



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY, 7 FEBRUARY 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), 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 10 January 2018.

6. Reasons for Planning Decisions - P/17/2 (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. Validation Checklist for Planning and Related Applications - P/17/3 (Pages 13 - 16)

The Committee is asked to note the intention to undertake a review of the Council's local information requirements in respect of validating planning and related applications leading to the adoption of a revised "Local List" by the Director of Economic Regeneration and Place. The review will include a six-week period of public consultation.

8. Planning Applications Received (Pages 17 - 18)

8.1. 2017/0443/REM - Land Adj to Station Mews, Church Fenton, Selby (Pages 19 - 32)

8.2. 2017/1228/FULM - Land Off East Acres, East Acres, Byram, Knottingley (Pages 33 - 48)

8.3. 2017/1269/FUL - Land Adj to Little Common Farm, Biggin Lane, Biggin (Pages 49 - 64)

G. Marshall

Gillian Marshall, Solicitor to the Council

Dates of next meetings (5.00pm)

Wednesday, 7 March 2018

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

Planning Committee
Wednesday, 7 February 2018

Recording at Council Meetings

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

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Minutes

Planning Committee

Venue:	Council Chamber
Date:	Wednesday 10 January 2018
Time:	2.00pm
Present:	Councillors D Peart (Vice Chair in the Chair), Mrs E Casling, I Chilvers, R Packham, D Peart, I Reynolds, P Welch and Mrs D White.
Officers present:	Kelly Dawson, Senior Solicitor, Phil Crabtree, Interim Head of Planning; Diane Wilson, Planning Officer (for minute item 51.6); Louise Milnes, Principal Planning Officer (for minute item 51.1); Jenny Tyreman, Senior Planning Officer (for minute items 51.2, 51.4 and 51.5), Yvonne Naylor, Principal Planning Officer (for minute items 51.7 and 51.8), Fiona Ellwood, Principal Planning Officer (for minute item 51.3) and Victoria Foreman, Democratic Services Officer
Public:	11
Press:	0

45. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors J Cattanach, M Jordan and C Pearson.

Councillor I Reynolds was in attendance as a substitute for Councillor J Cattanach and Councillor Mrs D White was in attendance as a substitute for Councillor C Pearson.

46. DISCLOSURES OF INTEREST

Councillor I Reynolds declared a non-pecuniary interest in relation to applications 2016/0673/FUL and 2016/0675/LBC – Windmill, Old Road, Appleton Roebuck, as he was a Managing Partner at Stephenson's, whose auctioneers had previously marketed the site. Councillor Reynolds confirmed that he had no involvement with the marketing of the sites, and as such had no financial interests in relation to the

applications, but would not take part in the debate or vote on the decision for these applications.

Councillor J Deans declared a non-pecuniary interest in application 2017/0411/FUL – Land South of Chapel View, Marsh Lane, Bolton Percy as he was the former Clerk to Kelfield Parish Council. Councillor Deans explained that comments had been submitted on behalf of the Parish Council in his name, in his capacity as an employee of the Parish, but did not reflect any personal views on the application as a member of the Planning Committee.

47. CHAIR’S ADDRESS TO THE PLANNING COMMITTEE

The Chairman informed the Committee that application 2016/1322/OUTM – Colton Lane, 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. 2016/1337/OUTM – School Road, Hemingbrough
2. 2017/0701/OUT – Yew Tree House, Main Street, Kelfield, York
3. 2017/0411/FUL – Land South of Chapel View, Marsh Lane, Bolton Percy
4. 2017/0312/OUT – Land East of Richardson Court, Hambleton, Selby
5. 2017/0886/FUL – Villino, 3 Lakeside Mews, Riccall Lane, Kelfield
6. 2017/0919/FUL – Old Street Farm, Moor Lane, Catterton, Tadcaster
7. 2016/0673/FUL – Windmill, Old Road, Appleton Roebuck
8. 2016/0675/LBC – Windmill, Old Road, Appleton Roebuck

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

48. 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.

