Supply Statement. Subsequent to this on the 15 November 2017, the Director of Economic Regeneration & Place at Selby District Council formally endorsed an updated five year housing land supply Methodology, as set out in the 2017-2022 Five Year Housing Land Supply Statement – 30 September Update.
- 1.3 As such Planning Committee need to re-consider this application in light of this material change.

2.0 Consultation and publicity

Since the resolution at Planning Committee on 14 June 2017 the following additional comments have been received:

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

- 1) Impact on the Council's Housing Land Strategy
- 2) Principle of Development
- 3) Previous Levels of Growth and the Scale of the Proposal
- 4) Relation of Proposal to the Development Limit
- 5) Design Quality.

2.2 North Yorkshire Fire and Rescue – No objections.

2.3 Principal Landscape Architect – The proposed development would be unacceptable as it would impact on the openness of the countryside and adversely affect the landscape character and setting of Hemingbrough and would potentially encourage future development pressure on land to the south.

2.4 Neighbour Comments – One additional letter of objection was received raising concerns with the traffic generation.

4.0 Appraisal

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

- The Principle of the Development
- Impact on the Character of the Area

The Principle of the Development

4.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.

4.3 Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF.

4.4 The application site is located outside the defined development limits of Hemingbrough, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside.

4.5 Policy SP2A(c) of the Core Strategy states that "Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances."

- 4.6 The proposal does not meet Policy SP2A(c) as it is not for rural affordable housing need and there are no special circumstances. The application should therefore be refused unless material considerations indicate otherwise.
- 4.7 On the 15 November 2017, the Director of Economic Regeneration & Place at Selby District Council formally endorsed an updated five year housing land supply Methodology and resultant housing land supply figure, as set out in the 2017-2022 Five Year Housing Land Supply Statement – 30 September 2017 Update. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.
- 4.8 The NPPF is a material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development. Paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Sustainability of the Development

- 4.9 In respect of sustainability, the site is outside the development limits of Hemingbrough which is a Designated Service Village as identified in the Core Strategy, where there is some scope for additional residential and small scale employment to support rural sustainability. The village of Hemingbrough contains a primary school, local shop including post office, two public houses and two churches, a number of local businesses and a sports field for bowling and cricket. In addition, there is a regular bus service between Goole and Selby which provides onward links to York, Leeds and other cities and a school bus service. It is therefore considered that the settlement is well served by local services.
- 4.10 It is noted that the village of Hemingbrough has been identified as a Designated Service Village, both within the Selby District Local Plan and the Core Strategy, which demonstrates that the Council has considered the village a sustainable location in a rural context. The village is considered to be "more sustainable" in Core Strategy Background Paper 5 Sustainability Assessment of Rural Settlements, Revised July 2008 meaning that three of four indicators assessed were in the highest two categories. The type and range of facilities, public transport accessibility and access to employment opportunities identified in Hemingbrough was broadly similar in the PLAN Selby Site Allocations, Designated Service Villages, Growth Options Report, Draft For Stakeholder Engagement, June 2015 (recognising that there are some differences with the studies). Furthermore, the situation in respect of the sustainability of Hemingbrough has remained broadly similar since June 2015 to date. Having taken these points into account, despite the fact that the site is located outside the defined development limits of Hemingbrough, it would be served by the facilities within this sustainable settlement and as such would perform highly with respect to its sustainability credentials in these respects, however this needs to be considered alongside the levels of growth of the settlement.

Previous Levels of Growth and the Scale of the Proposal

- 4.11 Core Strategy Policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability. This policy sets a minimum target of 2000 new dwellings for Designated Service Villages (DSVs) as a whole over the period 2011 to 2027. The most recent monitoring indicates that this figure has been exceeded by completions and permissions in these settlements as a whole. However, the Core Strategy does not set a minimum dwelling target for individual Designated Service Villages, so it is not possible at this point to ascertain exactly whether Hemingbrough has exceeded its dwelling target.
- 4.12 In order to assess the scale of housing allocations to apportion to each Designated Service Village in the Site Allocations Local Plan, the Council published a Designated Service Villages Growth Options Report as part of the evidence base for the PLAN Selby Site Allocations Local Plan Document in June of 2015; this document was subject to a 6 week public consultation.
- 4.13 The evidence set out in the Growth Options report provides a guide for decision making as to the amount of housing development that is appropriate in Designated Service Villages. The research and analysis undertaken in the Growth Options report included a numerical assessment of the housing supply per village and a detailed assessment of the services and infrastructure of each village, in order to determine its sustainability.
- 4.14 This approach accords with the spatial strategy of the Core Strategy which envisages only “limited” growth in Designated Service Villages to support rural sustainability. Any other approach would inevitably lead to unsustainable levels of housing development in the villages and a fundamental undermining of the spatial strategy.
- 4.15 The Growth Options report indicates minimum growth options of between 33-54 dwellings for Hemingbrough. To date, Hemingbrough has seen 15 (gross) dwellings built in the settlement since the start of the Plan Period (13 net) in April 2011 and has extant gross approvals for 14 dwellings (14 net), giving a gross total of 29 dwellings (27 net). Taking into account the range of growth options identified for this settlement, the scale of this individual proposal, at 21 dwellings, is considered to be appropriate to the size and role of this Designated Service Village. However the individual scale of the proposal must also be considered in terms of the cumulative impact it would have on previous levels of growth in this settlement that have occurred since the start of the plan period. If the scheme were to be approved, the cumulative impact would increase the number of approvals to 50 dwellings (48 net) which is within the identified growth levels for Hemingbrough. It is therefore considered that the level of growth proposed, in this instance, is acceptable for Hemingbrough as a Designated Service Village. However this should be balanced against the location of the proposal, outside development limits and the impact it would have on the character of the settlement which is discussed further below.

Impact on the Character of the Area

- 4.16 Given that the application site is divorced from the settlement boundary the application has been assessed by the Council's Principal Landscape Architect and his comments are set out below:
- 4.17 The site is located within a small arable field with managed boundary hedgerows and occasional hedgerow trees. The site is situated directly off School Road near the junction with the A63 Hull Road and is in a visible and prominent location, particularly when travelling southwards along the A63 and on approach into the village along School Road from the west.
- 4.18 The main village of Hemingbrough has evolved centred along Main Street and Landing Lane to the west. The 1846-63 historical map shows that the settlement and field pattern around the site is relatively un-changed in recent time, reflecting an early pre-industrial layout. The main part of the village has evolved to the west of the site, along Main Street and Landing Lane with later infill development to the east side up to Chestnut Garth and St Mary's Avenue.
- 4.19 Some additional residential development has evolved on the A63 to the east of the junction with School Lane, but this reads as outlying development and separate to the main 'gateway' and approach to the village along School Lane. The main 'gateway' and approach in to the village along School Road is characterised by mature trees and gardens fronting individual detached properties. Housing is intermittent and low density intermixed with small agricultural fields and playing fields.
- 4.20 The Settlement Setting Landscape assessment Selby District Council October 2015 (updated Draft 27/6/2016) describes the landscape and settlement setting in the area of the site as Medium Sensitivity to development due to the mixed land use and with open landscape and extensive views found on approach along the A63. The assessment also states that development next to older properties and Hemingbrough Hall needs to be carefully considered to avoid any effect on the 'green' gateway entrance.
- 4.21 The proposed development area forms a significant extension into open countryside beyond the existing defined development limit. The proposed development would be unacceptable as it would impact on the openness of the countryside and adversely affect the landscape character and setting of Hemingbrough, particularly the character of the 'gateway' and approach into the village from the west. This is contrary to Selby District Local Plan policy ENV1 (1) and (4) and Policy SP 18, SP19 of the Core Strategy.
- 4.22 Although it is noted that this is an outline scheme with layout approved for future consideration, the indicative layout shows development occupying approximately half of the existing field area. Internal access driveways are indicated that encompass areas of housing and seem out of proportion for the area of housing proposed. There is an area of green space indicated to the south side of the southern access road. The proposed indicative layout would be unacceptable as it does not demonstrate good design and best use of land, potentially encouraging additional future development pressure on land to the south which would adversely

affect the character and setting of the village. This is contrary to Selby District Local Plan policy ENV1 (1) and (4) and Policy SP18, SP19 of the Core Strategy.

5.0 Conclusion

- 5.1 The proposed dwellings would be located outside the defined development limits of Hemingbrough and would therefore be located within the open countryside, where in accordance with the overall Spatial Development Strategy for the District, development will be restricted to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances. The proposals to develop this land for residential purposes are therefore considered to be contrary to Policy SP2A(c) of the Core Strategy and the proposal is not acceptable in principle. Given that the Council have a 5 year housing land supply, there are no other material considerations of sufficient weight which would enable the Council to depart from the Development Plan.
- 5.2 Whilst the proposals are considered acceptable with respect to the sustainability of the development and are within the anticipated growth options identified for Hemingbrough, the proposals are considered to have a detrimental impact on the openness of the countryside and adversely affect the landscape character and setting of Hemingbrough, particularly the character of the 'gateway' and approach into the village from the west. Furthermore the proposals encourage additional future development pressure on land to the south which would adversely affect the character and setting of the village. This is contrary to Selby District Local Plan policy ENV1 (1) and (4) and Policy SP 18, SP19 of the Core Strategy.

6.0 Recommendation

The application is recommended for REFUSAL for the following reasons:

1. The proposed dwellings would be located outside the defined development limits of Hemingbrough and would therefore be located within the open countryside, where in accordance with the overall Spatial Development Strategy for the District, development will be restricted to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances. The proposals to develop this land for residential purposes are therefore considered to be contrary to Policy SP2A(c) of the Core Strategy and the proposal is not acceptable in principle. Given that the Council have a 5 year housing land supply, there are no other material considerations of sufficient weight which would enable the Council to depart from the Development Plan.
2. The proposals are considered to have a detrimental impact on the openness of the countryside and adversely affect the landscape character and setting of Hemingbrough, particularly the character of the 'gateway' and approach into the village from the west. Furthermore the proposals encourage additional future

development pressure on land to the south which would adversely affect the character and setting of the village. The proposals are therefore contrary to Selby District Local Plan policy ENV1 (1) and (4) and Policy SP 18, SP19 of the Core Strategy.

Contact Officer:

Louise Milnes
Principal Planning Officer

Appendices:

Appendix 1 – 14 June 2017 Planning Committee Report

Report Reference Number: 2016/1337/OUTM

Agenda Item No:

To: Planning Committee
Date: 14 June 2017
Author: Calum Rowley (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2016/1337/OUTM 8/18/453A/PA	PARISH:	Hemingbrough Parish Council
APPLICANT:	York Diocesan Board of Finance	VALID DATE: EXPIRY DATE:	3 January 2017 4 April 2017
PROPOSAL:	Outline application for residential development of up to 21 dwellings (with all matters reserved) on land to the east of		
LOCATION:	School Road, Hemingbrough, Selby, North Yorkshire		

This application has been brought before Planning Committee due to the application being recommended for approval contrary to the provisions of the Development Plan.

Summary:

The application proposes outline planning consent for residential development with all matters reserved. The site is currently in arable agricultural use and the boundaries of the site are existing residential properties to the east and west, School Road to the north and a drainage ditch to the south.

The Council has conceded in appeal APP/N2739/W/16/3144900 of October 2016 that it does not have a 5 year housing land supply and proposals for housing should be considered in the context of the presumption in favour of sustainable development and paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.

Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:

- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
- (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood risk, green belt, countryside gaps and heritage assets).

No specific policies which restrict development apply to this application therefore the 'tilted balance' in paragraph 14 applies.

In assessing the proposal against the three dimensions of sustainable development set out within the NPPF, the development is considered to provide a range of social, economic and environmental benefits and mitigation measures:

- a contribution to the District's five year housing land supply;
- the provision of additional market, affordable and high quality housing for the District;
- the provision of housing in close proximity to the boundary of a Designated Service Village which has good access to local services and public transport;
- short term employment opportunities for the construction and house sales industry;
- additional spending within the District from the future residents;
- On-site open space provision and on-going maintenance;
- Community Infrastructure Levy Fees to be provided on commencement of development;
- a 10% energy supply from decentralised and renewable or low carbon sources.

Taken together these represent significant benefits and are in line with the Government's planning and general policy objective of boosting housing land supply in sustainable locations..

The proposals could achieve an appropriate layout, appearance, landscaping, scale and access so as to respect the character of the area. The proposals are also considered to be acceptable in respect of the impact upon residential amenity, drainage and climate change, protected species, archaeology and contamination in accordance with policy.

Having had regard to all of the above, it is considered that there are no adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits. The proposal is therefore considered acceptable when assessed against the policies in the NPPF, in particular Paragraph 14, the Selby District Local Plan and the Core Strategy. In this case the "tilted balance" in paragraph 14 applies. It is on this basis that permission is recommended to be granted subject to the conditions and Section 106 agreement.

Recommendations:

This application is recommended to be APPROVED subject to delegation being given to Officers to complete the Section 106 Agreement to secure 40% on site provision for affordable housing, on-site recreation open space provision and maintenance and a waste and recycling contribution and the conditions detailed at section 2.21 of this report.

1. Introduction and background

1.1 The Site

- 1.1.1 The application site is located outside the defined development limits of Hemingbrough, being located to the east of the existing settlement boundary and lies within Flood Zone 1.
- 1.1.2 The site is currently in arable agricultural use with existing residential properties to the east and west, School Road to the north and a drain to the south.
- 1.1.3 The surrounding residential properties are two storeys in height and constructed of facing brick with a tiled roof.
- 1.1.4 The site is bounded by hedgerow and a number of trees along the eastern, northern and western site boundaries.

1.2. The Proposal

- 1.2.1 The application is for outline consent for residential development with all matters reserved for the development of up to 21no residential properties with associated recreational open space and dry offline basin.
- 1.2.2 The submitted indicative layout shows how the site could be laid out with two rows of residential development to the front of the site around a lopped internal access road.

1.3 Planning History

- 1.3.1 An outline application (2015/1223/OUT) for residential development of up to 21 dwellings (with all matters reserved) on land to the east of School Road, Hemingbrough was withdrawn on 25 January 2016.

1.4 Consultations

1.4.1 Hemingbrough Parish Council

Strongly object (unless significant road improvements are carried out) for the following reasons:

- 1) The development would extend the village and there is sufficient brownfield land within the village that should be used before a greenfield site;
- 2) Lack of infrastructure to support further development;
- 3) Planning conditions should ensure that the hedges and trees remain on site;
- 4) No drives should come out directly onto School Road and the line of sight must be kept open for safety reasons;
- 5) The proposed development would cause a build-up of traffic pulling out onto the A63 from School Road. This entrance/exit to the village would need to be developed for any future traffic increase and a roundabout/waiting area in the road for turning into School Road would be required (at the applicants cost) on the grounds of safety.

If road improvements are not carried out then this development should be refused.

1.4.2 NYCC Highways

The amended site plan has addressed initial highways concerns. The site would require 2no car parking spaces for 2 & 3 bedroom dwellings and 3no spaces for 4 plus bedroom dwellings. It is noted that all matters are reserved and therefore car parking levels can be addressed at reserved matters. Several conditions are recommended.

1.4.3 Yorkshire Water

Recommend one condition in order to protect the local aquatic environment and YW infrastructure. The Flood Risk and Drainage Assessment indicates that foul water will discharge to the public foul sewer and surface water will discharge to Barmby Pastures Drain. It is also advised that the access road may affect an existing live water main that is laid in the highway (and grass verge) and any works in the public highway will be controlled under NRASWA (New Roads and Street Works Act).

1.4.4 The Ouse & Derwent Internal Drainage Board

There is no objection to the principle of this application if a SUDS solution can be established to work at this location and several conditions are recommended.

1.4.5 North Yorkshire County Council (CPO)

No response at the time of compilation of this report.

1.4.6 Education Directorate North Yorkshire County Council

Based on the 21 2+ bedroom properties, no shortfall of school places would arise as a result of this development and a contribution would not be sought for primary or secondary education facilities.

1.4.7 Yorkshire Wildlife Trust

It is recommended if the authority gives planning permission for this application that the following are put in place:

- A hedgerow survey to show whether the hedgerows are 'important' under the Hedgerow Regulations. Judging from the field patterns in the area it is likely that the hedges date back to the Enclosure Acts and the Ecology Report by Enviroscope Consulting mentions that some of the hedgerows are species rich. If hedges are to be cut down or incorporated into gardens it may be necessary for a hedgerow removal application. The final design of the site will need to take the hedgerows into consideration with sufficient root protection provided and a hedgerow management plan as part of an Ecological Management Plan for the site;
- Design of the Landscape Buffer area to the south of the development area should assume the potential presence of water vole. Issues such as protecting the pond and ditches from domestic animals such as dogs and cats would need to be covered plus appropriate planting if necessary;
- A low level lighting plan which will not impact protected species such as bats should be conditioned.

- The SUDS should be designed to enhance biodiversity;
- The recommendations from the August 2016 surveys by Enviroscope should be conditioned so that updated information on the presence of water vole is obtained;
- If trees with potential for the presence of bats are to be felled the recommendations on page 16 of the Ecology Survey must be followed.

1.4.8 Natural England

Internationally and nationally designated sites

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the River Derwent Special Area of Conservation (SAC) which is a European site. The site is also notified at a national level as The River Derwent Site of Special Scientific Interest (SSSI).

Natura 2000 - No objection

In advising your authority on the requirements relating to Habitats Regulations Assessment, and to assist you in screening for the likelihood of significant effects, based on the information provided, the following advice is offered:

- the proposal is not necessary for the management of the European site
- that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment

SSSI – No objection

The River Derwent SSSI does not represent a constraint in determining this application.

Other advice

The Local Planning Authority (LPA) is expected to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

- local sites (biodiversity and geodiversity)
- local landscape character
- local or national biodiversity priority habitats and species.

Protected Species

Refer to Standing Advice on protected species.

Biodiversity enhancements

This application may provide opportunities to incorporate 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. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application.

1.4.9 North Yorkshire Bat Group

No response received at the time of compilation of this report.

1.4.10 Police Architectural Liaison Officer

Advice and recommendations are made for consideration at reserved matters stage.

1.4.11 North Yorkshire And York Primary Care Trust

No response received at the time of compilation of this report.

1.4.12 North Yorkshire Fire & Rescue Service

The proposal should demonstrate compliance with the requirement B5 of Schedule 1 to the Building Regulations 2000 (as amended), access and facilities for the fire service. It is assumed that the provision of water for firefighting will meet the requirement set out in National guidance documents on the provision of water for firefighting, Appendix 5.

1.4.13 Vale of York CCG

No response received at the time of compilation of this report.

1.4.14 Historic Environmental Records (HER) Officer

The developer has provided an archaeological geophysical survey of the development area. The survey has been carried out to a very high specification and has picked up very ephemeral features such as drains and furrows. This demonstrates that the technique has been successful and would have identified archaeological remains had they been present. The report provides sufficient information on which to determine the planning application (NPPF para. 128).

As the geophysical survey has proved largely negative (with some features interpreted as modern or agricultural) the site appears to have a low archaeological potential.

There is no objection and no further comments to make.

1.4.15 Lead Officer – Environmental Health

The proposed development is of a relatively large scale and as such will entail an extended construction phase. This phase of the development may negatively

impact upon nearby residential amenity due to the potential for generation of dust, noise and vibration.

The Environmental Protection 1990 allows for the abatement of statutory nuisance in relation to noise, dust and vibration. It is however stressed that whilst a development may detrimentally impact upon existing residential amenity, it may not be deemed to constitute a statutory nuisance. It might be unwise in these circumstances to rely on the alternative control being exercised in the manner or to the degree needed to secure planning objectives and therefore, one condition is recommended should planning consent be granted.

1.4.16 Lead Officer-Development Policy

The Council's Five Year Housing Land Supply

Members will be updated at Committee in relation to these comments.

Further comments provided in regards to:

The Principle of Development;
Previous Levels of Growth and the Scale of the Proposal;
Relationship of the Proposal to the Development Limit; and
Density and the built form.

1.4.17 SuDS Officer

The site has been assessed previously as part of application 2015/1223/OUT and one condition was recommended. There is no objection to the proposal and the same condition is recommended. The conditions recommended by the Ouse and Derwent Internal Drainage Board have been noted and are also suitable and to avoid duplication, there would not be any issues with the planning authority using the Board's conditions only providing the allowance for climate change is 30% not 20%.

1.4.18 WPA Environmental (Contaminated Land Consultants)

Provided comments on the previous application (2015/1223/OUT) which concluded and recommended that while the report is not compliant with technical guidance and contains contradictions in its conclusions, due to some possible sources of contamination found during the walkover and the sensitivity of the end user being residential with gardens, then some intrusive investigation may be prudent. It is recommended that conditions are attached to any permission granted.

1.5 Publicity

1.5.1 The application was advertised by site notice, neighbour notification letter and advertisement in the local newspaper which has resulted in one letter of representation being received raising the following issues:

- The land on the opposite side of School Road has been granted planning permission which is a big mistake.
- Both these plots are very close to the junction of School Lane with the A63.

- This is a very busy road used by all modes of transport, both private and commercial.
- Traffic already can cause a delay in being able to access School Road.
- The local bus provision is poor.
- Vehicles parked on the road make it difficult to drive down if you meet a vehicle coming the opposite way.
- The village school capacity would struggle to cope with the influx of children.
- Level of traffic and safety is a concern.
- A major accident is waiting to happen if this goes ahead.
- Is this not within the Green Belt?

2.0 Report

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

2.2 Selby District Core Strategy Local Plan

The relevant Core Strategy Local Plan Policies are:

Policy SP1:	Presumption in favour of Sustainable Development
Policy SP2:	Spatial Development Strategy
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 SP17:	Low Carbon and Renewable Energy
Policy SP18:	Protecting and Enhancing the Environment
Policy SP19:	Design Quality

2.3 Selby District Core Strategy Local Plan

Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, the guidance in paragraph 214 of the NPPF does not apply and therefore 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)".

The relevant Selby District Local Plan Policies are:

Policy ENV1:	Control of Development
Policy ENV2:	Environmental Pollution and Contaminated Land
Policy ENV3:	Light Pollution
Policy RT2:	Open Space Requirements for new residential development
Policy CS6:	Developer Contributions to Infrastructure and Community Facilities
Policy T1:	Development in relation to the Highway Network
Policy T2:	Access to Roads

Supplementary Planning Documents

Developer Contributions Supplementary Planning Document.
Affordable Housing Supplementary Planning Document, 2013
Hemingbrough Village Design Statement

2.4 National Guidance and Policy – National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)

The National Planning Policy Framework introduces, in paragraph 14, a presumption in favour of sustainable development. It states "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".

This report is made in light of the guidance of the NPPF.

2.5 Key Issues

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

1. The appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability contained within the Development Plan and the NPPF.
2. Identifying the impacts of the proposal.
 - a) Layout, appearance, scale and landscaping and Impact on the Character of the Area
 - b) Impact on Residential Amenity
 - c) Impact on the Highway
 - d) Impact on Nature Conservation and Protected Species
 - e) Affordable Housing
 - f) Housing Mix
 - g) Flood Risk, Drainage and Climate Change
 - h) Land Contamination
 - i) Recreational Open Space
 - j) Education, Healthcare and Waste & Recycling
 - k) Archaeology

3. Taking into account the presumption in favour of sustainable development determining whether the adverse impacts of the development significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

2.6 The appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability contained within the Development Plan and the NPPF.

- 2.6.1 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.
- 2.6.2 The site lies outside the defined development limits of Hemingbrough and therefore is located in open countryside.
- 2.6.3 Relevant policies in respect of the principle of this proposal include Policy SP2 "Spatial Development Strategy" and Policy SP5 "The Scale and Distribution of Housing" of the Core Strategy.
- 2.6.4 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.
- 2.6.5 In light of the above policy context the proposals to develop this agricultural land for residential purposes are contrary to Policy SP2A(c) of the Core Strategy. The proposal should therefore be refused unless material considerations indicate otherwise. One such material consideration is the National Planning Policy Framework.
- 2.6.6 The Local Planning Authority, by reason of paragraph 47 of the NPPF, is required to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against its policy requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for housing land. Furthermore where, as in the case of Selby District, there has been a record of persistent under delivery of housing, the LPA is required to increase the buffer to 20%.
- 2.6.7 The Council has conceded in appeal APP/N2739/W/16/3144900 of October 2016 that it does not have a 5 year housing land supply and proposals for housing should be considered in the context of the presumption in favour of sustainable development and paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.

- 2.6.8 Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:
- (i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
 - (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood, green belt, countryside gaps and heritage assets).

In this case, the “tilted balance” in paragraph 14 applies.

2.6.9 The Council’s Guidance Note “Five Year Supply Guidance Note for Applicants May 2017 describes how proposals will be assessed. In particular, the settlement hierarchy remains a key consideration in the determination of planning applications for housing; in terms of the level of services and facilities within the settlement i.e. education and health, shops, transport services and sports and recreational facilities. In considering the weight to be afforded to development plan policies the Council will consider the extent of housing supply shortfall, the measures in place to remedy the shortfall and the particular purpose of the policy. As such each application will be judged on its own merits.

2.6.10 In respect of sustainability, the site is adjacent (approx. 120 metres) to the development limits of Hemingbrough which is defined as a Designated Service Village within the Core Strategy which have some scope for additional residential and small scale employment growth to support rural sustainability. The village of Hemingbrough contains a primary school, post office, local shop, public house and church. In addition, there is a regular bus service between Goole and Selby which provides onward links to York, Leeds and other cities and a school bus service. There is a bus stop located directly outside of the application site and good footpath links to the services within the village. It is therefore considered that the settlement is well served by local services.

2.6.11 The above points weigh in favour of a conclusion that in terms of access to facilities and a choice of mode of transport, that the site can be considered as being in a sustainable location.

2.6.12 Paragraph 7 of the NPPF, states that there are three dimensions to sustainable development, these being of an economic, social and environmental nature. These dimensions give rise to the need for the planning system to perform a number of roles. It is noted that the following benefits would arise from the development: -

2.6.13 Economic

The proposal would generate employment opportunities in both the construction and other sectors linked to the construction market. The proposals would bring additional residents to the area who in turn would contribute to the local economy through supporting local facilities.

2.6.14 Social

The proposal would deliver levels of both open market and affordable housing in Hemingbrough and hence would promote sustainable and balanced communities

and would assist in the Council meeting the objectively assessed need for housing in the district. In addition the scheme would include provision for recreational open space and would contribute a CIL contribution which could be utilised to enhance existing services within Hemingbrough.

2.6.15 Environmental

The proposal would take into account environmental issues such as flooding and impacts on climate change, biodiversity and results in the loss of agricultural land which is of a moderate value. The proposal will also deliver environmental benefits in the form of public open space provision.

2.6.18 With regard to paragraph 14 of the NPPF, in this case the “tilted balance” referred to in paragraph 2.6.8 applies. On consideration of the above information, it is considered that the proposal is acceptable with regard to the appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability from both local and national policies, subject to compliance with flood risk policies within the NPPF. The impacts of the proposal are considered in the next section of the report.

2.7 Identifying the Impacts of the Proposal

2.7.1 Paragraph 14 of the NPPF requires the decision maker to determine whether any adverse impact of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This section will assess the impacts arising from the proposal.

2.8 Layout, Scale, Design and Impact on the Character of the Area

2.8.1 Relevant policies in respect to design and the impacts on the character of the area include Policy ENV1 (1) and (4) of the Selby District Local Plan, and Policy SP19 “Design Quality” of the Core Strategy.

2.8.2 Significant weight should be attached to the Local Plan policy ENV1 as it is broadly consistent with the aims of the NPPF.

2.8.3 Relevant policies within the NPPF, which relate to design include paragraphs 56, 60, 61, 65 and 200.

2.8.4 The application proposes outline consent for up to 21 no. dwellings with all matters reserved. An indicative layout plan has been submitted which demonstrates how the site could be laid out with the siting of the dwellings respecting the existing built form to the east and west of the site. In addition an area of recreational open space and a dry offline basin could be provided to the rear.

2.8.5 The submitted Supporting Statement states that “The site sits between Hemingbrough Hall to the west and existing residential development fronting onto Chapel Road and the A63 to the east. The site benefits from clear defensible boundaries to the north in the form of School Road, a drainage ditch to the south, and the east and west due to the presence of existing residential development. As such, the development of the site represents an entirely logical infill development which is in keeping with the current pattern of development along School Road. The

site is well contained and offers the potential to grow the settlement in a planned manner.” It is noted that the site is constrained by School Road to the north and residential development to either side. Furthermore the indicative layout plan demonstrates how development could be constrained to the frontage of the site with a second row of properties set behind, ensuring that it does not extend significantly into the open countryside beyond in order to reflect the character of the area and other built form along School Road. It is considered that an appropriate layout can be achieved at Reserved Matters stage however it will be important to ensure that the built form is restricted in accordance with the indicative layout plan in any detailed scheme.

- 2.8.6 The site would achieve a density of approximately 19 dwellings per hectare which is considered to be a relatively low density. However, this is largely due to the southern portion of the site being retained for recreational open space and SuDS and the proposals would therefore appear to be a reasonable density having had regard to these specific issues and a condition would be imposed to restrict the maximum number of dwellings to 21 having had regard to the context of the site.
- 2.8.7 The Hemingbrough Village Design Statement (VDS) acknowledges that later estates to the south of Hemingbrough, built between the 1960s and the present day, have been constructed with little acknowledgement of the Hemingbrough character and are mostly built in a standardised distributor road with cul-de-sacs layout. The VDS considers that “In future development, more of the traditional features and layout could be incorporated in to this area without slavishly copying the designs.”
- 2.8.8 With respect to appearance and scale this is reserved for future consideration and any reserved matters application should have regard to the surrounding context of the site in terms of existing residential development as well as the Village Design Statement. Taking into account the surrounding context of the site which comprises two storey dwellings, constructed with facing brick and a tile roof, there is nothing to suggest that an appropriate appearance and scale could not be achieved at reserved matters stage.
- 2.8.9 In terms of landscaping, this is reserved for future consideration, however it is noted that the site is generally open in character due to the arable nature of the site, with trees and hedgerows located on the site boundaries. The Supporting Statement states that “it is not proposed to remove any of these trees as it is considered that they play an important role in framing the site.” Having had regard to this it would be desirable to retain as much of the mature hedgerow and tree planting around the boundaries of the site and it is considered that an appropriate landscaping scheme can be agreed at reserved matters stage to ensure that this is achieved.
- 2.8.10 Policy ENV3 of the Local Plan requires consideration be given to external lighting and it is considered that an appropriate lighting scheme can be achieved at reserved matters stage.
- 2.8.11 The Police Architectural Liaison Officer has commented on the proposed indicative layout and has made a series of recommendations including ensuring that affordable units are not concentrated in one corner of the site, the avoidance of rear parking courts or communal garage areas, incorporation of first floor landing windows on side elevations to provide overlooking of parking spaces on driveways,

ensuring that there is adequate parking provision for each property, front gardens should have well-defined clear demarcation, corner plots should have clearly defined boundaries, provision of appropriate street lighting, provision of cycle storage and recreational open space having effective management arrangements and natural surveillance over them. All of these issues should be taken into account within the design of a detailed reserved matters scheme.

2.8.12 With respect to the impacts of the development on the character of the area and landscape character, it is noted that the site comprises a flat agricultural field with mature hedgerow and trees around the periphery of the site. The Landscape Appraisals which form part of the Core Strategy Background Paper No. 10 states that 'although open views of the wider landscape are available, the immediate field patterns to the east are broken up by areas of development outside the immediate compact form of the village and any development would be viewed within and against the backdrop of existing development and is not likely to appear visually intrusive or detract from the character of the area.' The appraisal therefore considers that this area of Hemingbrough has low landscape sensitivity. As such it is not considered that the proposal would result in a significant visual or landscape harm.

2.8.13 Having had regard to all of the above elements it is considered that an appropriate design could be achieved at reserved matters stage so as to ensure that no significant detrimental impacts are caused to the character of the area in accordance with policies ENV 1 (1) and (4) and ENV3 of the Local Plan, policy SP19 of the Core Strategy and the NPPF.

2.9 Impact on Residential Amenity

2.9.1 Policy in respect to impacts on residential amenity and securing a good standard of residential amenity is provided by ENV1(1) of the Local Plan, as part of the Core Principles of the NPPF and within Paragraph 200 of the NPPF.

2.9.2 The detailed design of the properties, orientation and relationship of windows to other properties would be fully established at reserved matters stage so as to ensure that no significant detriment is caused through overlooking, overshadowing or creating an oppressive outlook. Having had regard to the relationship to neighbouring properties, it is considered that a scheme which protects residential amenity could be achieved at reserved matters stage.

2.9.3 The Lead Officer for Environmental Health considers that 'the proposed development is of a relatively large scale and as such will entail an extended construction phase. This phase of the development may negatively impact upon nearby residential amenity due to the potential for generation of dust, noise and vibration.' A condition is recommended requiring a scheme to minimise the impact of noise, vibration, dust and dirt on residential properties be submitted prior to site preparation and construction work commencing which is considered reasonable and proportionate.

2.9.4 Having taken into account the matters discussed above it is considered that an appropriate scheme could be designed at reserved matters stage which should not cause significant detrimental impact on the residential amenities of either existing or

future occupants in accordance with policy ENV1(1) of the Local Plan and the NPPF.

2.10 Impact on the Highway Network

- 2.10.1 Relevant policies in respect to highway safety and capacity include Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and criteria (c) and (d) Policy SP19 “Design Quality” of the Core Strategy Local Plan. Given that paragraph 32 of the NPPF states that decisions should take account of whether safe and suitable access to the site can be achieved for all people these policies should be afforded weight as they are broadly consistent with the NPPF.
- 2.10.2 The Supporting Statement states that ‘access to the development is to be taken directly from School Road and the access point shown on the indicative layout provides the required visibility in both directions’. In addition it goes on to state that, ‘each unit will have an adequate number of parking spaces, to be built within the plot boundaries to meet the required parking standards.’
- 2.10.3 Comments from objectors in respect of the impacts on the existing highway network have been noted. The Highway Authority has stated that initial concerns over the access into the site have been overcome and as such an appropriate access to the site could be achieved. Highways have stated that it should be noted that the site would require 2 car parking spaces for 2 and 3 bedroom dwellings and 3 spaces for 4 plus bedroom dwellings. It is noted that the parking layout and detailed highway design this can be addressed at reserved matters stage. Several conditions are recommended, however, given the application is in outline form with all matters reserved, it would be unreasonable to include the stated highways conditions at this stage.
- 2.10.4 Given the above it is considered that an acceptable design and layout could be achieved to meet highway policies, in accordance with Policies T1 and T2 of the Selby District Local Plan.

2.11 Impact on Nature Conservation Issues

- 2.11.1 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 NPPF.
- 2.11.2 With respect to impacts of development proposals on protected species planning policy and guidance is provided by the NPPF and accompanying PPG in addition to the Habitat Regulations and Bat Mitigation Guidelines published by Natural England.
- 2.11.3 The application is accompanied by an Extended Phase 1 Habitat Survey (dated September 2015) which identified that further surveys were required in respect of Water Voles and Great Crested Newts which may be impacted upon through the proposed development. A subsequent Amphibian and Water Vole Survey (dated August 2016) by Enviroscope Consulting was therefore submitted in response to this.

Nature Conservation Sites

- 2.11.4 The Phase 1 Survey notes that no statutory nature conservation designations have been identified at the site itself and the site is located 1.5km north of the River Derwent SSSI (Site of Special Scientific Interest) and SAC (Special Area of Conservation). The report states that the SSSI is primarily designated on the basis of its status due to it representing one of the best British examples of the classic river profile, and the diverse aquatic flora and fauna it supports. The site's SAC European Site status relates primarily to the river's lamprey population and spawning grounds plus to presence of bullhead, sea lamprey and otter.
- 2.11.5 In terms of non-statutorily designated sites (Sites of Importance for Nature Conservation (SINCs)) there are three sites, two of which have been deleted, with the closest SINC (Hagg Green Lane) to the application site is located approximately 0.75km to the north west. The report considers that due to the distance between the SINC and application site, any impact is unlikely. Having consulted Natural England they have raised no objections with respect to the impacts on nature conservation sites.

Protected Species

- 2.11.6 The report establishes that three mature trees have been identified as having potential value to roosting bats and recommends that if removal or major works to these trees is proposed then two bat emergence/re-entry surveys of the trees is carried out in order to determine bat presence/absence and it may be necessary to obtain a European Protected species licence in advance of works to the trees. It is noted from the information submitted with the application that the proposal does not propose the loss of any trees within or around the site and no works are proposed. As such, a Bat Survey was not required to be submitted with the application but a condition can be included which requires a survey to be undertaken and submitted if any works to trees are proposed, prior to the commencement of development.
- 2.11.7 The Extended Phase 1 Habitat Survey noted the potential of the development to impact on water voles to the south of the site and as such, a further survey has been undertaken. This Survey confirms that the pond to the south of the site is considered to offer a very good habitat for water voles and a single water vole was observed in the summer of 2015. The report states that although no water voles were found during the surveys carried out in 2016, it is appropriate to consider the possibility of the site being colonised by water voles at a future date prior to construction. The report recommends that a further water vole survey is undertaken on the submission of a full application to determine whether water voles are using the site at that time. It also notes that a licence may be required from Natural England if water voles are present and any works would impact on the species.
- 2.11.8 With respect to Great Crested Newts, the survey states that the pond to the south has an average suitability to support GCN and during the course of two surveys, one male and one female smooth newt were bottle trapped. The report notes that no other amphibians were caught or observed and the aquatic fauna abundance and diversity in the pond was relatively poor and aquatic vegetation was not abundant. It also states that the eDNA analysis of the pond returned a negative result for GCN.

- 2.11.9 The report concludes that no impacts on GCN are anticipated through the development and given that smooth newts have been found at the pond, it is likely that toads and frogs are also present, however, these are offered limited protection. The report recommends that the EA Pollution Prevention Guidelines and a Construction Exclusion Zone is established which can be secured through condition.
- 2.11.10 The report also recommends that any works to trees or hedgerows should be carried out outside of the bird nesting season (February to August inclusive), and where this is not possible, an Ecologist should carry out a nesting bird check within 48 hours of any vegetation removal works.

Habitats

- 2.11.11 The report confirms that at the time of the survey the site was an arable field with plant species recorded which are commonplace and widespread. It considers that some of the hedgerows on the site are species-rich and are also a UK BAP Priority Habitat and are protected under the Hedgerow Regulations. Flocks of house sparrows, which are a UK BAP species and RSPB Red List species were also observed in the hedges. The report considers that the hedgerows are of value at a local scale which relates to their value as wildlife corridors, their floristic interest and their potential value to foraging and nesting birds.
- 2.11.12 It was also noted that Himalayan balsam is present on the site and is listed under Schedule 9 of the Wildlife & Countryside Act 1981. It adds that it is an offence to plant or otherwise allow this plant to grow in the wild.
- 2.11.13 The report considers that potential impacts of the development may relate to the loss, fragmentation and change in condition of existing habitats on and /or offsite during and post construction which could impact on protected and notable species and there is potential for the invasive species Himalayan balsam to be spread as result of construction works.
- 2.11.14 Natural England has raised no objection to the proposal in respect to the impact on the SSSI and SAC and references its standing advice regarding impacts on protected species which has been considered. The Yorkshire Wildlife Trust has provided comments and recommendations based on the information and surveys submitted. The North Yorkshire Bat Group were consulted but have not responded to the consultation.
- 2.11.15 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 and recommendations set out in the Extended Phase 1 Habitat Survey (dated September 2015) and an Amphibian and Water Vole Survey (dated August 2016).

2.12 Affordable Housing

- 2.12.1 Policy SP9 of the Core Strategy states that the Council will seek to achieve a 40/60% affordable/general market housing ratio within overall housing delivery. In pursuit of this aim, the Council will negotiate for on-site provision of affordable

housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings.

2.12.2 The applicant has confirmed that they are prepared to provide 40% affordable units on site and that this would be secured via a Section 106 agreement. The developer should identify a partner Registered Provider at an early stage to confirm the number, size and tenure of the units.

2.12.3 The Section 106 agreement would secure the 40% provision on-site and would ensure that a detailed Affordable Housing Plan is provided at reserved matters stage setting out the size and tenure mix based on a split of 50-70% rent and 50-30% intermediate provision.

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

2.13 Housing Mix

2.13.1 The NPPF sets out the requirement to deliver a wide choice of high quality homes through planning for a mix of housing which reflects local needs and to provide affordable homes. Core Strategy Policies SP8 and SP19 (i) requires development to create mixed use places with variety and choice that complement one another to encourage integrated living.

2.13.2 The Draft Selby District Council Strategic Housing Market Assessment 2015 has identified that three quarters of the affordable need is for homes with one or two bedrooms with around a quarter of the need being for larger homes with three or more bedrooms. There is a general need for one and two beds and also a need for this house size for older householders. The SHMA suggests that it may be appropriate to seek a higher percentage of three or more bed properties in new build schemes to release existing smaller properties for other households. The report notes that shared ownership schemes within the District have been performing well with 22% of the housing need identified being for intermediate equity based housing products with higher intermediate housing provision appropriate where it helps to support scheme viability. The applicants should take account of these findings in terms of the proposed mix of affordable units within any reserved matters scheme.

2.13.3 As such, it is considered that the proposal could achieve an appropriate housing mix at reserved matters stage as identified in the SHMA, in accordance with Policy SP8 and the NPPF.

2.14 Flood Risk, Drainage, Climate Change and Energy Efficiency

2.14.1 Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account climate change and energy efficiency within the design.

2.14.2 The proposals will consider energy efficiency/sustainable design measures within the scheme in order to meet building regulations requirements.

- 2.14.3 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.
- 2.14.4 The application site is located in Flood Zone 1 which is at low probability of flooding and the Supporting Statement has advised that “Surface water will discharge to attenuation pipes within the site and a dry offline detention basin at the south of the site. The basin has been included within the site boundary and is intended to be adopted by Yorkshire Water in order that it can be maintained to ensure that it is fit for attenuation purposes. As regards foul drainage, disposal from the site will be to the 225mm diameter Yorkshire Water foul sewer on Hull Road to the north of the site.”
- 2.14.5 As the site exceeds 1 hectare in area, a site specific flood risk assessment is required to be submitted. In this instance, a Flood Risk and Drainage Assessment has been submitted which considers that the risk of fluvial, land and sewer flooding is low and there are no known problems at the site due to groundwater. The Assessment considers that the viability of using infiltration SuDS depends on the site infiltration rate which should be confirmed based on BRE Digest 365 guidelines but examination of the soils indicate relatively permeable soils.
- 2.14.6 In terms of adoption, the Assessment states that following discussions with Yorkshire Water, an offline dry detention basin as attenuation storage for the volume difference between the 1 in 2 year and 1 in 100 plus Climate Change event has been agreed. Ownership and maintenance would be taken by Yorkshire Water with a commuted sum payable to Yorkshire Water to cover maintenance costs.
- 2.14.7 The Flood Risk Assessment states that in order to mitigate against potential overland flows from sewer flooding in exceedance conditions, it is recommended that Finished Floor Levels (FFL) of all properties be set at least 150mm above existing ground levels. Several other recommendations have also been included which can be secured by way of condition.
- 2.14.8 The Internal Drainage Board have stated that they welcome the proposed use of SuDS and soakaways as an approach to surface water disposal and recommends that a drainage strategy is submitted to demonstrate that SuDS will operate effectively at the site.
- 2.14.9 The IDB concludes that they have no objection to the principle of the application if a SuDS solution can be established to work at this location but they have some concerns that there is no positive drainage system connecting the site to any YW asset or watercourse and it would be highly unlikely that the IDB would be willing to consent any new connection or discharge into any watercourse.
- 2.14.10 Yorkshire Water has confirmed that the proposed site access may affect an existing live water main that is laid in the highway (and grass verge) and a condition is recommended in respect of foul water.

- 2.14.11 The Strategic Drainage Officer (SuDs) has been consulted and recommends one condition but notes the IDB conditions which are suitable and to avoid duplication, advises that there would not be any issues with the planning authority using the Board's conditions providing the allowance for climate change is 30% not 20%.
- 2.14.12 Having taken the above into account it is therefore considered that, subject to the attached conditions a satisfactory drainage scheme could be brought forward to adequately address flood risk, drainage, climate change in accordance with Policies SP15, SP16 and SP19 of the Core Strategy Local Plan, and the NPPF.

2.15 Land Contamination

- 2.15.1 Relevant policies in respect of land contamination are Policy SP19 'Design Quality' part (k) of the Core Strategy Local Plan, Policy ENV2 (A) of the Local Plan and paragraphs 120 and 121 of the NPPF. Policy ENV2 (A) of the Local Plan should be given significant weight in the determination of planning applications as it is broadly consistent with the NPPF.
- 2.15.2A Preliminary Investigation has been submitted and the Council's Contamination Consultant previously assessed the same document as part of application 2015/1223/OUT. They advise that "While the report is not compliant with technical guidance and contains contradictions in its conclusions; due to some possible sources of contamination found during the walkover and the sensitivity of the end user being residential with gardens, then some intrusive investigation may be prudent." As such, several conditions are recommended in respect of land contamination.
- 2.15.3 The proposals, subject to the attached conditions are 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.

2.16 Recreation Open Space

- 2.16.1 Policy in respect of the provision of recreational open space is provided by Policy RT2 of the Local Plan, the Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and paragraphs 70 and 73 of the NPPF.
- 2.16.2 The indicative layout demonstrates that there would be an area to the south of the site which could include a provision for recreational open space on-site, although the detailed type of provision to be provided would be established in detail at reserved matters stage. It is noted that Policy RT2 sets out the requirements for provision to equate to 60sqm per dwelling and as such it would be appropriate to ensure that this is secured by Section 106 agreement given that the detailed layout and design could alter at Reserved Matters stage.
- 2.16.3 It is therefore considered that the proposals are appropriate, subject to a Section 106 agreement and a scheme which accords with Policies RT2 of the Local Plan Policy SP19 of the Core Strategy and the NPPF can be secured at reserved matters stage.

2.17 Education, Healthcare, Waste and Recycling

- 2.17.1 Policies ENV1 and CS6 of the Local Plan and the Developer Contributions Supplementary Planning Document set out the criteria for when contributions towards education, healthcare and waste and recycling are required. These policies should be afforded significant weight but considered in the context of the CIL requirements.
- 2.17.2 A consultation has been sent to the Healthcare Service in relation to this application but no response has been received. The NYCC Education Directorate has stated that a contribution would not be sought for primary or secondary education facilities as there would not be a shortfall of school places. However, it is noted that monies would be collected through CIL if a contribution for education was requested.
- 2.17.3 With respect to Waste and Recycling, a contribution of £65 per dwelling would be required and this can be secured as part of a Section 106 Agreement.
- 2.17.4 Having had regard to the above the proposals comply with policies ENV1 and CS6 of the Local Plan, Policy SP19 of the Core Strategy, the Developer Contributions SPD and CIL with respect to developer contributions.

2.18 Archaeology

- 2.18.1 Policy ENV28 of the Local Plan states that ‘where development proposals affect sites of known or possible archaeological interest, the District Council will require an archaeological assessment/evaluation to be submitted as part of the planning application.’ Given that paragraph 128 of the NPPF advises that Local Planning Authorities should require developers to submit desk-based assessments and, where necessary a field evaluation where the site on which development is proposed includes or has the potential to include heritage assets with archaeological interest then significant weight should be attached to this policy.
- 2.18.2 An Archaeological Geophysical Survey has been submitted with the application and the Heritage Officer has stated that “The survey has been carried out to a very high specification and has picked up very ephemeral features such as drains and furrows. This demonstrates that the technique has been successful and would have identified archaeological remains had they been present. The report provides sufficient information on which to determine the planning application (NPPF para. 128).”
- 2.18.3 The Heritage Officer concludes that “As the geophysical survey has proved largely negative (with some features interpreted as modern or agricultural) the site appears to have a low archaeological potential” and therefore, they have no objection to the proposal.
- 2.18.4 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 the NPPF.

2.19 Taking into account the presumption in favour of sustainable development demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole

- 2.19.1 Having considered the issues outlined above against the relevant policy tests it is considered that any harms to acknowledged interests arising from the proposal are not significant. However the proposal would result in the substantial benefit of meeting the local need for both market and affordable housing that has been demonstrated to exist.
- 2.19.2 It is considered that there are no other adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits. The proposal is therefore considered acceptable when assessed against the policies in the NPPF, Selby District Local Plan and the Core Strategy. With regard to paragraph 14 of the NPPF, in this case the “tilted balance” referred to in paragraph 2.7.7 applies.
- 2.19.3 The proposals accord with the requirements of paragraph 14 of the NPPF as well as the overarching aims and objectives of the NPPF and it is on this basis that permission should/ be granted subject to the attached conditions.

2.20 Conclusion

- 2.20.1 The application proposes outline planning consent for residential development with all matters reserved. The site is currently in arable agricultural use and the boundaries of the site are existing residential properties to the east and west, School Road to the north and a drainage ditch to the south.
- 2.20.2 The Council has conceded in appeal APP/N2739/W/16/3144900 of October 2016 that it does not have a 5 year housing land supply and proposals for housing should be considered in the context of the presumption in favour of sustainable development and paragraphs 14 and 49 of the NPPF and SP1 of the Core Strategy. Having regard to paragraph 49 of the NPPF it is considered that Policy SP5 Parts A and B are out of date in so far as they relate to housing supply and so should be afforded only limited weight.
- 2.20.3 Given that the Council cannot demonstrate a 5 year housing land supply the presumption in paragraph 14 of the NPPF is engaged meaning that unless material considerations indicate otherwise, planning permission should be granted unless:
- (i) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or
 - (ii) Specific policies (either in the NPPF or the Core Strategy) indicate development should be restricted (such as flood risk, green belt, countryside gaps and heritage assets).

No specific policies which restrict development apply to this application therefore the ‘tilted balance’ in paragraph 14 applies.

- 2.20.4 As such the proposals for residential development on this site should be considered in the context of the presumption in favour of sustainable development and

paragraphs 14 and 49 of the NPPF. In assessing the proposal against the three dimensions of sustainable development set out within the NPPF, the development would provide the following social, economic and environmental benefits and mitigation measures:

- a contribution to the District's five year housing land supply;
- the provision of additional market, affordable and high quality housing for the District;
- the provision of housing in close proximity to the boundary of a Designated Service Village which has good access to local services and public transport;
- short term employment opportunities for the construction and house sales industry;
- additional spending within the District from the future residents;
- On-site open space provision and on-going maintenance;
- Community Infrastructure Levy Fees to be provided on commencement of development;
- a 10% energy supply from decentralised and renewable or low carbon sources.

2.20.5 Taken together these represent significant benefits and are in line with the Government's planning and general policy objective of boosting housing land supply in sustainable locations.

2.20.6 The proposals could achieve an appropriate layout, appearance, landscaping, scale and access so as to respect the character of the area. The proposals are also considered to be acceptable in respect of the impact upon residential amenity, drainage and climate change, protected species, archaeology and contamination in accordance with policy.

2.20.7 Having had regard to all of the above, it is considered that there are no adverse impacts of granting planning permission that would significantly and demonstrably outweigh the benefits. The proposal is therefore considered acceptable when assessed against the policies in the NPPF, in particular Paragraph 14, the Selby District Local Plan and the Core Strategy. In this case the "tilted balance" in paragraph 14 applies. It is on this basis that permission is recommended to be granted subject to the conditions and Section 106 agreement.

2.21 Recommendation

This application is recommended to be APPROVED subject to delegation being given to Officers to complete the Section 106 Agreement to secure 40% on site provision for affordable housing, on-site recreation open space provision and maintenance and a waste and recycling contribution and the conditions as detailed below.

01. Applications for the approval of the reserved matters referred to in No.2 herein shall be made within a period of three years from the grant of this outline permission and the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason:

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

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

Reason:

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

03. The total number of dwellings authorised by this permission shall not exceed 21 and any reserved matters application(s) submitted pursuant to Conditions 1 and 2 shall be limited to this maximum in total.

Reason:

The impacts of the development on existing infrastructure have been assessed on the basis of this number of units.

04. Should any of the proposed foundations be piled then no development shall commence until a schedule of works to identify those plots affected, and setting out mitigation measures to protect residents from noise, dust and vibration shall be submitted to and approved in writing by the Local Planning Authority. The proposals shall thereafter be carried out in accordance with the approved scheme.

Reason:

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

05. Prior to the site preparation and construction work commencing, a scheme to minimise the impact of noise, vibration, dust and dirt on residential property in close proximity to the site, shall be submitted to and agreed in writing with the Local Planning Authority.

Reason:

To protect the residential amenity of the locality and in order to comply with the NPPF and Selby District Council's Policy's SP19 and ENV2.

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 development shall be commenced until the Local Planning Authority has approved a Scheme for the provision of surface water drainage works. The approved scheme shall be implemented before the development is brought into use, unless otherwise agreed in writing by the Local Planning Authority and 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 30% 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.

08. A strip of land 9 metres wide adjacent to the top of both banks of all watercourses on Site shall be kept clear of all new buildings and structures (including gates, walls, fences and trees) unless agreed otherwise in writing with the Local Planning Authority. Ground levels must not be raised within this area. Access arrangements should be agreed with the Internal Drainage Board.

Reason:

To maintain access to the watercourse for maintenance or improvements.

09. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved in writing by the Local Planning Authority before development commences.

Reason:

To ensure that the site is properly drained and surface water is not discharged to the foul sewerage system which will prevent overloading.

10. The development permitted by this planning permission shall only be carried out in accordance with the Recommendations at paragraph 5.4 of the Flood Risk and Drainage Assessment dated October 2015 by JBA Consulting. The Recommendations shall be fully implemented prior to occupation of the approved scheme.

Reason:

To reduce the risk of flooding to the proposed development and future

11. No dwelling shall be occupied until a scheme to demonstrate that at least 10% of the energy supply of the development has been secured from decentralised and renewable or low-carbon energy sources including details and a timetable of how this is to be achieved, including details of physical works on site, has been

submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interest of sustainability, to minimise the development's impact in accordance with Policy SP16 of the Core Strategy.

12. The development shall be carried out in complete accordance with the mitigation measures set out in the Ecology Report by Enviroscope Consulting, dated September 2015 and the Recommendations as set out in the Amphibian and Water Vole Survey by Enviroscope Consulting, dated August 2016, unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interests of ensuring that protected species are not significantly impacted by the development.

13. Prior to the commencement of development, a hedgerow survey and Management Plan should be submitted to assess whether the hedgerows are 'important' under the Hedgerow Regulations. Any hedgerow that is to be retained will require sufficient root protection which should be detailed within the Management Plan.

Reason:

In the interests of ensuring that the hedgerow is not significantly impacted by the development.

14. 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.

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

Reason:

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

16. 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.

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

18. The development hereby permitted shall be carried out in accordance with the plans/drawings listed below:
 - 1055384/01B (Location Plan)

- A101 (Topographical Survey)

Reason:

For the avoidance of doubt

3.1 Legal Issues

3.1.1 Planning Acts

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

3.1.2 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.

3.1.3 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.

3.2 Financial Issues

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

4. Conclusion

4.1 As stated in the main body of the report.

5. Background Documents

5.1 Planning Application file reference 2016/1337/OUTM and associated documents.

Contact Officer:

Calum Rowley

Senior Planning Officer

Appendices:

None

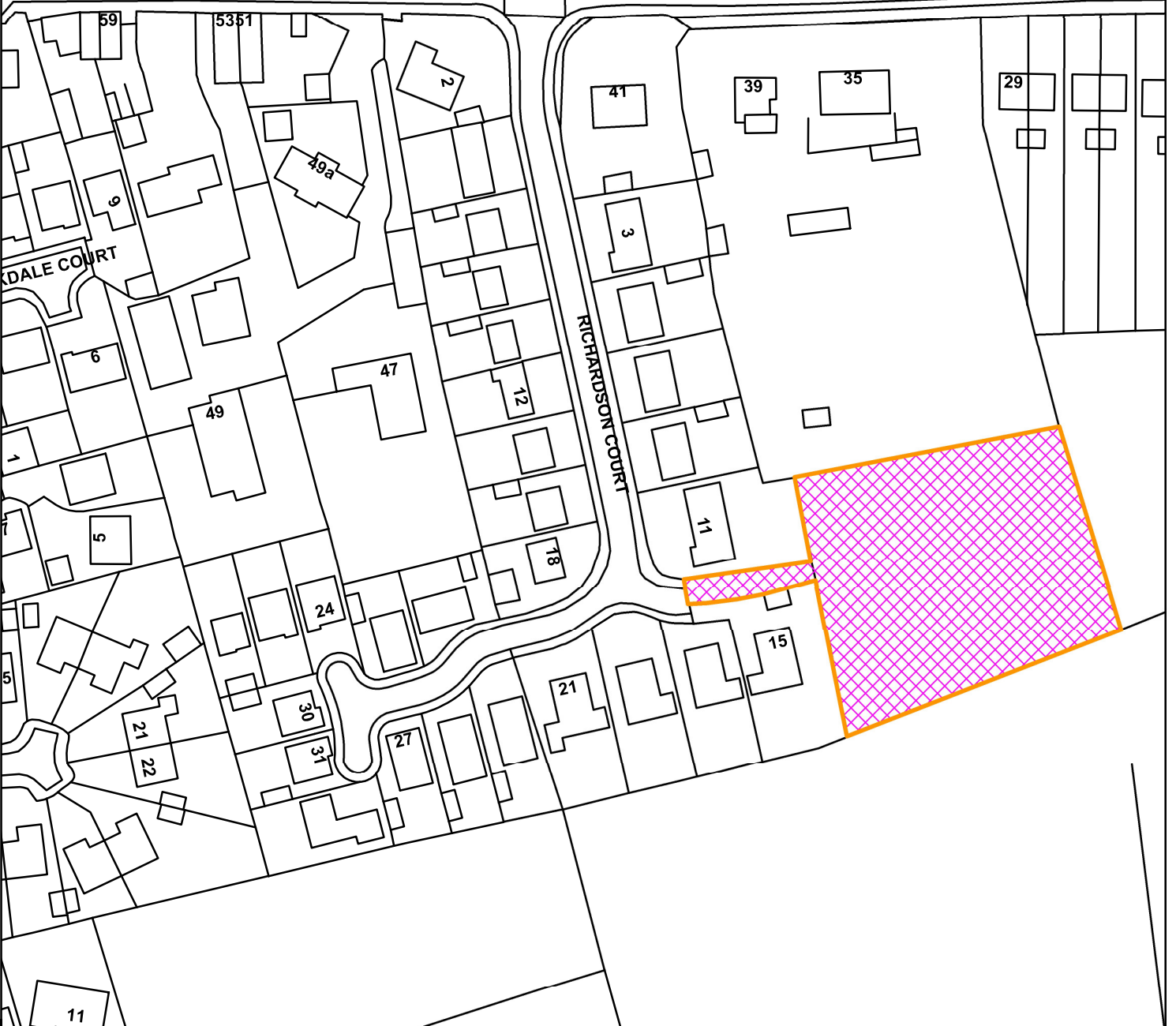
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Town Dike

A63

9.0m



APPLICATION SITE

Richardson Court, Hambleton
2017/0312/OUT

1:1,250



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SCHEDULE OF ACCOMMODATION

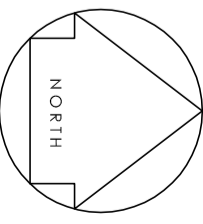
UNIT	HOUSE TYPE	BUNGALOW	3 BED/2 BATH	1200 ft ²	(111.5m ²)
UNIT 1	HOUSE TYPE A	BUNGALOW	3 BED/2 BATH	1200 ft ²	(111.5m ²)
UNIT 2	HOUSE TYPE A	BUNGALOW	3 BED/2 BATH	1200 ft ²	(111.5m ²)
UNIT 3	HOUSE TYPE A	BUNGALOW	3 BED/2 BATH	1200 ft ²	(111.5m ²)
UNIT 4	HOUSE TYPE A	BUNGALOW	3 BED/2 BATH	1200 ft ²	(111.5m ²)
UNIT 5	HOUSE TYPE A	BUNGALOW	3 BED/2 BATH	1200 ft ²	(111.5m ²)

NB AREAS INDICATED ARE GROSS INTERNAL AREA AND EXCLUDE GARAGES

RECEIVED

31 July 2017

DEVELOPMENT MANAGEMENT



SITE AREA
APPROX - 0.71ACRES

REV C - 27.07.17 ACCESS FROM ADOPTED ROAD AND PRIVATE ROAD EXTENT/AMENDED
 REV B - 25.07.17 ACCESS FROM ADOPTED ROAD AMENDED
 REV A - 02.06.17 POTENTIAL AREA FOR BINS ADDED

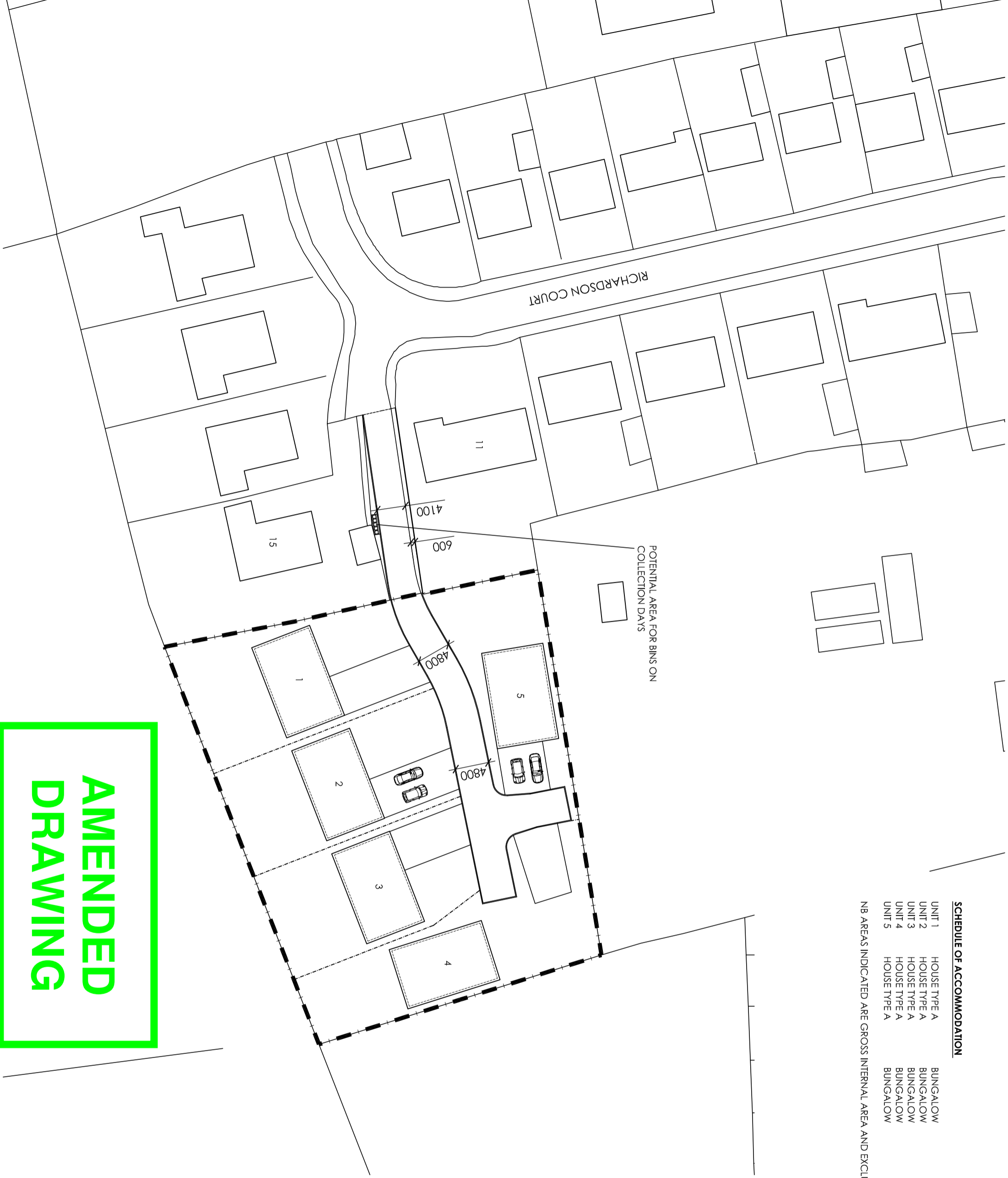
TP ARCHITECTURE

2 STRICKLAND AVENUE
LEEDS LS17 8JU
T: 0113 2732706
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E: tony@tparchitecture.co.uk

PROPOSED RESIDENTIAL DEVELOPMENT
RICHARDSON COURT, HAMBLETON
SELBY
for
D NOBLE LIMITED
PROPOSED SITE PLAN

Date: JANUARY 2017 Scale (at A3): 1:500
 Project no: 1275 Drawing no: 013 Revision: C

AMENDED
DRAWING



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Report Reference Number: 2017/0312/OUT (8/33/360/PA)

Agenda Item No: 7.3

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

APPLICATION NUMBER:	2017/0312/OUT	PARISH:	Hambleton Parish Council
APPLICANT:	D Noble Ltd	VALID DATE: EXPIRY DATE:	7 April 2017 2 June 2017
PROPOSAL:	Outline application for residential development with all matters reserved		
LOCATION:	Land East Of Richardson Court Hambleton Selby YO8 9GY		
RECOMMENDATION:	APPROVE		

This application has been brought before Planning Committee as Officers consider that although the proposal is contrary to the provisions of the Development Plan there are material considerations which would justify approving the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located outside the defined development limits of Hambleton, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside.
- 1.2 The application site is located to the east of Richardson Court, which is a cul-de-sac to the south side of Main Road towards the east end of Hambleton. The application site comprises an area of vacant land, which was historically agricultural land. The application site is surrounded by residential development to the north, east and west, with agricultural land to the south.

The Proposal

- 1.3 The application seeks outline planning permission for residential development with all matters reserved.
- 1.4 An indicative layout plan has been submitted with the application, which demonstrates how the site could be laid out to accommodate five dwellings, which would be bungalows, served from a private access drive leading from Richardson Court. The submitted planning statement sets out that the indicative layout plan has been prepared and this shows how the Site could accommodate 5 detached bungalows and sets out that the individual plot sizes shown are commensurate with those of the adjacent bungalows located to the west.

Planning History

- 1.5 The following historical applications are considered to be relevant to the determination of this application.
 - Planning application CO/1983/14886 for a residential development was Refused on 30 March 1983 and dismissed at Appeal.

2. CONSULTATION AND PUBLICITY

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

- 2.1 **Parish Council** – 16.05.2017: Hambleton Parish Council are in favour of this development to meet local residential needs but have serious concerns regarding the proposed access and its safety implications.

17.10.2017: In light of the application being for a market site, as opposed to a site for the benefit of the people of Hambleton directly, Hambleton Parish Council are not in support of the application. There are concerns regarding the vehicular access as the proposed vehicular access is very narrow and concerns have been raised about how safe it would be, particularly for pedestrians. Further, there are concerns about the village growth potential - it is unnecessary for the village to accept further developments of multiple dwellings. Hambleton has already exceeded what would be considered a reasonable level of growth and to allow further development outside the development limits for private developers would be unacceptable and to the detriment of the village.

- 2.2 **NYCC Highways** – No objections subject to two conditions relating to: (1) the approval of details for site works in the highway, and (2) a construction management plan.
- 2.3 **Environmental Health** - No objections.
- 2.4 **Waste and Recycling Officer** - The development is to be accessed from a private drive. Collection vehicles will not access private drives or use them for turning and so a bin presentation point will need to be provided at the junction of the public and private roads. As the application is for more than 3 properties, the developer will be required to purchase the waste and recycling containers for this development.

- 2.5 **Yorkshire Water** - No objections, subject to a condition relating to surface water drainage.
- 2.6 **Selby Area Internal Drainage Board** – Comments/recommendations made.
- 2.7 **North Yorkshire Bat Group** - No response within statutory consultation period.
- 2.8 **Public Rights Of Way Officer** - No response within statutory consultation period.
- 2.9 **Contaminated Land Consultant** - Standard contaminated land conditions are not required, however, it is considered that it would be prudent to attach an unexpected contamination condition.
- 2.10 **Neighbour Comments** - Four letters of objection have been received with concerns raised in respect of: (1) the location of the proposed development outside the defined development limits; (2) insufficient services within Hambleton to support the proposed development; (3) the proposed access to the site; (4) the impact of the proposed development on residential amenity in terms of noise and disturbance from traffic and loss of privacy; (5) proposal would result in increased pollution from vehicle emissions and have an adverse impact on local residents; (6) the location and size of the bin collection areas; (7) potential for noise and disturbance to neighbouring properties during the construction period.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site is located outside the defined development limits of Hambleton and is therefore located within the open countryside.
- 3.2 The application site is located within Flood Zone 1.

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

- 3.3 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.
- 3.4 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

3.5 The relevant Core Strategy Policies are:

- SP1 - Presumption in Favour of Sustainable Development
- SP2 - Spatial Development Strategy
- SP5 - The Scale and Distribution of Housing
- SP9 - Affordable Housing
- SP15 - Sustainable Development and Climate Change
- SP16 - Improving Resource Efficiency
- SP18 - Protecting and Enhancing the Environment
- SP19 - Design Quality

Selby District Local Plan

3.6 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)".

3.7 The relevant Selby District Local Plan Policies are:

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

Other Policies and Guidance

3.8 Affordable Housing Supplementary Planning Document

3.9 Developer Contributions Supplementary Planning Document

3.10 Draft Selby District Strategic Housing Market Assessment – June 2015

3.11 The 2017 Housing White Paper

4. APPRAISAL

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

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area

- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk, Drainage and Climate Change
- Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing
- Recreational Open Space
- Education and Healthcare, Waste and Recycling

The Principle of the Development

- 4.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.
- 4.3 Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF.
- 4.4 The application site is located outside the defined development limits of Hambleton, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside.
- 4.5 Policy SP2A(c) of the Core Strategy states that "Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances."
- 4.6 The proposal does not meet Policy SP2A(c) as it is not for rural affordable housing need and there are no special circumstances. The application should therefore be refused unless material considerations indicate otherwise.
- 4.7 At the time of writing this report, the Council can confirm that they have a five year housing land supply. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.
- 4.8 The NPPF is a material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development. Paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Sustainability of the Development

- 4.9 In respect of sustainability, the site is adjacent to the development limits of Hambleton, which is a Designated Service Village as identified in the Core Strategy, where there is some scope for additional residential and small scale employment to support rural sustainability. The village contains a number of local services, including a primary school and general store and also benefits from bus services to Leeds, Selby, Tadcaster and Sherburn in Elmet.
- 4.10 It is noted that the village of Hambleton has been identified as a Designated Service Village, both within the Selby District Local Plan and the Core Strategy, which demonstrates that the Council has considered the village a sustainable location in a rural context. The village is considered to be “more sustainable” in Core Strategy Background Paper 5, Sustainability Assessment of Rural Settlements, Revised July 2008 , meaning that three of four indicators assessed were in the highest two categories. The type and range of facilities, public transport accessibility and access to employment opportunities identified in Hambleton was broadly similar in the PLAN Selby Site Allocations, Designated Service Villages, Growth Options Report, Draft For Stakeholder Engagement, June 2015 (recognising that there are some differences with the studies). Furthermore, it is considered the situation in respect of the sustainability of Hambleton has remained broadly similar since June 2015 to date. Having taken these points into account, despite the fact that the site is located outside the defined development limits of Hambleton, it is adjacent to the boundary and would be served by the facilities within the settlement.

Previous Levels of Growth and the Scale of the Proposal

- 4.11 Core Strategy Policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability. This policy sets a minimum target of 2000 new dwellings for Designated Service Villages as a whole over the period 2011 to 2027. The most recent monitoring indicates that this figure has been exceeded by completions and permissions in these settlements as a whole. However, the Core Strategy does not set a minimum dwelling target for individual Designated Service Villages, so it is not possible at this point to ascertain exactly whether Hambleton has exceeded its dwelling target.
- 4.12 In order to assess the scale of housing allocations to apportion to each Designated Service Village in the Site Allocations Local Plan, the Council published a Designated Service Villages Growth Options Report as part of the evidence base for the PLAN Selby Site Allocations Local Plan Document in June of 2015; this document was subject to a 6 week public consultation.
- 4.13 The evidence set out in the Growth Options report provides a guide for decision making as to the amount of housing development that is appropriate in Designated Service Villages. The research and analysis undertaken in the Growth Options report included a numerical assessment of the housing supply per village and a detailed assessment of the services and infrastructure of each village, in order to determine its sustainability.
- 4.14 This approach accords with the spatial strategy of the Core Strategy which envisages only “limited” growth in Designated Service Villages to support rural

sustainability. Any other approach would inevitably lead to unsustainable levels of housing development in the villages and a fundamental undermining of the spatial strategy.

- 4.15 The Growth Options report indicates minimum growth options of between 33-53 dwellings for Hambleton. To date, Hambleton has seen 51 (gross) dwellings built in the settlement since the start of the Plan Period (50 net) in April 2011 and has extant gross approvals for 116 dwellings (115 net), giving a gross total of 167 dwellings (165 net). Taking into account the range of growth options identified for this settlement, the scale of this individual proposal, at five dwellings, is considered to be appropriate to the size and role of Hambleton which is designated as a Designated Service Village, as the size of this one development alone would be below the lower growth range of 33. However, the individual scale of the proposal must also be considered in terms of the cumulative impact it would have on previous levels of growth in this settlement that have occurred since the start of the plan period. If the scheme were to be permitted, the cumulative impact would increase the number of approvals to 121 dwellings (120 net), giving a gross total of 172 dwellings (171 net). Taken cumulatively this would be significantly more than the upper growth range of 53. However, if this application were to be approved, it would only be marginally more than the existing situation with approvals of 116 dwellings (115 net), giving a gross total of 167 dwellings (165 net). Given the individual small scale of the proposal, for five dwellings, and the sustainability of Hambleton as a Designated Service Village, by comparison to other Designated Service Villages within the District, in which it performs highly, it is considered that the level of growth proposed, in this instance, is acceptable for Hambleton as a Designated Service Village.
- 4.16 Furthermore, having regard to the scale of the proposal, for five dwellings, the proposed development, if approved, would provide opportunities for small housebuilders, which would assist in diversifying the housing market, opening it up to smaller builders, which is a central aim of the 2017 Housing White Paper.

Evidence of Housing Need

- 4.17 The National Planning Practice Guidance sets out, that the need to provide housing for older people is critical given the projected increase in the number of households aged 65 and over accounts for over half of the new households (Paragraph: 021 Reference ID: 2a-021-20160401). The Draft Selby District Strategic Housing Market Assessment – June 2015 (SHMA) sets out that the District has an above average proportion of adults aged 60-74 compared to the regional and national profile. Data shows there will be 33,500 people aged 60 and over in 2037, an increase of 11,900 from 2014, a growth of 55 percent, whilst the population aged 75 and over is projected to increase by an even greater proportion, 115 percent. The SHMA sets out that to support a growing older population there is a need to increase delivery of bungalows; and to provide opportunities for households to downsize into single storey housing within the villages, which would free up family housing for younger households.
- 4.18 The application seeks outline planning permission for the erection of a residential development of five dwellings, with all matters reserved; however, an indicative layout plan has been submitted with the application, which demonstrates how the site could be laid out to accommodate five dwellings and the supporting statement

sets out that the dwellings would be bungalows. As set out later in this report, it is considered reasonable and necessary to attach a condition to any planning permission granted to ensure that the dwellings are bungalows, having regard to the context of the application site and surrounding development. Therefore, if approved, the application would result in the provision of bungalows.

- 4.19 The SHMA recognises the economics of delivery of bungalows can be challenging, and that provision should be given strong support on appropriate sites. The provision of bungalows on the application site would provide opportunities for households to downsize and the site is considered to be appropriately located in relation to the development limit boundary, served by facilities within the settlement and is within short well-lit walking distance of local transport links; factors which would be appropriate to housing an ageing population.

Design and Impact on the Character and Appearance of the Area

- 4.20 The application site is located outside the defined development limits of Hambleton, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside. The application seeks outline planning permission for the erection of a residential development of five dwellings, with all matters reserved.
- 4.21 The application site is located to the east of Richardson Court, which is a cul-de-sac to the south side of Main Road towards the east end of Hambleton. The application site comprises an area of vacant land, which was historically agricultural land. The application site is surrounded by residential development to the north, east and west, with agricultural land to the south.
- 4.22 Dwellings within the immediate vicinity of the application site are detached bungalows to the east and south of Richardson Court. However, it is noted that there are two storey dwellings to the west of Richardson Court and to the north of the application site fronting Main Road, providing some variety.
- 4.23 An indicative layout plan has been submitted with the application, which demonstrates how the site could be laid out to accommodate five dwellings. The supporting statement sets out that the dwellings would be bungalows and that the plot sizes would be commensurate with other detached bungalows within the immediate vicinity of the application site. Furthermore, an indicative elevation has been submitted with the application, which demonstrates that the scale of the bungalows could be comparable with other detached bungalows within the immediate vicinity of the application site. In terms of appearance, the supporting statement sets out that there is variety in the design of dwellings within the vicinity of the application site, with a variety of types of dwellings and materials used for the external finishes. In terms of landscaping, the supporting statement sets out that the outer boundaries of the application site could be reinforced with 1.8 metre close boarded fencing where necessary, the southern boundary of the site could have its native hedgerow reinstated and a detailed scheme of landscaping could be submitted at the reserved matters stage.
- 4.24 The application site is located outside the defined development limits of Hambleton, and is therefore classed as being located within the open countryside. However, it should be noted that the application site comprises an area of vacant scrub land,

which was historically agricultural land, and is surrounded by residential development and garden land to the north, east and west, with agricultural land to the south. Therefore, the characteristics of the site are not that of agricultural land or open countryside per se. The proposal would not lead to further encroachment into the agricultural land to the south and given the context of the site, it is considered that the proposal would result in a natural rounding off of the settlement and would result in a clear defensible boundary. Furthermore, given the scale of the development and its relationship to the development limit the proposal would not be considered visually prominent or discordant within the landscape given its backdrop against existing residential development. The scheme is for small scale development of five dwellings and, on balance, it is considered that the proposals would have an appropriate relationship to the development limit and would not result in a harmful effect on the character of the settlement.

- 4.25 Having regard to the above, it is considered that an appropriate scheme could be achieved at the reserved matters stage in terms of layout, scale, appearance and landscaping, which would not result in any significant detrimental impacts on the character and appearance of the area in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF.

Impact on Residential Amenity

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

Impact on Highway Safety

- 4.29 The application seeks outline planning permission for residential development with all matters reserved. An indicative layout plan has been submitted with the application, which demonstrates that access would be taken from Richardson Court via a private driveway and each dwelling would provide parking facilities for two vehicles.
- 4.30 The comments of the Parish Council and neighbouring properties have been noted regarding the impact of the proposal on highway safety. However, NYCC Highways

have been consulted on the proposals and have advised that they have no objections to the proposals subject to two conditions relating to the approval of details for site works in the highway, and a construction management plan.

- 4.31 Subject to the aforementioned conditions, it is considered that an appropriate scheme could be achieved at the reserved matters stage which would be acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and the advice contained within the NPPF.

Flood Risk, Drainage and Climate Change

- 4.32 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 4.33 The application form and supporting statement state that foul sewage would be disposed of via mains sewer and surface water would be disposed of via mains sewer. Selby Area Internal Drainage Board have not raised any objections to the proposal provided that the Water Authority are satisfied that the existing system will accept the additional flow in terms of surface water. Yorkshire Water note that the proposal is for surface water to be disposed of via mains sewer but set out that sustainable development requires appropriate surface water disposal and Yorkshire Water promote the surface water disposal hierarchy. Yorkshire Water have advised that the developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer and as such recommend a condition relating to surface water drainage is applied to any planning permission granted. In addition, officers consider that a condition in relation to separate systems for foul and surface water drainage to serve the development should be attached to any planning permission granted.
- 4.34 Subject to appropriate conditions it is therefore considered that appropriate drainage arrangements can be achieved which accord with policy.

Nature Conservation and Protected Species

- 4.35 The application site is not a protected site for nature conservation and is not known to support, or be in close proximity to, any site supporting protected species or any other species or habitat of conservation interest.
- 4.36 Given the above, it is considered that the proposal would not harm any acknowledged nature conservation interests and is therefore in accordance with Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

Land Contamination

- 4.37 The application has been supported by a Contamination Assessment. This has been assessed by the Council's Contaminated Land Consultant who has advised that a condition should be attached to any planning permission granted requiring that the Local Planning Authority be informed in the event that contamination is found at any time when carrying out the approved development that was not previously identified.

- 4.38 Subject to the aforementioned condition, it is considered that the proposal would be acceptable in respect to land contamination and is therefore in accordance with Policy ENV2 of the Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Affordable Housing

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

Recreational Open Space

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

Education and Healthcare, Waste and Recycling

- 4.41 In respect of contributions towards education and healthcare, these policies should be afforded limited weight due to their conflict with the CIL. It is considered that no direct contribution is required due to the adoption of the CIL.

- 4.42 In respect of contributions towards waste and recycling, the Council will seek provision or a contribution from the developer to ensure that, prior to the occupation of any dwelling, storage bins and boxes are provided. This could be secured by way of condition. The Waste and Recycling Officer notes that the development would be accessed from a private drive and advises that a bin presentation point will need to be provided at the junction of the public and private roads, which should be large enough to accommodate 2 x 240 litre wheeled bins per property one week (which would be the equivalent to 10 x 240 litre wheeled bins) and 3 x 55 litre kerbside recycling boxes per property the following week (which would be the equivalent of 15 3 x 55 litre kerbside recycling boxes). Having regard to the above, a bin presentation point of 0.58 metres by 7.4 metres would be required. An indicative site layout plan has been provided which demonstrates that such a bin presentation point could be provided within the application site.

- 4.43 Having regard to the above, it is considered that the proposal would be acceptable in respect to education and healthcare, waste and recycling and is therefore in accordance with Policy CS6 of the Selby District Local Plan, Policy SP19 of the Core Strategy, the Developer Contributions Supplementary Planning Document and the advice contained within the NPPF.

Legal Issues

- 4.44 Planning Acts

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

4.45 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.

4.46 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

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

5.0 CONCLUSION

5.1 The application seeks outline planning permission for residential development with all matters reserved. The application site is located outside the defined development limits of Hambleton, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside. The proposal would not constitute any of the types of development that are acceptable in principle under Policy SP2(A)(c) of the Core Strategy. The proposal would therefore conflict with Policy SP2(A)(c) of the Core Strategy and hence the overall Spatial Development Strategy for the District. The application should therefore be refused unless material considerations indicate otherwise.

5.2 Although the proposed development would be located outside the defined development limits of Hambleton, and would be classed as being located within the open countryside, the application is small in scale and is located adjacent to the defined development limits and comprises an area of vacant scrub land, which was historically agricultural land, and is surrounded by residential development and garden land to the north, east and west. The proposal would not lead to encroachment into the agricultural land to the south and given the context of the site, the proposal would lead to a natural rounding off of the settlement and would result in a clear defensible boundary. In addition given the scale of the proposal, for five dwellings, and its relationship to the development limits, the proposal would not be visually prominent or discordant within the landscape, given its backdrop against existing residential development. Furthermore, taking into account the range of growth options identified for this settlement, the scale of this individual proposal at five dwellings is considered appropriate to the size and role of the settlement which is a Designated Service Village and cumulatively, would result in an overall level of development just marginally more than the existing situation. In addition, the proposal would result in the provision of bungalows and there is an identified need for bungalows, as set out within the Draft Selby District Strategic Housing Market Assessment – June 2015, within the District to serve an ageing population. The proposal would provide opportunities for ageing households to downsize into single storey housing within the villages, which would free up family housing for younger households. The provision of bungalows at the site could be secured by way of

condition having regard to the above and the context of the site. Furthermore, the proposed development, if approved, would provide opportunities for small housebuilders, which would assist in diversifying the housing market, opening it up to smaller builders, which is a central aim of the 2017 Housing White Paper.

- 5.3 On balance, it is considered that the proposals would result in conflict with Policy SP2(A)(c) of the Core Strategy, however, it is considered that the material considerations identified above would outweigh this conflict with the development plan and limited harm. As such, it is considered that the proposals, while finely balance, would be acceptable in principle in this instance.
- 5.4 Having assessed the proposals against the relevant policies, it is considered that an appropriate layout, scale, appearance, landscaping and access could be achieved for the proposals to be acceptable in respect of the impact on the character and appearance of the area, impact on residential amenity and impact on highway safety. Furthermore, the proposals are considered to be acceptable in respect of flood risk, drainage and climate change, nature conservation and protected species, land contamination, recreational open space, education and healthcare and waste and recycling.
- 5.5 The scheme is considered contrary to Policy SP9 of the Core Strategy. However, in the context of the Court of Appeal decision it is considered that this 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.

6 RECOMMENDATION

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

01. Applications for the approval of the reserved matters referred to in No.2 herein shall be made within a period of three years from the grant of this outline permission and the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason:

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

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

Reason:

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

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

Location Plan, Drawing No. LOC01, received 23 March 2017.

Reason:

For the avoidance of doubt.

04. The total number of dwellings authorised by this permission shall not exceed 5 and shall be constructed as bungalows 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.

05. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until:

(i) The details of the following off site required highway improvement works, works listed below have been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority:

a. Tie-in to existing public highway (Richardson Court).

(ii) A programme for the completion of the proposed works has been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.

Reason:

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

06. No development shall take place until a Construction Method Statement 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
- g. a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason:

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

07. 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.

08. No development shall take place until details of the proposed means of disposal of surface water drainage, including details of any balancing works and off -site works, have been submitted to and approved by the local planning authority. If any discharge of surface water is to public sewer, the detail shall include the reasons for discounting other methods of drainage and the means of ensuring that the rate of discharge is restricted to greenfield rates. Furthermore, unless otherwise approved in writing by the local planning authority, 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 that no surface water discharges take place until proper provision has been made for its disposal and in accordance with sustainable drainage principles.

09. 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.

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

Reason:

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

Contact Officer:

Jenny Tyreman
Planning Officer

Appendices:

None.



APPLICATION SITE

2017/0866/FUL

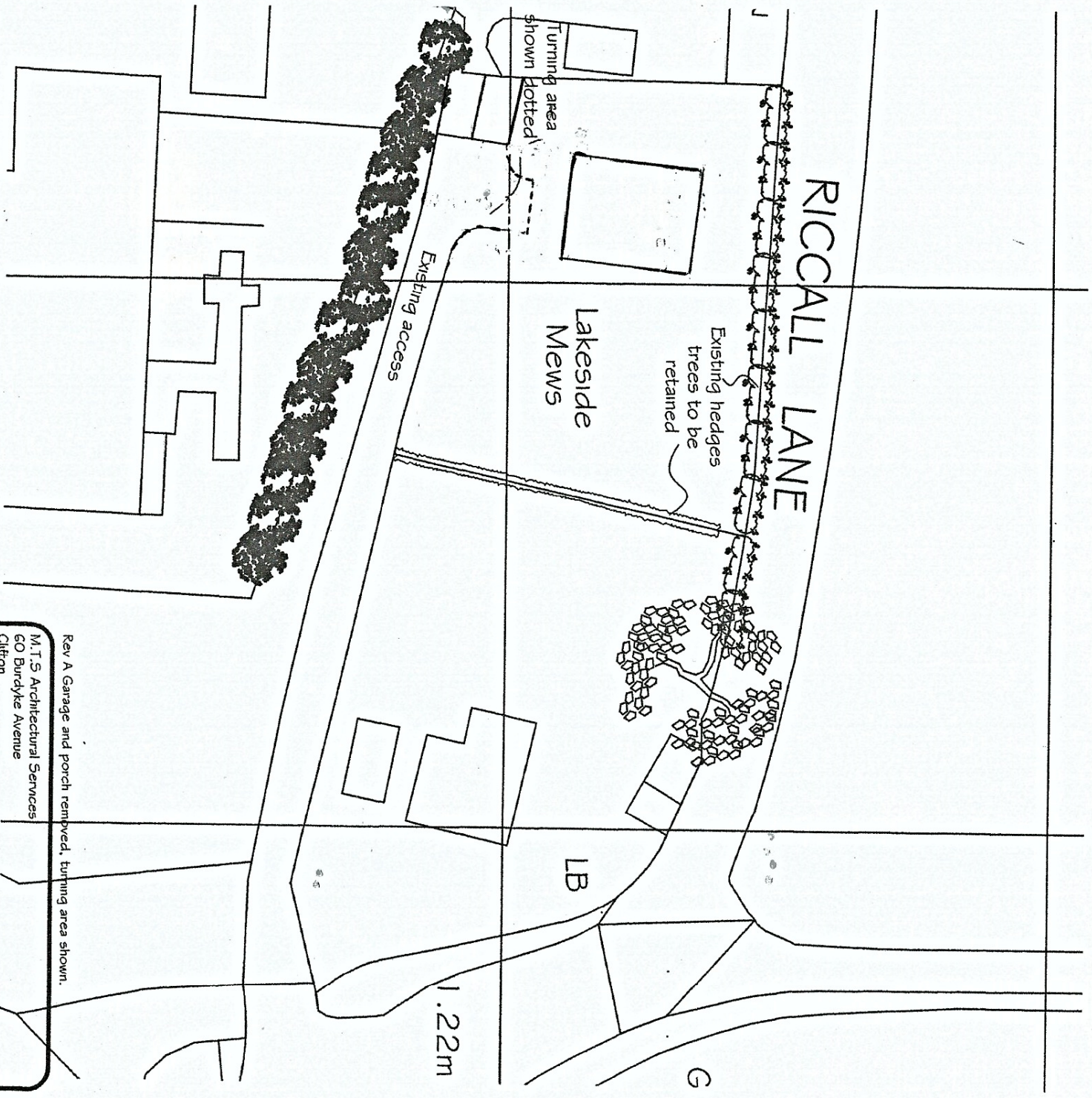
Villino, 3 Lakeside Mews, Riccall Lane, Kelfield

1:2,500



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RECEIVED

17 November 2017

DEVELOPMENT MANAGEMENT



AMENDED DRAWING
 Page 1 of 7

Rev A Garage and porch removed, turning area shown.