49. MINUTES

The Committee considered the minutes of the Planning Committee meeting held on 6 December 2017.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 6 December 2017 for signing by the Chairman.

50. REASONS FOR PLANNING DECISIONS

The Interim Head of Planning presented the report and asked the Committee 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.

The Committee felt they required more information regarding the proposed changes to the Code of Practice and the formulation of reasons for refusal, and as such did not feel in a position to take a decision on the matter at the meeting.

Members requested a short training session immediately before the next meeting of the Committee on 7 February 2018.

It was proposed and seconded that consideration of the report be deferred for consideration by the Committee.

RESOLVED:

- 1. To DEFER consideration of the report until the next meeting of the Committee on 7 February 2018.**
- 2. To ask Officers to arrange a short training session before the next meeting on 7 February 2018, at which Members would be given more information about the implications of the proposed changes to the Code of Practice and formulation of reasons for refusal.**

51. PLANNING APPLICATIONS RECEIVED

The Committee considered the following planning applications:

51.1 Application: 2016/1337/OUTM

Location: School Road, Hemingbrough, Selby

Proposal: Outline application for residential development of up to 21 dwellings (with all matters reserved) on land to the east of School Road, Hemingbrough

The Principal Planning Officer presented the application that had been brought back before the Committee following consideration at 14 June 2017 meeting, where Members resolved to support the Officer recommendation to grant planning permission subject to the signing of a s106 agreement.

The permission was not issued prior to the confirmation of the Council's 5 Year Housing Land Supply position, which was endorsed on 24 July 2017, and is as set out in the 2017-2022 Five Year Housing Land Supply Statement. Subsequent to this on 15 November 2017, the Director of Economic Regeneration and 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 – 20 September Update.

As such, the Committee were asked to reconsider the application in light of this material change.

The Committee was informed that the application was an outline application for residential development of up to 21 dwellings (with all matters reserved) on land to the east of School Road, Hemingbrough.

In reference to the officer update note, the Planning Officer explained that the agent had submitted comments in respect of the Committee report, and as such Members had been provided with points of clarity on the comments.

Jan Strelczenie, Chair of Hemingbrough Parish Council spoke in objection to the application.

Craig Stockley, agent, spoke in support of the application.

Some Councillors expressed reservations about the Officer's recommendation for refusal, but acknowledged the impact of the Council's 5 Year Housing Land Supply and the subsequent changes this had to material considerations of the application.

It was proposed and seconded that the application be refused for the reasons set out in paragraph 6.0 and the Officer Update.

RESOLVED:

To REFUSE the application for reasons set out in paragraph 6.0 of the report and the Officer Update.

51.2 Application: 2017/0701/OUT

Location: Yew Tree House, Main Street, Kelfield

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

The Senior Planning Officer presented the application that had been brought before the Committee as it had been called in by Councillor Mrs E 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 raised material planning considerations, and Officers would otherwise determine the application contrary to these representations.

The Committee was informed that the application was for outline permission on a site which included a garage, farm building and a former house, and was for the erection of residential development (all matters reserved).

The Committee noted that the scheme before Members was the resubmission of a previously refused scheme; the latest application was for a smaller site area. The appeal on the prior refusal was to be considered by the Planning Inspector the following week.

In reference to the officer update note, the Planning Officer explained that a further letter of objection had been received with concerns raised in respect of the principle of the proposed development outside the development limits of a secondary village, which was not sustainable.

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

The Committee discussed the issues around development outside development limits, and felt that the proposed scheme was sympathetic to the local area and would be an improvement to what was currently an untidy site.

Members were of the opinion that the applicant should be given the opportunity to continue to work with Officers to redesign the scheme, with a view to resubmitting a revised application that was more acceptable to the site boundaries, took account of any permitted development rights relating to former agricultural buildings and development limits.

It was proposed and seconded that the application be deferred.

RESOLVED:

To DEFER the application in order to give the applicant the opportunity to work with Officers to submit a revised plan more acceptable to the site boundaries and development limits.