M.T.S Architectural Services
 60 Burdyle Avenue
 Clifton
 York
 YO30 6JW
 Tel 01904 626394

Project
PROPOSED CHANGE OF USE TO CONVERT EXISTING GARAGE TO HABITABLE ACCOMMODATION TOGETHER WITH NEW DETACHED DOUBLE GARAGE AT LAKESIDE MEWS, RICCALL LANE KELFIELD, YORK

PROPOSED SITE PLAN

drwg. no. AHLM/O2/A

date May 2017
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To: Planning Committee
Date: 10 January 2018
Author: Jenny Tyreman (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/0866/FUL	PARISH:	Kelfield Parish Council
APPLICANT:	Mr C Hargreaves	VALID DATE: EXPIRY DATE:	23 August 2017 18 October 2017
PROPOSAL:	Proposed conversion of existing outbuilding to a dwelling (Use Class C3)		
LOCATION:	Villino 3 Lakeside Mews Riccall Lane Kelfield York North Yorkshire YO19 6RE		
RECOMMENDATION:	APPROVE		

This application has been brought before Planning Committee as the proposal is contrary to Criterion 1 of Policy H12 of the Selby District Local Plan, but there are material considerations which would justify approving the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside.
- 1.2 The application site comprises a brick built outbuilding forming a garage associated with the residential property to the west, 3 Lakeside Mews. To the north of the application site is Riccall Lane with open fields beyond, to the east and west of the application site are residential properties and to the south of the application site is a nursing home.

- 1.3 The application site is located within Flood Zone 2, which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.

The Proposal

- 1.4 The application seeks planning permission for the conversion of an existing outbuilding into a single dwelling.
- 1.5 The proposed conversion would be facilitated by alterations to fenestration in the north, south, east and west elevations of the building, the insertion of roof lights in the east and west roof slopes and the insertion of a chimney projecting out from the west roof slope. No extensions are proposed as part of the conversion.
- 1.6 The proposed dwelling would benefit from a vehicular access onto Riccall Lane to the east, via an existing access track, and would have an area of hardstanding for turning and parking to the south of the building and an amenity area to the east of the building.

Relevant Planning History

- 1.7 The following historical applications are considered to be relevant to the determination of this application.
- An outline application (reference: CO/2003/0745) with siting and means of access included, for the erection of a garage for storage of vehicles in association with nursing home was Approved on 11 August 2003.
 - An application (reference: CO/2003/1152) for the proposed erection of a detached double garage was Approved on 13 November 2003.
 - A reserved matters application (reference: CO/2004/1084) for the erection of a garage was Approved on 10 May 2005.

2. CONSULTATION AND PUBLICITY

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

- 2.1 **Parish Council** – No objections.
- 2.2 **NYCC Highways** – No objections, subject to a condition requiring details of access, turning and parking.
- 2.3 **Ouse and Derwent Internal Drainage Board** – No objections, subject to a condition that drainage works are agreed prior to commencement of development.
- 2.4 **Yorkshire Water** – No response within statutory consultation period.
- 2.5 **Contaminated Land Consultant** – No objections, subject to four conditions relating to: (1) investigation of land contamination; (2) submission of a remediation scheme; (3) verification of remedial works; (4) reporting of unexpected contamination.

- 2.6 **North Yorkshire Bat Group** - No response within statutory consultation period.
- 2.7 **Natural England** – No comment.
- 2.8 **PSSC Canal And River Trust** – No comment.
- 2.9 **Neighbour Comments** – No letters of representation have been received as a result of the advertisement of the application.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside.
- 3.2 The application site is located within Flood Zone 2, which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.
- 3.3 The application site comprises potentially contaminated land resulting from ceramics cement and asphalt works.

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

- 3.4 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.
- 3.5 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

- 3.6 The relevant Core Strategy Policies are:
- SP1 – Presumption in Favour of Sustainable Development

- SP2 – Spatial Development Strategy
- SP5 – The Scale and Distribution of Housing
- SP9 – Affordable Housing
- SP15 – Sustainable Development and Climate Change
- SP18 – Protecting and Enhancing the Environment
- SP19 – Design Quality

Selby District Local Plan

3.7 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)".

3.8 The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- ENV2 – Environmental Pollution and Contaminated Land
- H12 – Conversion to Residential Use in the Countryside
- T1 – Development in Relation to the Highway Network
- T2 – Access to Roads

Other Policies and Guidance

3.9 Affordable Housing Supplementary Planning Document

4. APPRAISAL

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

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

The Principle of the Development

4.2 The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside.

4.3 In terms of the Core Strategy, then 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.

Alongside this 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. Given the scheme is a conversion and extension it can therefore be concluded that the principle of re-use of the building and extension to the existing building is in accordance with both Policy SP1 and Policy SP2A(c) of the Core Strategy.

- 4.4 In terms of the Local Plan, then as noted above the key Policy H12 on “Conversion to Residential Use in the Countryside” notes a series criterion for the consideration of scheme. Criteria (1) and (3) allow proposals for the conversion of rural buildings to residential uses provided it “can be demonstrated that the building, or its location, is unsuited to business use or that there is no demand for buildings for those purposes in the immediate locality” and that the “building is structurally sound and capable of re-use without substantial rebuilding”. As such Policy H12 supports the principle of conversion of the building with appropriate extensions.
- 4.5 It is accepted that the scheme is contrary to Policy H12 of the Local Plan, but it is considered to be in compliance with the approach of the Selby Core Strategy. It is considered that the limited weight should be attached to the Local Plan, and greater weight should be attached to the approach of the Core Strategy in considering the scheme. Then in considering the approach of the NPPF this should be a material consideration is accordance with Paragraph 38 (6).
- 4.6 This includes consideration of the scheme in the context of Paragraph 55 of the NPPF is particularly relevant to the application and states that:
- “To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as [amongst other things]:-
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
 - where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.”
- 4.7 As such, Paragraph 55 thus supports re-use of redundant or disused buildings, which is consistent with the Core Strategy but is significantly different to that taken in the Local Plan and Policy H12 as it does not require the more onerous tests set out in H12 (1).
- 4.8 The applicant has stated within the submitted Planning Statement that the building is structurally sound and capable of re-use without substantial re-building. The existing outbuilding was granted outline planning permission under application reference CO/2003/0745 in August 2003, followed by reserved matters granted

under application reference CO/2004/1084 in May 2005. The materials used in the external construction of the existing building are clamp bricks for the walls and clay pantiles for the roof. From a site visit and inspection of the building, the building can be considered to be structurally sound and can be re-used without substantial re-building in accordance with Criterion (3) of Policy H12. Furthermore, following the submission of amended plans, the proposed re-use would take place within the fabric of the building and would not require extensive alteration, re-building and/or extension in accordance with Criterion (4) of Policy H12.

- 4.9 It is considered that the policies in the Development Plan, as noted above, pull in different directions given the approach in the Core Strategy and the guidance within the NPPF which is a material consideration. As such it is considered that the Development Plan is not neutral (when applying the approach of the High Court decision *R v Rochdale Metropolitan Borough Council ex parte Milne* (2000). Sullivan J) and as such the starting point as per 38(6) is that schemes should be refused 'unless material considerations indicate otherwise'.
- 4.10 In this case given that Policy H12 is inconsistent with the Core Strategy (as part of the development plan) and the guidance in the NPPF, it is considered that limited weight can be given to Policy H12 and as such it is essential that the benefits of the development outweigh any conflict such that notwithstanding the conflict with the development plan the material considerations indicate that planning permission should be granted. Having considered this position, the proposal is considered to meet one of the special circumstances identified within paragraph 55 of the NPPF and. In addition although limited weight is afforded to the Policy then the proposal is in accordance with Policy H12 (3) of the Local Plan.

Sustainability of the Development

- 4.11 In considering the location of the application site and its relative isolation and the subsequent reliance of the private car to serve the proposed dwelling it should be taken into account that paragraph 55 specifically allows isolated homes in the countryside provided they meet the special circumstances set out in that paragraph. Isolated homes are very unlikely, by virtue of their isolated nature, to be served by good, or any, public transport services. As such the policy envisages that there are circumstances, where on balance, the lack of public transport and consequent reliance on the private car can be acceptable. As set out earlier in this report it has been established that the proposals accord with one of the exceptions set out within Paragraph 55 of the NPPF.
- 4.12 Paragraph 7 of the NPPF states that there are three dimensions to sustainable development, these being of an economic, social and environmental nature. These dimensions give rise to the need for the planning system to perform a number of roles. Having assessed the proposals against the three aspects of sustainable development the following conclusions have been reached:

Economic

The proposal would provide jobs during the conversion and internal works and through local spending by new residents within the local villages and within the District.

Social

The proposed dwelling would provide one additional dwelling, adding to the housing supply in the District and would use local facilities.

Environmental

The proposals would re-use a redundant or disused building and would lead to an enhancement of the immediate setting in compliance with Paragraph 55 of the NPPF. The proposals would re-use the existing building and as such would make use of the environmental capital (energy and materials) invested in that part of the structure that would be reused. Furthermore the design would take into account environmental issues such as reducing carbon emissions, flooding and impacts on climate change. The proposals ensure that they do not result in a detrimental impact on ecology and would lead to enhancements to the site.

Therefore having had regard to the three dimensions of sustainable development it is considered that the proposals would have a positive economic, social and environmental role as identified above and would represent sustainable development. Whilst the proposal would perform poorly with respect to the location of the site, on balance taking into account the benefits of the scheme identified above and the fact that the proposals comply with Paragraph 55 of the NPPF which acknowledges that in order to make use of existing buildings they may be in isolated locations where access to public transport may be poor, that the proposals are considered acceptable on balance, when considered against the three dimensions of sustainability outlined in the NPPF.

- 4.13 On consideration of the above information, it is considered that the proposal is acceptable in regards to the appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability from both local and national policies as well as all relevant policies in the Selby District Local Plan, the Core Strategy and the NPPF.

Design and Impact on the Character and Appearance of the Area

- 4.14 The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside. The application site comprises a brick built outbuilding forming a garage associated with the residential property to the west, 3 Lakeside Mews. To the north of the application site is Riccall Lane with open fields beyond, to the east and west of the application site are residential properties and to the south of the application site is a nursing home.
- 4.15 Criterion (5) of Policy H12 requires that “ The conversion of the building and ancillary works, such as the creation of a residential curtilage and the provision of satisfactory access and parking arrangements, would not have a significant adverse effect on the character and appearance of the area or the surrounding countryside”.
- 4.16 The proposed conversion would be facilitated by alterations to fenestration in the north, south, east and west elevations of the building, the insertion of roof lights in the east and west roof slopes and the insertion of a chimney projecting out from the west roof slope. No extensions are proposed as part of the conversion.

- 4.17 The proposed dwelling would benefit from a vehicular access onto Riccall Lane to the east, via an existing access track, and would have an area of hardstanding for turning and parking to the south of the building and an amenity area to the east of the building.
- 4.18 Given the location of the application site between existing dwellings to the east and west and a nursing home to the south, and taking into account the nature of the works to facilitate the conversion and provide ancillary facilities such as the access, turning and parking areas and amenity space, it is considered that the proposal would not have any significant impact on the character and appearance of the area or the surrounding countryside, in accordance with Criterion (5) of Policy H12. However, it would be considered reasonable and necessary to remove permitted development rights for development within the curtilage of the dwellinghouse, including extensions and outbuildings, in the interests of the visual amenities of the area.
- 4.19 Subject to the aforementioned condition, it is considered that the proposal would not have a significant or detrimental impact on the character and appearance of the area or the surrounding countryside, in accordance with Policy ENV1 (1) and (4) and H12 (5) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF.

Impact on Residential Amenity

- 4.20 To the north of the application site is Riccall Lane with open fields beyond, to the east and west of the application site are residential properties and to the south of the application site is a nursing home.
- 4.21 The proposal involves the conversion of an existing outbuilding into a single dwelling. The proposed conversion would be facilitated by alterations to fenestration in the north, south, east and west elevations of the building, the insertion of roof lights in the east and west roof slopes and the insertion of a chimney projecting out from the west roof slope. No extensions are proposed as part of the conversion.
- 4.22 Given the nature of the proposed development, the resultant dwelling would not have an oppressive appearance when viewed from any neighbouring properties or result in overshadowing of neighbouring properties, by comparison to the existing situation. Furthermore, taking into account the location of new windows and roof lights within the building and the relationship and separation distances to neighbouring properties, it is considered that the proposal would not result in any significant adverse effects of overlooking to any neighbouring properties.
- 4.23 The existing and proposed dwelling would benefit from a sufficient level of amenity space commensurate with the character of the area.
- 4.24 Having regard to the above, it is considered that the proposal is acceptable in terms of its impact on residential amenity in accordance with Policies ENV1 (1) and (4) and H12 (7) of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained with the NPPF.

Impact on Highway Safety

- 4.28 The proposed dwelling would benefit from a vehicular access onto Riccall Lane to the east, via an existing access track, and would have an area of hardstanding for turning and parking to the south of the building. North Yorkshire County Council Highways have reviewed the proposals and have raised no objections, subject to a condition requiring details of access, turning and parking.
- 4.29 Having regard to the above, it is considered that the proposal would not result in a detrimental impact on highway safety in accordance with Policies ENV1 (2), H12 (7), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Flood Risk and Drainage

- 4.30 The application site is located within Flood Zone 2, which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.
- 4.31 Paragraph 104 of the NPPF states that "Applications for 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." As such, given the proposal does not involve any extension to the building and simply involves a change of use, a sequential test would not be required to be undertaken in line with the advice contained within the NPPF and NPPG.
- 4.32 A Flood Risk Assessment has been submitted with the application which states that floor levels within the proposed development will be set no lower than existing levels and flood proofing of the proposed development has been incorporated where appropriate. The Flood Risk Assessment is considered to be acceptable subject to an appropriate condition.
- 4.33 The application form states that foul sewage would be disposed via mains sewer and surface water would be disposed of via mains sewer. Yorkshire Water and the Ouse and Derwent Internal Drainage Board have been consulted on the proposals. The Ouse and Derwent Drainage Board note that surface water is to be disposed of via mains sewer but is unaware of any Yorkshire Water sewers in the vicinity. The Ouse and Derwent Drainage Board have advised that if the applicant is able to identify such an asset and intends to discharge into it, they would need to produce written evidence of the asset owners consent along with confirmation that the sewer has sufficient capacity to handle the discharge. Alternatively, the applicant would need to identify an alternative asset, get the relevant permissions and ensure the asset has sufficient capacity to handle the discharge, or else propose an alternative method of surface water disposal. As such, the Ouse and Derwent Drainage Board recommend a condition that drainage works are to be agreed prior to the commencement of development. In addition, Officers consider that conditions in relation to drainage for foul and surface water should be attached to any permission granted.

Nature Conservation and Protected Species

- 4.34 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.
- 4.35 An Ecological Appraisal for Bats undertaken by Bagshaw Ecology, dated April 2017, has been submitted with this application. The survey states that a desk based study found the surrounding area to provide a suitable habitat for bats, with good terrestrial connectivity to and from the site. The survey continues to set out that the outbuilding is in good condition with no gaps in the brickwork and roof tiles well sealed. Further, there is no separate roof void and the interior is lined with felt. No bats or signs indicative of bats were observed within the building and the survey concludes that there is negligible potential for roosting bats. The survey does not recommend any further surveys or mitigation measures.
- 4.36 It is noted that there is a large pond approximately 60 metres to the east of the application site. The submitted Planning Statement sets out that this is within the applicant's ownership and is used as a commercial fishing lake, which is well stocked with coarse fish and as such is highly unlikely to provide a suitable habitat for Great Crested Newts.
- 4.37 There are no other known constraints with respect to nature conservation or protected species which would be impacted by virtue of the proposals.
- 4.38 Having regard to the above, it is considered that the proposed development is acceptable in respect of nature conservation and 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.

Land Contamination

- 4.39 The application is supported by a screening assessment form. This has been assessed by the Council's Contaminated Land Consultant who raises no objections subject to four conditions relating to the investigation of land contamination, the submission of a remediation scheme, verification of remedial works and reporting of unexpected contamination.
- 4.40 Subject to the aforementioned conditions, it is considered that the proposal would be acceptable in respect of land contamination in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Affordable Housing

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

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

Legal Issues

4.43 Planning Acts

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

4.44 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.

4.45 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

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

5. CONCLUSION

- 5.1 The application seeks planning permission for the conversion of an existing outbuilding into a single dwelling.
- 5.3 Having assessed the proposal against the relevant policies, it is considered it is acceptable in terms of its design and impact on the character and appearance of the area, impact on residential amenity, impact on highway safety, flood risk and drainage, nature conservation and protected species, land contamination and affordable housing.
- 5.4 Having considered this position, the proposal is considered to meet one of the special circumstances identified within paragraph 55 of the NPPF. In addition although limited weight is afforded to the Policy then the proposal is in accordance with Policy H12 (3) of the Local Plan and the approach as set out in the Core Strategy.

6. RECOMMENDATION

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

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

Reason:

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

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

AHLM/01 – Location Plan

AHLM/02/A – Proposed Site Plan

AHLM/03 – Existing Garage Plan and Elevations

AHLM/04/A – Proposed Ground Floor Plan

AHLM/05/A – Proposed First Floor Plan

AHLM/06/A – Proposed Elevations

Reason:

For the avoidance of doubt.

03. Notwithstanding the provisions of Class A to Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) no extensions, garages, outbuildings or other structures shall be erected, nor new windows, doors or other openings inserted other than those hereby approved, without the prior written consent of the Local Planning Authority.

Reason:

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

04. The development shall be carried out in accordance with the flood mitigation measures as set out in the Flood Risk Assessment submitted with the application received by the Local Planning Authority on 8 August 2017.

Reason:

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

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, in order to comply with Policy ENV1 of the Selby District Local Plan.

07. 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 in connection with the construction of the access road or building(s) or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:

- vehicular and cycle parking
- vehicular turning arrangements
- manoeuvring arrangements

INFORMATIVE:

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

Reason:

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

08. 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.

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

Reason:

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

10. 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.

11. 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.

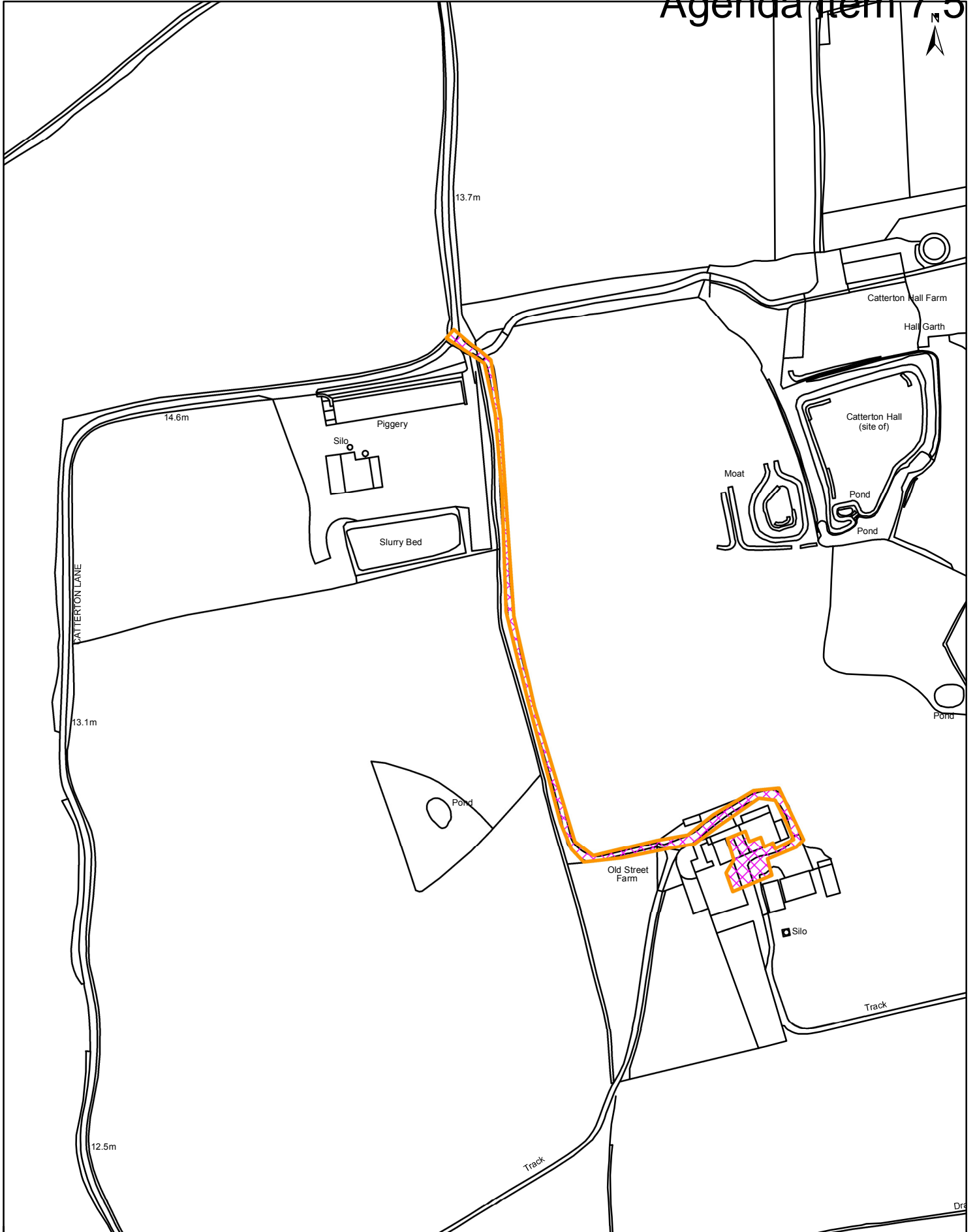
Contact Officer:

Jenny Tyreman
Senior Planning Officer

Appendices:

None

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APPLICATION SITE

2017/0919/FUL
Old Street Farm, Moor Lane, Catterton

1:3,000

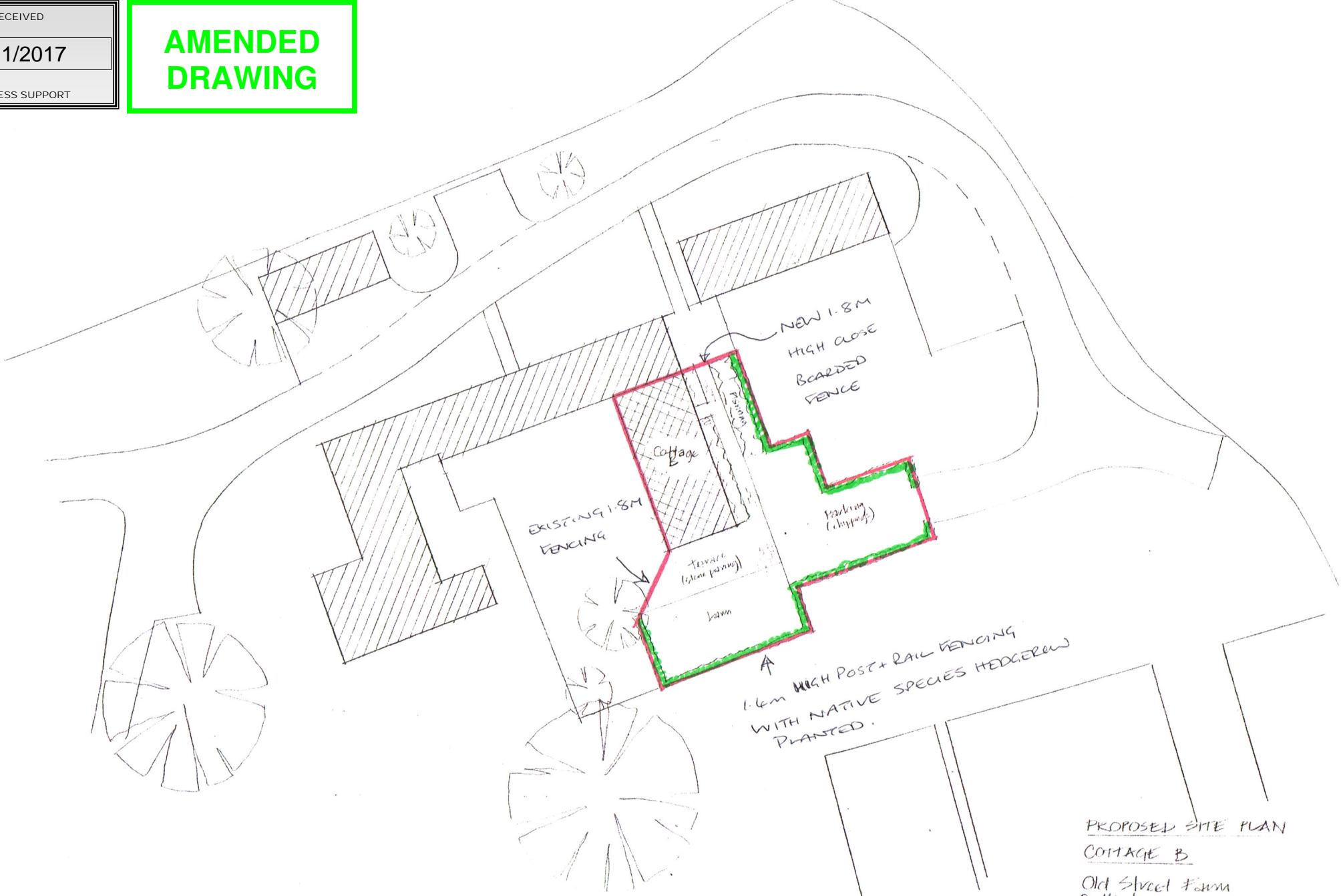


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**AMENDED
DRAWING**

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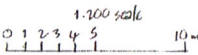
PROPOSED SITE PLAN

COTTAGE B

Old Street Farm
Cottesdon

Francis Johnson & Partners
Chartered Architects
Bridlington

Scale 1:200 @ A2
Drawn August 2017
Dwg No 2523/314



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To: Planning Committee
Date: 10 January 2018
Author: Diane Wilson (Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/0919/FUL	PARISH:	Catterton Parish Council
APPLICANT:	Elmete Developments Ltd	VALID DATE:	15 September 2017
		EXPIRY DATE:	10 November 2017
PROPOSAL:	Proposed conversion of existing barn to create 1no. dwelling		
LOCATION:	Old Street Farm, Moor Lane, Catterton, Tadcaster, LS24 8DL		
RECOMMENDATION:	APPROVE		

This application has been brought before Planning Committee as Officers consider that although the proposal is contrary to Criterion 1 of Policy H12 of the Local Plan, there are material considerations which would justify approving the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site lies within an area of open countryside outside the defined development limits of Catterton.
- 1.2 The farmstead adjoins Moor Lane and the main entrance lies to the north along a single lane with arable agricultural fields which surround the site to the north, south, east and west.
- 1.3 Adjoining the application there are two other agricultural buildings to the north of the site have planning permission to be converted into dwellings via an agricultural to dwelling application approved in 2015/0296/ATD.
- 1.4 There are a number of established boundaries hedgerows within the surrounding landscape that screen existing buildings from public view.

- 1.5 The site is situated within Flood Zone 1 which is a low probability of flooding and there are no protected trees on or surrounding the site.

The Proposal

- 1.6 This application is for full planning permission for the conversion and alteration to an existing barn to create a 3 bedroom dwelling. The barn would benefit from a sitting room, kitchen/dining room, hall, w/c and snug to the ground floor, with 3 bedrooms (one en-suite), a bathroom and landing area to the first floor. The proposal would include parking and a defined garden area to serve the property.
- 1.7 The proposed materials for the conversion unit would match that of the existing buildings and adjacent dwelling. It is proposed the vehicular access into the site would be taken from Moor Lane, the single track leads up to the farm house and other farm buildings associated with Old Street Farm.

Relevant Planning History

1.3 Planning History

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

- 2014/1343/ATD (This application was withdrawn on the 6th March 2015) ;Prior approval of proposed change of use of agricultural building to 3no. dwellinghouse (use class C3) and for associated operational development
- 2015/0296/ATD (This application was approved on the 22nd May 2015) Prior approval of proposed change of use of agricultural building to 2no. dwellinghouse (use class C3) and for associated operational development
- 2017/0902/DOC (This application was withdrawn on the 21st September 2017) Discharge of conditions 02 (contamination) and 03 (remediation scheme) of approval 2015/0296/ATD for prior approval pf proposed change of use of agricultural building to 2 no. dwelling houses (use class C3) and for associated operational development
- 2017/0915/DOC (Pending Consideration) Discharge of conditions 02 (contaminated land), 03 (remediation scheme) and 04 (remediation scheme) of approval 2015/0296/ATD for prior approval of proposed change of use of agricultural building to 2 no. dwelling houses (use class C3) and for associated operational development

2.0 CONSULTATION AND PUBLICITY

- 2.1 **Parish Council** – No comments received during the statutory consultation period given.
- 2.2 **North Yorkshire Bat Group** – No objections subject to conditions attached.
- 2.3 **Environmental Health** – No objections subject to informative.

- 2.4 **NYCC Highways Canal Rd** – No objections.
- 2.5 **PLand Use Planning Yorkshire Water Services Ltd** – No comments received during the statutory consultation period given.
- 2.6 **Ainsty (2008) Internal Drainage Board** – No objections subject to conditions.
- 2.7 **Conservation Officer** - No objections.
- 2.8 **Contaminated Land Officer** – No objections subject to conditions.

Neighbour comments

- 2.9 The application was advertised by site notice, and advertisement in the local newspaper for affecting the setting of heritage assets resulting no objections or support being received.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site is located outside the defined development limits therefore is set within the open countryside.
- 3.2 The site is within Flood zone 1 is a low probability of flooding.
- 3.3 The site is noted on the Council's records as potentially contaminated land as a result of the sites agricultural use.

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

- 3.3 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.
- 3.4 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.

3.5 Selby District Core Strategy Local Plan

The relevant Core Strategy Policies are:

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

3.6 Selby District Local Plan

Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, the guidance in paragraph 214 of the NPPF does not apply and therefore 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)".

The relevant Selby District Local Plan Policies are:

ENV1:	Control of Development
ENV2:	Environmental Pollution and Contaminated Land
ENV27	Ancient Schedule Monument
H12:	Conversion to Residential Use in the Countryside
T1:	Development in Relation to the Highway Network
T2:	Access to Roads

4.0 APPRAISAL

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

- Principle of development
- Design and Impact on the Character of the Area and Heritage Assets
- Flood Risk, Drainage, Climate Change and Energy Efficiency
- Impact on Highways
- Residential Amenity
- Impact on Nature Conservation and Protected Species
- Affordable Housing
- Land Contamination
- Impacts of the proposal

Principle of Development

- 4.2 The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside.
- 4.3 In terms of the Core Strategy, then 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. Alongside this 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. Given the scheme is a conversion and extension it can therefore be concluded that the principle of re-use of the building and extension to the existing building is in accordance with both Policy SP1 and Policy SP2A(c) of the Core Strategy.
- 4.4 In terms of the Local Plan, then as noted above the key Policy H12 on "Conversion to Residential Use in the Countryside" notes a series criterion for the consideration of scheme. Criteria (1) and (3) allow proposals for the conversion of rural buildings to residential uses provided it "can be demonstrated that the building, or its location, is unsuited to business use or that there is no demand for buildings for those purposes in the immediate locality" and that the "building is structurally sound and capable of re-use without substantial rebuilding". As such Policy H12 supports the principle of conversion of the building with appropriate extensions.
- 4.5 It is accepted that the scheme is contrary to Policy H12 of the Local Plan, but it is considered to be in compliance with the approach of the Selby Core Strategy. It is considered that the limited weight should be attached to the Local Plan, and greater weight should be attached to the approach of the Core Strategy in considering the scheme. Then in considering the approach of the NPPF this should be a material consideration in accordance with Paragraph 38 (6).
- 4.6 This includes consideration of the scheme in the context of Paragraph 55 of the NPPF is particularly relevant to the application and states that:
- "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as [amongst other things]:-
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
 - where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting."
- 4.7 As such, Paragraph 55 thus supports re-use of redundant or disused buildings, which is consistent with the Core Strategy but is significantly different to that taken in the

Local Plan and Policy H12 as it does not require the more onerous tests set out in H12 (1).

- 4.8 Within the submitted Design and Access Statement sets out the proposed use of the buildings and from a site visit it is noted that although there is an open lean to structure attached to the side elevation which would be demolished. A Structural Report has been submitted as part of this application along with a Building Method Statement. Having considered the submitted information and visited the site Officers consider that the building is capable of being converted without substantial re-building and in addition given that the proposed re-use of the building would generally take place within the fabric of the building and not require extensive alteration, rebuilding and/or extension the proposals would comply with Criterion (3) and (4) of Policy H12 of the Local Plan.
- 4.9 It is considered that the policies in the Development Plan, as noted above, pull in different directions given the approach of the Core Strategy and the guidance within the NPPF which is a material consideration. As such it is considered that the Development Plan is not neutral (when applying the approach of the High Court decision R v Rochdale Metropolitan Borough Council ex parte Milne (2000). Sullivan J) and as such the starting point as per 38(6) is that schemes should be refused ‘unless material considerations indicate otherwise’.
- 4.10 In this case given that Policy H12 is inconsistent with the Core Strategy (as part of the development plan) and the guidance in the NPPF, it is considered that limited weight can be given to Policy H12 and as such it is essential that the benefits of the development outweigh any conflict such that notwithstanding the conflict with the development plan the material considerations indicate that planning permission should be granted. Having considered this position, the proposal is considered to meet one of the special circumstances identified within paragraph 55 of the NPPF. In addition although limited weight is afforded to the Policy then the proposal is in accordance with Policy H12 (3) of the Local Plan.

Sustainability of the Development

- 4.11 In considering the location of the application site and its relative isolation and the subsequent reliance of the private car to serve the proposed dwelling it should be taken into account that paragraph 55 specifically allows isolated homes in the countryside provided they meet the special circumstances set out in that paragraph. Isolated homes are very unlikely, by virtue of their isolated nature, to be served by good, or any, public transport services. As such the policy envisages that there are circumstances, where on balance, the lack of public transport and consequent reliance on the private car can be acceptable. As set out earlier in this report it has been established that the proposals accord with the exceptions set out within Paragraph 55. In addition it worth noting that the conversion of isolated agricultural buildings to residential use is supported by Government in the changes made to the permitted development regime whereby conversions, of certain scales, are able to be supported subject to there being no technical reasons such as highways, contamination, noise, flooding or the location impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses).
- 4.12 Paragraph 7 of the NPPF states that there are three dimensions to sustainable development, these being of an economic, social and environmental nature. These

dimensions give rise to the need for the planning system to perform a number of roles. Having assessed the proposals against the three aspects of sustainable development the following conclusions have been reached:

Economic

The proposal would provide jobs during the conversion and internal works and through local spending by new residents within the village and District.

Social

The proposed dwelling would provide one additional dwelling, adding to the housing supply in the District and would use local facilities.

Environmental

The proposals would bring into use a redundant agricultural building. The proposals would re-use a disused building and would lead to the enhancement of the immediate setting and as such is in compliance with Paragraph 55 of the NPPF. The proposals would re-use the existing building and as such would make use of the environmental capital (energy and materials) invested in that part of the structure that would be reused. Furthermore the design would take into account environmental issues such as reducing carbon emissions, flooding and impacts on climate change. The proposals ensure that they do not result in a detrimental impact on ecology and would lead to enhancements to the site.

Therefore having had regard to the three dimensions of sustainable development it is considered that the proposals would have a positive economic, social and environmental role as identified above and would represent sustainable development. Whilst the proposal would perform poorly with respect to the location of the site, on balance taking into account the benefits of the scheme identified above and the fact that the proposals comply with Paragraph 55 of the NPPF which acknowledges that in order to make use of existing buildings they may be in isolated locations where access to public transport may be poor, that the proposals are considered acceptable on balance, when considered against the three dimensions of sustainability outlined in the NPPF.

- 4.13 On consideration of the above information, it is considered that the proposal is acceptable in regards to the appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability from both local and national policies as well as all relevant policies in the Core Strategy, NPPF and Local Plan.

Design and Impact on the Character and Form of the Area and on Heritage Assets

- 4.14 The application site comprises of some brick built derelict agricultural buildings and a farm house. The two remaining agricultural buildings to the north of the site have planning permission to be converted into dwellings via an agricultural to dwelling application approved in 2015/0296/ATD. The agricultural buildings constructed from are from brick walls, and the roofs are constructed from pantile. The application seeks planning permission for the conversion of an existing agricultural building to a dwelling with the creation of parking provision.

- 4.15 The site is located outside the defined development limits and therefore is set within the open countryside and the site is located approximately 150 metres from the grounds of Catterton Castle an area protected as an Ancient Scheduled Monument. Catterton Hall Moated Site and adjacent Building Platform. Catterton moated site is a well preserved example of a medieval manor site, retaining upstanding earthwork features on the main island and beyond the moat ditch to the north and east
- 4.16 A Heritage Statement has been submitted with the application and the Council's Conservation Officer has been consulted as part of this application. The Conservation Officer notes that in terms of the significance of the non-designated heritage assets Old Street Farm is located to the south of the village of Catterton. Having checked the historical maps of the farm house the southern and western barn on the site date from around the 19th Century when the site was known as Lund House. The brick barn to the north east was a later addition in around the 19th Century with the site adopting the name of Old Street Farm.
- 4.17 Having had regard to the type of development the Conservation Officer considers that the barn conversion would not impact upon the setting of the nearby Scheduled Monument. The conservation officer recommends that the windows and doors are constructed from timber and have a painted finish with the rooflights being designed to be flush with the roof slope. The application form states no proposed materials however to ensure that any new materials which would be introduced to facilitate the conversion are acceptable it is considered that a condition shall be attached that the proposed materials are agreed by the local planning authority. An attached timber lean to building currently joins on to the agricultural building and this would be demolished as part of this proposal. The lean to building is not considered to have any architectural merit and as such the proposed demolition is considered to be acceptable.
- 4.18 The submitted layout plan demonstrates that the converted building would be separated and provide private parking and garden area to the east and south of the barn. A site plan has been submitted to which show the boundary treatments and some landscaping. The boundary treatments and landscaping is considered to be acceptable and shall be secured by way of condition. It is considered that proposal would create an acceptable level of amenity space to the south and east of the other farm buildings.
- 4.19 This proposals is considered to be acceptable and is not considered to detract from the overall character and appearance of the area. Therefore when considering the Scheduled Ancient Monument against the proposed barn conversion, it is considered that the proposal would not adversely affect the setting of the Scheduled Ancient Monument.
- 4.20 Subject to the aforementioned conditions, it is therefore considered that the proposals are acceptable and would not have a significant or detrimental impact on the character and appearance of the area, the surrounding countryside nor affect the setting of the Ancient Schedule Monument Catterton Castle. The proposal is therefore considered acceptable in accordance with Policy ENV1, ENV27 and H12 of the Selby District Local Plan, Policies SP18 and SP19 of Core Strategy and the advice contained within the NPPF.

Flood Risk, Drainage, Climate Change and Energy Efficiency

- 4.21 The proposal would consider energy efficiency/sustainable design measures within the scheme in order to meet building regulations requirements.
- 4.22 The application site is located in Flood Zone 1 which is a low probability of flooding and the size of the site being less than 1 hectare negates the requirement for a flood risk assessment. The application form states that foul sewage would be disposed of via a septic tank with surface water disposed of via soakaways. The Environmental Health Officer has been consulted as part of this application and raises no objection to the proposal subject to an informative that the applicant notifies the Environment Agency and Building Control for their approval.
- 4.23 Yorkshire Water were consulted and at the time of writing this report no response has been received, should a response come forward then this shall be submitted via the officer update note for members. The Ainsity Internal Drainage Board have sent a standard response and notes that the application site lies adjacent to Catterton Lane dyke, and according to the IDB is subject to high flows during storms.
- 4.24 In order to ensure adequate drainage provision is provided within the site and to prevent any increase in surface water run off drainage conditions shall be imposed for the proposed means of surface water disposal. The drainage board notes that separate permission is sought from the Drainage Board should the applicant wish to erect any fences or planting within 9 metres of the bank top of any watercourse. The applicant shall be notified of this via an informative.
- 4.25 As mentioned above there may be a requirement for new surface water systems to be introduced to the site. Therefore it is considered prudent to attach a condition for any new soakaways to be approved in writing by the Local Planning Authority. Environmental Health have been consulted as part of this application and they have no objections subject to an informative with regard to the septic tank to be used for foul drainage would be subject to building regulation approval and consultation with the Environment Agency may be required..
- 4.26 Subject to conditions being imposed for surface water and foul drainage, it is considered that the proposal is acceptable in terms of flood risk, drainage and climate change in accordance with Policy ENV1 (3) of the Local Plan, Policies SP15, SP16 and SP19 or the Core Strategy and the advice contained within the NPPF.

Impact on Highways

- 4.27 The proposal would use the existing vehicular access off Moor Lane to the west of the site, the proposed dwelling would benefit from areas of hardstanding to facilitate parking. This area of hardstanding would be located to the east of the converted barn. Further hardstanding would be upon the entrance to the farmstead and one of the converted buildings would form a detached garage to the west of the converted barn.
- 4.28 North Yorkshire County Highways have been consulted as part of this application. No objections have been raised to the proposal and no conditions are required given the proposal would utilise the existing access.
- 4.29 Given the above it is therefore considered that the scheme would be acceptable and in

accordance with Policies ENV1(2), T1 and T2 of the Local Plan and Paragraph 39 of the NPPF with respect to the impacts on the highway network.

Residential Amenity

- 4.30 The proposal involves the conversion of agricultural farm building. The site is located on a former farm stead with planning permission to convert the other farm buildings under planning application reference 2015/0296/ATD there are no residential properties which bound the application site area.
- 4.31 The layout of the converted barns would result in creating separate amenity space for each dwelling. The proposed barn conversion would have openings to the eastern elevation which would look out on to the garden area of the proposed dwelling with single window to serve a bedroom to the western elevation. The window to the western elevation is small and would only afford glimpse out on to a neighbouring garden which would be served by another barn once converted. The window which serves a bathroom to the eastern elevation shall be conditioned to be obscure glazed in order to retain the privacy of future occupants.
- 4.32 The site layout plan submitted with the application provides details of landscaping and a timber post and rail fence to define the boundary of the proposed conversion. The residential amenity which has been identified within the layout plan is considered to be acceptable and a condition shall be attached to ensure the boundary treatments are erected prior to the occupation of the dwelling.
- 4.33 Having regard to the above, it is considered that the proposal is acceptable in terms of residential amenity in accordance with Policy ENV1 (1) of the Local Plan and the advice contained within the NPPF.

Impact on Nature Conservation and Protected Species

- 4.34 With respect to the nature conservation of the area it is noted that the site is not a protected site for nature conservation nor is it known to support any protected species, or any species or habitat of conservation importance, however an Ecology survey has been submitted with the application.
- 4.35 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.
- 4.36 The Ecology report confirms that within Barn 1 and the adjacent Barn 2 support common pipistrelle day bats and Barn 2 contains brown long eared day roost. The site itself consists of derelict agricultural buildings and a farm house. The ecology Bat report submitted concludes that the although there would be some disturbance to roosts overall based on the survey data assessment and guidance from the Bat Mitigation guidelines (p39 English Nature 2004) the overall accumulative impact of the development on bat population is considered to be low. A separate Ecology Report has been submitted with this application for a Barn Owl Survey. The survey notes that there may be Barn Owls within the site and there remains a possibility that roosting birds could be within the vicinity of the site.
- 4.37 North Yorkshire Bat Group has been consulted as part of this application and note the

ecology report and the mitigation measures recommended within the report. North Yorkshire Bat Group concludes that the mitigation measures as detailed would be supported and therefore no objections are raised with regard to this development.

- 4.38 It is acknowledged that a European Protected Species Mitigation licence would be needed prior the development of the site. This licence would be sought following the approval of this permission. A detailed Method Statement has accompanied the Bat Survey along with mitigation measures. A further detailed report has been accompanied with the Barn Owl survey along with a Method Statement and mitigation measures. These mitigation measures and method statements shall be secured by way of condition to ensure the proposal would meet the licensing test.
- 4.39 Therefore, it is considered that with conditions imposed the proposal would not harm any acknowledged nature conservation interests and therefore would accord with Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF with respect to nature conservation subject to conditions.

Affordable Housing

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

Land Contamination

- 4.41 The application is accompanied by a Contamination Screening Assessment Form and reference is made to a discharge of condition application has been submitted under reference 2017/0915/DOC relating to consent 2015/0296/ATD. These measures would only cover part of the site and would not include the proposed barn conversion covered by this Report.
- 4.42 With this in mind the Council's Contamination Consultant has assessed the site in relation to this element of the proposal and have raised no objections subject to conditions these would include an investigation and risk assessment which would be undertaken in order to assess the nature and extent of any land contamination, a remediation scheme, the verification of remedial works and the reporting of any unexpected contamination. This is a precautionary measure due to the agricultural use of the site.
- 4.43 The proposals, subject to the attached conditions are therefore acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

Legal Issues

- 4.44 Planning Acts:

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

4.45 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.

4.46 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

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

5.0 CONCLUSION

5.1 The application seeks planning permission for the conversion of discussed agricultural building.

5.2 Having assessed the proposals against the relevant policies, it is considered that the proposal is acceptable in respect of its design and impact on the character and appearance of the area, impact on residential amenity, impact on highway safety, climate change, flood risk and drainage, nature conservation and protected species and land contamination.

5.3 Having considered this position, the proposal is considered to meet one of the special circumstances identified within paragraph 55 of the NPPF. In addition although limited weight is afforded to the Policy then the proposal is in accordance with Policy H12 (3) of the Local Plan and the approach as set out in the Core Strategy.

6.0 RECOMMENDATION

6.1 That the application be APPROVED subject to the following conditions:

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

Reason:

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

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

Location Plan	Drawing No 2595	Dated 21/09/2017
Existing Site Plan	Drawing No 2595/8	Dated 24/08/2017
Existing Elevations	Drawing No 2595/2F	Dated 24/08/2017
Proposed Site Plan with boundary treatments	Drawing No 2595/54 Rev A	Dated 17/11/2017
Proposed Floor Plans	Drawing No 2595/7E	Dated 17/11/2017

Reason:

For the avoidance of doubt.

03. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be confirmed in writing by the Local Planning Authority.

Reason:

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

04. 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.

05. The suitability of new soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 to the satisfaction of the Approving Authority, who is generally the Local Authority.

If the soakaway is proved to be unsuitable then in agreement with the Environment Agency and/or the Drainage Board, as appropriate, peak run-off must be attenuated to 70% of the existing rate (based on 140 l/s/ha of connected impermeable area).

If the location is considered to be detrimental to adjacent properties the Applicant should be requested to re-submit amended proposals showing how the Site is to be drained.

The suitability of any existing soakaway to accept any additional flow that could be discharged to it as a result of the proposals should be ascertained. If the suitability is

not proven the Applicant should be requested to re-submit amended proposals showing how the Site is to be drained.

Reason:

To ensure that the installation of soakaways provide an adequate method of surface water disposal and 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, in order to comply with Policy ENV1 of the Selby District Local Plan.

07. The development hereby permitted shall be carried out in accordance with recommendations contained within the Bat Survey received by the Local Planning Authority on 15th September 2017.

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.

08. The development hereby permitted shall be carried out in accordance with recommendations contained within the Barn Owl Survey received by the Local Planning Authority on 15th September 2017.

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.

09. 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.

10. 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.

11. 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 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.

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.

13. The conversion of the buildings hereby permitted shall be carried out in accordance with recommendations contained within the Building Method Statement received by the Local Planning Authority on 17th November 2017

Reason:

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

14. Notwithstanding the provisions of Class A and Class E to Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) no extensions, garages, outbuildings or other structures shall be erected without the prior written consent of the Local Planning Authority other than the boundary details agreed as part of this development.

Reason:

In order to retain the character of the site in the interest of visual amenity, having had regard to Policy ENV1

15. Prior to the occupation of the dwellings hereby permitted the boundary treatments and landscaping shall be implements as per the landscaping and boundary plan No 2595/54 Rev A hereby submitted to the local planning authority on the 17th November 2017. The landscaping shall then be maintained for a period of 5 years thereafter.

Reason:

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

16. The windows which serve bathrooms on the first floor eastern elevation of the proposed development shall be obscure glazed and remain so for the life time of the development.

Reason:

In the interest of residential amenity in accordance with ENV1 of the Selby District Local Plan.

INFORMATIVE:

Any new outfall to a watercourse requires the prior written consent of the Board under the terms of the Land Drainage Act. 1991 and should be constructed to the satisfaction of the Board.

INFORMATIVE:

Under the Board's Byelaws the written consent of the Board is required prior to any discharge into any watercourse within the Board's District.

INFORMATIVE

The applicant has indicated that foul drainage is to be disposed of via package treatment plant. It is advised that the installation of the new found drainage system would require building regulation approval in addition to appropriate consent to discharge issued by the Environment Agency.

INFORMATIVE:

The applicant should be aware that a licence is required with regard to European Protected Species Mitigation. The licence would be needed to be secured prior the development of the site. The licence would be sought following the approval of this permission.

Contact Officer:

Diane Wilson
Planning Officer

Appendices:

None

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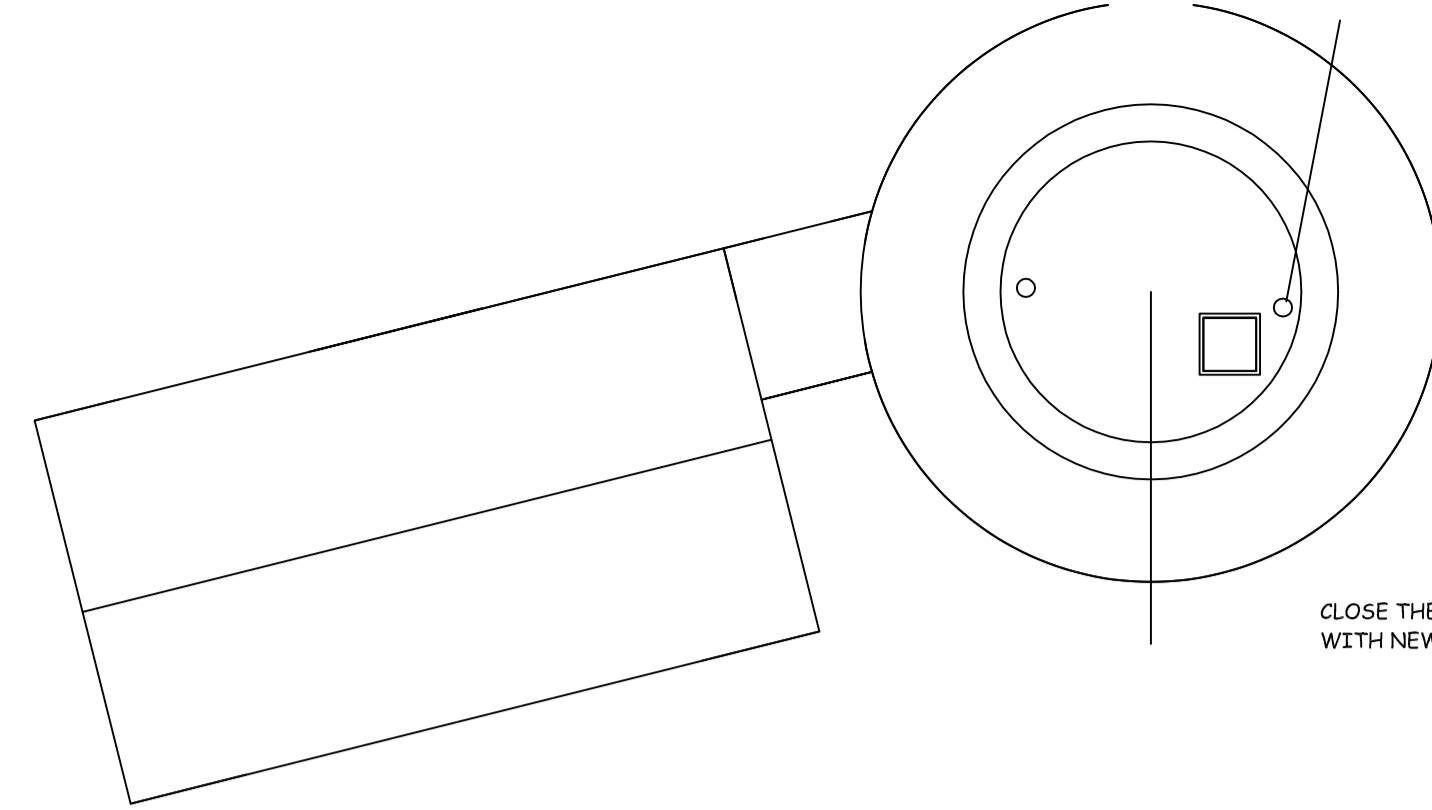
APPLICATION SITE

Item No: 2016/0673/FUL

Address: Windmill, Old Road, Appleton Roebuck

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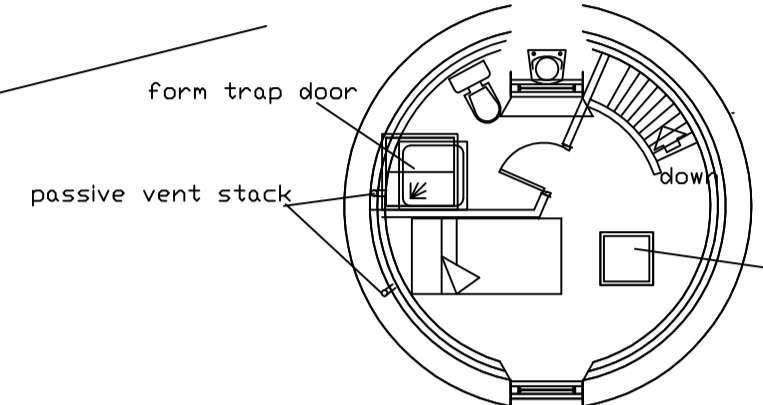
ROOF PLAN

The walls and roof of the glazed link to be offset 18mm from the wall of the windmill.
 Surface water to run down the face of the windmill wall into a drainage channel on the floor of the glazed link.
 This will maintain the integrity of the windmill with no structure being attached to it.
 Cross flow ventilation will be achieved in the link to prevent the build up of heat and condensation with the 18mm air gap at the wall of the mill and with the brick headers being omitted from the wall above the main entrance doors.
 The glazed link will give a visual separation from the mill and the outbuilding and provide an unheated entrance area.
 A French drain will be formed round the external wall of the mill in place of installing a damp proof course to the mill walls, this will have the effect of reducing the water table in this area and ensuring the lower walls to the mill are dry.

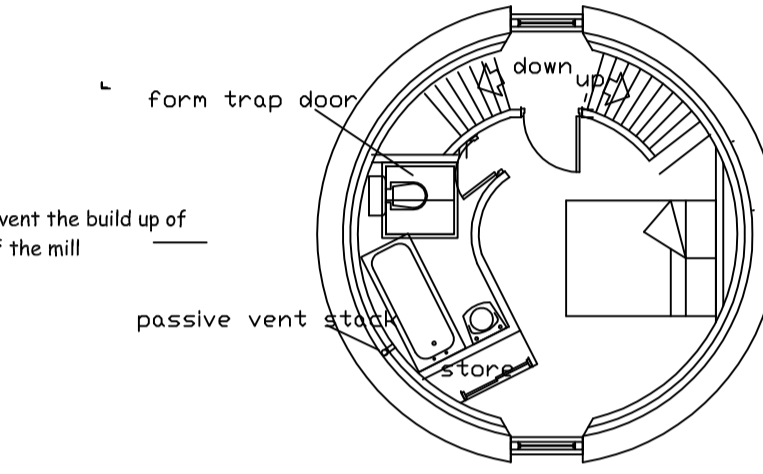
Consideration was given to including the installation of an internal wheelchair-friendly one person lift shaft to make the new accommodation available for use by disabled persons. The provision of the extension enables the accommodation to be available for a disabled person without any adverse implications for the old building.

RECEIVED
 25/05/2017
 BUSINESS SUPPORT

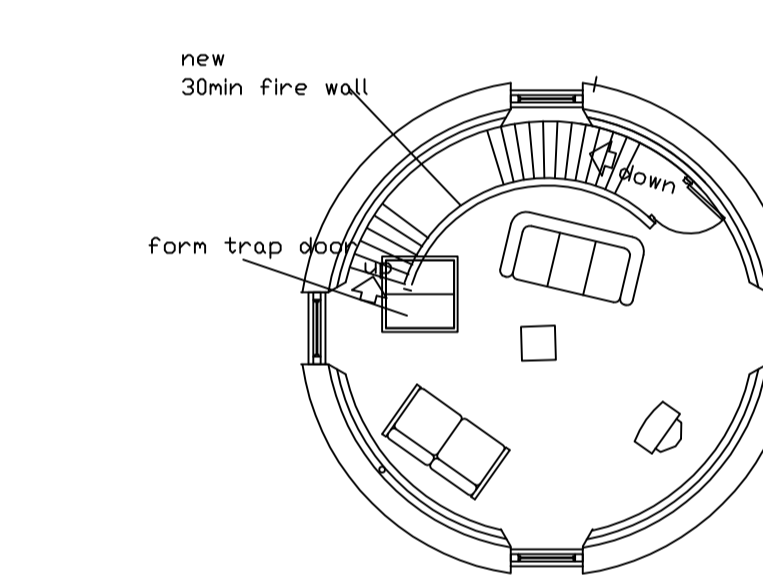
AMENDED DRAWING



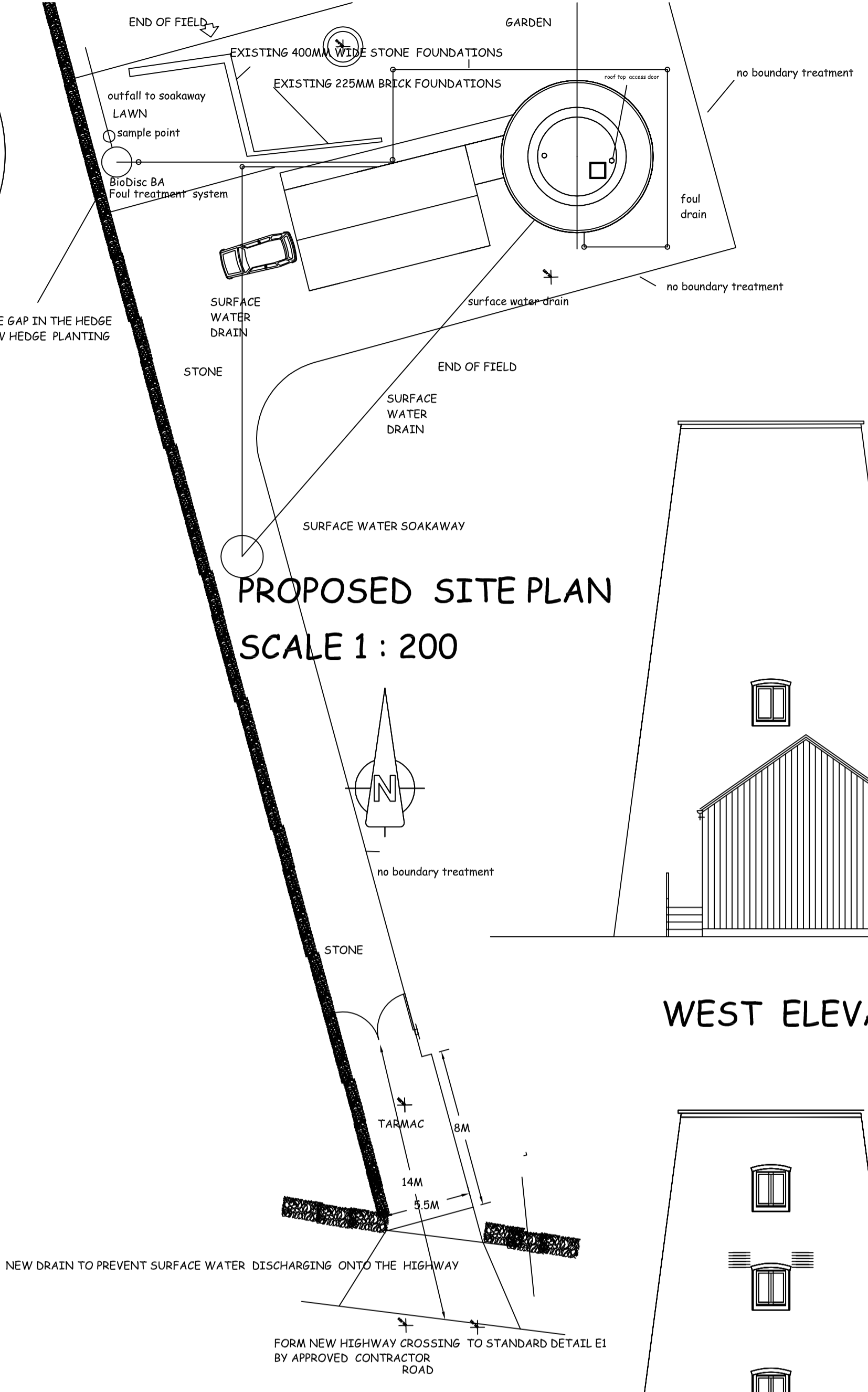
THIRD FLOOR



SECOND FLOOR

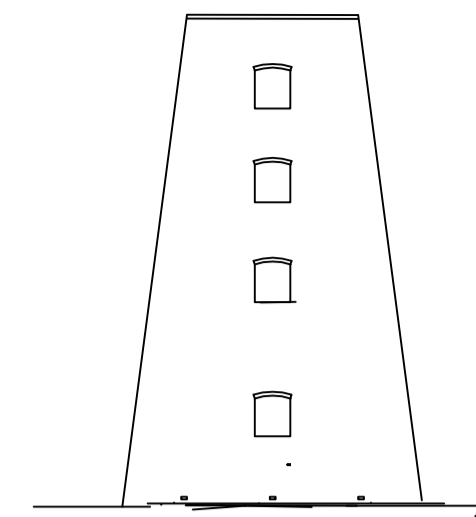


FIRST FLOOR

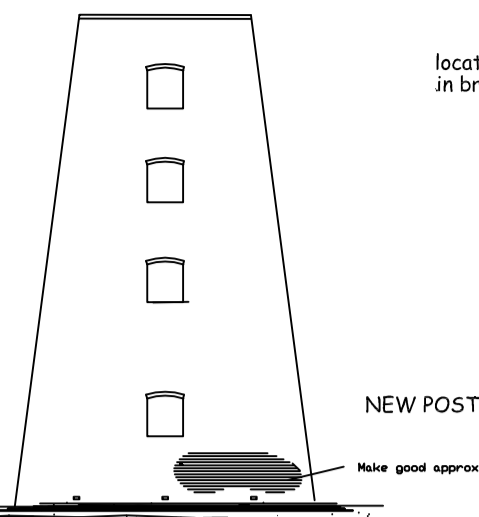


PROPOSED SITE PLAN SCALE 1 : 200

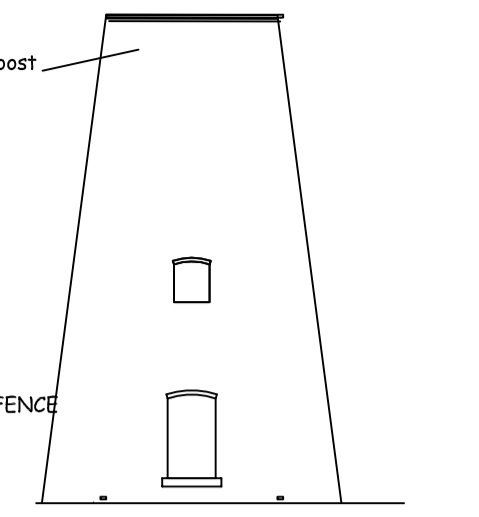
EXISTING SOUTH ELEVATION scale 1 : 200



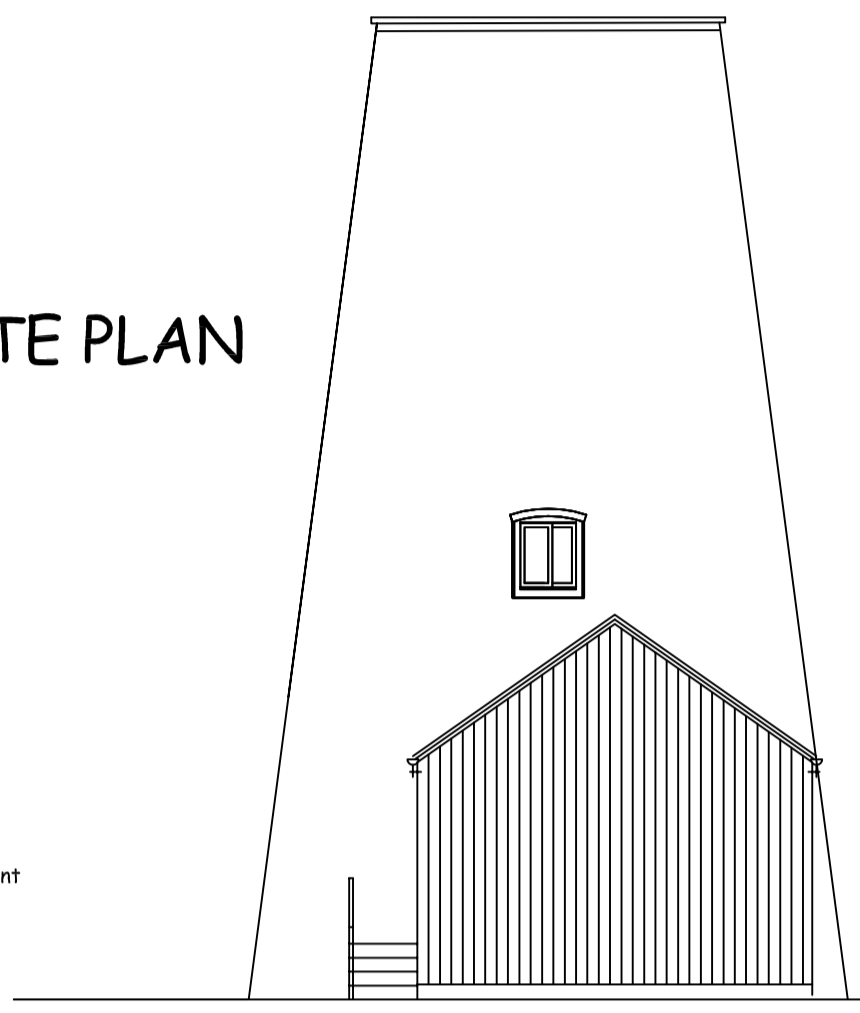
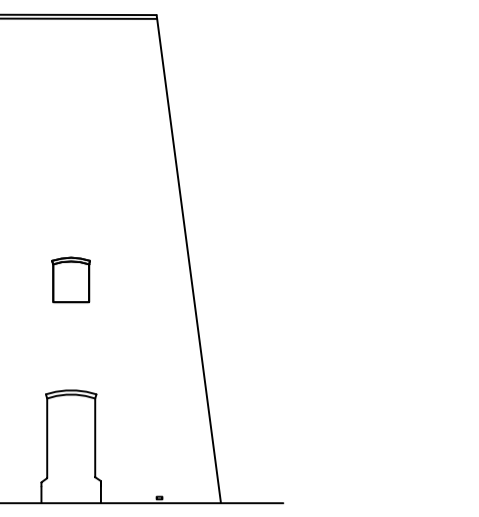
EXISTING NORTH ELEVATION scale 1 : 200



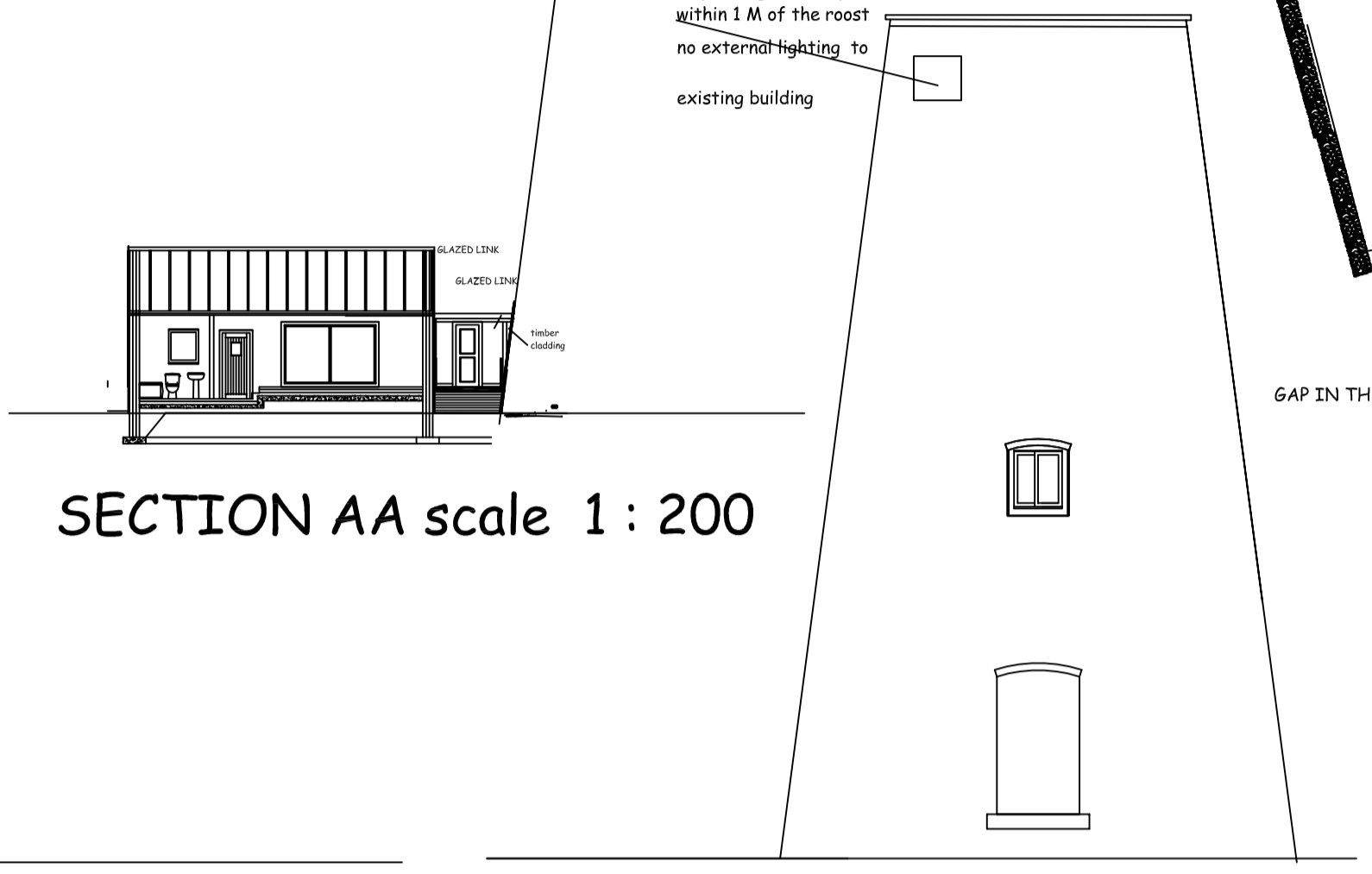
EXISTING EAST ELEVATION scale 1 : 200



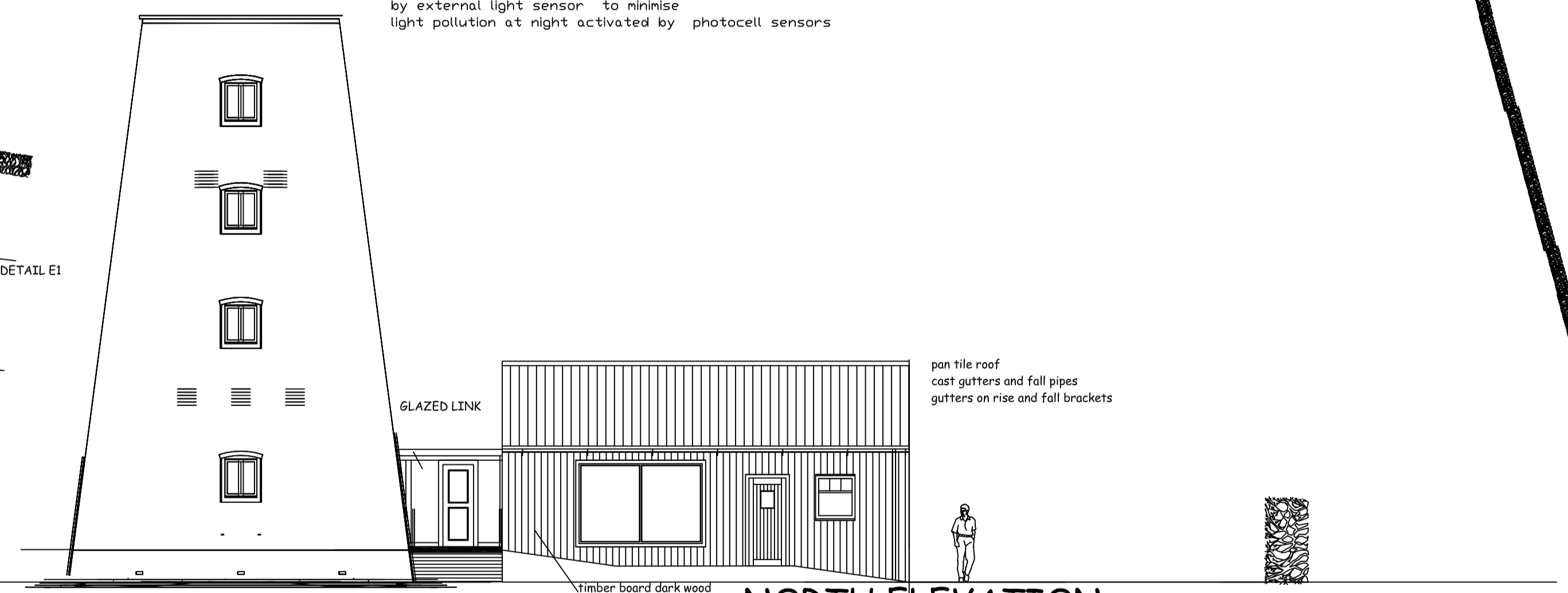
EXISTING WEST ELEVATION scale 1 : 200



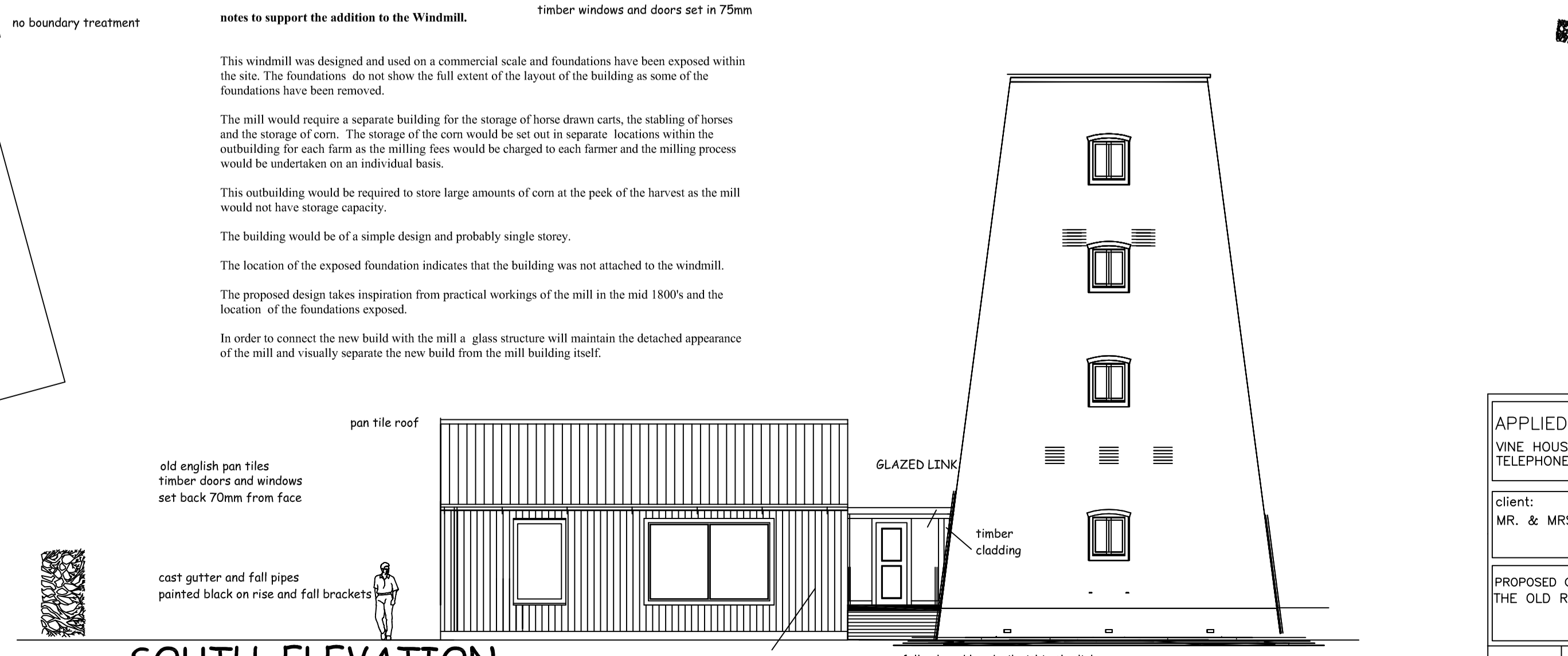
WEST ELEVATION



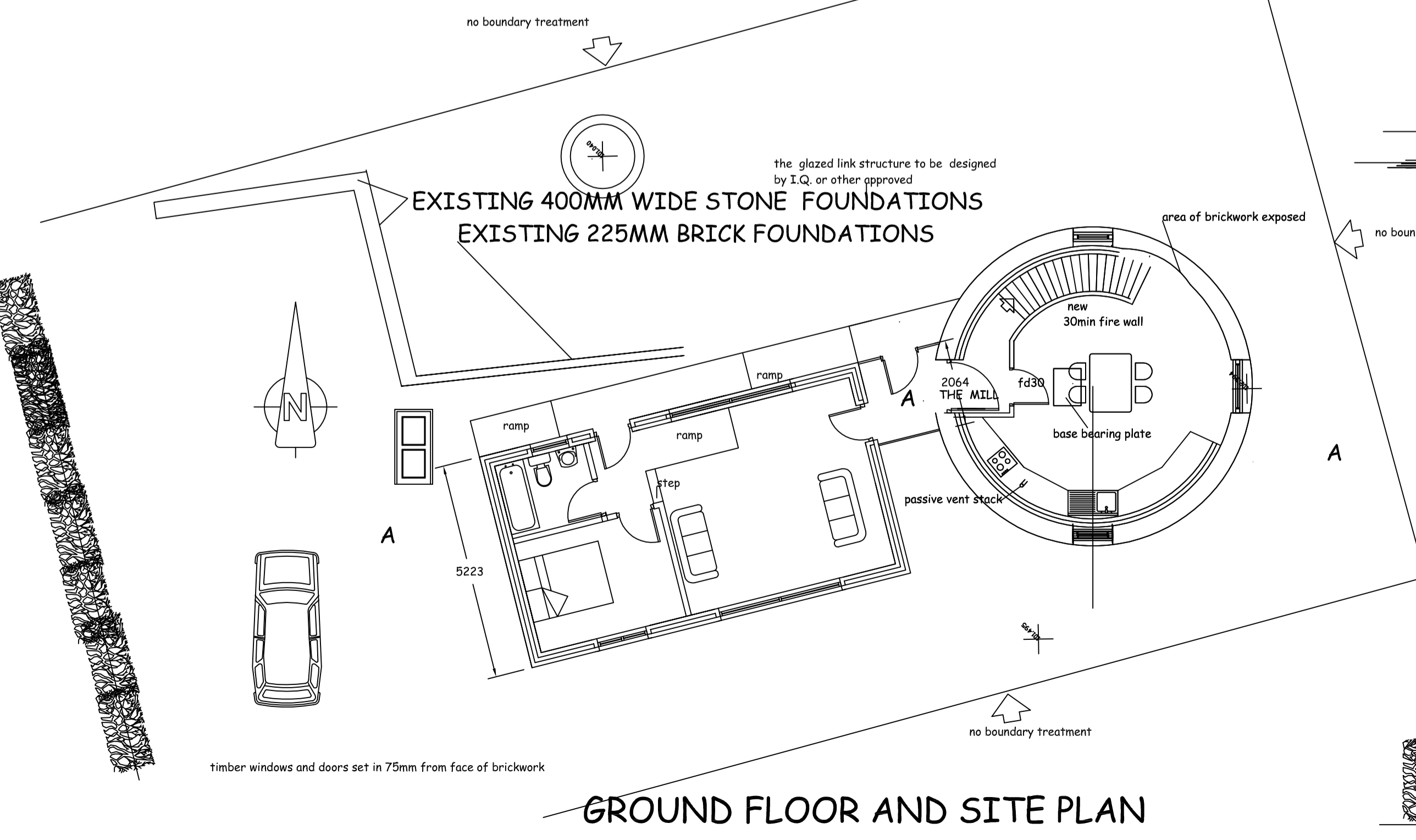
EAST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION



GROUND FLOOR AND SITE PLAN

notes to support the addition to the Windmill.
 This windmill was designed and used on a commercial scale and foundations have been exposed within the site. The foundations do not show the full extent of the layout of the building as some of the foundations have been removed.
 The mill would require a separate building for the storage of horse drawn carts, the stabling of horses and the storage of corn. The storage of the corn would be set out in separate locations within the outbuilding for each farm as the milling fees would be charged to each farmer and the milling process would be undertaken on an individual basis.
 This outbuilding would be required to store large amounts of corn at the peak of the harvest as the mill would not have storage capacity.
 The building would be of a simple design and probably single storey.
 The location of the exposed foundation indicates that the building was not attached to the windmill.
 The proposed design takes inspiration from practical workings of the mill in the mid 1800's and the location of the foundations exposed.
 In order to connect the new build with the mill a glass structure will maintain the detached appearance of the mill and visually separate the new build from the mill building itself.

old english pan tiles
 timber doors and windows
 set back 70mm from face

cast gutter and fall pipes
 painted black on rise and fall brackets

pan tile roof

timber board dark wood
 timber windows and doors set in 75mm from face of brickwork

fully glazed handrail within the link
 STAIRS WITHIN THE GLAZED LINK

APPLIED SURVEYING & DESIGN (YORK)Ltd.
 VINE HOUSE 21 MAIN STREET STAMFORD BRIDGE
 TELEPHONE 01759 372779

client:
 MR. & MRS. HW. HOUSEMAN & MR. & MRS JM HOUSEMAN

PROPOSED CONVERSION OF WINDMILL TO FORM A DWELLING WITH EXTENSION
 THE OLD ROAD, APPLETON ROEBUCK

SCALE	1:100	Rev		DRAWING No.
DATE	May 2016	up dated	20/03/2017	2016/17/501/11
DRAWN	P.A.	up dated roof plan	25/05/2017	B

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To: Planning Committee
Date: 10 January 2018
Author: Yvonne Naylor (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2016/0673/FUL 8/79/167J/PA	PARISH:	Appleton Roebuck Parish Council
APPLICANT:	H W And J M Houseman	VALID DATE: EXPIRY DATE:	6 June 2016 1 August 2016
PROPOSAL:	Proposed conversion of windmill to form a dwelling with new extension		
LOCATION:	Windmill, Old Road, Appleton Roebuck		
RECOMMENDATION:	APPROVE		

This application has been brought before Planning Committee as Officers consider that although the proposal is contrary to Criterion 1 of Policy H12 of the Local Plan, there are material considerations which would justify approving the application.

Members should note that an associated Listed Building Application is also being considered at this Committee under Reference 2016/0675/LBC.

1. Introduction and background

The Site and Context

- 1.1 The application site comprises an area of land which is located between the settlements of Appleton Roebuck and Bolton Percy. There is currently a post and wire fence delineating the site boundary.
- 1.2 The site and surrounding area is characterised by open agricultural fields with predominantly hedgerow boundaries.
- 1.3 The windmill is on an elevated position within the site with grassed land surrounding the site and the remains of previous buildings. The windmill itself has openings but no remaining window frames or doors.

The Proposal

- 1.2 This proposal seeks full planning permission for the conversion of the windmill into residential accommodation and the addition of a single storey extension. There would be significant internal works required to the windmill due to the lack of floors/beams in order to facilitate the conversion and the works are detailed within the supporting documents submitted with the application.
- 1.4 An extension is proposed which would be attached to the windmill by virtue of a glazed link. The extension would be constructed from dark timber board with English pantiles to the roof and timber doors and windows. It would measure 11.4m in length by 5.2m in depth with a maximum height of 5m to the ridge.
- 1.5 The scheme will provide within the extension a double bedroom with en-suite, and a living room, which is then linked to the main windmill structure. The ground floor of the windmill element will provide a kitchen and dining area. The first floor will provide a living room, the second floor provides a further double bedroom and en-suite and the third floor would provide a single bedroom with en-suite.
- 1.6 The proposed elevations will include the addition of a series of vents to the southern and northern elevations.
- 1.7 Access to the site would be taken from the existing field access. It is proposed that the access would be tarmac for the first 8m into the site after which the access road would be laid with stone. No boundary treatments are proposed to the application site although a garden area and curtilage is shown on the submitted plans.

Planning History

- 1.5 The following historical applications and appeals are considered to be relevant to the determination of this application:-
 - An application (2016/0675/LBC) for Listed Building Consent for the proposed conversion of windmill to form a dwelling with new extension is currently pending consideration and is on the same planning committee agenda.
 - An application (2015/1428/LBC) for Listed Building Consent for proposed conversion and change of use of windmill to a single dwelling with new extension was withdrawn on 5 February 2016.
 - An application (2015/1425/FUL) for the proposed conversion and change of use of windmill to a single dwelling with new extension was withdrawn on 5 February 2016.
 - An application (2012/0812/FUL) for the conversion of windmill to form a holiday cottage was approved on 9 May 2013.
 - An application (2012/0805/LBC) for Listed Building consent to facilitate conversion of windmill to form a holiday cottage was approved on 9 May 2013.

- An application (2009/0573/LBC) for Listed Building Consent for the conversion of a redundant windmill to a holiday let was refused on 21 August 2009.
- An application (2009/0572/FUL) for the proposed conversion of redundant windmill to holiday let was refused on 30 September 2009.
- An application (2008/0405/LBC) for Listed Building Consent for the conversion of a redundant windmill to a holiday let was withdrawn on 6 May 2009.
- An application (2008/0404/FUL) for the proposed conversion of redundant windmill to holiday let was withdrawn on 6 May 2009.
- An application (CO/2002/0262) for Listed building consent for the conversion of a windmill tower into an astronomical observatory and sky science centre at was withdrawn on 27 January 2003.
- An application (CO/2002/0261) for the proposed conversion of a windmill tower into an astronomical observatory and sky science centre at was withdrawn on 27 January 2003.
- An application (TA/6413) for the conversion of old Windmill into dwelling house, dated 23 May 1973, was refused on the 13th November 1973. This refusal was on the basis that “the site is divorced from the existing residential development in the area and it is considered that the proposed use of the isolated structure would constitute an undesirable intrusion of a residential use into an area which is in the main open and undeveloped”.
- An application (TA/4629) for the change of use to a house, dated 6th August 1968 was refused on the 9th September 1968. This refusal was on the basis of
 - Site outside any area shown allocated for general development purposes in the approved County Development Plan
 - The site is divorced from any existing residential development in the area and it is considered that the proposed use of the isolated structure would constitute an undesirable intrusion of residential use into an area which is in the main open and undeveloped.