51.3 Application: 2017/0411/FUL

Location: Land South Of, Chapel View, Marsh Lane, Bolton Percy

Proposal: Erection of three dwellings

The Planning Officer presented the application that had been brought before the Committee due to the number of letters of representation in support of the scheme contrary to the recommendation for refusal.

The Committee was informed that the application was for the erection of three dwellings.

In reference to the officer update note, the Planning Officer explained that further comments and consultation responses had been received from NYCC Ecology and Bolton Percy Parish Council.

David Tomlinson, applicant, spoke in support of the application. A series of photographs had been circulated at the meeting to the Committee on behalf of the applicant.

The Committee felt that the context of the development, on a greenfield site and in relation to the current settlement, was not appropriate.

It was proposed and seconded that the application be refused.

RESOLVED:

To REFUSE the application for reasons set out in paragraph 6.0 of the report.

51.4 Application: 2017/0312/OUT

Location: Land East of Richardson Court, Hambleton, Selby

Proposal: Outline application for residential development with all matters reserved

The Senior Planning Officer presented the application that had been brought before the Committee as Officers considered that although the proposal is contrary to the provisions of the Development Plan there are material considerations which would justify approving the application.

The Committee was informed that the application was for outline permission for residential development with all matters reserved.

The Committee noted that whilst the application site was immediately adjacent to development limits the scheme would not be visually prominent. Members also acknowledged the need for bungalows in the District to house an aging population.

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

Councillors expressed their support for the scheme and for the use of bungalows on the site.

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

RESOLVED:

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

51.5 Application: 2017/0886/FUL

Location: Villino, 3 Lakeside Mews, Riccall Lane, Kelfield

Proposal: Proposed conversion of existing outbuilding to a dwelling (Use Class C3)

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

The Committee was informed that the application was for the conversion of an existing outbuilding to a dwelling (Use Class C3).

The Committee noted that there had been no letters of representation received on the application.

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

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

RESOLVED:

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

51.6 Application: 2017/0919/FUL

Location: Old Street Farm, Moor Lane, Catterton, Tadcaster

Proposal: Proposed conversion of existing barn to create 1 no. dwelling

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 that would justify approving the application.

The Committee was informed that the application was for the proposed conversion of an existing barn to create 1 no. dwelling.

The Committee noted that the other barn conversions on the site had all been given approval for development from agricultural use to residential dwellings.

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

The Committee expressed concern as to the condition of the track leading to the site, and agreed that an additional condition relating to the resurfacing of the road as part of the development should be included.

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 and an additional condition that the road to the site be resurfaced as part of the development.

51.7 Application: 2016/0673/FUL

Location: Windmill, Old Road, Appleton Roebuck

Proposal: Proposed conversion of windmill to form a dwelling with new extension

The Principal 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. Members noted that an associated Listed Building Application was also being considered at the meeting under reference 2016/0675/LBC.

The Committee was informed that the application was for the proposed conversion of a windmill to form a dwelling with a new extension.

The Committee noted that there had been a previous planning permission granted for use as a holiday cottage, but work on this had not commenced.

Members noted that the scheme was considered to be appropriate and that objections were not considered to be sufficient to warrant refusal.

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.

51.8 Application: 2016/0675/LBC

Location: Windmill, Old Road, Appleton Roebuck

Proposal: Listed building consent for the proposed conversion of windmill to form a dwelling with new extension

The Principal Planning Officer presented the application that had been brought before the Committee as it was the Listed Building application that accompanied application 2016/0675/FUL – Windmill, Old Road, Appleton Roebuck which was also being heard at the Planning Committee meeting; it was good practice to consider both applications together.

The Committee was informed that the application was for listed building consent for the proposed conversion of a windmill to form a dwelling with a new extension.

The Committee noted that the windmill was a Grade II listed structure supported by a heritage statement, and that the proposed scheme (designed with Historic England) was considered to be acceptable with the proposed conditions attached.

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.

The meeting closed at 4.20pm.



Public Session

Report Reference Number: P/17/2

Agenda Item No: 6

To: Planning Committee
Date: 7 February 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

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Appendices:

None.



Public Session

Report Reference Number: P/17/3

Agenda Item No: 7

To: Planning Committee
Date: 7 February 2018
Author: Andrew Martin, Principal Planning Officer
Lead Officer: Dave Caulfield, Director of Economic Regeneration and Place

Title: Validation Checklist for Planning and Related Applications

Summary:

Having the right information is key to the efficient validation and determination of planning and related applications. National information requirements are established by statute, whereas local information requirements are prepared and published by local planning authorities in a "Local List" which should be reviewed at least every 2 years.

Selby District Council's current Local List dates from 2011. It is out-of-date and contributes to delays in both the validation and determination of applications. Updating it to reflect current planning policy and associated guidance is a specific action in the Planning Service Review. An up-to-date Local List will minimise disputes over validation and will ensure that applications contain all of the information necessary to address the relevant planning considerations. This aids transparency and enables local communities to engage more fully with the process. This responds to a particular concern raised by Town and Parish Councils during the review.

A first draft of a revised Local List will shortly be issued for public consultation. A final draft will be recommended to the Director of Economic Regeneration & Place for adoption.

Recommendation:

- i. That Members note the intention to undertake a review of the Council's local information requirements in respect of validating planning and related applications leading to the adoption of a revised "Local List" by the Director of Economic Regeneration and Place. The review will include a six-week period of public consultation.**

Reasons for recommendation

The Council's existing "Local List" needs updating to ensure that applications continue to be validated and determined as efficiently as possible.

1. Introduction and background

- 1.1. The determination of planning and related applications can require applicants to supply significant amounts of information to address planning policies and associated guidance. The range of information required has expanded considerably over the years as the planning system has consolidated its role in delivering sustainable growth. The essential requirements to make an application valid are set out by statute in national information requirements, but a far greater amount of information is often required to address specific local policies. This remains the responsibility of individual local planning authorities, who are encouraged to publish lists of local information requirements.
- 1.2. In North Yorkshire, validation requirements for applications relating to County Matters – minerals, waste and associated developments – are published by the County Council and the district councils publish separate lists relating to all other application types. Selby District Council's current Local List dates from 2011 and needs updating.

2. The Report

- 2.1. For a planning application to be valid it needs, as a minimum, to: (1) be made on a form published by the Secretary of State (or a form to substantially the same effect); (2) be accompanied by the correct fee; and (3) meet a number of national information requirements set out in The Town and Country Planning (Development Management Procedure) (England) Order 2015. The national information requirements include: (1) plans and drawings; (2) an ownership certificate and agricultural land declaration; and (3) in many cases, a Design and Access Statement.
- 2.2. Many applications also require additional information to address specific policy requirements and/or other material planning considerations. Examples of this include Flood Risk Assessments and information in respect of land contamination. The National Planning Framework (NPPF) acknowledges that the right information is crucial to good decision-taking, and to avoid delays it encourages applicants to discuss what information is needed with the local planning authority and expert bodies as early as possible. The NPPF also states that local planning authorities should publish a list of their local information requirements. A "Local List" that clearly sets out what is required, and why, can improve the speed and quality of decision-taking.
- 2.3. The NPPF is also clear that local information requirements should be proportionate to the nature and scale of development proposals and that planning authorities should only request supporting information that is relevant, necessary and material to the application in question. The "drivers"

behind Local Lists should be statutory requirements, policies in the National Planning Policy Framework or development plan, or published guidance that explains how adopted policy should be implemented. The validation and determination of an application should not be delayed through lack of information that does not relate directly to the national information requirements or a properly prepared Local List.