2.0 Consultations and Publicity

- 2.1 **Parish Council** - They are most concerned that the windmill does not fall into ruin as it is a local land mark visible from the surrounding area. It is felt that this proposal will ensure that it is preserved as such.
- 2.2 **NYCC Highways** - No objections subject to several conditions.
- 2.3 **Yorkshire Water** - No response at the time of compilation of this report.
- 2.4 **Ainsty Internal Drainage Board** - No objection to the development in principle and have recommend that two conditions be attached to any planning approval.

- 2.5 **Natural England** - No comments.
- 2.6 **Yorkshire Wildlife Trust** - The surveys by Wold Ecology are thorough and the suggested mitigation should be conditioned a European protected Species Licence may need to be applied for.
- 2.7 **North Yorkshire Bat Group** - No response at the time of compilation of this report.
- 2.8 **Historic England** - having considered the latest Heritage Statement and Plans Historic England note that “the revised heritage statement provides a more detailed consideration of significance and assessment of the impact of the proposals” and confirm that they “concur with the conclusion of the statement” and have thus confirmed that they have “no objection to the applications on heritage grounds”.
- 2.9 **Conservation Advisor** - The application would lead to less than substantial harm to the heritage asset due to the following reasons:
- Alterations to the appearance of the listed building with the additions of a roof and windows;
 - Change to the setting of the listed building with the addition of an extension; and
 - Insertion of internal floors and modern services to make the building habitable.

As harm has been identified, the proposal is then weighed against the public benefits of the application in accordance with NPPF 134.

The proposed design and supporting information has demonstrated that there would be heritage benefits of the application and measures have been taken to mitigate the harm caused to the significance of this designated heritage asset:

- Scale of the proposed extension has been kept to a minimum to reduce the visual impact. The width of the extension is no wider than the windmill and the height has been kept below the first floor window;
- Materials of construction proposed for the extension reflect the agricultural nature of the setting and the character of the existing building - the proposed dark wood reflects the original tar finish to the windmill;
- The glazed link provides a degree of visual separation between the listed windmill and the extension and allows the curvature of the windmill profile to still be appreciable through the visually permeable link;
- The design is utilitarian and uncomplicated;
- The proposal safeguards the future of this listed building and keeps it in a viable use; and
- The proposal maintains and preserves the historic fabric.

The application is in accordance with Paragraph 131 of NPPF as the application sustains and enhances the significance of the Grade II listed windmill and has proposed a scheme that is consistent with its conservation. The application sustains the windmill as a feature within the landscape for this and future generations to enjoy. Great weight has been given to the conservation of the Windmill as a Grade II heritage asset. The application has been accompanied by clear and convincing justification for the development including the long term conservation of the asset

for this and future generations and is therefore in accordance with NPPF paragraph 132.

The application would safeguard the future of the Grade II windmill and maintain it as a familiar feature within the landscape. Selby Core Strategy Policy SP18 requires for the high quality and local distinctiveness of an environment to be maintained which is achieved by this proposal.

The sensitive approach to the design of the converted windmill ensures that the proposal complies with Selby Core Strategy Policy SP19 in terms of achieving a high quality design, and having regard to the local character, identity and context of its surroundings.

The proposal is also in line with Selby Local Plan Policies ENV22 in terms of having a minimal impact upon the character, fabric and setting of the listed building and policy ENV24 in terms of the minimising any adverse impact upon the architectural and historic character of the building. The proposal is also considered to be appropriate in terms of scale (as the proposed extension has been kept to a minimum size), design and materials (the design and materials of construction of the proposed extension reflects the historic development of the building).

The following conditions should be attached to an approval to ensure the detailing is to a high standard:

1. Before the relevant work begins, details in respect of the following shall be approved in writing by the Local Planning Authority. The work shall be carried out in full in accordance with such approved details:
 - a) detailed drawings at 1:5 scale of the glazed link to show materials, doors and interaction with the windmill;
 - b) samples of external materials and surface finishes including the pan tile roof and the timber boarding for the extension
2. Before work begins, the details of the type and colour(s) of the paint to be used on all external timber joinery shall be agreed in writing with the Local Planning Authority. All glazing shall be face-puttied.
3. Rainwater goods (gutters, downpipes, hopperheads and soil pipes) [on visible elevations] shall be in cast-iron. The sectional profile for the rainwater gutters shall be half round and fixed on agreed brackets.
4. No new plumbing, pipes, soil-stacks, flues, vents or ductwork shall be fixed on the external faces of the building other than those shown on the drawings hereby approved.
5. No new grilles, security alarms, lighting, security or other cameras or other fixtures shall be mounted on the external faces of the building other than those shown on the drawings hereby approved.
6. PD rights should be removed.

Informatives:

All leadwork should follow the Codes and details recommended by the Lead Sheet Association.

- 2.10 **Environmental Health** - The applicant has indicated that foul drainage is to be disposed of via a package treatment plant. The installation of a new foul drainage

system will require building regulation approval in addition to appropriate consent to discharge issued by the Environment Agency.

2.11 **Contaminated Land Consultants (WPA)** - No contaminated land conditions are recommended for this application.

2.12 **Neighbours** - Due to the location of the application site, there are no immediate neighbours and as such, notifications undertaken were through a site notice and an advert within the local press. This has resulted in two letters of objection being received (from the same objector) and thirteen letters of support.

2.13 The letters of objection raised the following points as summarised:

- Inaccurate information is provided within the application form, in particular with respect to the existence of a hedge which is a valuable feature of the local landscape and there is no assessment of the works to be carried out;
- The Heritage Statement focuses on the physical characteristics of the property and not any wider considerations such as the reason why it has been listed to enable the LPA to fully assess the contribution the building makes to the surrounding area. It is also impossible to quantify the building's value and significance and therefore the harm that may occur;
- The Heritage Statement has failed to take account of the recent Court of Appeal decision *Barnwell Manor Wind Energy Ltd v E Northants DC*, English Heritage, National Trust and SSCLG (2014);
- Plans have not been provided from public vantage points of which to assess the proposal;
- No detailed drawings for the fenestration/door details have been provided and no justification for these design elements which would appear inappropriate for such a functional and utilitarian mill building, set within a rural landscape;
- Sustainability has previously been a reason for refusing permission for a dwelling in this location in the past;
- The site is particularly remote and a considerable distance from the nearest settlement. The applicant quotes a distance of 700m however this is along a narrow country road with no pedestrian facilities, is subject to the national speed limit and is taken to the edge of the settlement rather than the focus of facilities and services within the settlement;
- There are very limited facilities within Appleton Roebuck which do not represent a sufficient breadth or depth of services to support sustainable development;
- The identification of a daily bus service to York or the rural footpath walks do not outweigh the sustainability issues and residents can only realistically travel to site by private car;
- There have been no alternative options presented in protecting the structure. In demonstrating that the least intervention possible is proposed for a viable re-use to occur the applicants should have demonstrated less invasive uses have been fully considered such as agriculture or storage. This should involve marketing the building for a range of agriculture and employment opportunities. A period of 18 months for this would be reasonable;
- The creation of boundary treatment would introduce a defined and alien curtilage in the area;
- Associated activity and detailing such as garden planting, outdoor tables chairs etc will change the setting of the Listed Building and will be adverse when compared with the open countryside location of the surroundings;

- The electricity supply will most likely be made via overhead power lines and the impact of this connection is unknown and therefore cannot be reasonably assessed;
- There are detailed design issues which are not appropriate to a building of this historic value such as provision of ducts, vents and openings for heating appliances, external lighting equipment, external pipes associated with drains etc;
- The applicant proposes a disjointed and unintelligible mix of large windows, decorative gables and roof planes which have no historic or contemporary theme. The use of glazed links alongside pantiles and clamp bricks further compounds the unclear design approach;
- The effect is of a series of domestic extensions which have no bearing and an uncomfortable relationship with the historic structure. There is no evidence of an examination of the scale and design of historic structures which may have been in this location, nor a contemporary approach to the extension;
- The applicants have submitted a repair schedule however there is so much information that is missing or inadequate that the full extent of the proposal is unknown at this stage;
- The building was listed in its current state of disrepair and therefore, there is a question with regard what it is that the Council are trying to preserve. The Council have the power to ensure that the building is maintained which need only involve minor structural works and weatherproofing;
- The proposals will have a detrimental impact on the visual amenity of the surrounding landscape due to loss of the current open aspect across the site;
- There is a need to consider the application in light of potential alternatives such as do nothing, as well as alternative reuse of the structure in its current condition and then assessing the potential redevelopment of the site. There is no evidence that this exercise has been completed;
- Given the isolated location any form of intensive use is likely to have a significant impact on the area. The development is of a much greater intensity than the existing windmill and by virtue of its design and ancillary structures will be more dominant in views from all directions;
- It is understood that the proposal would require the formation of visibility splays of 150m to the west and 215m to the east, it is unclear how the applicant proposes to ensure that the site is capable of safe access from the public highway;
- There is reference to removing parts of the hedge, however there is no indication of the level of visibility that this will achieve nor the works likely to be required to the hedge;
- Whilst the applicant is proposing two car parking spaces it is not possible to determine that there is provision for the parking of any service vehicles including delivery vehicles and those needed to carry out essential servicing such as waste collection;
- There is an intention to use a historic well structure on the site for the purposes of ground water disposal however there is no assessment of the structural integrity of the well or its ability to function as a viable soakaway;
- The reuse of the well opens up possibility of direct and uncontrolled access for pollutants to a ground water source. The risk of contamination spreading into surrounding ground water and possible aquifers is increased far above that of a typical open well by the positive pressure that the water flowing into the well will be under when it drops down into the soakaway;

- There has been no assessment of the historic or archaeological significance of this feature of the site;
- The structural survey contradicts the Heritage Statement in respect of the decay of the building;
- The Heritage Statement should be completed by a competent and informed individual;
- The proposed development is contrary to Policies ENV1 and ENV24 of the Local Plan, Policy SP2 of the Core Strategy and the NPPF;
- There is no assessment on the impact on the nearby Conservation Area;
- The revised scheme and Heritage Statement are considered to be an inadequate basis for a properly informed assessment of the development proposals.

2.14 The letters of support raised the following points as summarised:

- The development is supported by numerous national and local planning policies;
- It would preserve a local listed building and landmark for the future;
- The windmill is a prominent and well known feature of the local landscape, despite being disused for over a hundred years;
- The building has no practical use for modern day farming and the self-evident functional link between the windmill and the local agricultural industry has long since been severed;
- The structure appears reasonably sound, by its design the building supports its self, with a good structural engineer, architect and builder this could be a fine structure, providing that the team are sympathetic in their approach to the task in hand;
- The access to the site is already used by heavy farm machinery to access the fields adjacent to it, so it really is questionable as to additional traffic from one dwelling will have a measureable impact on local traffic volumes. Traffic volumes are not great;
- When the building was in its original use there would have been lighting in and around the building, it had life, it is considered a ridiculous suggestion that lighting from the property would be harmful to the local countryside, this really is objection born on desperation;
- There is local and national support for the re-use of this structure and reusing the building concerned in this way would be the best use of this asset;
- There is strong support by both District and National Planning policies for the reuse of redundant farm buildings for alternative uses within the countryside, where it helps to preserve the structure;
- The proposal is for a sympathetic conversion into a residential dwelling with a small extension, complying with planning policies;
- local and national planning policies endorse the preservation of these structures by allowing the sensitive and thoughtful conversion into productive, sustainable and aesthetically pleasing buildings;
- The applicants have looked carefully at alternative uses;
- The site is served by a public bus route, and is within easy walking distance of Appleton Roebuck village; in fact a great many people walk the Old Road between Bolton Percy and Appleton Roebuck on a daily basis. There is no footpath on the side of the road, but the grass verge is sufficiently wide enough to seek refuge;
- Cyclists use this route extensively;

- Although there is no electrical power supply to the site there is no reason why an underground supply could not be connected to the existing mains supply in Appleton Roebuck;
- It would appear that Historic England do not wish to object to the proposal, and indeed appear to be in support of it, so long as the work is carried out sympathetically, it must therefore be of significant material consideration that the application gains approval;
- It is questionable as to whether it should even be listed, given its current condition (which has not noticeably deteriorated since its listing in 1987).
- The issue of bringing it into use is highly supportable;
- Long gone are the days of economic activities from windmills and its use as anything other than a night shelter for sheep are non-existent so that the opportunity for vitality into the building is highly desirable;
- Reusing the structure as a home with a sensitive extension as proposed would prevent the further dilapidation of the structure and make it safe.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The windmill is Grade II Listed and is constructed from brick and has no roof structure or glazing remaining. It is located within open countryside and is outside the defined development limits of Appleton Roebuck.
- 3.2 The site is 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 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.
- 3.4 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.
- 3.5 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. In terms of the Appleton Roebuck and Acaster Selby Neighbourhood Plan, then NPPG Neighbourhood Planning paragraph 7 states that:

“An emerging neighbourhood plan may be a material consideration factors to consider include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies. Decision makers should respect evidence of local support prior to referendum when seeking to apply weight to an emerging neighbourhood plan. It is for the decision maker in each case to determine what a material consideration is and what weight to give it.” (NPPG Neighbourhood Planning para 07)

As such under Section 1 of the Neighbourhood Planning Act 2017 the law as in force from 19th July 2017 states that a neighbourhood development plan forms part of the development plan for the area if it has been approved by referendum. The Appleton Roebuck and Acaster Selby Neighbourhood Plan was examined in summer 2017 and was recommended to proceed to referendum. The Referendum took place on the 23rd November 2017 and was supported by the community. In accordance with the Neighbourhood Planning Act it now becomes part of the statutory development plan to which the provisions of Section 38(6) of the 2004 Act apply.

Selby District Core Strategy Local Plan

3.6 The relevant Core Strategy Policies are:

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

Appleton Roebuck and Acaster Selby Neighbourhood Plan

3.7 The relevant Neighbourhood Plan policies are:

WB1	Re-use of Redundant Buildings
DBE2	Respecting Traditional Building Design and Scale
DBE3	Green Infrastructure
DBE4	Drainage and Flood Prevention
EHL1	Maintaining Agricultural Land
ELH 4	Historic Rural Environment.
H1	New Housing Development Design and Scale,
H3	Car Parking
ELH2	Conserving, Restoring and Enhancing Biodiversity

Selby District Local Plan

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

closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

3.9 The relevant Selby District Local Plan Policies are:

ENV1	Control of Development
ENV2	Environmental Pollution and Contaminated Land
ENV24	Alterations to Listed Buildings
T1	Development in Relation to the Highway Network
T2	Access to Roads
H12	Conversion to Residential in the Countryside

Other Documents

3.10 Other relevant policies and guidance are:

- NPPF and NPPG
- Affordable Housing Supplementary Planning Document
- 5 Year Housing Land Supply Report 2017-2022, Position at 31st March 2017
- Appleton Roebuck Village Design Statement

4.0 Appraisal

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

1. Principle of the development
2. Impact on Heritage Assets
3. Design and Impact on the Character of the Locality
4. Impact on Residential Amenity
5. Highways Issues
6. Drainage, Flood Risk and Climate Change
7. Impact on Nature Conservation and Protected Species
8. Affordable Housing
9. Contaminated Land
10. Neighbourhood Plan
11. Other Issues
12. The Benefits of the Proposal

The Principle of Development

4.2 Relevant policies in respect of the principle of this proposal include Policy WB1 of the AR & AS NP, Policies SP1 "Presumption in Favour of Sustainable Development" and SP2 "Spatial Development Strategy" of the Core Strategy and Policy H12 of the Selby District Local Plan. In addition it should be noted that in considering the case that the Council have confirmed that housing policies are up to date, as it now has a via the Appeal at West Farm Ulleskelf (Ref 2016/0403/OUT) a 5 year housing land supply and as such the proposals should be considered under the normal planning considerations.

4.3 In terms of the AR & AS Neighbourhood Plan, then this application is for conversion and the small scale extension of the windmill which would bring a redundant building back into use, which is in accordance with Policy WB1 per sa. The criterion

in Policy WB1 do note that any such conversions should not increase levels of traffic to cause disruption, increase HGV movements or significantly increase noise associated with the new use. These elements are considered later in the report in terms of the highways impacts and amenity considerations.

- 4.4 In terms of the Core Strategy, then 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. Alongside this 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. Given the scheme is a conversion and extension it can therefore be concluded that the principle of re-use of the building and extension to the existing building is in accordance with both Policy SP1 and Policy SP2A(c) of the Core Strategy.
- 4.5 In terms of the Local Plan, then as noted above the key Policy H12 on "Conversion to Residential Use in the Countryside" notes a series criterion for the consideration of scheme. Criteria (1) and (3) allow proposals for the conversion of rural buildings to residential uses provided it "can be demonstrated that the building, or its location, is unsuited to business use or that there is no demand for buildings for those purposes in the immediate locality" and that the "building is structurally sound and capable of re-use without substantial rebuilding" and Criteria 2 of Policy H12 of the Local Plan states that conversions to residential use will only be permitted where 'The proposal would provide the best reasonable means of conserving a building of architectural or historic interest and would not damage the fabric and character of the building.' As such Policy H12 supports the principle of conversion of the building with appropriate extensions.
- 4.6 It is accepted that the scheme is contrary to Policy H12 of the Local Plan, but it is considered to be in compliance with the approach of the Neighbourhood Plan and the Selby Core Strategy. It is considered that the limited weight should be attached to the Local Plan, and greater weight should be attached to the approach of the Core Strategy and the Neighbourhood Plan in considering the scheme. Then in considering the approach of the NPPF this should be a material consideration in accordance with Paragraph 38 (6).
- 4.7 This includes consideration of the scheme in the context of Paragraph 55 of the NPPF is particularly relevant to the application and states that:
- "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as [amongst other things]:-

- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.”

As such, Paragraph 55 thus supports re-use of redundant or disused buildings, which is consistent with the Core Strategy and the AR & AS NP but is significantly different to that taken in the Local Plan and Policy H12 as it does not require the more onerous tests set out in H12 (1) and (2).

- 4.8 The windmill is a Grade II Listed Building and an assessment of securing the future of this asset is discussed later in the report. The proposal would re-use a redundant and disused building and is considered to lead to an enhancement to the immediate setting by virtue of retaining, reusing and repairing the windmill which is in a semi-derelict state. The applicant has submitted a Structural Survey which concludes that the building is structurally suitable for its intended use and the conversion will retain and enhance the character of this building. In addition, following a site visit to the application site, officers have not seen any signs that would indicate that the building is other than structurally sound.
- 4.9 It is considered that the policies in the Development Plan, as noted above, pull in different directions given the approach of the NP, the Core Strategy and the guidance within the NPPF which is a material consideration. As such it is considered that the Development Plan is not neutral (when applying the approach of the High Court decision *R v Rochdale Metropolitan Borough Council ex parte Milne* (2000). Sullivan J) and as such the starting point as per 38(6) is that schemes should be refused ‘unless material considerations indicate otherwise’.
- 4.10 In this case given that Policy H12 is inconsistent with the Neighbourhood Plan and the Core Strategy (as part of the development plan) and the guidance in the NPPF, it is considered that limited weight can be given to Policy H12 and as such it is essential that the benefits of the development outweigh any conflict such that notwithstanding the conflict with the development plan the material considerations indicate that planning permission should be granted. Having considered this position, the proposal is considered to meet one of the special circumstances identified within paragraph 55 of the NPPF and wholly accords with Policy WB1 of the Neighbourhood Plan. In addition although limited weight is afforded to the Policy then the proposal is in accordance with Policy H12 (3) of the Local Plan.

Sustainability of the Development

- 4.13 In terms of assessing the sustainability of housing development in this open countryside location, it is noted that Appleton Roebuck which is the closest village to the application site is identified as being 'least sustainable' with respect to its sustainability ranking as set out in Core Strategy Background Paper No. 5 Sustainability Assessment of Rural Settlements.
- 4.14 The application site itself is situated approximately 720 metres outside the defined development limits of Appleton Roebuck which provide local services such as a primary school, two public houses and a church. There is also a bus stop on Main

Street within the village which serves the Colton to York bus route that runs Monday to Saturday on a 2 hourly basis. The site is also located approximately 1.3km from Bolton Percy which benefits from a village hall, café and public house and is also on the Colton to York bus route.

- 4.15 In considering the location of the application site and its relative isolation and the subsequent reliance of the private car to serve the proposed dwelling it should be taken into account that paragraph 55 specifically allows isolated homes in the countryside provided they meet the special circumstances set out in that paragraph. Isolated homes are very unlikely, by virtue of their isolated nature, to be served by good, or any, public transport services. As such the policy envisages that there are circumstances, where on balance, the lack of public transport and consequent reliance on the private car can be acceptable. As set out earlier in this report it has been established that the proposals accord with the exceptions set out within Paragraph 55. In addition it worth noting that the conversion of isolated agricultural buildings to residential use is supported by Government in the changes made to the permitted development regime whereby conversions, of certain scales, are able to be supported subject to there being no technical reasons such as highways, contamination, noise, flooding or the location impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses).
- 4.16 Comments from objectors regarding the sustainability of the site have been noted and although sustainability. The location of the site and its sustainability was a previous one of the reasons for refusal for a holiday let proposal under reference 2009/0572/FUL, however this reason for refusal was linked to PPS7 (Sustainable Development in Rural Areas) which is no longer in place. The later application under 2012/0812/FUL did considered the use of the site for a holiday let again and the application was consented by the Council, with the assessment being undertaken in regard to the NPPF.
- 4.17 Paragraph 7 of the NPPF states that there are three dimensions to sustainable development, these being of an economic, social and environmental nature. These dimensions give rise to the need for the planning system to perform a number of roles. Having assessed the proposals against the three aspects of sustainable development the following conclusions have been reached:

Economic

The proposal would provide jobs during the conversion and internal works to the windmill as well in the construction of the extension and through local spending by new residents within the village and District.

Social

The proposed dwelling would provide one additional dwelling, adding to the housing supply in the District and would use local facilities.

Environmental

The proposals would bring back into beneficial use a Grade II Listed Building and provides a means of ensuring the future conversion of the windmill and its retention.

The proposals would re-use a disused building and would lead to the enhancement of the immediate setting and as such is in compliance with Paragraph 55 of the NPPF. The proposals would re-use the existing building and as such would make use of the environmental capital (energy and materials) invested in that part of the structure that would be reused. Furthermore the design would take into account environmental issues such as reducing carbon emissions, flooding and impacts on climate change. The proposals ensure that they do not result in a detrimental impact on ecology and would lead to enhancements to the site.

Therefore having had regard to the three dimensions of sustainable development it is considered that the proposals would have a positive economic, social and environmental role as identified above and would represent sustainable development. Whilst the proposal would perform poorly with respect to the location of the site, on balance taking into account the benefits of the scheme identified above and the fact that the proposals comply with Paragraph 55 of the NPPF which acknowledges that in order to make use of existing buildings they may be in isolated locations where access to public transport may be poor, that the proposals are considered acceptable on balance, when considered against the three dimensions of sustainability outlined in the NPPF.

- 4.18 On consideration of the above information, it is considered that the proposal is acceptable in regards to the appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability from both local and national policies as well as all relevant policies in the Neighbourhood Plan, Core Strategy, NPPF and Local Plan.

Impact on Heritage Assets

- 4.19 In considering proposals which affect a listed building regard has to be made of S16 (2) and S66 (1) where a planning application affects a Listed Building or its setting of the Planning (Listed Buildings and Conservation Areas Act) 1990 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'. Members should note that in terms of applications for Listed Building Consent then if it is considered that a scheme affects a Listed Building per se and also affects its setting then it is the duty of Members, in line with Case Law, to give considerable importance and weight to the impact of the proposed would have on the listed building and its setting.
- 4.20 The Windmill is a Grade II Listed Building and a Heritage Statement has been submitted with the application which considers the local and national policy contexts within the Local Plan, Core Strategy and NPPF as well as the Barnwell Manor Court of Appeal decision. It also provides details of the listing of the Windmill and an assessment of the historical significance of the windmill as well as its physical characteristics.
- 4.21 The submitted plans show existing features remaining near the Windmill which historic plans from 1892 and 1849 show as being within an area of built form. The information submitted by the Applicants also notes that there is evidence of other buildings in close proximity to the windmill. The Statement also confirms that the external face of the brickwork was originally covered in protective tar, but this has

deteriorated to leave much of the brickwork exposed, although this is noted in the submission to be still sound condition.

- 4.22 The Heritage Statement (June 2017) adds that “there is nothing remaining of the original doors or windows within the openings of the structure, or of the roof, so that the remaining fabric of the building inside and out is exposed to the elements which can only help to accelerate its demise. There are 2 door openings in the east and west elevation of the building and other window openings in the north and south elevations. The building now lies empty and without any viable or economic use. Virtually all the internal machinery, fixtures and fittings and most obviously the external sails, have been long removed from the building. It is believed this took place over the last 100 years.”
- 4.23 It continues and states “There is a small amount of evidence remaining of the original disposition of milling activities and machinery inside the remains of the four-storey mill tower. The tower size suggests a modest 4 sail configuration, there is no evidence of a taper in the profile and the closing brick courses visible today suggest the cap was seated at close to the top of the present tower. It is unlikely the tower was higher than at present. Its visual contribution to the character of the local area has more recently been that of a semi-ruin. It is not considered this is a positive contribution to the visual amenities of the area.”
- 4.24 In respect of the impact on the Conservation Area, it is noted that the site lies 720 metres from Appleton Roebuck and the statement considers that “As a visual feature beyond the perimeter of the Conservation Area the mill can be considered as 'gateway feature' to the area and its conservation should reflect this. The profile of the tower is not visible from most public areas of the village. Views of the tower from public footpaths, bridleways, passing trains and roads (the view of the mill from the railway is considered as a way-mark for many travellers) is essentially unchanged by the proposal as the aspect of the additions is largely blocked from these distant, lower sight-lines by the hedge line.
- 4.25 The Heritage Statement also provides a rationale for the proposed works and includes a comprehensive schedule of works that would be undertaken as part of the proposed conversion and extension. It concludes that “...the proposed development would deliver a sustainable project which not only safeguards the special architectural and historic character of the Grade II Listed Building and provides it with a secure future that will ensure its proper upkeep and repair but also complies with the relevant planning and heritage policy and guidance at both national and local level.” Additionally, the Design and Access Statement considers that the proposed conversion is considered to be the optimum viable use that is compatible with the fabric, interior and setting of the historic building.”
- 4.26 It is noted that application 2012/0812/FUL permitted the change of use of the windmill to form holiday accommodation. This use has not been implemented. The Heritage Statement advises that alternative uses of the tower are limited because of the small floor area, uncertain funding or intermittent occupation (possibly leading to a poor maintenance regime)” and adds that “Uses of the tower other than as a dwelling all risk its under-use linked to unknown or uncertain economic value. A permanent occupant of the building implies a higher standard of care than other uses.”

- 4.27 In terms of landscaping, the Statement considers that “The addition to the site of a renewed hedge screen is in keeping with the current 'hedge and field' aspect of the tower as seen from the public road and publicly accessible viewpoints” and The principal visual effect of these changes has very little impact on the nature of the building or its listed status.”
- 4.28 The proposed single storey extension would be attached to the Listed Building through a glazed link and is considered to be to a sympathetically designed scale and massing which would not detract from the significance of the windmill. The external walls are proposed to be timber boarding in a dark wood with a pantile roof which are considered to be acceptable and can be secured by condition. Furthermore, any materials required in order to repair the walls of the existing windmill would match those as per existing and a flat roof is proposed. It is considered reasonable to request details of the proposed materials to be submitted and approved in order to ensure the brickwork does match and the proposed roof materials are acceptable.
- 4.29 Historic England and the Council’s Conservation Advisor have considered the submitted information and the approach of the scheme for the conversion and extension. They have confirmed that it is considered that the submitted Heritage Statement provides a detailed assessment of the significance of the Windmill and an assessment of the impact of the proposals, with Historic England confirming that they confirm with the conclusion of the statement and have no objections on heritage grounds. A view support by the Councils Conservation Advisor who also notes that the “proposed design and supporting information has demonstrated that there would be heritage benefits of the application and measures have been taken to mitigate the harm caused to the significance of this designated heritage asset” in terms of :
- Scale of the proposed extension has been kept to a minimum to reduce the visual impact. The width of the extension is no wider than the windmill and the height has been kept below the first floor window;
 - Materials of construction proposed for the extension reflect the agricultural nature of the setting and the character of the existing building - the proposed dark wood reflects the original tar finish to the windmill;
 - The glazed link provides a degree of visual separation between the listed windmill and the extension and allows the curvature of the windmill profile to still be appreciable through the visually permeable link;
 - The design is utilitarian and uncomplicated;
 - The proposal safeguards the future of this listed building and keeps it in a viable use; and
 - The proposal maintains and preserves the historic fabric.
- 4.30 As such it is considered that the application is in accordance with Paragraph 131 of NPPF as the application sustains and enhances the significance of the Grade II listed windmill and has proposed a scheme that is consistent with its conservation. The application sustains the windmill as a feature within the landscape for this and future generations to enjoy. Great weight has been given to the conservation of the Windmill as a Grade II heritage asset. The application has been accompanied by clear and convincing justification for the development including the long term conservation of the asset for this and future generations and is therefore in accordance with NPPF paragraph 132.

- 4.31 In addition, the application would safeguard the future of the Grade II windmill and maintain it as a familiar feature within the landscape. Selby Core Strategy Policy SP18 requires for the high quality and local distinctiveness of an environment to be maintained which is achieved by this proposal and the design also ensures that the proposal complies with Selby Core Strategy Policy SP19 in terms of achieving a high quality design, and having regard to the local character, identity and context of its surroundings.
- 4.32 In commenting on the application the Conservation Advisor also notes that the proposal are considered to be in line with Selby Local Plan Policies ENV22 in terms of having a minimal impact upon the character, fabric and setting of the listed building and policy ENV24 in terms of the minimising any adverse impact upon the architectural and historic character of the building. As such the proposal is also considered to be appropriate in terms of scale (as the proposed extension has been kept to a minimum size), design and materials (the design and materials of construction of the proposed extension reflects the historic development of the building).
- 4.33 As such it is considered that a delicate balance needs to be struck between conserving the building and its heritage and securing its optimal viable use which would ensure its continued conservation in the future. It is clear that the use of the windmill for its original purpose has long ceased and there is no prospect of it returning to its original use. Although, there is considered to be limited harm to the Listed Building and its setting as a result of the proposal including the addition of the extension, the harm can be considered to be “less than substantial”. Therefore, when balanced with the benefits of bringing the Windmill back in beneficial use through improvements to its fabric and the proposed extension and thus allowing its use for residential accommodation it is considered that this benefit package outweighs the harm to a considerable degree and thus in applying the approach of the Barnwell Manor Wind Energy Ltd v E Northants DC, English Heritage, National Trust and SSCLG (2014) case it is considered that proposal is on balance acceptable.
- 4.34 As such Officers would advise Members that it is therefore considered that the Heritage Statement is competent and having had regard to the submitted proposals, the comments received following notification of the application and responses from consultees, the proposals are considered to be acceptable with respect to the impact on designated and non-designated heritage assets in accordance with ELH4 of the AR&AS Neighbourhood Plan, Policies SP18 and SP19 of the Core Strategy, the NPPF and Policies ENV1, ENV22, ENV24 and H12, of the Local Plan subject to appropriate conditions as noted by the Conservation Advisor.

Design and Impact on the Character of the Area

- 4.35 The proposed development seeks permission to convert an existing windmill into a residential dwelling and also proposes a single storey extension. The proposed re-use is considered to generally take place within the fabric of the building and does not require an extensive extension in order to create a dwellinghouse. In addition it should be noted that the proposals would utilise the existing window and door openings within the existing building in order to retain the character and appearance of the building.

- 4.36 The proposed single storey extension would be 5 metres in height, a maximum of 11.4 metres in width and a maximum of 5.2 metres in depth. The size, scale and juxtaposition of the proposed extension would appear subservient to the windmill. Furthermore, the design takes into account the circumference of the windmill and appears as a functional outbuilding to the windmill rather than a separate building. In addition, the use of a dark wood for the external walls would reflect the original tar finish of the windmill visually and as such, it is considered that on balance the proposed extension would not be harmful to the windmill's landscape prominence and is acceptable.
- 4.37 Other design features incorporated into the proposed extension and windmill includes ducts, vents, external pipes and openings for windows and doors. The existing openings within the windmill would be utilised and the proposed windows would be recessed and all windows would be dark painted or stained hardwood to reflect the historical character of the site. Although the proposed windows would vary in size, it is considered that this approach is acceptable.
- 4.38 The Heritage Statement confirms that ducts and vents would be fitted internally, although from the plans submitted, there may be some views of the vents on the windmill. However, when taken in the context of the site, it is not considered that the services required as part of the proposal would result in a visual impact as many would be located internally and therefore views would be limited.
- 4.39 The external wall materials proposed for the single storey extension would be dark wood timber boarding with Old English Pantiles for the roof which is considered acceptable. In addition, there would be a glazed link connecting the windmill and proposed extension in order to visually separate, but link the two structures. These materials are considered to be acceptable and can be secured by condition in order to ensure the development is carried out in accordance with the submitted details. Furthermore, any materials required in order to repair the walls of the existing windmill would match those as per existing and a flat roof is proposed. It is considered reasonable to request details of the proposed materials to be submitted and approved in order to ensure the brickwork does match and the proposed roof materials are acceptable.
- 4.40 In terms of landscaping, a garden area is proposed to the rear of the proposed extension and windmill and the proposed hardstanding leading from the highway is proposed to be constructed of stone. There is an existing hedge to the western boundary which is proposed to have any gaps closed but no other boundary treatment is proposed which would retain the open nature of the site. This hedge planting can be conditioned to ensure it is of the same species and height as the existing hedge and a further condition can be included which removes permitted development rights for the installation of any further boundary treatments to the site under Part 2 of the General Permitted Development Order which would ensure the openness of the site is retained.
- 4.41 Although the submitted plan shows the areas of hard and soft landscaping within the site, it is considered that a condition is attached which requires full details of the hard and soft landscaping within the site in order to ensure the site does not appear overly domesticated in nature having regard to the historical setting of the site and the surrounding area. In light of the conditions proposed, it is considered that the

landscaping and boundary treatments within the site would be appropriate to the current and historical landscape in the surrounding area and would not result in a significant impact on the visual amenity of the area.

- 4.42 It is considered that it is appropriate to remove permitted development rights for any extensions to preserve the setting of the listed building thus removing rights under Classes A to E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order.
- 4.43 The letter of objection considers that insufficient information has been submitted which would allow the LPA to fully assess the proposal and its impact on the character of the open countryside. The public viewpoints of the site in the wider area have been visited and the proposal has been assessed accordingly. It is concluded that the proposals are acceptable having had regard to the impact on the character of the area subject to a series of conditions.
- 4.44 In addition, the objector considers that the use of the site as a dwelling is likely to have a significant impact on the area due to the creation of a structured urbanised landscape, introduction of lighting, residential paraphernalia and residential curtilage. This would result in the structure being more dominant in views from the more intensive use of the site. Having had regard to these issues and as set out above it is considered that an appropriate scheme can be achieved subject to conditions. In terms of the issue regarding external lighting, within the letters of support it is noted that there would have been some lighting at the site when it was in operational use, although this is likely to have been low level and the application proposes blackout blinds in order to reduce light spillage from the site. As such, it is considered that an appropriate lighting scheme can be achieved at the site and this can be conditioned.
- 4.45 Having considered all of the above, the proposals are considered acceptable with respect to the design and the impact on the character of the area, in accordance with policies DBE 2, DBE 3 and ELH 4 of the AR&AS Neighbourhood Plan, Policies SP18 and SP19 of the Core Strategy, the NPPF and Policies ENV1 and H12 of the Local Plan subject to appropriate conditions.

Impact on Residential Amenity

- 4.46 The nearest residential property is located in excess of 500 metres from the application site and as such, it is considered that the proposal would not have any impact on the amenity of any property. In addition, it is considered that the proposal would result in an acceptable standard of amenity for the occupants of the proposed dwelling.
- 4.47 It is therefore considered that a good standard of residential amenity for both occupants and neighbours would be achieved and that the proposal is therefore in accordance with Policy WB1 of the Neighbourhood Plan, the advice contained within the NPPF and Policy ENV1 (1) of the Selby District Local Plan.

Highway Safety Issues

- 4.48 The letter of objection raises some concerns in regards to highway safety including safe access to the site and provision for service vehicles to enter the site. The

proposal would utilise an existing access into the site from Old Road and would create a new access road to the windmill which is similar to that approved under application 2012/0812/FUL in terms of length.

- 4.49 The Highways Officer at North Yorkshire County Council has been consulted and has no objections to the access arrangements and impacts on the highway network subject to several conditions. Furthermore it should be noted in respect of accessibility by service vehicles such as refuse vehicles that it is not unusual in locations such as this for the occupiers to present their bins at the entrance to the site for collection. It is therefore considered that there are suitable provisions in place to ensure that no detriment would occur.
- 4.50 A plan has been submitted which shows the required visibility splays of 138 metres to the west and 215 metres to the east are achievable at the site which meets the requirements of the Highways Officer and a suitable condition can be included which requires the visibility splays to be retained throughout the lifetime of the development. One of the conditions requested by the Highways Officer relating to a construction management plan is not considered as being reasonable or proportionate given the scale of the development.
- 4.51 It is therefore considered that the scheme is acceptable and in accordance with Policy WB1 of the Neighbourhood Plan, Policy SP19 of the Core Strategy and the NPPF and Policies ENV1(2), H12(7), T1 and T2 of the Selby District Local Plan.

Flood Risk, Drainage and Climate Change

- 4.52 The application site is located within Flood Zone 1 which is at a low probability of flooding. The application forms states that the foul water would be directed to a Package Treatment Plant and surface water would be directed to a soakaway. The Ainsty Internal Drainage Board has requested two conditions are attached to any permission in regards to soakaways. The Lead Officer for Environmental Health advises that the installation of a new foul drainage system will require building regulation approval in addition to appropriate consent to discharge issued by the Environment Agency.
- 4.53 Concern has been raised in the letter of objection in regards to the suitability of the well for use as a soakaway which could increase the risk of pollutants spreading into the surrounding ground water. It is noted that the IDB has requested conditions in regards to the suitability of the soakaway and it has been confirmed that the well would not be used as part of the soakaway or surface water disposal.
- 4.54 Having had regard to the above and taking into consideration the proposed connections, the proposed scheme is considered to be acceptable in regards to drainage on the site subject to appropriate conditions in accordance with DBE 4 of the AR&AS Neighbourhood Plan.

Nature Conservation Issues

- 4.55 The application site is not a formal or informal designated protected site for nature conservation or is known to support, or be in close proximity to any site supporting protected species or any other species of conservation interest. The applicant has

submitted a Bat Survey and a Phase 1 Habitat Survey by Wold Ecology as part of the application.

- 4.56 The submitted Bat Survey has identified a common pipistrelle bat roost within the windmill which would be disturbed and destroyed as part of the proposed conversion and structural repair work to the windmill. Consequently, a Natural England European Protected Species development license is required before building work can commence. The Bat Survey identifies mitigation measures as appropriate which are required in order to apply for a development license from Natural England.
- 4.57 The Ecological Survey concludes that the proposed development is unlikely to impact upon any other protected species or associated habitats. However, the report recommends a number of measures which should be adopted to ensure potential adverse impacts to wildlife are avoided
- 4.58 The North Yorkshire Bat Group, Yorkshire Wildlife Trust and Natural England have been consulted on the application. Natural England have stated that they have no comments to make and refer to their standing advice, the Yorkshire Wildlife Trust consider that the surveys are thorough and the suggested mitigation should be conditioned as a European Protected Species Licence may need to be applied for and the North Yorkshire Bat Group has not provided any comments.
- 4.59 Having had regard to all of the above it is considered that the proposal would accord with ELH2 of the AR&AS Neighbourhood Plan, the NPPF and Policy ENV1(5) of the Local Plan with respect to nature conservation subject to conditions.

Affordable Housing

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

Contaminated Land

- 4.61 The proposal involves an end use that would be particularly vulnerable to contamination and the site is identified as potentially contaminated and a Screening Assessment Form (SAF) was submitted with the application. The Council's Contaminated Land Consultant has reviewed the SAF for the above site, as well as undertaken a brief review of available online information and advise that no contaminated land conditions are required to be appended to an approval of this application. As such, the proposal is therefore considered to be acceptable with respect to contamination and in accordance with Policy SP19 of the Core Strategy and Policy ENV2 of the Local Plan.

Other Issues

- 4.62 Criterion 1 of Policy H12 of the Local Plan allows proposals for the conversion of rural buildings to residential uses provided it "can be demonstrated that the building, or its location, is unsuited to business use of that there is no demand for buildings

for those purposes in the immediate locality”. However, the approaches taken by Policy SP2A(c) and Paragraph 55 of the NPPF are significantly different to that taken in Policy H12 as they do not require the more onerous tests set out in H12 (1), with SP2A(c) merely expressing a preference for employment uses. It is therefore considered that Policy H12 of the Local Plan should be given limited weight due to the conflict between the requirements of Criteria (1) of the policy and the less onerous approach set out both in the Core Strategy and within the NPPF. As such, it is considered that the applicant does not need to meet the tests set out in Criterion 1 of Policy H12 of the Local Plan.

- 4.63 Criteria 6 of Policy H12 requires that buildings are not in close proximity to intensive livestock units or industrial uses which would be likely to result in a poor level of amenity for occupiers of the dwelling. The site is located adjacent to agricultural land which is not used for intensive livestock uses and is also located at a considerable distance away from the nearest industrial use.
- 4.64 The two letters of objection reference several mistakes within the application form and submitted documents. Officers have assessed the application based on a site visit, consultee responses, the submitted information and having taken into account national and local policies as well as comments received following notification of the application and not solely based on the applicant’s submission and are satisfied that there is sufficient information on which to determine the application.
- 4.65 Other concerns have been raised regarding alternative options in protecting the structure. The applicants contend in their Heritage Statement that the benefit of bringing the building into use is a conservation gain and alternative uses (such as a Visitor centre, Community hall and consolidated ruin amongst others) are limited because of the small floor area, uncertain funding or intermittent occupation (possibly leading to a poor maintenance regime). Uses of the tower other than as a dwelling all risk its under-use linked to unknown or uncertain economic value and a permanent occupant of the building implies a higher standard of care than other uses.
- 4.66 A further concern has been raised over the supply of electricity to the site and it is noted that no overhead power lines are located within the vicinity of the site. However, in many instances, an electricity supply can be made through underground cables which do not require the provision of overhead power lines and it would be up to the applicant to ensure that a supply can be provided to the property.
- 4.67 Concerns have been raised in regards to the contents of the Heritage Statement (dated March 2017) stating that it fails to provide the correct policy background and balanced assessment of the impact of the proposal on the heritage assets in the area. Concerns are also raised that the Heritage Statement has failed to take account of the recent Court of Appeal decision *Barnwell Manor Wind Energy Ltd v E Northants DC, English Heritage, National Trust and SSCLG* (2014). The Heritage Statement (dated 1st June 2016) states that “The *Barnwell Manor Wind Energy Ltd Court v East Northants and others* appeal decision clarifies that the assessment of harm to a listed building setting or landscape must be balanced by the benefit of a proposed development. The decision refers to a Grade 1 listed building where the listing includes garden, grounds and setting. The Grade II status of the mill in its modern (un-listed, unscheduled) agricultural setting, without active conservation

measures in place renders it is vulnerable to harm as much by inaction as by intervention. The benefit of bringing the building into use is a conservation gain; the harm of placing a small outbuilding adjacent to it is of a low order of magnitude in both visual and material terms.”

Benefits of the Proposal

- 4.68 In assessing the proposal, it is considered that the proposals would bring back into beneficial use a Grade II Listed Building and provides a means of ensuring the future conservation of the windmill. The proposals would re-use a disused building and would lead to the enhancement of the immediate setting and as such is in compliance with Paragraph 55 of the NPPF which allows isolated homes in the countryside if such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets or where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.
- 4.69 The proposal is not considered to inhibit an understanding of the windmill’s historic function and how it would have operated and the proposed extension would appear as a functional outbuilding to the windmill, which is not alien in character in terms of the type of structure that may have been attached to the windmill historically. In addition, the proposal would result in the future conservation of the windmill which is considered to be an important structure and therefore, the proposal is considered to be acceptable in terms of its impact on Heritage Assets.
- 4.70 The proposals would make use of the environmental capital (energy and materials) that is invested in the windmill through its re-use and the design would take into account other environmental issues such as reducing carbon emissions, flooding and impacts on climate change. Furthermore, the proposals ensure that they do not result in a detrimental impact on ecology and would lead to enhancements to the site.
- 4.71 In addition, the proposal would add an additional dwelling to the housing supply in the District and would provide various economic benefits from the initial conversion/construction works through to spending by new residents within the village and District.
- 4.72 Whilst the proposal would perform poorly with respect to the location of the site, the proposal is considered to comply with paragraph 55 of the NPPF which acknowledges that in order to make use of existing buildings they may be in isolated locations where access to public transport may be poor. As such, the significant benefits of the scheme as outlined in the report are considered to outweigh this adverse impact and the proposals are considered acceptable on balance, when considered against the three dimensions of sustainability outlined in the NPPF. In addition the scheme fully accords with the policy approach of the AR&AS Neighbourhood Plan.
- 4.73 Therefore having had regard to the three dimensions of sustainable development it is considered that the proposals would have a positive economic, social and environmental role and accord with the requirements of the relevant policies and on this basis that permission should be granted subject to the conditions listed below.

Legal Issues

Planning Acts: This application has been considered 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

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

5.0 Conclusion

5.1 The application seeks the conversion and extension of a windmill to form a single dwellinghouse. The site is located outside the defined development limits of Appleton Roebuck and is within the open countryside.

5.2 The proposal is considered to be appropriate development in the open countryside as it and it is considered acceptable when assessed against the development plan which includes the Neighbourhood Plan and balanced against Paragraph 55 of the NPPF.

5.4 The proposal is considered to provide a means of ensuring the future conservation of the windmill which is an important structure. The scale, appearance and design of the proposed extension is considered to provide a good appreciation of the circumference of the tower and give the appearance of a functional outbuilding to the windmill. As such, it is considered that the proposal is acceptable in respect of the impact on the Heritage Asset.

5.5 Other matters of acknowledged importance such as the impact the character of the area and open countryside, flood risk, drainage, highway safety, residential amenity, nature conservation and land contamination have been assessed and are considered to be acceptable.

5.6 Members should also note that the issues raised in the letter(s) of objection are not consider to justify the refusal of the application and subject to Condition the council will have sufficient control over the proposal to ensure that the development will be satisfactory.

5.7 So although the scheme does not accord with the Development Plan in terms of the relationship to the Local Plan Policy H12 there are material considerations in favour of the development and the scheme is considered acceptable on balance given the benefits to allow planning permission to be granted.

6.0 Recommendation

6.1 That the application be APPROVED subject to the following conditions:

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

Reason:

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

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

- Location Plan: LOC01
- All Plans: 2016/17/501/11B
- Proposed Sections: 2016/17/501/9B
- Visibility Splays: SK01

Reason:

For the avoidance of doubt.

03. The development hereby approved shall not be occupied until all conversion works to the Listed Building (The Old Windmill) have been undertaken and completed in accordance with the permission.

Reason:

For the avoidance of doubt and to ensure that the works to convert the Windmill are undertaken and completed prior to occupation.

04. Prior to the commencement of development, samples of external materials and surface finishes including the pan tile roof and the timber boarding for the extension shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in full in accordance with such approved details:

Reason:

In the interests of visual amenity and to ensure that they are appropriate in the context of the Listed Building.

05. The materials to be used in the repairing of the external walls of the windmill, the vents and in the construction flat roof of the windmill shall be 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 to ensure that they are appropriate in the context of the Listed Building in order to comply with Policies ENV1 and ENV24 of the Selby District Local Plan.

06. Before any development is commenced, details of the type and colour(s) of the paint to be used on all external timber joinery shall be agreed in writing with the Local Planning Authority. All glazing shall be face-puttied.

Reason:

In the interests of visual amenity and to ensure that they are appropriate in the context of the Listed Building in order to comply with Policies ENV1 and ENV24 of the Selby District Local Plan.

07. There shall be no new grilles, security alarms, lighting, security or other cameras or other fixtures shall be mounted on the external faces of the building other than those shown on the drawings hereby approved.

Reason:

In the interests of visual amenity and to ensure that they are appropriate in the context of the Listed Building in order to comply with Policies ENV1 and ENV24 of the Selby District Local Plan.

08. There shall be no new plumbing, pipes, soil-stacks, flues, vents or ductwork shall be fixed on the external faces of the building other than those shown on the drawings hereby approved.

Reason:

In the interests of visual amenity and to ensure that they are appropriate in the context of the Listed Building in order to comply with Policies ENV1 and ENV24 of the Selby District Local Plan.

09. Before any development is commenced the approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site, indicating inter alia the number, species, heights on planting and positions of all trees, shrubs and bushes. Such scheme as approved in writing by the Local Planning Authority shall 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 shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason:

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

10. The new hedge planting, as shown on Drawing Number 2016/17/501/11B, shall be of the same species and height as the existing hedge along the western boundary of the site. The new hedge planting shall be carried out in its entirety prior to occupation of the proposed dwelling and shall thereafter be retained throughout the lifetime of the development.

Reason:

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

11. Notwithstanding the provisions of Classes A to E to Schedule 2, Part 1 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no extensions, garages, porches, outbuildings, roof additions or other structures shall be erected, nor new windows, doors or other openings shall be inserted into the windmill or extension, without the prior written consent of the Local Planning Authority.

Reason:

In order to retain the character of the site in the interest of visual amenity, to ensure continued protection of the open countryside and to ensure that proposals are in keeping with the Listed Building having had regard to Policies ENV1 and ENV24 of the Local Plan and the NPPF.

12. Notwithstanding the provisions of Class A and Class C to Schedule 2, Part 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) no fences, gates or walls shall be erected within the curtilage of the dwellinghouse hereby permitted, other than those shown on the approved drawings, nor shall any exterior painting of the extension or windmill be permitted without the prior written consent of the Local Planning Authority.

Reason:

In order to retain the character of the site in the interest of visual amenity and to ensure that proposals are in keeping with the Listed Building having had regard to Policies ENV1 and ENV24 of the Local Plan and the NPPF.

13. 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, in order to comply with Policy ENV1 of the Selby District Local Plan.

14. No development approved by this permission shall be commenced until the Local Planning Authority has approved a Scheme for the provision of surface water drainage works. Any such Scheme shall be implemented prior to the development being 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.

15. The suitability of new soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 to the satisfaction of the Local Authority. If the soakaway is proved to be unsuitable then in agreement with the Environment Agency and/or the Drainage Board, as appropriate, peak run-off must be attenuated to 70% of the existing rate (based on 140 l/s/ha of connected impermeable area). If the location is considered to be detrimental to adjacent properties the Applicant should be requested to re-submit amended proposals showing how the Site is to be drained.

The suitability of any existing soakaway to accept any additional flow that could be discharged to it as a result of the proposals should be ascertained.

Reason:

To ensure that the installation of soakaways provide an adequate method of surface water disposal and reduce the risk of flooding.

16. The windmill and/or extension shall not be occupied or brought into use until the site is connected to the Package Treatment Plant for the disposal of foul water.

Reason:

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

17. 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 access shall be improved to give a minimum carriageway width of 5.5 metres, and that part of the access road extending 8 metres into the site shall be constructed in accordance with Standard Detail number E1.
 - 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.

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:

In accordance with Policies T1, T2 and H12 of the Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

18. The visibility splays, as shown on drawing number SK01 shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with Policies T1, T2 and H12 of the Local Plan and in the interests of road safety.

19. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved have been constructed in accordance with the submitted drawing (Reference 2016/17/501/11B). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times

INFORMATIVE

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

Reason:

In accordance with Policies T1, T2 and H12 of the Local Plan and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development

20. The development shall be carried out in complete accordance with the recommendations set out in the Bat Survey dated May 2016 and Extended Phase 1 Habitat Survey dated December 2015 both by Wold Ecology Ltd which were as received by the Local Planning Authority on 6 June 2016

Reason:

In the interests of biodiversity and nature conservation and in order to comply with the advice contained within the NPPG.

Informatives:

- All leadwork should follow the Codes and details recommended by the Lead Sheet Association.

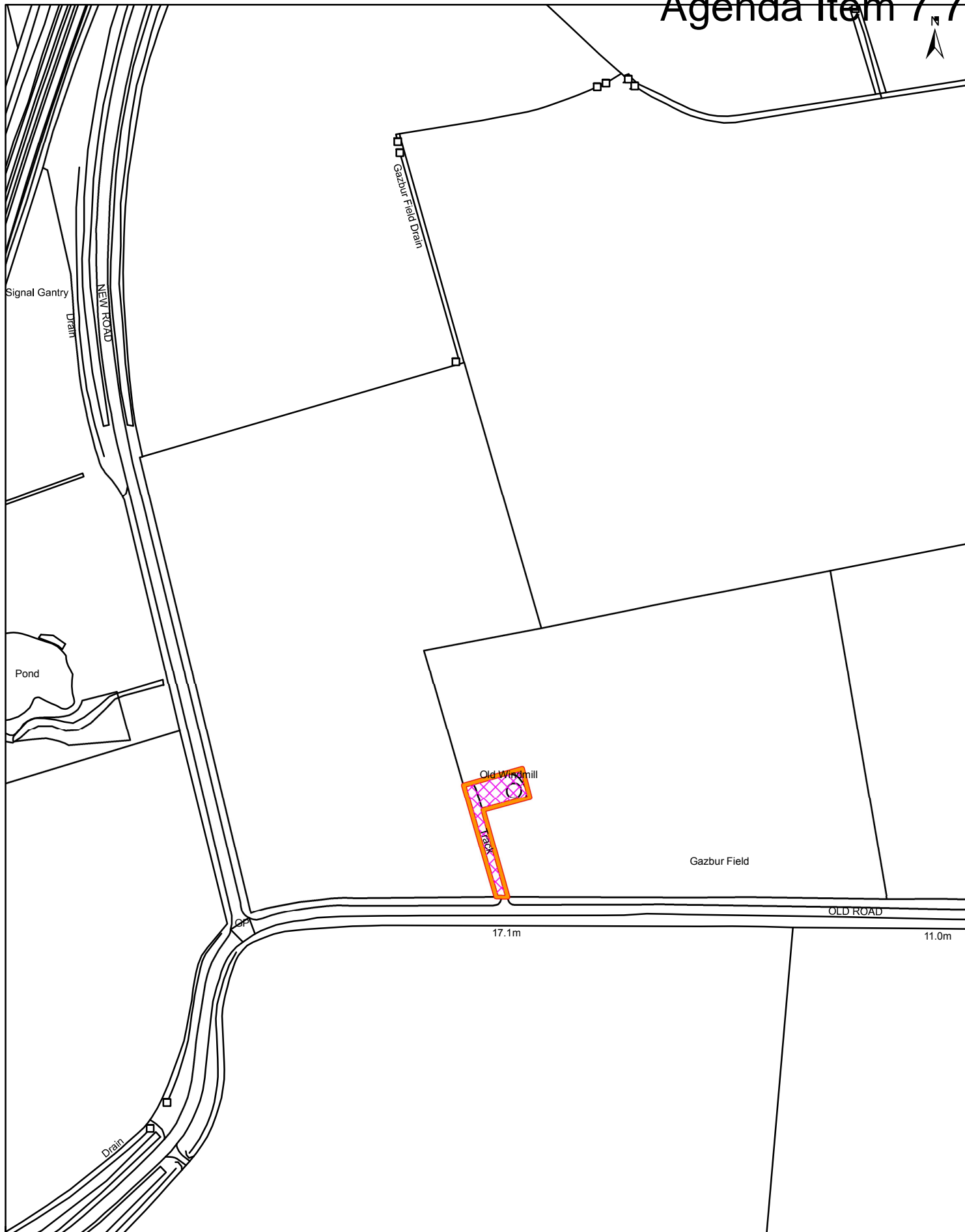
Contact Officer:

Yvonne Naylor
Principal Planning Officer

Appendices:

None.

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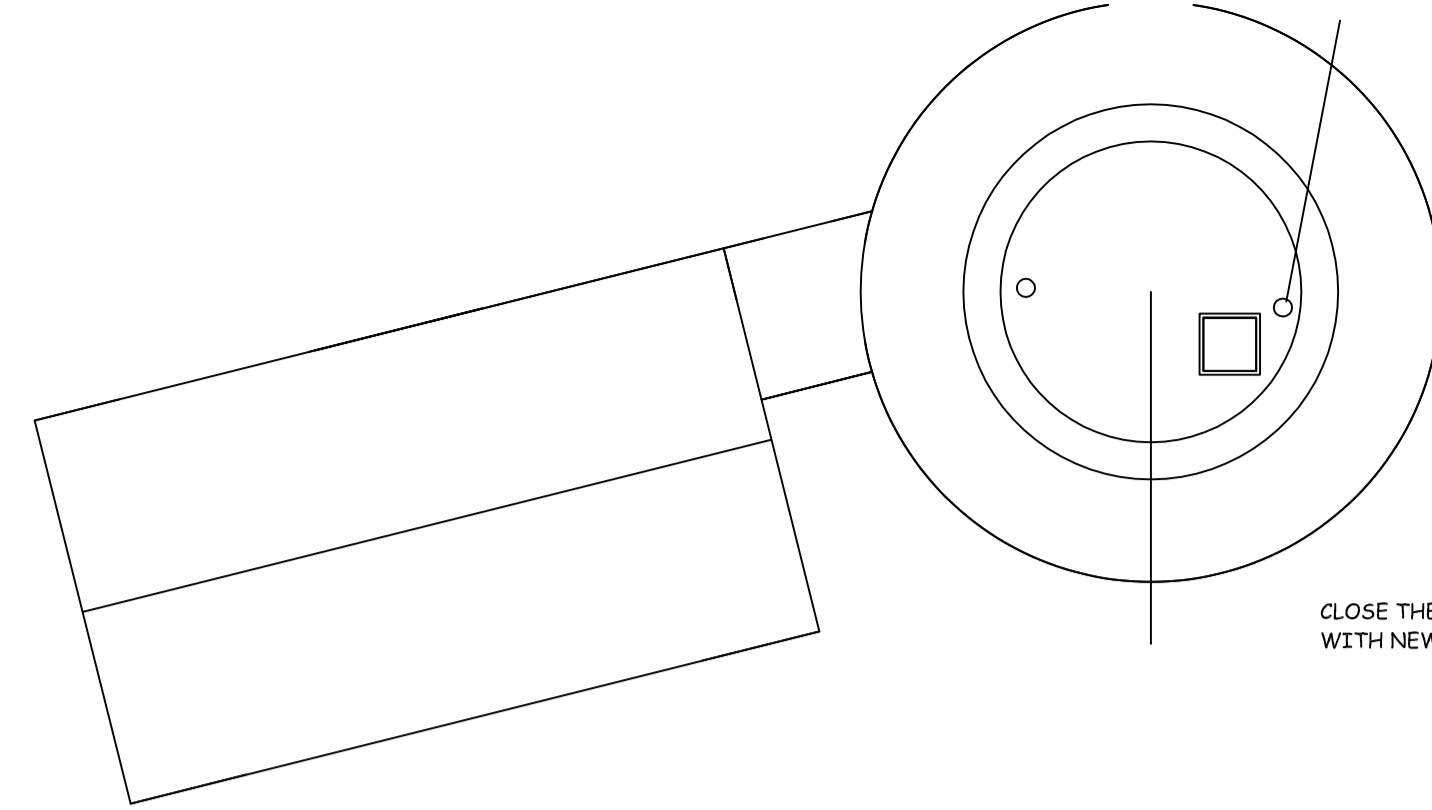
APPLICATION SITE

Windmill, Old Road, Appleton Roebuck
2016/0675/LBC

1:2,500



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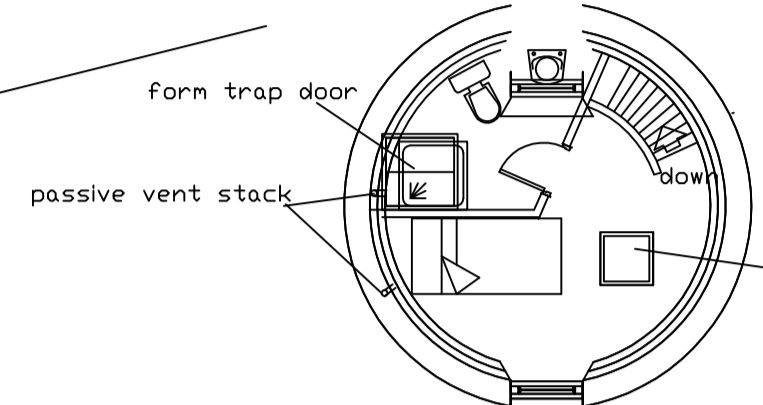
ROOF PLAN

The walls and roof of the glazed link to be offset 18mm from the wall of the windmill.
 Surface water to run down the face of the windmill wall into a drainage channel on the floor of the glazed link. This will maintain the integrity of the windmill with no structure being attached to it. Cross flow ventilation will be achieved in the link to prevent the build up of heat and condensation with the 18mm air gap at the wall of the mill and with the brick headers being omitted from the wall above the main entrance doors.
 The glazed link will give a visual separation from the mill and the outbuilding and provide an unheated entrance area.
 A French drain will be formed round the external wall of the mill in place of installing a damp proof course to the mill walls, this will have the effect of reducing the water table in this area and ensuring the lower walls to the mill are dry.

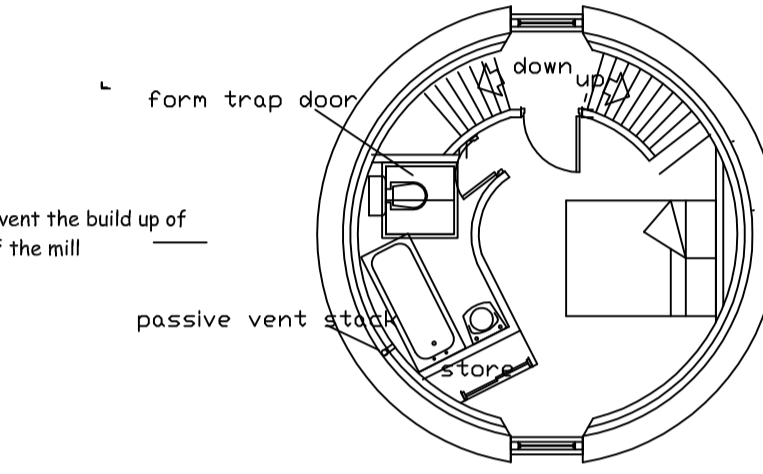
Consideration was given to including the installation of an internal wheelchair-friendly one person lift shaft to make the new accommodation available for use by disabled persons. The provision of the extension enables the accommodation to be available for a disabled person without any adverse implications for the old building.

RECEIVED
 25/05/2017
 BUSINESS SUPPORT

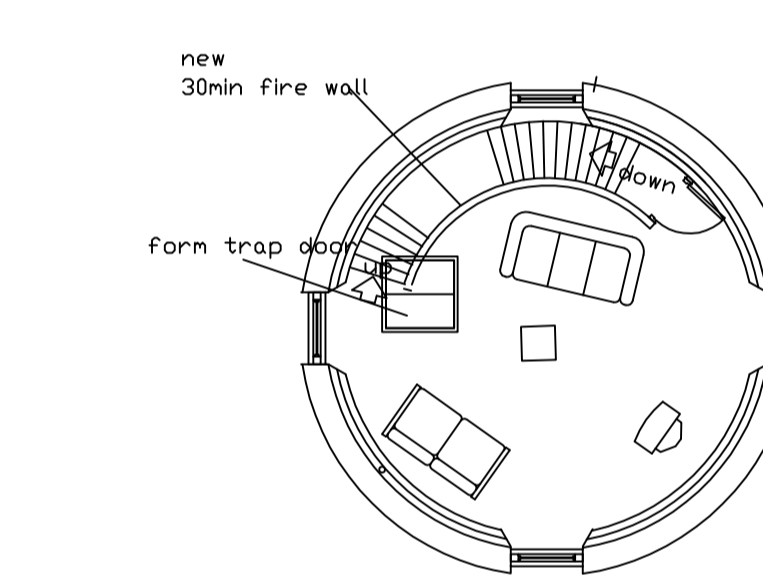
AMENDED DRAWING



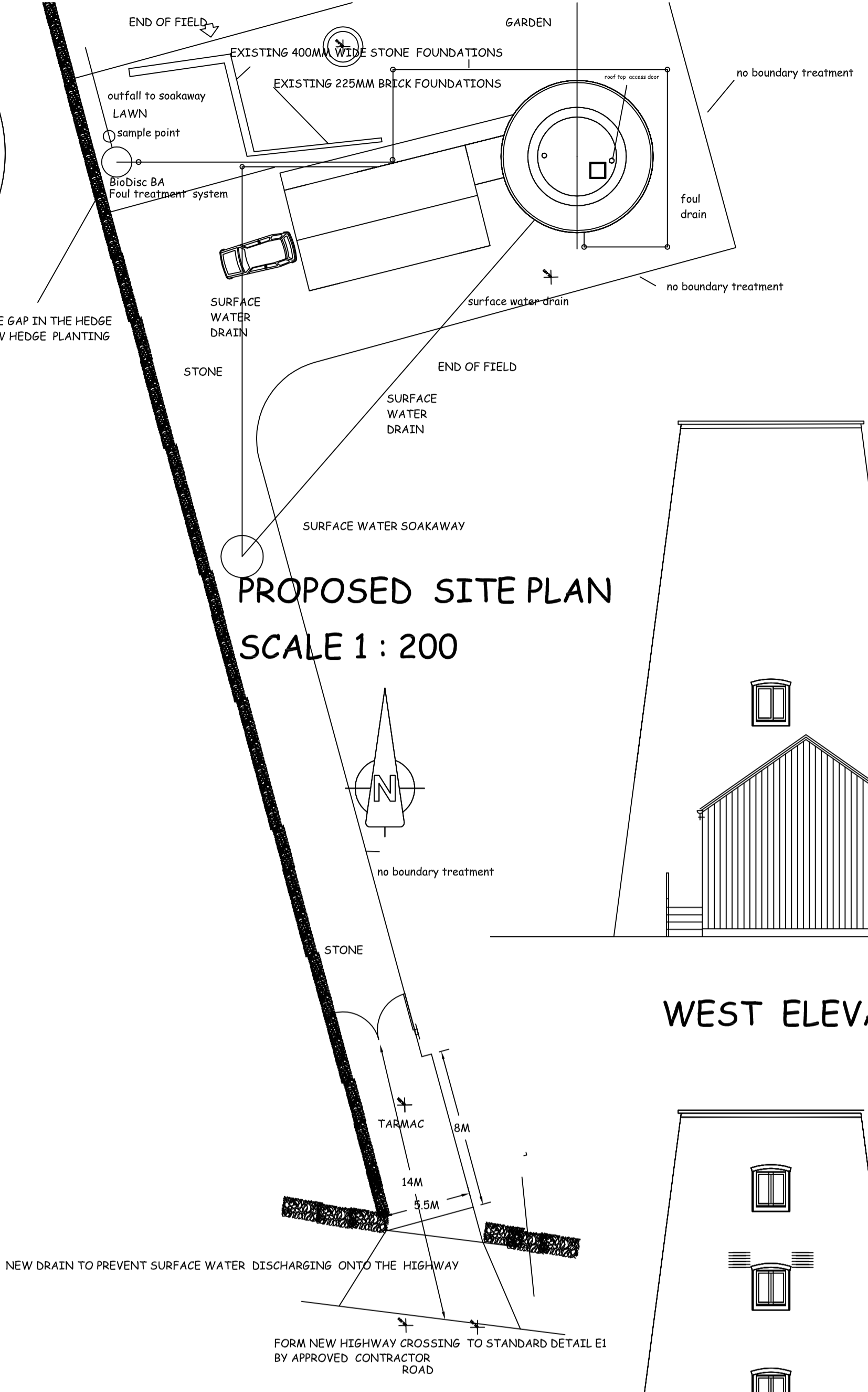
THIRD FLOOR



SECOND FLOOR

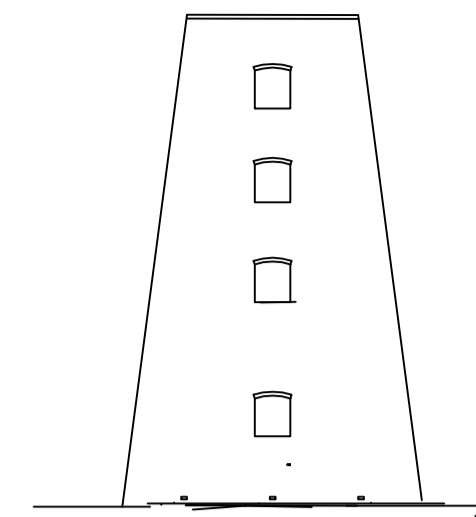


FIRST FLOOR

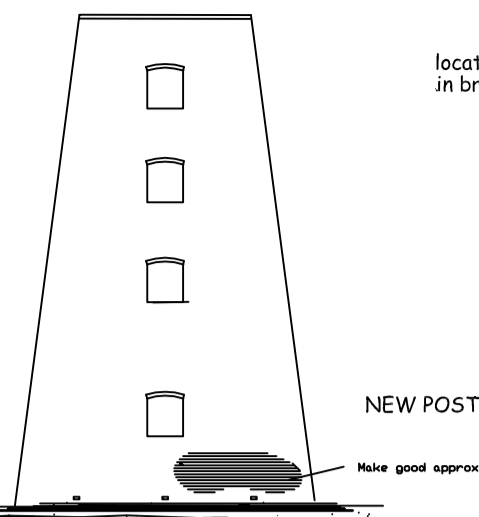


PROPOSED SITE PLAN SCALE 1 : 200

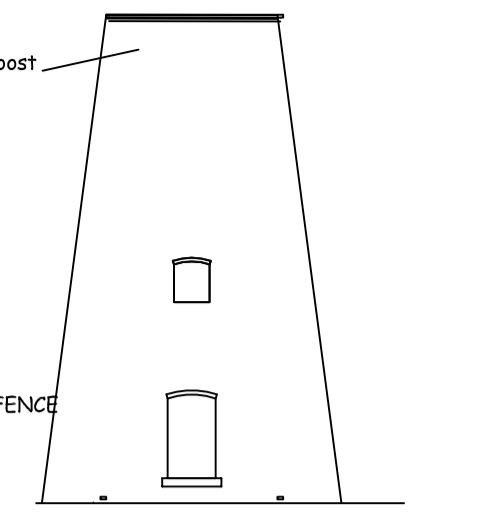
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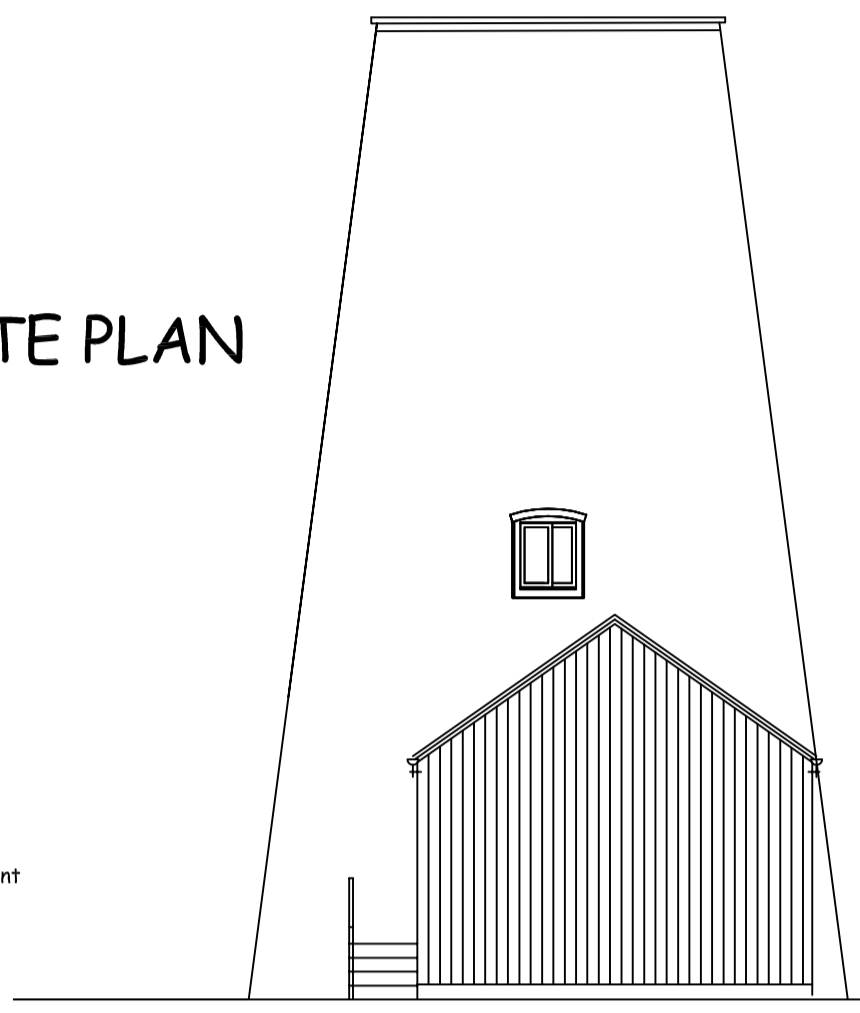
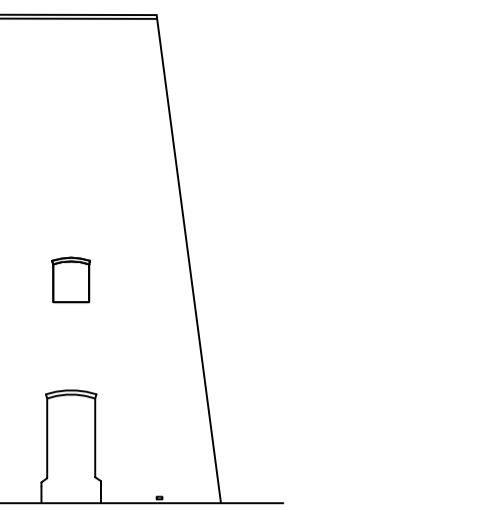
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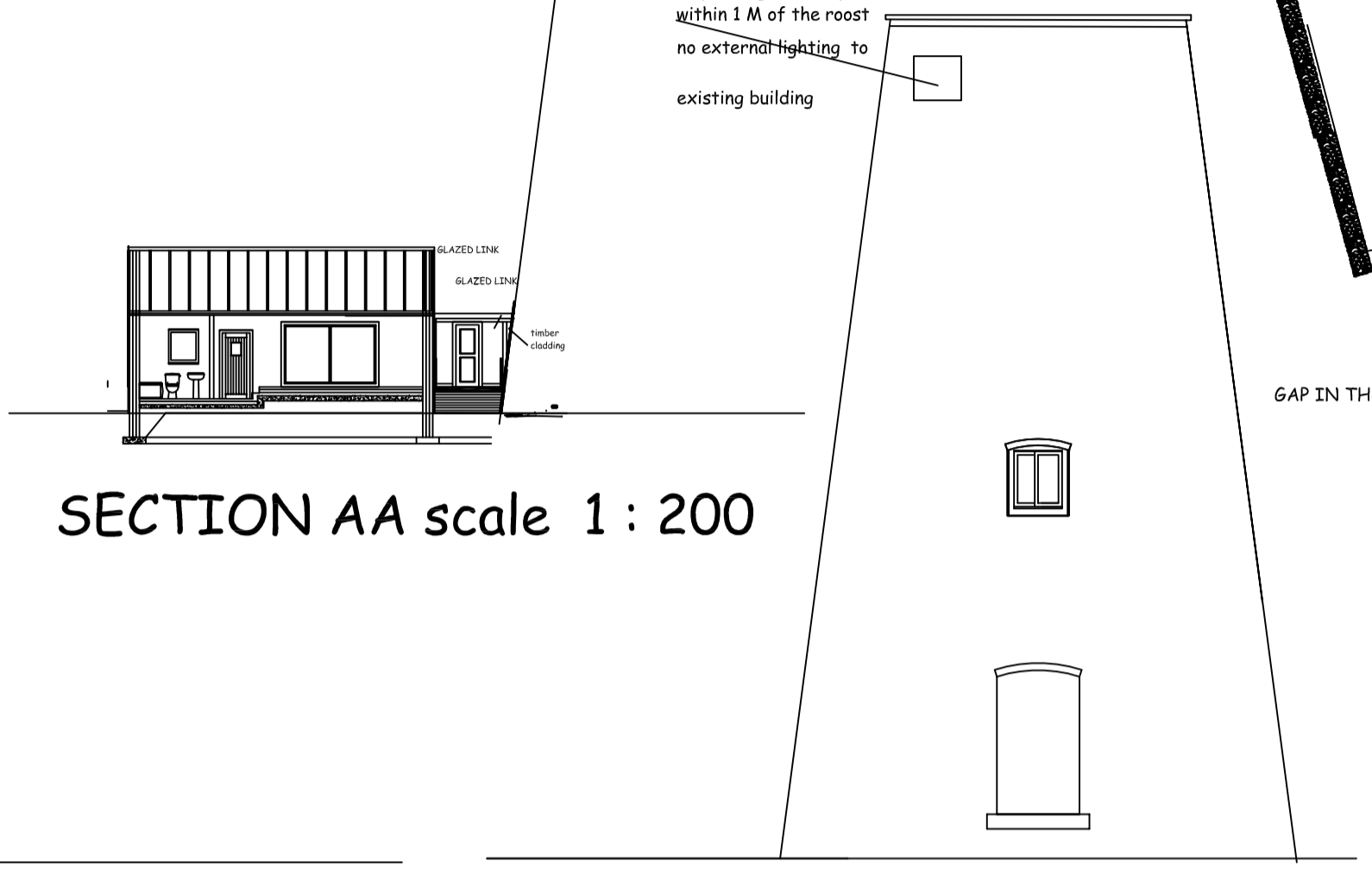
EXISTING EAST ELEVATION scale 1 : 200



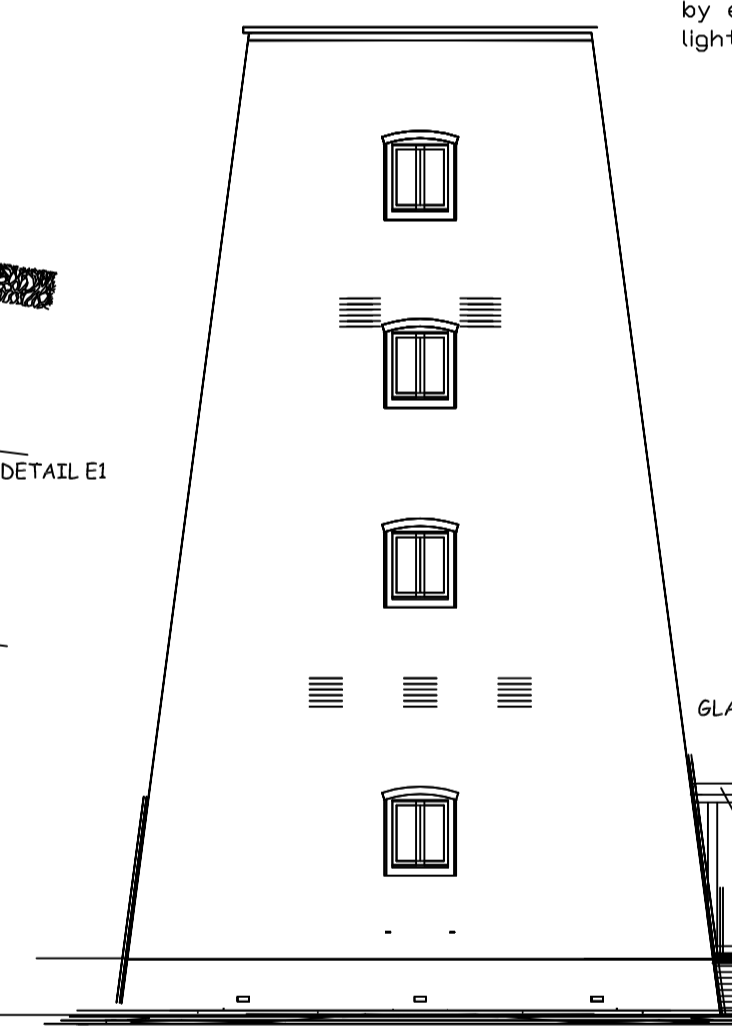
EXISTING WEST ELEVATION scale 1 : 200



WEST ELEVATION

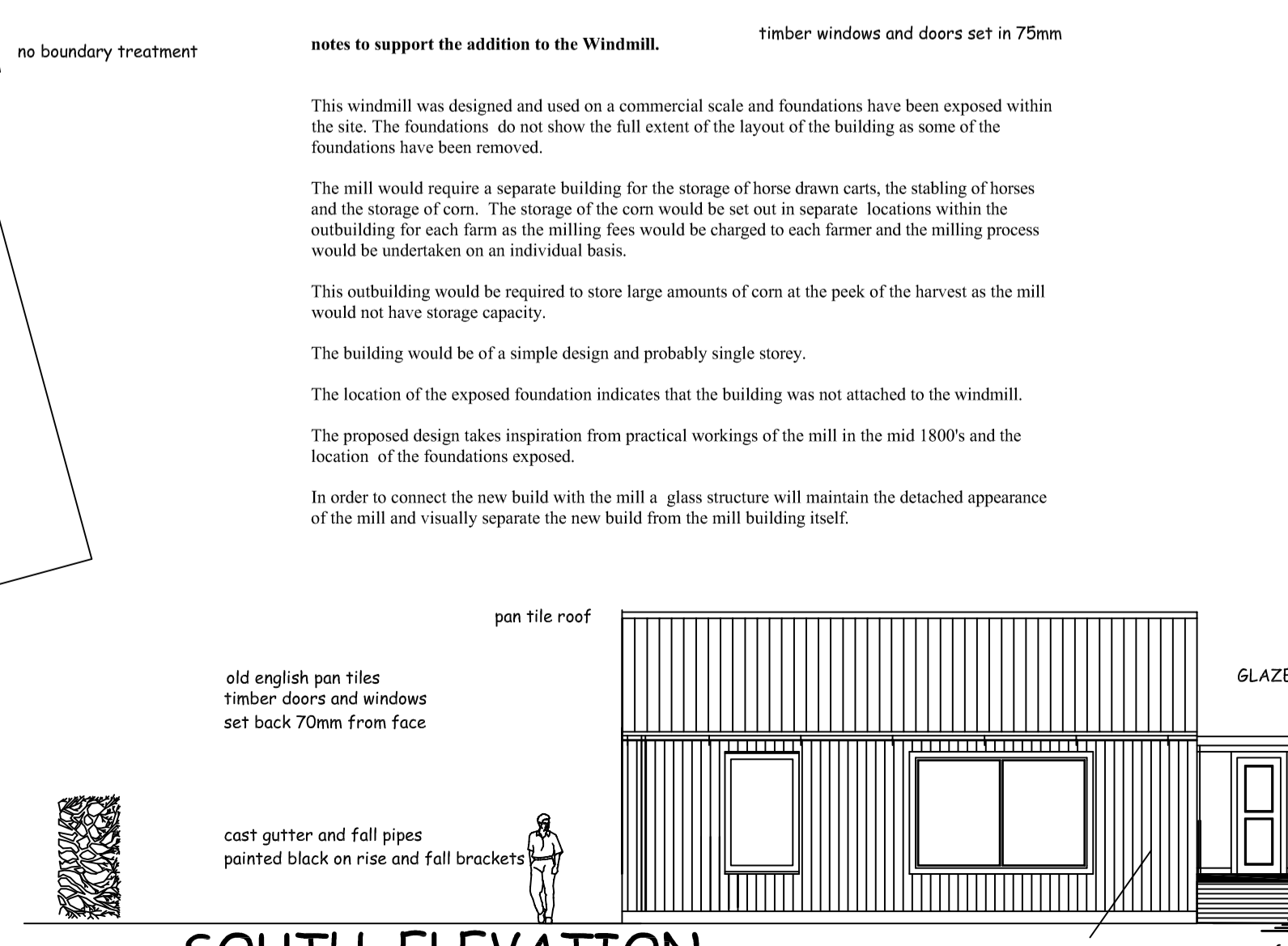


EAST ELEVATION

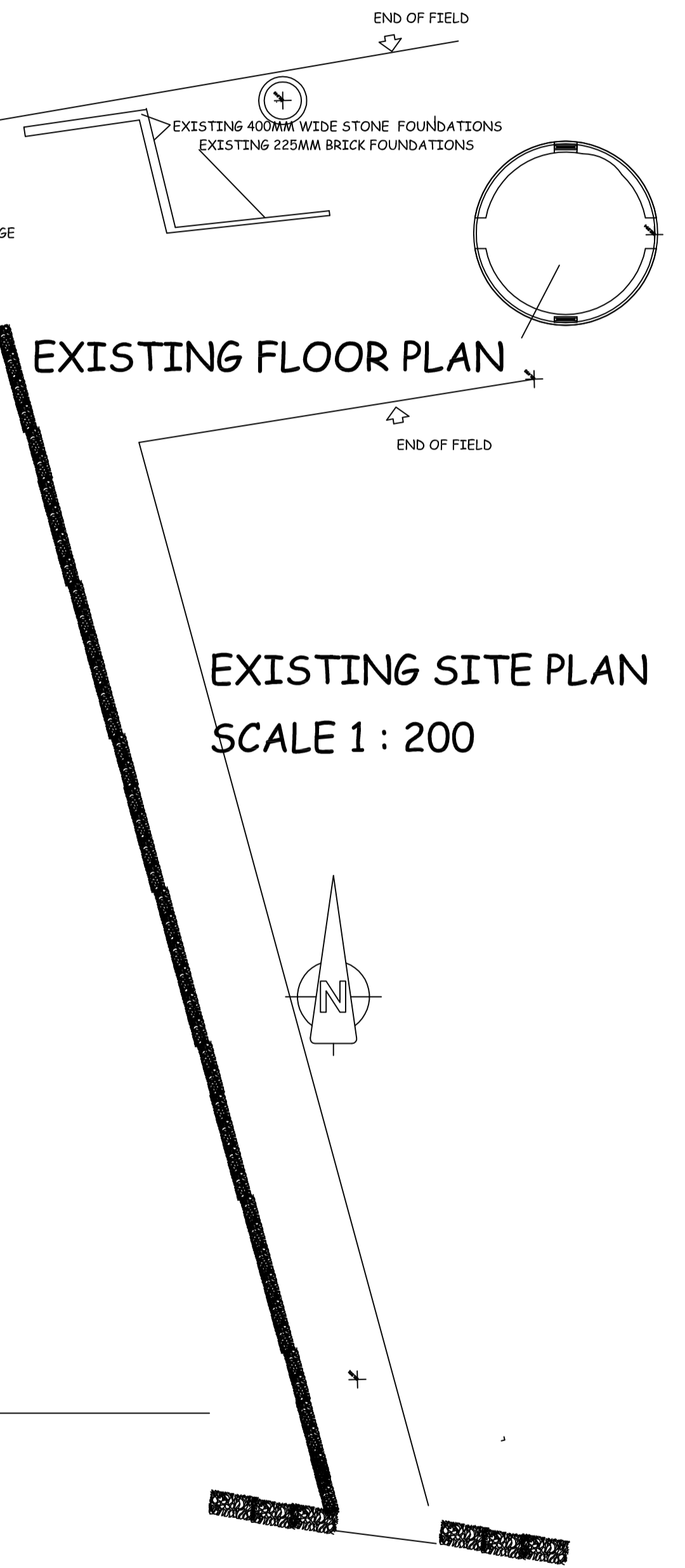


NORTH ELEVATION

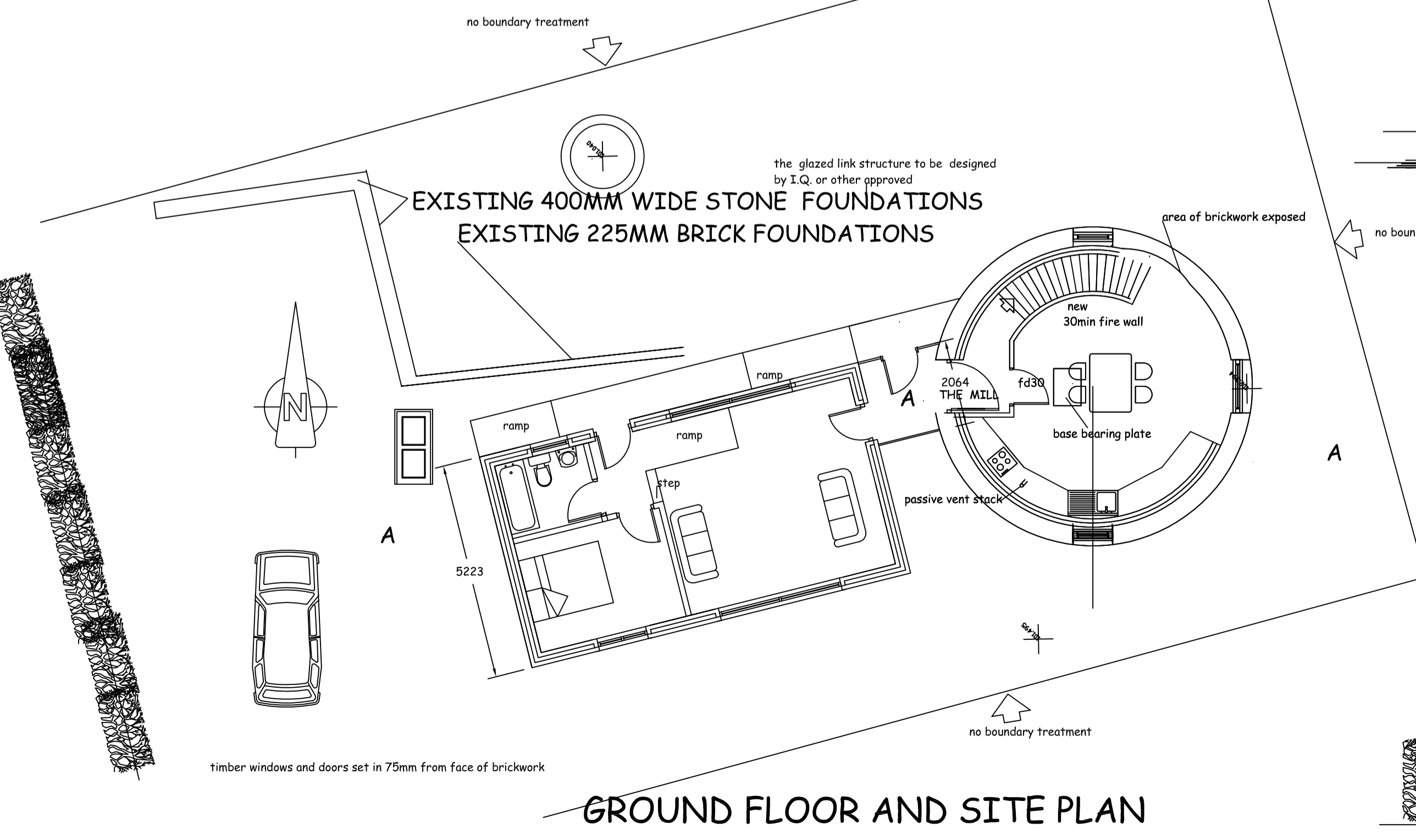
internal blackout blind activated by external light sensor to minimise light pollution at night activated by photocell sensors



SOUTH ELEVATION



EXISTING SITE PLAN SCALE 1 : 200



GROUND FLOOR AND SITE PLAN

notes to support the addition to the Windmill.
 This windmill was designed and used on a commercial scale and foundations have been exposed within the site. The foundations do not show the full extent of the layout of the building as some of the foundations have been removed.
 The mill would require a separate building for the storage of horse drawn carts, the stabling of horses and the storage of corn. The storage of the corn would be set out in separate locations within the outbuilding for each farm as the milling fees would be charged to each farmer and the milling process would be undertaken on an individual basis.
 This outbuilding would be required to store large amounts of corn at the peak of the harvest as the mill would not have storage capacity.
 The building would be of a simple design and probably single storey.
 The location of the exposed foundation indicates that the building was not attached to the windmill.
 The proposed design takes inspiration from practical workings of the mill in the mid 1800's and the location of the foundations exposed.
 In order to connect the new build with the mill a glass structure will maintain the detached appearance of the mill and visually separate the new build from the mill building itself.

old english pan tiles
 timber doors and windows set back 70mm from face

cast gutter and fall pipes painted black on rise and fall brackets

pan tile roof cast gutters and fall pipes gutters on rise and fall brackets

timber windows and doors set in 75mm

timber board dark wood
 timber windows and doors set in 75mm from face of brickwork

fully glazed handrail within the link
 STAIRS WITHIN THE GLAZED LINK

APPLIED SURVEYING & DESIGN (YORK)Ltd.
 VINE HOUSE 21 MAIN STREET STAMFORD BRIDGE
 TELEPHONE 01759 372779

client:
 MR. & MRS. HW. HOUSEMAN & MR. & MRS JM HOUSEMAN

PROPOSED CONVERSION OF WINDMILL TO FORM A DWELLING WITH EXTENSION
 THE OLD ROAD, APPLETON ROEBUCK

SCALE	1:100	Rev		DRAWING No.	
DATE	May 2016	up dated	20/03/2017		
DRAWN	P.A.	up dated roof plan	25/05/2017	2016/17/501/11	B

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To: Planning Committee
Date: 10 January 2018
Author: Yvonne Naylor (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2016/0675/LBC	PARISH:	Appleton Roebuck Parish Council
APPLICANT:	H W And J M Houseman	VALID DATE: EXPIRY DATE:	6 June 2016 1 August 2016
PROPOSAL:	Listed building consent for the proposed conversion of windmill to form a dwelling with new extension		
LOCATION:	Windmill, Old Road, Appleton Roebuck		
RECOMMENDATION:	APPROVE		

This matter has been brought to Planning Committee as it is the Listed Building application which accompanies application 2016/0673/FUL which is also being heard at this Planning Committee meeting and it is good practice to consider both applications together.