- 2.4. To remain relevant, Local Lists should also be regularly reviewed. The Government's Planning Practice Guidance is clear that local information requirements have no bearing on whether a planning application is valid unless they are set out on a Local List which has been published on a local authority's website less than 2 years before an application is submitted. In practice, many local information requirements are acknowledged as valid whether they appear on a list or not; applicants recognise that their proposals are likely to fail fundamental policy tests without the information being provided. Nevertheless, an up-to-date Local List provides clarity and is essential in resolving any disputes.
- 2.5. Selby District Council's current Local List dates from 2011. It is out-of-date and contributes to delays in both the validation and determination of applications. Updating it to reflect current planning policy and associated guidance is a specific action in the Planning Service Review. An up-to-date Local List will minimise disputes over validation and will ensure that applications contain all of the information necessary to address the relevant planning considerations. This aids transparency and enables local communities to engage more fully with the process. This responds to a particular concern raised by Town and Parish Councils during the review. Taking all of this into account officers have now prepared a draft revised Local List.
- 2.6. The Government's Planning Practice Guidance states that where a local planning authority considers that changes to its Local List are necessary, the proposals should be issued to the local community, including applicants and agents, for consultation.
- 2.7. Selby's draft revised Local List will shortly be issued for a six-week consultation. This will be announced on Selby's website. Copies of the draft will be sent to Members, regular applicants, every agent recorded on the Council's application software and every town and parish in the district. A Consultation Response Form will be provided to encourage participation. And a regular Planning Stakeholder Forum planned for February will provide a further opportunity for discussion and feedback.
- 2.8. Consultation responses will be summarised in a report and any amendments to the draft Local List made in response to comments received will be highlighted. A recommendation for adoption will then be put before the Director of Economic Regeneration & Place. The revised Local List will be published on the Council's website. A further report will be brought to the Planning Committee at that time explaining the changes.

3. Legal/Financial Controls and other Policy matters

Legal Issues

- 3.1. The contents of the draft Local List that will be issued for consultation have been amended in the light of legal input. A final draft revised Local List, taking into account responses to public consultation, will be recommended to the Director of Economic Regeneration & Place for adoption in accordance with the Council's constitution.

Financial Issues

- 3.2. An up-to-date Local List will lead to increased efficiency in the registration and validation of planning and related applications.

Impact Assessment

- 3.3. It is not anticipated that updating the Local List will lead to discrimination or inequality in respect of any particular groups. Nor will it impact upon human rights.

4. Conclusion

- 4.1. This report has been brought to Committee so that members are aware of the process that will shortly begin to review and update the Council's local information requirements for planning and related applications. This is key document and keeping it up-to-date helps to ensure a speedy and efficient service. A draft revised list will shortly be issued for consultation. A final draft, incorporating responses to the consultation, will be recommended to the Director of Economic Regeneration & Place for adoption.

5. Background Documents

Validation Requirements for Planning and Other Applications Submitted Under The Town And Country Planning Acts – April 2011.

Draft Local Information Requirements for Planning and Other Applications Submitted Under The Town And Country Planning Acts – February 2018.

Contact Officer:

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Selby District Council
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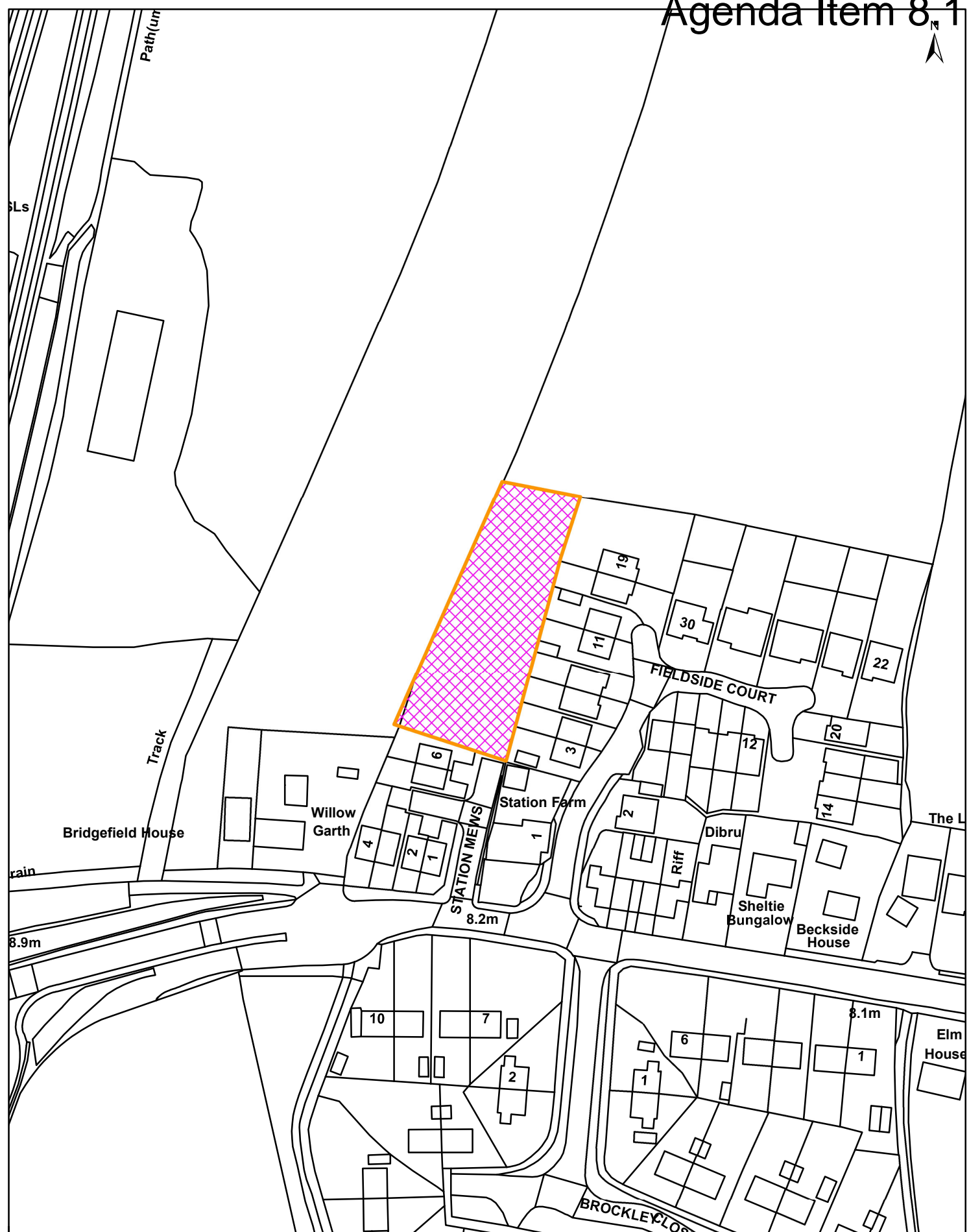
Agenda Item 8

Items for Planning Committee

7 February 2018

Item No.	Ref	Site Address	Description	Officer	Page
8.1	2017/0443/REM	Land Adj to Station Mews, Church Fenton, Selby	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)	KETH	23 - 34
8.2	2017/1228/FULM	Land Off East Acres, East Acres, Byram, Knottingley	Section 73 to vary condition 10 (10% Energy) of approval 2016/0831/FUL: Development on scrub land to provide 29 dwellings accommodating 1,2,3 and 4 bedrooms in a mix of semi-detached and terraced houses	ANRA	35 - 48
8.3	2017/1269/FUL	Land Adj to Little Common Farm, Biggin Lane, Biggin	Proposed erection of a six bedroom detached dwelling with integral garage	KETH	49 - 62

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APPLICATION SITE

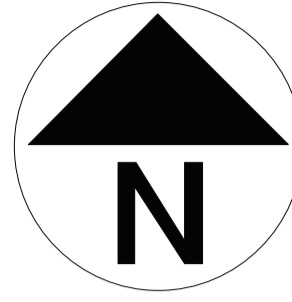
Station Mews, Church Fenton
2017/0443/REM

1:1,250



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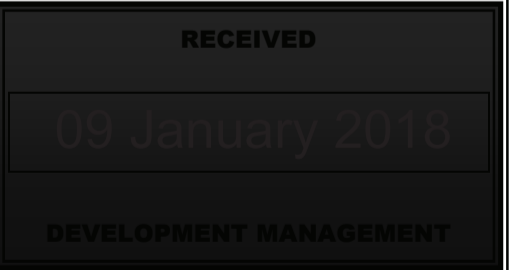


Revisions
 Q 03/01/18 CS Plot 5 garage removed.