1. Introduction and background

The Site and Context

- 1.1 The application site comprises an area of land which is located between the settlements of Appleton Roebuck and Bolton Percy. There is currently a post and wire fence delineating the site boundary.
- 1.2 The site and surrounding area is characterised by open agricultural fields with predominantly hedgerow boundaries. The windmill is on an elevated position within the site with grassed land surrounding the site.

The Proposal

- 1.3 The proposal seeks Listed Building consent for the conversion of the windmill into residential accommodation and the addition of a single storey extension to create additional living accommodation.

- 1.4 There would be significant internal works to the windmill due to the lack of floors/beams in order to facilitate the conversion and a full schedule of works have been submitted.
- 1.5 The scheme will provide within the extension a double bedroom with en-suite, and a living room, which is then linked to the main windmill structure. The ground floor of the windmill element will provide a kitchen and dining area. The first floor will provide a living room, the second floor provides a further double bedroom and en-suite and the third floor would provide a single bedroom with en-suite.
- 1.6 The proposed elevations will include the addition of a series of vents to the southern and northern elevations.
- 1.7 Access to the site would be taken from the existing field access. It is proposed that the access would be tarmac for the first 8m into the site after which the access road would be laid with stone. No boundary treatments are proposed to the application site although a garden area and curtilage is shown on the submitted plans.

Planning History

- 1.8 The following historical applications and appeals are considered to be relevant to the determination of this application:-
 - An application (2016/0673/FUL) for the proposed conversion of windmill to form a dwelling with new extension is currently pending consideration.
 - An application (2015/1428/LBC) for Listed Building Consent for proposed conversion and change of use of windmill to a single dwelling with new extension was withdrawn on 5 February 2016.
 - An application (2015/1425/FUL) for the proposed conversion and change of use of windmill to a single dwelling with new extension was withdrawn on 5 February 2016.
 - An application (2012/0812/FUL) for the conversion of windmill to form a holiday cottage was approved on 9 May 2013.
 - An application (2012/0805/LBC) for Listed Building consent to facilitate conversion of windmill to form a holiday cottage was approved on 9 May 2013.
 - An application (2009/0573/LBC) for Listed Building Consent for the conversion of a redundant windmill to a holiday let was refused on 21 August 2009.
 - An application (2009/0572/FUL) for the proposed conversion of redundant windmill to holiday let was refused on 30 September 2009.

- An application (2008/0405/LBC) for Listed Building Consent for the conversion of a redundant windmill to a holiday let was withdrawn on 6 May 2009.
- An application (2008/0404/FUL) for the proposed conversion of redundant windmill to holiday let was withdrawn on 6 May 2009.
- An application (CO/2002/0262) for Listed building consent for the conversion of a windmill tower into an astronomical observatory and sky science centre at was withdrawn on 27 January 2003.
- An application (CO/2002/0261) for the proposed conversion of a windmill tower into an astronomical observatory and sky science centre at was withdrawn on 27 January 2003.
- An application (TA/6413) for the conversion of old Windmill into dwelling house, dated 23 May 1973, was refused on the 13th November 1973. This refusal was on the basis that “the site is divorced from the existing residential development in the area and it is considered that the proposed use of the isolated structure would constitute an undesirable intrusion of a residential use into an area which is in the main open and undeveloped”.
- An application (TA/4629) for the change of use to a house, dated 6 August 1968 was refused on the 9 September 1968. This refusal was on the basis of:
 - Site outside any area shown allocated for general development purposes in the approved County Development Plan
 - The site is divorced from any existing residential development in the area and it is considered that the proposed use of the isolated structure would constitute an undesirable intrusion of residential use into an area which is in the main open and undeveloped.

2.0 Consultations and Publicity

- 2.1 **Parish Council** - They are most concerned that the windmill does not fall into ruin as it is a local land mark visible from the surrounding area. It is felt that this proposal will ensure that it is preserved as such.
- 2.2 **North Yorkshire County Council Heritage Officer (Archaeology)** - There is no known archaeological constraint to the proposals.
- 2.3 **Historic England** – having considered the latest Heritage Statement and Plans Historic England note that “the revised heritage statement provides a more detailed consideration of significance and assessment of the impact of the proposals” and confirm that they “concur with the conclusion of the statement” and have thus confirmed that they have “no objection to the applications on heritage grounds”.
- 2.4 **Georgian Group** - No response within the statutory consultation period.

- 2.5 **Twentieth Century Society** - No response within the statutory consultation period.
- 2.6 **Ancient Monument Society** - No response within the statutory consultation period.
- 2.7 **The Victorian Society** - No response within the statutory consultation period.
- 2.8 **Council for British Archaeology** - No response within the statutory consultation period.
- 2.9 **Conservation Advisor** - The application would lead to less than substantial harm to the heritage asset due to the following reasons:

- Alterations to the appearance of the listed building with the additions of a roof and windows;
- Change to the setting of the listed building with the addition of an extension; and
- Insertion of internal floors and modern services to make the building habitable.

As harm has been identified, the proposal is then weighed against the public benefits of the application in accordance with NPPF 134.

The proposed design and supporting information has demonstrated that there would be heritage benefits of the application and measures have been taken to mitigate the harm caused to the significance of this designated heritage asset:

- Scale of the proposed extension has been kept to a minimum to reduce the visual impact. The width of the extension is no wider than the windmill and the height has been kept below the first floor window;
- Materials of construction proposed for the extension reflect the agricultural nature of the setting and the character of the existing building - the proposed dark wood reflects the original tar finish to the windmill;
- The glazed link provides a degree of visual separation between the listed windmill and the extension and allows the curvature of the windmill profile to still be appreciable through the visually permeable link;
- The design is utilitarian and uncomplicated;
- The proposal safeguards the future of this listed building and keeps it in a viable use; and
- The proposal maintains and preserves the historic fabric.

The application is in accordance with Paragraph 131 of NPPF as the application sustains and enhances the significance of the Grade II listed windmill and has proposed a scheme that is consistent with its conservation. The application sustains the windmill as a feature within the landscape for this and future generations to enjoy. Great weight has been given to the conservation of the Windmill as a Grade II heritage asset. The application has been accompanied by clear and convincing justification for the development including the long term conservation of the asset for this and future generations and is therefore in accordance with NPPF paragraph 132.

The application would safeguard the future of the Grade II windmill and maintain it as a familiar feature within the landscape. Selby Core Strategy Policy SP18 requires for the high quality and local distinctiveness of an environment to be maintained which is achieved by this proposal.

The sensitive approach to the design of the converted windmill ensures that the proposal complies with Selby Core Strategy Policy SP19 in terms of achieving a high quality design, and having regard to the local character, identity and context of its surroundings.

The proposal is also in line with Selby Local Plan Policies ENV22 in terms of having a minimal impact upon the character, fabric and setting of the listed building and policy ENV24 in terms of the minimising any adverse impact upon the architectural and historic character of the building. The proposal is also considered to be appropriate in terms of scale (as the proposed extension has been kept to a minimum size), design and materials (the design and materials of construction of the proposed extension reflects the historic development of the building).

The following conditions should be attached to an approval to ensure the detailing is to a high standard:

1. Before the relevant work begins, details in respect of the following shall be approved in writing by the Local Planning Authority. The work shall be carried out in full in accordance with such approved details:
 - a) detailed drawings at 1:5 scale of the glazed link to show materials, doors and interaction with the windmill;
 - b) samples of external materials and surface finishes including the pan tile roof and the timber boarding for the extension
2. Before work begins, the details of the type and colour(s) of the paint to be used on all external timber joinery shall be agreed in writing with the Local Planning Authority. All glazing shall be face-puttied.
3. Rainwater goods (gutters, downpipes, hopperheads and soil pipes) [on visible elevations] shall be in cast-iron. The sectional profile for the rainwater gutters shall be half round and fixed on agreed brackets.
4. No new plumbing, pipes, soil-stacks, flues, vents or ductwork shall be fixed on the external faces of the building other than those shown on the drawings hereby approved.
5. No new grilles, security alarms, lighting, security or other cameras or other fixtures shall be mounted on the external faces of the building other than those shown on the drawings hereby approved.
6. PD rights should be removed.

Informatives:

All leadwork should follow the Codes and details recommended by the Lead Sheet Association.

- 2.10 **Neighbours** - Due to the location of the application site, there are no immediate neighbours and as such, notifications undertaken were through a site notice and an

advert within the local press. This has resulted in two letters of objection being received (from the same objector) and thirteen letters of support.

2.11 The letters of objection raised the following points as summarised:

- Inaccurate information is provided within the application form, in particular with respect to the existence of a hedge which is a valuable feature of the local landscape and there is no assessment of the works to be carried out;
- The Heritage Statement focuses on the physical characteristics of the property and not any wider considerations such as the reason why it has been listed to enable the LPA to fully assess the contribution the building makes to the surrounding area. It is also impossible to quantify the building's value and significance and therefore the harm that may occur.
- The Heritage Statement has failed to take account of the recent Court of Appeal decision *Barnwell Manor Wind Energy Ltd v E Northants DC*, English Heritage, National Trust and SSCLG (2014).
- Plans have not been provided from public vantage points of which to assess the proposal;
- No detailed drawings for the fenestration/door details have been provided and no justification for these design elements which would appear inappropriate for such a functional and utilitarian mill building, set within a rural landscape
- Sustainability has previously been a reason for refusing permission for a dwelling in this location in the past.
- The site is particularly remote and a considerable distance from the nearest settlement. The applicant quotes a distance of 700m however this is along a narrow country road with no pedestrian facilities, is subject to the national speed limit and is taken to the edge of the settlement rather than the focus of facilities and services within the settlement.
- There are very limited facilities within Appleton Roebuck which do not represent a sufficient breadth or depth of services to support sustainable development;
- The identification of a daily bus service to York or the rural footpath walks do not outweigh the sustainability issues and residents can only realistically travel to site by private car.
- There have been no alternative options presented in protecting the structure. In demonstrating that the least intervention possible is proposed for a viable re-use to occur the applicants should have demonstrated less invasive uses have been fully considered such as agriculture or storage. This should involve marketing the building for a range of agriculture and employment opportunities. A period of 18 months for this would be reasonable.
- The creation of boundary treatment would introduce a defined and alien curtilage in the area.
- Associated activity and detailing such as garden planting, outdoor tables chairs etc will change the setting of the Listed Building and will be adverse when compared with the open countryside location of the surroundings.
- The electricity supply will most likely be made via overhead power lines and the impact of this connection is unknown and therefore cannot be reasonably assessed.

- There are detailed design issues which are not appropriate to a building of this historic value such as provision of ducts, vents and openings for heating appliances, external lighting equipment, external pipes associated with drains etc.
- The applicant proposes a disjointed and unintelligible mix of large windows, decorative gables and roof planes which have no historic or contemporary theme. The use of glazed links alongside pantiles and clamp bricks further compounds the unclear design approach.
- The effect is of a series of domestic extensions which have no bearing and an uncomfortable relationship with the historic structure. There is no evidence of an examination of the scale and design of historic structures which may have been in this location, nor a contemporary approach to the extension.
- The applicants have submitted a repair schedule however there is so much information that is missing or inadequate that the full extent of the proposal is unknown at this stage.
- The building was listed in its current state of disrepair and therefore, there is a question with regard what it is that the Council are trying to preserve. The Council have the power to ensure that the building is maintained which need only involve minor structural works and weatherproofing.
- The proposals will have a detrimental impact on the visual amenity of the surrounding landscape due to loss of the current open aspect across the site.
- There is a need to consider the application in light of potential alternatives such as do nothing, as well as alternative reuse of the structure in its current condition and then assessing the potential redevelopment of the site. There is no evidence that this exercise has been completed.
- Given the isolated location any form of intensive use is likely to have a significant impact on the area. The development is of a much greater intensity than the existing windmill and by virtue of its design and ancillary structures will be more dominant in views from all directions.
- It is understood that the proposal would require the formation of visibility splays of 150m to the west and 215m to the east, it is unclear how the applicant proposes to ensure that the site is capable of safe access from the public highway.
- There is reference to removing parts of the hedge, however there is no indication of the level of visibility that this will achieve nor the works likely to be required to the hedge.
- Whilst the applicant is proposing two car parking spaces it is not possible to determine that there is provision for the parking of any service vehicles including delivery vehicles and those needed to carry out essential servicing such as waste collection.
- There is an intention to use a historic well structure on the site for the purposes of ground water disposal however there is no assessment of the structural integrity of the well or its ability to function as a viable soakaway.
- The reuse of the well opens up possibility of direct and uncontrolled access for pollutants to a ground water source. The risk of contamination spreading into surrounding ground water and possible aquifers is increased far above that of a typical open well by the positive pressure that the water flowing into the well will be under when it drops down into the soakaway.

- There has been no assessment of the historic or archaeological significance of this feature of the site.
- The structural survey contradicts the Heritage Statement in respect of the decay of the building.
- The Heritage Statement should be completed by a competent and informed individual.
- The proposed development is contrary to Policies ENV1 and ENV24 of the Local Plan, Policy SP2 of the Core Strategy and the NPPF.
- There is no assessment on the impact on the nearby Conservation Area;
- The revised scheme and Heritage Statement are considered to be an inadequate basis for a properly informed assessment of the development proposals.

2.12 The letters of support raised the following points as summarised:

- The development is supported by numerous national and local planning policies;
- It would preserve a local listed building and landmark for the future;
- The windmill is a prominent and well known feature of the local landscape, despite being disused for over a hundred years;
- The building has no practical use for modern day farming and the self-evident functional link between the windmill and the local agricultural industry has long since been severed;
- The structure appears reasonably sound, by its design the building supports its self, with a good structural engineer, architect and builder this could be a fine structure, providing that the team are sympathetic in their approach to the task in hand;
- The access to the site is already used by heavy farm machinery to access the fields adjacent to it, so it really is questionable as to additional traffic from one dwelling will have a measureable impact on local traffic volumes. Traffic volumes are not great;
- When the building was in its original use there would have been lighting in and around the building, it had life, it is considered a ridiculous suggestion that lighting from the property would be harmful to the local countryside, this really is objection born on desperation;
- There is local and national support for the re-use of this structure and reusing the building concerned in this way would be the best use of this asset;
- There is strong support by both District and National Planning policies for the reuse of redundant farm buildings for alternative uses within the countryside, where it helps to preserve the structure;
- The proposal is for a sympathetic conversion into a residential dwelling with a small extension, complying with planning policies;
- Local and national planning policies endorse the preservation of these structures by allowing the sensitive and thoughtful conversion into productive, sustainable and aesthetically pleasing buildings;
- The applicants have looked carefully at alternative uses;
- The site is served by a public bus route, and is within easy walking distance of Appleton Roebuck village; in fact a great many people walk the Old Road between Bolton Percy and Appleton Roebuck on a daily basis. There is no footpath on the side of the road, but the grass verge is sufficiently wide enough to seek refuge;

- Cyclists use this route extensively;
- Although there is no electrical power supply to the site there is no reason why an underground supply could not be connected to the existing mains supply in Appleton Roebuck;
- It would appear that Historic England do not wish to object to the proposal, and indeed appear to be in support of it, so long as the work is carried out sympathetically, it must therefore be of significant material consideration that the application gains approval;
- It is questionable as to whether it should even be listed, given its current condition (which has not noticeably deteriorated since its listing in 1987).
- The issue of bringing it into use is highly supportable;
- Long gone are the days of economic activities from windmills and its use as anything other than a night shelter for sheep are non-existent so that the opportunity for vitality into the building is highly desirable;
- Reusing the structure as a home with a sensitive extension as proposed would prevent the further dilapidation of the structure and make it safe.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The windmill is Grade II Listed and is constructed from brick and has no roof structure or glazing remaining. It is located within open countryside and is outside the defined development limits of Appleton Roebuck.
- 3.2 The site is 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 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.
- 3.4 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.
- 3.5 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. In terms of the Appleton Roebuck and Acaster Selby Neighbourhood Plan, then NPPG Neighbourhood Planning paragraph 7 states that:

“An emerging neighbourhood plan may be a material consideration factors to consider include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies. Decision makers should respect evidence of local support prior to referendum when seeking to apply weight to an emerging neighbourhood plan. It is for the decision maker in each case to determine what a material consideration is and what weight to give it.” (NPPG Neighbourhood Planning para 07)

As such under Section 1 of the Neighbourhood Planning Act 2017 the law as in force from 19th July 2017 states that a neighbourhood development plan forms part of the development plan for the area if it has been approved by referendum. The Appleton Roebuck and Acaster Selby Neighbourhood Plan was examined in summer 2017 and was recommended to proceed to referendum. The Referendum took place on the 23rd November 2017 and was supported by the community. In accordance with the Neighbourhood Planning Act it now becomes part of the statutory development plan.

Selby District Core Strategy Local Plan

3.5 The relevant Core Strategy Policies are:

SP18	Protecting and Enhancing the Environment
SP19	Design Quality

Appleton Roebuck and Acaster Selby Neighbourhood Plan

3.7 The relevant Neighbourhood Plan policies are:.

Policy WB1	Re-use of Redundant Buildings
Policy DBE2	Respecting Traditional Building Design and Scale
Policy ELH4	Historic Rural Environment

Selby District Local Plan

3.6 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)".

3.7 The relevant Selby District Local Plan Policies are:

ENV1	Control of Development
ENV24	Alterations to Listed Buildings

4.0 Appraisal

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

- Impact on Heritage Assets

Impact on Heritage Assets

- 4.2 In considering proposals which affect a listed building regard has to be made of S16 (2) and S66 (1) where a planning application affects a Listed Building or its setting of the Planning (Listed Buildings and Conservation Areas Act) 1990 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'. Members should note that in terms of applications for Listed Building Consent then if it is considered that a scheme affects a Listed Building per se and also affects its setting then it is the duty of Members, in line with Case Law, to give considerable importance and weight to the impact of the proposed would have on the listed building and its setting.
- 4.3 The Windmill is a Grade II Listed Building and a Heritage Statement has been submitted with the application which considers the local and national policy contexts within the Local Plan, Core Strategy and NPPF as well as the Barnwell Manor Court of Appeal decision. It also provides details of the listing of the Windmill and an assessment of the historical significance of the windmill as well as its physical characteristics.
- 4.4 The submitted plans show existing features remaining near the Windmill which historic plans from 1892 and 1849 show as being within an area of built form. The information submitted by the Applicants also notes that there is evidence of other buildings in close proximity to the windmill. The Statement also confirms that the external face of the brickwork was originally covered in protective tar, but this has deteriorated to leave much of the brickwork exposed, although this is noted in the submission to be still sound condition.
- 4.5 The Heritage Statement (June 2017) adds that “there is nothing remaining of the original doors or windows within the openings of the structure, or of the roof, so that the remaining fabric of the building inside and out is exposed to the elements which can only help to accelerate its demise. There are 2 door openings in the east and west elevation of the building and other window openings in the north and south elevations. The building now lies empty and without any viable or economic use. Virtually all the internal machinery, fixtures and fittings and most obviously the external sails, have been long removed from the building. It is believed this took place over the last 100 years.”
- 4.6 It continues and states “There is a small amount of evidence remaining of the original disposition of milling activities and machinery inside the remains of the four-storey mill tower. The tower size suggests a modest 4 sail configuration, there is no

evidence of a taper in the profile and the closing brick courses visible today suggest the cap was seated at close to the top of the present tower. It is unlikely the tower was higher than at present. Its visual contribution to the character of the local area has more recently been that of a semi-ruin. It is not considered this is a positive contribution to the visual amenities of the area.”

- 4.7 In respect of the impact on the Conservation Area, it is noted that the site lies 720 metres from Appleton Roebuck and the statement considers that “As a visual feature beyond the perimeter of the Conservation Area the mill can be considered as 'gateway feature' to the area and its conservation should reflect this. The profile of the tower is not visible from most public areas of the village. Views of the tower from public footpaths, bridleways, passing trains and roads (the view of the mill from the railway is considered as a way-mark for many travellers) is essentially unchanged by the proposal as the aspect of the additions is largely blocked from these distant, lower sight-lines by the hedge line.
- 4.8 The Heritage Statement also provides a rationale for the proposed works and includes a comprehensive schedule of works that would be undertaken as part of the proposed conversion and extension. It concludes that “...the proposed development would deliver a sustainable project which not only safeguards the special architectural and historic character of the Grade II Listed Building and provides it with a secure future that will ensure its proper upkeep and repair but also complies with the relevant planning and heritage policy and guidance at both national and local level.” Additionally, the Design and Access Statement considers that the proposed conversion is considered to be the optimum viable use that is compatible with the fabric, interior and setting of the historic building.”
- 4.9 It is noted that application 2012/0812/FUL permitted the change of use of the windmill to form holiday accommodation. This use has not been implemented. The Heritage Statement advises that alternative uses of the tower are limited because of the small floor area, uncertain funding or intermittent occupation (possibly leading to a poor maintenance regime)” and adds that “Uses of the tower other than as a dwelling all risk its under-use linked to unknown or uncertain economic value. A permanent occupant of the building implies a higher standard of care than other uses.”
- 4.10 In terms of landscaping, the Statement considers that “The addition to the site of a renewed hedge screen is in keeping with the current 'hedge and field' aspect of the tower as seen from the public road and publicly accessible viewpoints” and The principal visual effect of these changes has very little impact on the nature of the building or its listed status.”
- 4.11 The proposed single storey extension would be attached to the Listed Building through a glazed link and is considered to be to a sympathetically designed scale and massing which would not detract from the significance of the windmill. The external walls are proposed to be timber boarding in a dark wood with a pantile roof which are considered to be acceptable and can be secured by condition. Furthermore, any materials required in order to repair the walls of the existing windmill would match those as per existing and a flat roof is proposed. It is considered reasonable to request details of the

proposed materials to be submitted and approved in order to ensure the brickwork does match and the proposed roof materials are acceptable.

4.12 Historic England and the Council's Conservation Advisor have considered the submitted information and the approach of the scheme for the conversion and extension. They have confirmed that it is considered that the submitted Heritage Statement provides a detailed assessment of the significance of the Windmill and an assessment of the impact of the proposals, with Historic England confirming that they confirm with the conclusion of the statement and have no objections on heritage grounds. A view support by the Councils Conservation Advisor who also notes that the "proposed design and supporting information has demonstrated that there would be heritage benefits of the application and measures have been taken to mitigate the harm caused to the significance of this designated heritage asset" in terms of :

- Scale of the proposed extension has been kept to a minimum to reduce the visual impact. The width of the extension is no wider than the windmill and the height has been kept below the first floor window;
- Materials of construction proposed for the extension reflect the agricultural nature of the setting and the character of the existing building - the proposed dark wood reflects the original tar finish to the windmill;
- The glazed link provides a degree of visual separation between the listed windmill and the extension and allows the curvature of the windmill profile to still be appreciable through the visually permeable link;
- The design is utilitarian and uncomplicated;
- The proposal safeguards the future of this listed building and keeps it in a viable use; and
- The proposal maintains and preserves the historic fabric.

4.13 As such it is considered that the application is in accordance with Paragraph 131 of NPPF as the application sustains and enhances the significance of the Grade II listed windmill and has proposed a scheme that is consistent with its conservation. The application sustains the windmill as a feature within the landscape for this and future generations to enjoy. Great weight has been given to the conservation of the Windmill as a Grade II heritage asset. The application has been accompanied by clear and convincing justification for the development including the long term conservation of the asset for this and future generations and is therefore in accordance with NPPF paragraph 132.

4.14 In addition, the application would safeguard the future of the Grade II windmill and maintain it as a familiar feature within the landscape. Selby Core Strategy Policy SP18 requires for the high quality and local distinctiveness of an environment to be maintained which is achieved by this proposal and the design also ensures that the proposal complies with Selby Core Strategy Policy SP19 in terms of achieving a high quality design, and having regard to the local character, identity and context of its surroundings.

4.15 In commenting on the application the Conservation Advisor also notes that the proposal are considered to be in line with Selby Local Plan Policies ENV22 in terms of

having a minimal impact upon the character, fabric and setting of the listed building and policy ENV24 in terms of the minimising any adverse impact upon the architectural and historic character of the building. As such the proposal is also considered to be appropriate in terms of scale (as the proposed extension has been kept to a minimum size), design and materials (the design and materials of construction of the proposed extension reflects the historic development of the building).

- 4.16 As such it is considered that a delicate balance needs to be struck between conserving the building and its heritage and securing its optimal viable use which would ensure its continued conservation in the future. It is clear that the use of the windmill for its original purpose has long ceased and there is no prospect of it returning to its original use. Although, there is considered to be limited harm to the Listed Building and its setting as a result of the proposal including the addition of the extension, the harm can be considered to be “less than substantial”. Therefore, when balanced with the benefits of bringing the Windmill back in beneficial use through improvements to its fabric and the proposed extension and thus allowing its use for residential accommodation it is considered that this benefit package outweighs the harm to a considerable degree and thus in applying the approach of the Barnwell Manor Wind Energy Ltd v E Northants DC, English Heritage, National Trust and SSCLG (2014) case it is considered that proposal is on balance acceptable.
- 4.17 As such Officers would advise Members that it is therefore considered that the Heritage Statement is competent and having had regard to the submitted proposals, the comments received following notification of the application and responses from consultees, the proposals are considered to be acceptable with respect to the impact on designated and non-designated heritage assets in accordance with ELH4 of the AR&AS Neighbourhood Plan, Policies SP18 and SP19 of the Core Strategy, the NPPF and Policies ENV1, ENV22, ENV24 and H12, of the Local Plan subject to appropriate conditions as noted by the Conservation Advisor.

Other Issues

- 4.18 Concerns have been raised in regards to the contents of the Heritage Statement (dated March 2017) stating that it fails to provide the correct policy background and balanced assessment of the impact of the proposal on the heritage assets in the area. Concerns are also raised that the Heritage Statement has failed to take account of the recent Court of Appeal decision Barnwell Manor Wind Energy Ltd v E Northants DC, English Heritage, National Trust and SSCLG (2014). The Heritage Statement (dated 1st June 2016) states that “The Barnwell Manor Wind Energy Ltd Court v East Northants and others appeal decision clarifies that the assessment of harm to a listed building setting or landscape must be balanced by the benefit of a proposed development. The decision refers to a Grade 1 listed building where the listing includes garden, grounds and setting. The Grade II status of the mill in its modern (un-listed, unscheduled) agricultural setting, without active conservation measures in place renders it is vulnerable to harm as much by inaction as by intervention. The benefit of bringing the building into use is a conservation gain; the harm of placing a small outbuilding adjacent to it is of a low order of magnitude in both visual and material terms.”

Legal Issues

4.18 Planning Acts:

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

4.19 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.

4.20 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

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

5.0 Conclusion

5.1 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposed development, on balance, would lead to a less than substantial harm to the heritage asset and the public benefits of bringing the building into use and securing its future is considered to be of significant weight which would enable the assets continued conservation, in accordance with the approach taken within the NPPF.

5.2 The proposals are therefore considered to be in accordance with the policies within the AR&AS Neighbourhood Plan, Policies ENV1 and ENV24 of the Selby District Plan, Policy SP18 and SP19 of the Core Strategy Paragraphs 14, 64, 128, 131, 132, 133 and 134 of the NPPF.

6.0 Recommendation

6.1 That the application be APPROVED subject to the following conditions:

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

Reason:

In order to comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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

- Location Plan: LOC01
- All Plans: 2016/17/501/11B
- Sections: 2016/17/501/9B

Reason

For the avoidance of doubt.

03. Before the construction of the extension hereby commences, details in respect of the following shall be approved in writing by the Local Planning Authority. The work shall be carried out in full in accordance with such approved details:

- a) detailed drawings at 1:5 scale of the glazed link to show materials, doors and interaction with the windmill;
- b) samples of external materials and surface finishes including the pan tile roof and the timber boarding for the extension

Reason:

In order to ensure the interests of visual amenity and to ensure that they are appropriate in the context of the Listed Building in order to comply with Policies ENV1 and ENV24 of the Selby District Local Plan.

04. The materials to be used in the repairing of the external walls of the windmill and in the construction flat roof of the windmill shall be 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 Policy ENV1 of the Selby District Local Plan.

05. Rainwater goods (gutters, downpipes, hopperheads and soil pipes) shall be in cast-iron. The sectional profile for the rainwater gutters shall be half round and fixed on brackets agreed in writing with the Local Planning Authority.

Reason:

In the interests of visual amenity and to ensure that they are appropriate in the context of the Listed Building in order to comply with Policies ENV1 and ENV24 of the Selby District Local Plan.

06. There shall be no new grilles, security alarms, lighting, security or other cameras or other fixtures shall be mounted on the external faces of the building other than those shown on the drawings hereby approved.

Reason:

In the interests of visual amenity and to ensure that they are appropriate in the context of the Listed Building in order to comply with Policies ENV1 and ENV24 of the Selby District Local Plan.

07. There shall be no new plumbing, pipes, soil-stacks, flues, vents or ductwork shall be fixed on the external faces of the building other than those shown on the drawings hereby approved.

Reason:

In the interests of visual amenity and to ensure that they are appropriate in the context of the Listed Building in order to comply with Policies ENV1 and ENV24 of the Selby District Local Plan.

08. The development hereby permitted shall be carried out in full accordance with the submitted Heritage Statement and Schedule of Works (paragraph 5.4) by Bill Blake Heritage Documentation, dated 20/03/17 which was received by the Council on 21/03/2017.

Reason

For the avoidance of doubt

Contact Officer:

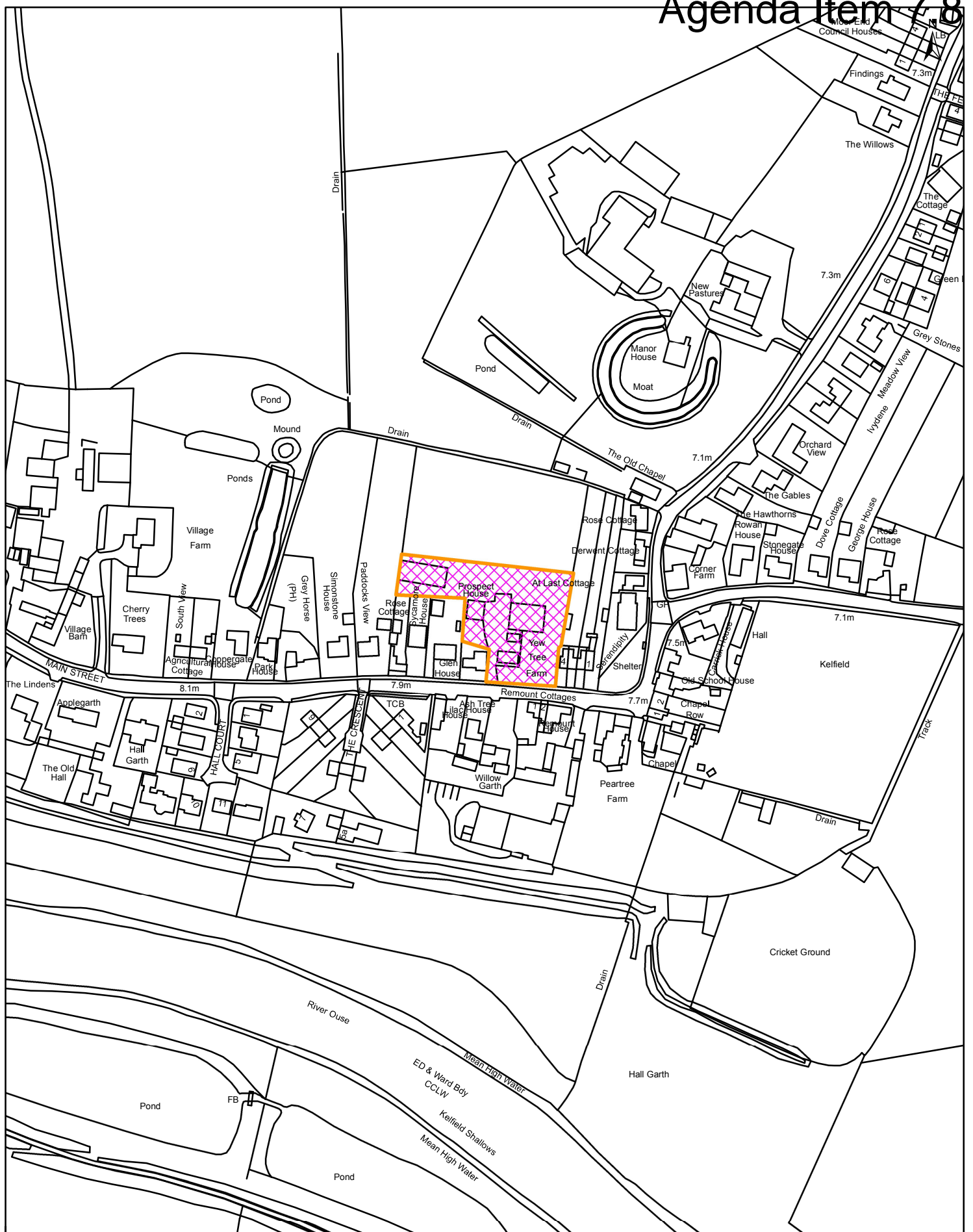
Yvonne Naylor

Principal Planning Officer

Appendices:

None.

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APPLICATION SITE

2017/0701/OUT

Yew Tree House, Main Street, Kelfield

1:2,500



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RECEIVED
 25/09/2017
 BUSINESS SUPPORT

**AMENDED
 DRAWING**



PADDOCK VIEW

Page 237

Issue Status
Planning

Drawing No. 697/01	Scale @ A3 1:500	Drawn sj
	Date September 2017	Checked

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

J A
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To: Planning Committee
Date: 10 January 2017
Author: Jenny Tyreman (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

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

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

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

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

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield,

which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside.

- 1.2 The application site comprises part of Yew Tree Farm, including the existing farm house (Yew Tree House), and the adjoining farm yard area, including four buildings: a glass and timber framed greenhouse; a single storey shed; an agricultural building; and a single storey garage.
- 1.3 To the north of the application site is agricultural land associated with Yew Tree Farm and within the same ownership as the application site. Beyond this is the Scheduled Ancient Monument of Kelfield moated site and fishpond. To the east and west of the application site is residential development to the north side of Main Street, while to the south of the application site is Main Street, with residential development to the south side of Main Street beyond.

The Proposal

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

Relevant Planning History

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

The application was refused for the following reasons:

1. The majority of the application site is located within the open countryside outside the development limits of Kelfield which is defined as a Secondary Village within the settlement hierarchy. The proposed development does not comprise any of the types of development that are acceptable in principle under Policy SP2A(c) of the Core Strategy and hence the overall Spatial Development Strategy for the District. The proposal is therefore contrary to Policy SP2A(c) and SP4 of the Core Strategy.
2. The proposed scheme is considered not to be located in a sustainable location due to the lack of facilities serving the village of Kelfield and there is an increased need for the use of a motor vehicle. The proposed scheme is

considered not to be sustainable in relation to the three dimensions to sustainable development of being of an economic, social and environmental nature. The proposed scheme therefore fails to accord with Policy SP1 and Paragraph 7 and of the NPPF.

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

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

2. CONSULTATION AND PUBLICITY

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

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

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

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

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

- 2.11 **HER Officer** – No objections at this stage, subject to a condition requiring a scheme of archaeological mitigation recording to be undertaken in response to the ground disturbing works associated with the proposal.
- 2.12 **Development Policy** – Comments provided in respect of: the Council's five year housing land supply; the principle of the development; previous levels of growth and the scale of the proposal; and the relation of the proposal to the development limit boundary.
- 2.13 **Waste and Recycling Officer** – No comment.
- 2.14 **Public Rights of Way Officer** - No response within statutory consultation period.

- 2.15 **Neighbour Comments** – Twenty four letters of support, seven letters of objection and one neutral letter have been received as a result of the advertisement of the application. Objectors have raised concerns in respect of the principle of the development outside the defined development limits of a Secondary Village, the impact on heritage assets, the impact on residential amenity, the impact on highway safety and flood risk and drainage.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The development limit boundary runs through the application site such that the application site is located part within the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside.
- 3.2 The application site is located within the setting of the Scheduled Ancient Monument of Kelfield moated site and fishpond.
- 3.3 The application site comprises potentially contaminated land resulting from agriculture/nurseries.
- 3.4 The application site is located within Flood Zone 1, which has a low probability of flooding.

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

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

Selby District Core Strategy Local Plan

- 3.7 The relevant Core Strategy Policies are:

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

Selby District Local Plan

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

3.9 The relevant Selby District Local Plan Policies are:

- ENV1 - Control of Development
- ENV2 - Environmental Pollution and Contaminated Land
- ENV27 – Scheduled Ancient Monuments and Important Archaeological Sites
- RT2 - Open Space Requirements for New Residential Development
- CS6 - Developer Contributions to Infrastructure and Community Facilities
- T1 - Development in Relation to the Highway Network
- T2 - Access to Roads

Other Policies and Guidance

3.10 Affordable Housing Supplementary Planning Document

3.11 Developer Contributions Supplementary Planning Document

4. APPRAISAL

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

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

The Principle of the Development

- 4.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.
- 4.3 Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF.
- 4.4 The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside.
- 4.5 Policy SP2A (b) of the Core Strategy states that "Limited amounts of residential development may be absorbed inside Development Limits of Secondary Villages where it will enhance or maintain the vitality of rural communities and which conform to the provisions of Policy SP4 and Policy SP10". Policy SP4 (a) of the Core Strategy states that, in Secondary Villages, "conversions, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built up residential frontages, and conversion/ redevelopment of farmsteads" will be acceptable in principle. Policy SP4 (b) of the Core Strategy states that proposals for the conversion and/or redevelopment of farmsteads to residential use within development limits will be treated on their merits.
- 4.6 An indicative layout plan has been submitted with the application, which demonstrates how the site could accommodate up to seven dwellings, in addition to the existing farm house which would be retained as part of the proposals. On the indicative layout plan, only plots 2 and 3 would be located within the defined development limits of Kelfield. These two units on their own would constitute "filling of small linear gaps in otherwise built up residential frontages" as they would front Main Street and are located within a small gap between the existing farm house (Yew Tree House) to the east and a terrace of dwellings to the west. The part of the development located within the defined development limits of Kelfield would also amount to the "redevelopment of a farmstead". However, the remainder of the application site projects a substantial distance to the north beyond the frontage development within the open countryside. As such, the application site would not constitute "filling of small linear gaps in otherwise built up residential frontages" or the "redevelopment of a farmstead" wholly within the defined development limits. The proposal would therefore not meet Policies SP2A (b) and SP4 of the Core Strategy.
- 4.7 Moreover, Policy SP2A (c) of the Core Strategy states that "Development in the Countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances".

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

Sustainability of the Development

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

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

- 4.13 The location of the development proposal would undermine the spatial strategy for the district as set out in the Core Strategy, in particular the settlement hierarchy set out at policy SP2. The focus on Selby as a Principal Town and on Tadcaster and Sherburn-in-Elmet as Local Service Centres would not be supported by further development taking place outside of the development limits at a 'fourth tier' level (secondary villages) settlement in the hierarchy. The strategy and hierarchy aims to support and deliver economic, regeneration, social and environmental objectives for the district and was assessed as a sustainable option through the adoption of the Strategy.
- 4.14 Policy SP5 of the Core Strategy designates levels of growth to each of the 3 main towns, the group of Designated Service Villages and the group of Secondary Villages based on their infrastructure capacity and sustainability. This policy set a minimum target of 170 for Secondary Villages as a whole, this target was to be met from existing commitments only. Data taken from the 2017-2022 Five Year Housing Land Supply Report – 30th September 2017 update (which uses a base data of the 30th of September 2017) shows that this minimum target has already been

substantially exceeded, with 321 homes built or with permission since the start of the plan period in April 2011.

- 4.15 Secondary Villages have exceeded their minimum target by more than 3 times. Of concern to the delivery of the District's spatial strategy is that this has occurred only 6 years into the Core Strategy plan period, with 10 years of the plan period still remaining.
- 4.16 This disproportionate level of growth in the Secondary Villages, in the fourth tier for sustainability in the Councils settlement hierarchy, undermines the Council's spatial strategy, which directs the majority of development to the Principal Town of Selby, the Local Service Centres and the Designated Service Villages.
- 4.17 Notwithstanding this level of growth in the Secondary Villages as a whole, Policies SP2 and SP4 of the Core Strategy do allow for a limited amount of housing growth within the Secondary Villages. However, the scale of this development, at up to 7 dwellings, is clearly well in excess of this limited scale of development that can be sustainably supported by a Secondary Village and is expected by Policies SP2 and SP4 of the Core Strategy.

Impact on Heritage Assets

- 4.18 The application site is located within the historic village of Kelfield and within the setting of the Scheduled Ancient Monument of Kelfield moated site and fishpond to the north.
- 4.19 The application has been supported by a Design and Access Statement, which incorporates a Heritage Statement. The statement acknowledges that the proposal has the potential to affect heritage assets, namely the non-designated heritage asset of the existing farm house (Yew Tree House) and the designated heritage asset of the Scheduled Ancient Monument of Kelfield moated site and fishpond to the north. In terms of the impact of the proposals on the Scheduled Ancient Monument, the statement sets out that it is not visible in private views from the site or public views from the Main Street, due to intervening buildings, hedgerows and tree cover. The statement also sets out that the separation distance between the application site and the Scheduled Ancient Monument would be 35-40 metres. The statement concludes that having regard to the above factors, the proposal would have significantly less than substantial harm on the setting of the Scheduled Ancient Monument. In terms of the impact of the proposals on the existing farm house, the statement sets out that the applicants do not consider that building to be of historic interest. The statement sets out that the building is constructed of local brick similar to many of the traditional houses in Kelfield and the wider area and considers there are other better maintained examples of this style of dwelling elsewhere. The statement also sets out that the existing farm house has undergone various modernisations and therefore retains little of its original internal features. It is the applicant's opinion that refurbishing the dwelling to bring it to a good standard would not be viable, however, no further information has been provided in terms of viability. The statement concludes that despite the above factors, the existing farm house would be retained as part of the proposals at the request of the Local Planning Authority.
- 4.20 The application has been assessed by the Council's Conservation Officer. The comments of the Council's Conservation Officer are noted and agreed. In terms of

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

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

Impact on Archaeology

- 4.22 NYCC Heritage Services have been consulted on the proposals and have advised that the application site is located within the historic village of Kelfield. The settlement is mentioned in the Domesday Book of 1086 meaning that it existed prior to the Norman Conquest. Kelfield owes much of its current layout and character to Norman planning following the Conquest. The core of the village takes the traditional form of a Main Street with property plots on either side. These will have been in semi-continuous occupation for over 1000 years. These plots take the traditional form of long rear garths and terminate at a consistent rear boundary or back lane. The application site occupies the location of several medieval property

plots. NYCC Heritage Services conclude that it is unlikely for the proposals to have a significant impact on archaeological deposits, although there is some potential for damage to medieval features, particularly in less disturbed areas of the site. Therefore NYCC Heritage Services raise no objections to the proposals in terms of their impact on archaeology, subject to a condition requiring a scheme of archaeological mitigation recording is undertaken in response to the ground disturbing works associated with the proposal.

Design and Impact on the Character and Appearance of the Area

- 4.23 The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside.
- 4.24 The application site comprises part of Yew Tree Farm, including the existing farm house (Yew Tree House), and the adjoining farm yard area, including four buildings: a glass and timber framed greenhouse; a single storey shed; an agricultural building; and a single storey garage.
- 4.25 To the north of the application site is agricultural land associated with Yew Tree Farm and within the same ownership as the application site. Beyond this is the Scheduled Ancient Monument of Kelfield moated site and fishpond. To the east and west of the application site is residential development to the north side of Main Street, while to the south of the application site is Main Street, with residential development to the south side of Main Street beyond. Residential properties within the immediate vicinity of the application site comprise a mixture of two storey terraced, semi-detached and detached dwellings. Furthermore, materials used on residential properties within the vicinity of the application site vary, but predominantly consist of a mixture of red brick and rendered properties with pantile roof tiles of varying colours.
- 4.26 The application seeks outline planning permission for residential development with all matters reserved. Notwithstanding this, an indicative layout plan has been submitted with the application, which demonstrates how the site could accommodate up to seven dwellings, in addition to the existing farm house which would be retained as part of the proposals. The indicative layout shows infill development to the front of the site, a range of linked dwellings resembling converted farm buildings to the rear of the site, with a detached farmhouse on the footprint of the existing glasshouse to the rear of the site.
- 4.27 Having had regard to the indicative layout plan and the surrounding context it is considered that an appropriate appearance, scale and landscaping of the proposed dwellings could be achieved at reserved matters stage to ensure that the proposed development would not have a significant adverse impact on the character and appearance of the area.
- 4.28 Notwithstanding the above in terms of the appearance, scale and landscaping of the proposed dwellings, in terms of the layout of the proposed dwellings, the proposal would inevitably result in backland development, which would not follow the existing linear pattern of built form to the north side of Main Street and would project significantly from the dwellings fronting the north side of Main Street. Furthermore,

the layout of the proposed dwellings would encroach out into the open countryside, would not result in a natural rounding off of the settlement and would not have an appropriate relationship to the existing development to the North side of Main Street. It is therefore considered that an appropriate layout of the proposed dwellings could not be achieved at the reserved matters stage without having a significant adverse impact on the character and appearance of the area.

- 4.29 Having regard to the above, while it is considered that an appropriate appearance, scale and landscaping of the proposed dwellings could be achieved at the reserved matters stage, which would not result in any significant adverse impact on the character and appearance of the area, it is not considered that an appropriate layout of the proposed dwelling could be achieved at the reserved matters stage, without having a significant adverse impact on the character and appearance of the area. The proposal would therefore be contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF.

Impact on Residential Amenity

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

Impact on Highway Safety

- 4.33 The application seeks outline planning permission for residential development with all matters reserved. An indicative layout plan has been submitted with the application, which demonstrates that the existing dwelling could be served from the existing access, while two further access points from Main Street could be created to serve the proposed dwellings.
- 4.34 The comments of the Parish Council and neighbouring properties have been noted regarding the impact of the proposal on highway safety. However, NYCC Highways have been consulted on the proposals and have advised that they have no objections to the proposals at the outline stage, subject to ten conditions relating to: detailed plans of road and footway layout; construction of roads and footways prior to the occupation of the dwellings; discharge of surface water; the construction requirements of private access/verge crossings; visibility splays; pedestrian visibility

splays (individual dwellings); details of access, turning and parking; the provision of approved access, turning and parking areas; the conversion of garages into habitable accommodation; and on-site parking on-site storage and construction traffic during development.

- 4.35 Subject to the aforementioned conditions, it is considered that an appropriate scheme could be achieved at the reserved matters stage which would be acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and the advice contained within the NPPF.

Flood Risk and Drainage

- 4.36 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 4.37 In terms of drainage, the submitted application form sets out that surface water would be disposed of via an existing watercourse, but does not set out how foul drainage would be disposed of. The Ouse and Derwent Internal Drainage Board and Yorkshire Water have been consulted on the proposals.
- 4.38 The Ouse and Derwent Drainage Board note that the applicants intend for surface water be disposed of via an existing watercourse, but note that no further details have been provided regarding the nature and location of the relevant watercourse. The Board advise that their preference would be to see the use of sustainable methods of surface water disposal, wherever possible, retaining the water on site. The Board notes that historically some elements of the site have been drained to a soakaway and would therefore recommend that this option be investigated for the proposed development. Should infiltration prove to be unsatisfactory for the proposed development and the applicant propose to use a discharge to a watercourse (directly or indirectly) as the method of surface water disposal, the applicant would need to demonstrate that the site already drains to that facility. Further, where discharge to a watercourse is to be used, the Board would seek that run-off from the site be constrained and that the discharge from the development is attenuated to 70% of the pre-development rate (based on 140 l/s/ha for proven connected, impermeable areas and 1.4 l/s/ha for Greenfield areas). With storage calculations to accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm event. All calculations should include a 20% allowance for climate change. Having regard to the above, the Board have no objections to the proposal at the outline stage subject to four conditions relating to: drainage works to be agreed prior to the commencement of development; evidence of existing surface water discharge; surface water to adjacent watercourse; and testing for the effectiveness of soakaways.
- 4.39 Yorkshire Water note that a 400mm surface water sewer runs through the site, but raise no objections at the outline stage, subject to two conditions relating to: no building or other obstruction being located over or within 3.5 metres of the centre line of the public sewer running through the site; and no piped discharge of surface water from the application site until works to provide a satisfactory outfall have been completed in accordance with submitted and approved details.

Nature Conservation and Protected Species

- 4.40 An Extended Phase 1 Habitat Survey undertaken by Wold Ecology Ltd, dated January 2017, has been submitted with the application. The survey concludes that a great crested newt population is present within 500m of the application site; 500m being the range that great crested newts may travel to a terrestrial habitat and /or other aquatic breeding site. The survey sets out that the terrestrial habitat within the application site is excellent for great crested newts as it provides daytime refugia, foraging area, hibernation areas and dispersal route ways. As such, the survey sets out that in order to comply with the requirements of the latest Natural England guidance, a presence or absence survey of all accessible watercourses within 500m of the application site must be undertaken. The survey should comprise four survey site visits during the period mid-March to mid-June, with at least two site visits during the period between mid-April to mid-May. As the extended phase 1 survey was undertaken outside this specific time period, a great crested newt presence/absence survey has not been completed.
- 4.41 The applicants have been advised that a presence or absence survey of all accessible watercourses within 500m of the application site must be undertaken at the outline application stage. However, the applicants have not submitted such a survey and consider such a survey could be conditioned and undertaken at a later stage.
- 4.42 In this respect, it is noted that the species protection provisions of the Habitats Regulations contain three "derogation tests" which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which could harm a European Protected Species. For development activities this licence is normally obtained after planning permission has been obtained. The three tests are that:
- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
 - there must be no satisfactory alternative; and
 - favourable conservation status of the species must be maintained.
- 4.43 Woolley v Cheshire East Borough makes it clear that, notwithstanding the licensing regime, a Local Planning Authority must also address these three tests when deciding whether to grant planning permission for a development which could harm a European Protected Species. A Local Planning Authority, failing to do so, would be in breach of Regulation 3(4) of the 1994 Regulations, which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions. Natural England consider it essential that appropriate survey information supports a planning application prior to determination and do not regard the conditioning of ecological surveys to a planning consent as an appropriate use of planning conditions.
- 4.44 Having regard to the above, in the absence of a presence or absence survey of all accessible watercourses within 500m of the application site, there is insufficient information for the Local Planning Authority to assess the impact of the proposed development on European Protected Species (specifically great crested newts). The proposal is therefore contrary to Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, the advice contained within the NPPF and The Conservation of Habitats and Species Regulations 2010.

Land Contamination

- 4.45 The application is supported by a Contamination Statement prepared by MM Planning. This has been assessed by the Council's Contaminated Land Consultant who raises no objections to the proposals at this stage, subject to five conditions relating to the investigation of land contamination, the submission of a remediation scheme, verification of remedial works and reporting of unexpected contamination. This is to ensure that as a minimum, a Phase 1 Desk Study is completed prior to the re-development of the site, since it has been used for agriculture and horticulture for a significant period of time, with the possibility of pesticides and other potentially contaminating substances being present on the site. Agricultural buildings have also been identified on site, which have the potential to have stored machinery, equipment and chemicals which have the potential to introduce contamination to the site.
- 4.46 Subject to the aforementioned conditions, it is considered that the proposal would be acceptable in respect of land contamination in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Affordable Housing

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

Recreational Open Space

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

Waste and Recycling

- 4.49 For developments of 4 or more dwellings developers must provide waste and recycling provision at their own cost and as such should the application be approved a condition could be imposed to secure a scheme for the provision of waste and recycling.

Legal Issues

4.51 Planning Acts

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

4.52 Human Rights Act 1998

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

4.53 Equality Act 2010

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

Financial Issues

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

5. CONCLUSION

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

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

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

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

6. RECOMMENDATION

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

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

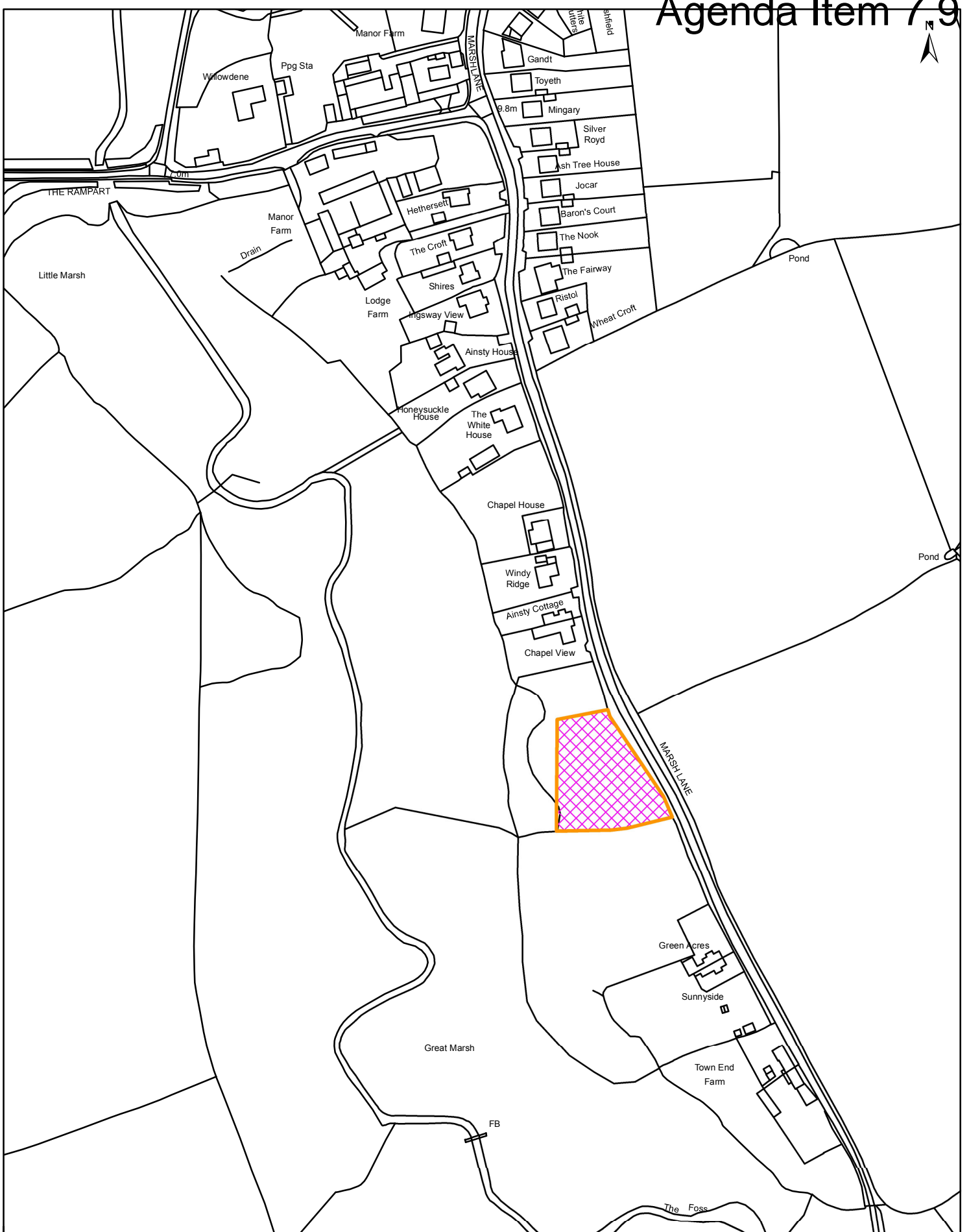
Contact Officer:

Jenny Tyreman
Senior Planning Officer

Appendices:

None.

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APPLICATION SITE

2017/0411/FUL

Land south of Chapel View, Marsh Lane, Bolton Percy

1:2,500

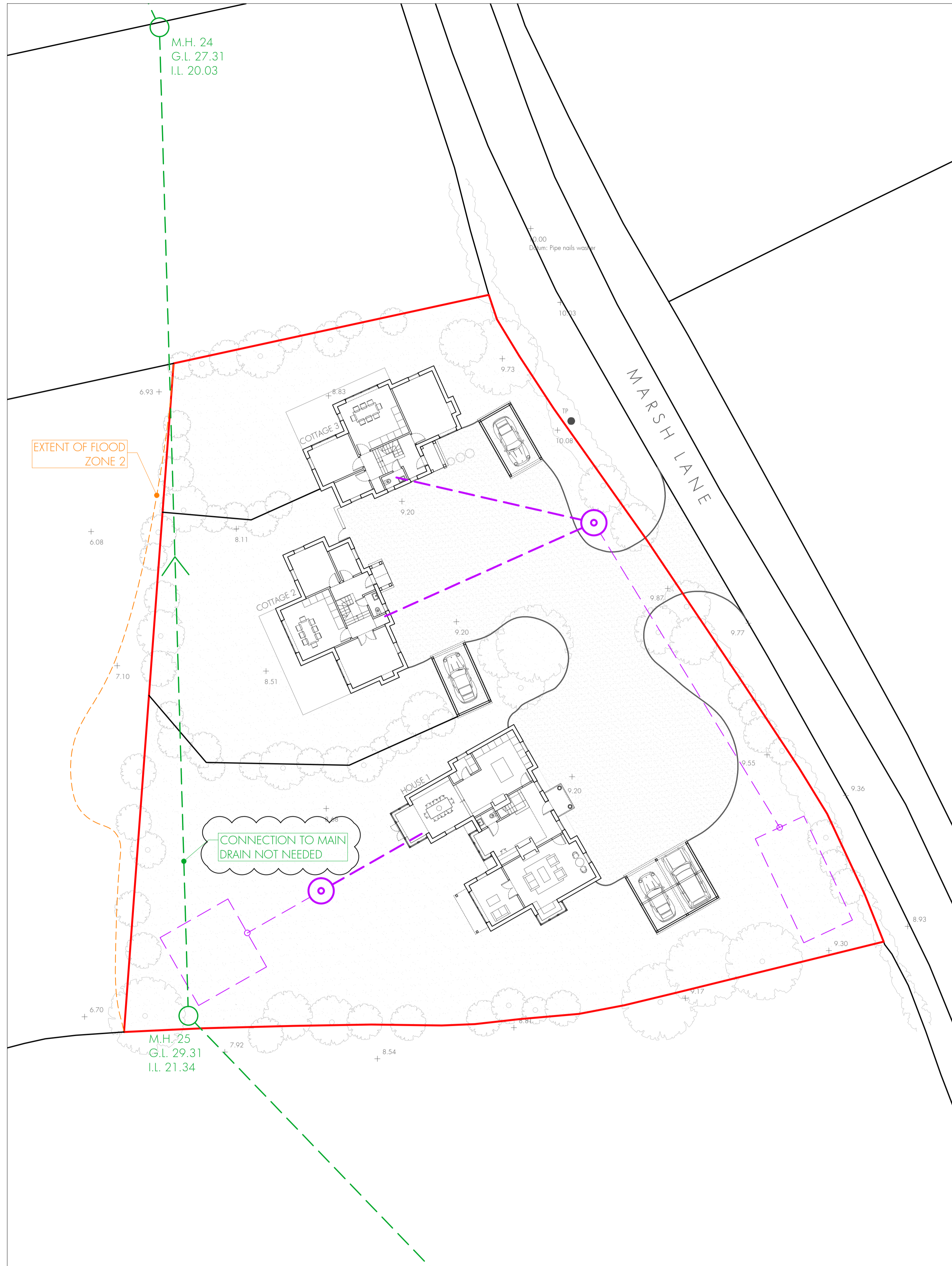


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LOCATION PLAN - 1/1250



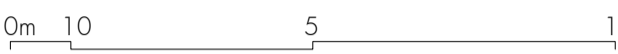
SITE PLAN - 1/200

NOTES:
 This drawing should not be scaled.
 The contractor is to verify all dimensions and conditions on site and report any discrepancies to the Architect immediately.
 This drawing is to be read in conjunction with all relevant documents and drawings.
 Copyright: Neil Tomlinson Architects 2017
 www.ntarc.co.uk

SCALE BAR 1:200



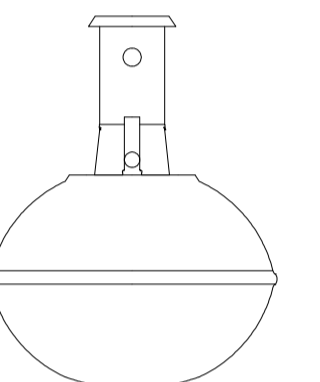
SCALE BAR 1:1250



DRAINAGE KEY:

- DRAINAGE FOR PROPOSED DWELLINGS
- SEPTIC TANK
- INSPECTION CHAMBER
- DRAINAGE FIELD

SEPTIC TANK



British Water Code of Practice - Flows and Loads:

- House 1:
 - 4 Bedrooms = 6 people = 2900L
 - Proposed Septic Tank = 3800L
- Cottage 2 + Cottage 3:
 - 3 + 3 Bedrooms = 10 people = 3500L
 - Proposed Septic Tank = 3800L

REGULATIONS & LEGISLATION:

Building Regulations 2010 - Drainage and waste disposal
 DEFRA General binding rules for small sewage discharges
 BS EN 12566-1 for septic tanks
 BS 6297:2007 for drainage fields
 British Water Codes of Practice

REV	DATE	DESCRIPTION	DRN	CHKD
A	03.11.2017	CONNECTION TO MAIN DRAIN NOT NEEDED SEPTIC TANK AND DRAINAGE FIELD ADDED	BSG	NT

KEY PLAN

NEIL TOMLINSON Architects

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DRAWING STATUS: FOR PLANNING

CLIENT: DAVID AND JULIA TOMLINSON
 PROJECT: Land South of Chapel View, Marsh Lane, Bolton Percy

DATE: November '17 SCALE: AS INDICATED DRAWN BY: BSG CHECKED BY: NT

DRAWING TITLE: PROPOSED LOCATION AND SITE PLANS

DRAWING NUMBER: TNH002-08-20-SP-001 REVISION: A

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To: Planning Committee
Date: 10 January 2018
Author: Fiona Ellwood (Planning Officer)
Lead Officer: Ruth Hardingham (Development Manager)

APPLICATION NUMBER:	2017/0411/FUL	PARISH:	Bolton Percy Parish Council
APPLICANT:	Mr David Tomlinson	VALID DATE: EXPIRY DATE:	24 April 2017 19 June 2017
PROPOSAL:	Erection of three dwellings		
LOCATION:	Land South Of Chapel View Marsh Lane Bolton Percy York		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee due the number of letters of representation in support of the scheme contrary to the recommendation for refusal.

1.0 INTRODUCTION AND BACKGROUND

The Site and context

- 1.1 The site is at the southern edge of the village. The site currently exists as (approximately) 2,600 sqm plot of land to the west of Marsh Lane. The site currently exists as an undeveloped plot of land part of which at the southern end is utilised by for log storage. The eastern, southern and western edges of the site are bordered by hedgerow and trees.
- 1.2 Full planning permission is sought for 3 dwellings utilising a shared single access to serve all 3 plots from Marsh Lane. There would be one 4 bedroom house and two 3 bedroom 'cottages'. Two would face the Lane whilst the third would be positioned facing into the site with side elevation to the lane. Parking and turning areas would be provided within the site and each dwelling would have gardens to the side and rear.
- 1.3 The site arrangement is stated by the applicant to be reminiscent of the 'loose courtyard plans' of the traditional small farmstead with the proposed building cluster

intended to respect the linear development of buildings along Marsh Lane whilst also adopting the irregularity of some open space and some building elements slightly set back from this line to give an overall broken linear form, in keeping with the rural grain of buildings within the Lane.

- 1.4 The materials are intended to reflect the local vernacular chosen with walls: 'York Handmade Old Clamp' brickwork, roof tiles in red clad interlocking pan tiles with red clay half round ridge tiles. Porch and Cart Lodge Garages: Green Oak framing and featherboard. Windows: white painted box sash windows. Driveways and yard: Pea shingle gravel generally with York Stone patio and pathway details.

Relevant Planning History

- 1.5 There are no previous applications relevant to the determination of this application.

2.0 CONSULTATION AND PUBLICITY

- 2.1 **NYCC Highways** -Initial response requiring visibility splay measurements to be shown.

Subsequent response on receipt of a plan with visibility information with no objections subject to several conditions.

- 2.2 **Yorkshire Water** -Waste Water -No observation comments are required from Yorkshire Water on the basis that surface water is discharging to soakaway.

- 2.3 **Ainsty (2008) Internal Drainage Board** - The Board does have assets adjacent to the site in the form of The Foss; this watercourse is known to be subject to high flows during storm events. Two conditions are recommended for drainage works to be agreed and for effective soakaways to be provided.

- 2.4 **North Yorkshire Bat Group**- No comments received

- 2.5 **NYCC Ecology Officer** -Views waited.

- 2.6 **Contamination Consultant**-
Standard conditions 1 -4 are recommended.

- 2.7 **Parish Council**
Objection on the following grounds;

1. A "Green Field" sit outside the village envelope and would set a precedence for other green belt land in the future.
2. The access road to the site is single track very narrow lane with no passing places with a bend so oncoming traffic cannot be viewed.
3. Existing problems with sewage overflowing from manholes in this area, to which the properties would have to be connected, causing a Health and Safety Risks. Water containing sewage overflows from the manholes behind all the properties in Marsh Lane which overlook the Ings, and in a flood situation stands there for many weeks at a time, due to the height of the River Wharfe causing the contaminated water not to drain away.

4. If this development is granted there would be major problems with site vehicles/deliveries getting to this site, and would have to park on the narrow road to unload, thus blocking it to other residents and emergency vehicles.

2.8 Publicity

The application was advertised by site notices and neighbor notification letters resulting in letters of objection from 4 households (5 individuals). There were 12 letters of support although these were from only 9 households. Comments made are summarized as follows;

Grounds of objection

- Congestion and access problems will result on Marsh lane which is single track with no footpath.
- Safety an amenity for residents on the land.
- Marsh lane backs directly to the flood plain. Flooding already occurs and causes raw sewage pouring onto the marshland every year. This will be exacerbated by additional dwellings
- There should be no more development outside the development limits on greenfield site like this
- Additional houses are not needed in the village.
- This is not infill as there is a gap to Chapel View and open land to the east.
- Queries about the validity of the applicants claim that previous dwellings existed on the site

Grounds of Support

- Site is outside development limits but had dwellings on until up to 60 years ago. The development would therefore restore its previous condition. Site is brownfield due to former dwellings. Foundations still exist (apparently).
- The enlarged entrance provides adequate turning and parking for vehicles. It would also assist service vehicles which have difficulty on Marsh Lane at present.
- Plans are sympathetic and modest
- Small addition to the housing stock of the village helps maintain a vibrant community
- If this scheme is not approved a different developer could come and cram houses onto the site for profit.
- Drainage has been considered and a responsible development is proposed.
- Marsh Lane is a dead end so this would not set a precedence for other development .
- Chapel View which marks the current end of the development limits is not a natural point to end the village. The boundary should more appropriately be extended to the ancient hedge and tree line to the south.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The site lies outside the development limits of Bolton Percy, a secondary Village in the Core Strategy. To the west the land slopes sharply down towards Great Marsh which is within Flood zone 3. However, the application site and falls within Flood Zone 1.

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:

SP1 - Presumption in Favour of Sustainable Development
SP2 - Spatial Development Strategy
SP5 - The Scale and Distribution of Housing
SP9 - Affordable Housing
SP18 - Protecting and Enhancing the Environment
SP19 - Design Quality

Selby District Local Plan

- 3.5 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
T1 - Development in Relation to Highway
T2 - Access to Roads

Other Policies/Guidance

- Five Year Supply Guidance Note for Applicants January 2017
- Affordable Housing Supplementary Planning Document, 2013
- Developer Contributions Supplementary Planning Document March 2007

4.0 APPRAISAL

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

1. The Principle of Development on the Site for Residential Use
2. Character and form of the area and the village.
3. Highways
4. Residential amenity
5. Nature conservation and protected species
6. Flood risk, drainage and climate change.
7. Land Contamination
8. Affordable housing
9. Other Matters

Principle of the Development

- 4.2 Policy SP1 of the Selby District Core Strategy Local Plan (2013) (CS) outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favor of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.
- 4.3 Policy SP2 of the CS sets out the long term spatial direction for the District and provides guidance for the proposed general distribution of future development across the District. The settlement hierarchy is ranked on the Principle Town of Selby, Local Service Centres, Designated Service Villages and smaller villages. The CS identifies Bolton Percy as a 'secondary village'. Policy SP2 sets out that a limited amount of residential development may be absorbed inside Development Limits of secondary villages where it would enhance or maintain the vitality of rural communities and which confirm to Policy SP4 of the Core Strategy.
- 4.4 Policy SP2A(c) states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances. The site lies outside the development limits of Bolton Percy village. The proposal does not constitute any of the forms of development set out under SP2A(c). In light of the above policy context the proposals for residential development are contrary to Policy SP2 of the Core Strategy.
- 4.5 At the time of writing this report, the Council can confirm that they have a five year housing land supply. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.
- 4.6 As such, substantial weight to the conflict with the development plan (and the related conflict with the intentions of the Framework) should be given in this case. This full proposal for 3 dwellings is on land that is outside of, but adjacent to, the defined Development Limits of Bolton Percy as defined in the adopted development plan. The proposal is therefore contrary to Policy SP2A(c) of the Core Strategy. The proposal should therefore be refused unless material considerations indicate otherwise.

Sustainability and levels of growth

- 4.7 Paragraph 197 of the NPPF sets out the presumption in favour of sustainable development in determining applications. Paragraph 150 of the NPPF sets out that Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities. Development that does not accord with an up to date plan will not normally constitute sustainable development.
- 4.8 When assessing the impacts of a housing scheme the effects on the settlements character, infrastructure capacity (including schools, healthcare and transport) and sustainability must also be considered.
- 4.9 In terms of sustainability, Bolton Percy is one of the smallest, least sustainable rural settlements in the district. The Core Strategy Background Paper No. 5 'Sustainability Assessment of Rural Settlements' ranks settlements to consider their relative sustainability using four indicators. These include size, basic local services, accessibility and local employment. The threshold for the survey was based on size of settlement with the smallest group having populations between 600 and 1100 (grouped 5th out of 5 ranges of settlements size). Bolton Percy falls below this level with a population of just over 300. Therefore Bolton Percy ranks well below the four categories of settlement identified across the district in terms of size and in this respect is one of the least sustainable settlement locations in the district. Added to this Bolton Percy lacks any of the four basic local services (shop, post office, school, and doctors) used as indicators of sustainability. The village is over 6km from the nearest local service of Tadcaster. It does have a pub and there is a bus stop with only limited services. However, future residents would be reliant on car use for access to shops, services, facilities and employment. The most likely location or satisfying these requirements would be Tadcaster, York or Selby. The nearest primary school is Appleton Roebuck. As such there would be a negative impact in terms of the environmental aspect of the proposals and this would weigh against the development.
- 4.10 In terms of levels of growth, CS policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability. This policy does not set a minimum target for individual Secondary Villages, but did set a minimum dwelling target for Secondary Villages as a whole of 170 dwellings. This target reflected planning permissions at that time (April of 2011), which have all been built out. Secondary Villages as a whole have already exceeded their minimum dwelling target set by Policy SP5 and it should also be noted that SP2 of the CS does not require Secondary Villages to accommodate additional growth through allocations.
- 4.11 According to the Councils statistics, to date, Bolton Percy has seen 0 (gross) dwellings built in the settlement since the start of the Plan Period (0 net) in April 2011 and has extant gross approvals for 9 dwellings (9 net), giving a gross total of 9 dwellings (9 net). However, from a recent site visit, it is understood that 2 dwellings have recently been completed. Taking into account the minimum dwelling target in Policy SP5, the scale of this individual proposal, at 3 dwellings, is not considered to be appropriate to the size and role of a settlement designated as a Secondary Village, when considered in isolation. In terms of the cumulative impact, it would amount to 16 dwellings total since the start of the plan period. Additional growth in

the secondary villages is not a requirement of the CS; moreover, the target for the secondary villages as a whole has already been reached.

- 4.12 The spatial strategy of the CS envisages only “limited” amounts of development “inside development limits” in secondary villages where it would enhance or maintain the vitality of rural communities. This proposal is outside the development limits and due to its scale and location would be an unsustainable level of housing development for the village which fundamentally undermines the spatial strategy. The proposal involves a part of a larger Greenfield site outside of the development limits and no acceptable justification for the development has been put forward. It would therefore conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth.

Impact of the Development on the character and form of the area and the village

- 4.13 Residential development in the village is contained within very clear and defined boundary limits set by the extent of the existing housing which flanks both sides of Marsh Lane on the south side of the village. Marsh Lane is narrow and rural in character. The existing housing development extends further south on the west side of the lane than the east in a ribbon form of dwellings fronting the road. Beyond the last house known as Chapel View there are no further dwellings and the narrow lane beyond this point is characterized by high hedges on either side enclosing open undeveloped land. The land on the west of the lane slopes sharply down away from the road towards a Site of Nature Conservation (SINC) which encompasses the Marsh areas along the Foss. On the East side of Marsh Lane, the last house is Wheat Croft beyond which is the open pastoral setting to the village which is part of the wider agricultural landscape round the village.
- 4.14 The proposed development would result in a substantial visual change in the landscape context as a result of the projection of the development into the currently undeveloped site. Due to its size and position it would not represent a natural rounding off. It would represent a further ribbon extension of the dwellings beyond Chapel View projecting the development of the village even further south into this rural lane. Moreover, there would be a gap between the application site and the development limits which are drawn close to the side elevation of Chapel View. There is no clear boundary to the side garden of Chapel View with shrub planting to the side leading out to a large area of mown grass merging in with this application site. As such there would be an intervening parcel of land outside of the development limits for which the land use is unclear.
- 4.15 It is noted that there are further dwellings to the south including Green Acres, and Sunnyside (a pair of semi-detached dwellings) and Town End Farm. However, these are well beyond the development limits of the village and are sporadic isolated dwellings in the countryside. This development would expand the settlement southwards, creating an additional block of development encroaching and jutting out into the rural open countryside location beyond the development limits at this southern end of the village. There is hedgerow to the road frontage and to the southern boundary of the application site. However, there are no clearly defined boundaries on the north or west sides. The proposal would create a new harsh urban development within a substantial open area of land which would not create a new logical or defensible edge to the settlement.

- 4.16 In terms of the layout, a single access is proposed onto Marsh Lane. Whilst this meets Highway requirements it results in a layout which is dominated by a substantial single joint area of hardstanding and parking at the front. This would create a harsh appearance at odds with the existing form, layout and character with the other dwellings on Marsh Lane which have individual accesses with small areas of hardstanding and landscaped front gardens.
- 4.17 The applicants comments are noted that the site arrangement is reminiscent of the 'loose courtyard plans' of the traditional small farmstead with the proposed building cluster intended to respect the linear development of buildings along Marsh Lane whilst also adopting the irregularity of some open space and some building elements slightly set back from this line to give an overall broken linear form, in keeping with the rural grain of buildings within the Lane. However, overall the development is considered to be a harmful encroachment into undeveloped rural land beyond the development limits of the village.
- 4.18 The applicants say that Historical maps of the site circa 1891 reveal that previously there were two buildings on the site almost exactly in the positions. Furthermore the oldest resident of Marsh Lane, remembers a house on the subject land in the 1940's. However, the old maps provided do indicate the presence of two small buildings with small curtilages which bear no comparison to the extent of development now proposed or the extent of the curtilage area now proposed. Moreover, these buildings have long since gone and the site has reverted back to Greenfield. As such they have no relevance to the assessment of the principle of development on this site today.
- 4.19 Overall it is considered that the development, due to its scale, location and extent would be a substantial encroachment into open countryside and does not represent a natural rounding off to the settlement. Moreover, the layout form and design of the scheme would not reflect the existing character layout and form of development in the village. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village contrary to the aims of Policies SP1, SP18 and SP19 of the SDCSLP, ENV 1 of the SDLP and with the NPPF.

Impact on Highway Safety

- 4.20 Highway requested a detailed plan showing turning areas. This has now been provided and the Highway Authority raise no objections to the scheme subject to a series of conditions. The scheme is now acceptable from a road safety stance.
- 4.21 The numerous comments from local residents are noted with respect to concerns about road safety. However, there is also support from nearby residents that this site will provide turning with suggestion that this would improve road safety on the lane. However, the turning would be entirely within the site on private land and as such would not be available for use by local residents. Notwithstanding this, Highway are satisfied the scheme is acceptable from a road safety perspective subject to conditions.
- 4.22 The Highway authority is satisfied with the revised layouts and raise no objections subject a list of suggested conditions. Having had regard to the above it is

considered that the scheme is acceptable and would not harm road safety conditions in accordance with policies ENV1(2), T1, T2 and T7 of the Local Plan and Paragraphs 34, 35 and 39 of the NPPF.

Impact on Residential Amenity

- 4.23 One of the twelve core planning principles of the NPPF is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. The key considerations in respects of residential amenity are considered to be the potential of the proposal to result in overlooking, overshadowing and overbearing.
- 4.24 The layout plan is spacious with adequate levels of privacy and amenity provided for future occupants without impacting on the living conditions of the occupants of nearby dwellings. The distance between the proposed dwellings and existing properties is more than the required minimums.
- 4.25 Comments have been received raising concerns over the noise and disturbance from construction. The Environmental Health Officer was not consulted on this scheme given the small scale of the development. Construction management plans are normally directed to larger scale schemes where there could be a significant and prolonged degree of disruption. However, if approved the development could be subject to a construction management plan (by condition) which would ensure that the amenity of local residents would be protected during the construction process and to minimize the impact of noise, vibration, dust and dirt on existing residential properties. As such, these concerns alone would not justify withholding planning permission.
- 4.26 It is therefore considered that the scheme is an appropriate design with respect to residential amenity which would ensure that no significant detrimental impact is caused to existing residents through overlooking, overshadowing or creating an oppressive outlook in accordance with policy ENV1(1) of the Local Plan and the NPPF.

Nature Conservation and Protected Species

- 4.27 Protected Species are protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of a protected species is a material planning consideration.
- 4.28 The application site is not on or near a formal designated protected site. However, it is in close proximity to a locally designated SINC. An Extended Phase 1 Habitat Survey March 2017 has been prepared by Wold Ecology Ltd. This points out that the proposed development is unlikely to impact upon European protected species or associated habitats but recommends a number of measures which should be adopted to ensure potential adverse impacts to wildlife are avoided. In addition it is was noted that a small population of Great Crested Newts have been recorded during spring 2016 in a pond within 160m of the proposed site. Development works and construction could adversely impact and therefore mitigation measures are suggested within the report which includes measures to protect GCN's during development and to ensure the site can support a GCN population of an equivalent size in its post development state. It is suggested this could be either in the Great

Marsh Woodland (outside the application site) or within the application site itself. More detailed advice on these aspects is given. As such a Natural England License must be obtained prior to any building or clearance works on site. Furthermore potential discharge of foul water in the adjacent watercourse should be addressed by a land drainage consultant.

- 4.29 The NYCC Ecologist has been consulted. Views are awaited and an update will be given at committee.

Flood Risk, Drainage and Climate Change

- 4.30 The application site is located in Flood Zone 1, which comprises land assessed as having a less than 1:1000 annual probability of flooding. It is therefore low risk and is considered to be at a low probability of flooding.
- 4.31 Although there are local objections and concerns about local flooding, the application is accompanied by a Flood Risk Assessment which examines potential flood risk as above and considers the options for Surface water drainage and Foul water drainage. The scheme would attenuate surface water flows to restrict the flow of water to greenfield rate. The Environment agency, Yorkshire Water and the IDB raise no objections subject to a series of conditions and informative which could be attached.

Land Contamination

- 4.32 The Council's Contamination Consultant (WPA) was and states that The Phase 1 report provides a good overview of the site's history, its setting and its potential to be affected by contamination. However the contamination risk is more likely to be moderate (as opposed to very low), due to the potential presence of made ground and the evidence of burning / bonfires. Standard conditions are therefore recommended.
- 4.33 The proposals, subject to conditions would therefore be acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

Recreational Open Space

- 4.34 Policy RT2 of the Selby Local Plan deals with the provision of recreational open space and this should be afforded significant weight in addition to the Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and paragraphs 70 and 73 of the NPPF.
- 4.35 However, as Policy RT2 only requires recreational open space to be provided for schemes of 5 or more dwellings, no provision is required in respect of the proposal. The application is therefore acceptable without a contribution for recreational open space and is therefore in accordance with Policies RT2 of the Local Plan, Policy SP9 of the Core Strategy and the NPPF.

Affordable Housing

- 4.36 Core Strategy Local Plan Policy SP9 alters the threshold for a maximum of 40% on site provision to 10 dwellings or more or site area of 0.3 hectares and for 1 - 9 dwellings a 10% contribution is required. In this context it is considered that limited weight should be afforded to the Developer Contributions SPD (2007) in respect of affordable housing and that substantial weight should be attributed to policy SP9 of the Core Strategy Local Plan and the accompanying Affordable Housing SPD.
- 4.37 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.
- 4.38 Planning Acts
This application has been determined in accordance with the relevant planning acts.
- 4.39 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.
- 4.40 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

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

5.0 CONCLUSION

The site is outside the development limits of Bolton Percy and the proposed scheme does not fall within any of the acceptable forms of development included in Policy SP2 (c) of the CS. It would be a substantial encroachment into a Greenfield site in the open countryside and would not represent a natural rounding off to the settlement. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village.

Moreover, the layout and form of the development would not reflect the existing layout and form of nearby development and would result in a harsh appearance at odds with the existing form, layout and character with the other dwellings on Marsh Lane due to position and scale of the dwellings and the singles access with scale and position of the hard standing at the front of the site.

The proposal for 3 dwellings is not considered to be appropriate to the size and role of Bolton Percy, a settlement, which is secondary Village in the Core Strategy. There are already extant approvals on smaller sites for a total of 9 dwellings and

capacity for further residential development already exists in the village. The expansion of the village beyond the development limits would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. The proposal does not fall within any of the categories of development set out in Policy SP2 (c) would therefore conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth.

6.0 RECOMMENDATION

6.1 This application is recommended to be Refused for the following reasons:

- 01 The proposal for 3 dwellings is not considered to be appropriate to the size and role of Bolton Percy, a settlement, which is secondary Village in the Core Strategy. There are already extant approvals on smaller sites for a total of 9 dwellings and capacity for further residential development already exists in the village. The expansion of the village beyond the development limits would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. The proposal does not fall within any of the categories of development set out in Policy SP2 (c) would therefore conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth.
- 02 The site is outside the development limits of Bolton Percy and the proposed scheme does not fall within any of the acceptable forms of development included in Policy SP2 (c) of the CS. It would be a substantial encroachment into a Greenfield site in the open countryside and would not represent a natural rounding off to the settlement. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village.
- 03 The layout and form of the development would not reflect the existing layout and form of nearby development and would result in a harsh urban appearance dominated by frontage hardstanding and parking areas which would be at odds with the existing form, layout and character with the other dwellings on Marsh Lane due to position and scale of the dwellings and the singles access with scale and position of the hard standing at the front of the site.

Contact Officer:

Fiona Ellwood
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Appendices:

None.

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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