**AMENDED
 DRAWING**

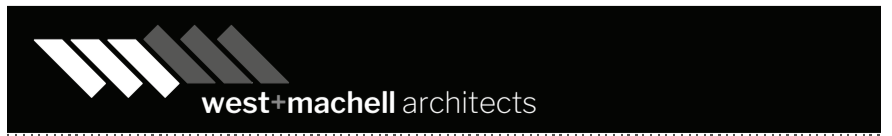
**AMENDED
 DRAWING**

Page 21



KMRE group Approval
Church Fenton Phase 2
Site Layout Plan

3304 (1)002 Q
 1:200 drawn/checked date
 @A1 CO / SG 06/02/2017



1 Northwest Business Park Servia Hill Leeds LS6 2QH
 Tel: 0113 2461746
 email: architects@westandmachell.co.uk www.westandmachell.co.uk

1 Site Layout Plan
 Scale: 1:200

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To: Planning Committee
Date: 7 February 2018
Author: Mr Keith Thompson (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Development Manager)

APPLICATION NUMBER:	2017/0443/RE M 8/62/282A/PA	PARISH:	Church Fenton Parish Council
APPLICANT:	KMRE Group	VALID DATE: EXPIRY DATE:	17 May 2017 12 July 2017
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)		
LOCATION:	Land Adj To Station Mews Church Fenton Selby North Yorkshire		
RECOMMENDATION:	APPROVE		

This application has been brought before Planning Committee due to there being more than 10 objections to the proposal.

The application was deferred at the December planning meeting for a site visit which will have been undertaken before this meeting (6 February). Revised plans have been received and the Committee will be updated on any comments received on the re-consultation at the meeting as the Consultation will not be completed in advance of the deadlines for the completion of this Report. Amended plans were submitted by the applicant to improve the separation distance between the gable wall of Plot 5 and the rear of 17 Fieldside Court.

1. INTRODUCTION AND BACKGROUND

Site and Context

1.1 The application site comprises a rectangular shaped parcel of grassed field that lies

adjacent to houses and is outside the development limits of Church Fenton.

- 1.2 The eastern perimeter has a timber panel fence circa 1.7m high and a hedge, the northern and western perimeters have a post and rail fence some 1.2m high and the southern boundary has a timber panel fence 1.6m high.
- 1.3 Church Fenton Railway Station lies a short walk from the site to the west.
- 1.4 Vehicular access to the site would be taken off Station Road via Station Mews.

The proposal

- 1.2 The application is submitted for Reserved Matters 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).

Relevant Planning History

- 1.3 Application Reference 2016/0505/OUT was permitted 08.09.2016, which granted outline planning permission for the erection of 5 new dwellings on the site, with access agreed and all other matters reserved. The Outline consent includes a series of conditions on contaminated land, surface water drainage, waste/recycling provision, highway works and piled development and included indicative plans showing that the site could be developed for 5 units.

2.0 CONSULTATION AND PUBLICITY

The application was advertised in the local press as a departure from the Development Plan, neighbour notification letters were sent and a site notice was erected.

Amended plans have been received changing the house type for plot 5 by reducing the size and moving it further away from the shared boundary with Fieldside Court gardens. The publicity on these plans expires on 25th January 2018 and Members will be updated on the comments made as a result of the consultation at the meeting.

There have been previous objections to the development citing the following concerns:

- Principle of development;
- Overlooking of houses on Station Mews and Fieldside Court;
- Affect light to houses in Fieldside Court;
- Consultation has not been wide enough;
- Overdevelopment of the site;
- Out of character with the village;
- Houses would affect views from the existing properties;
- Contaminated land report has not reviewed rumours of previous contamination of the site;
- Surface water run off concerns;
- Cause noise pollution, dirt and dust issues;

- Insufficient parking provision; and
- Flood risk concerns.

2.1 NYCC Highways

No objection and no conditions recommended, although there are highways conditions on the outline consent pertaining to access design and the outline consent agreed the access point.

2.2 Yorkshire Water

No comments received on the application.

2.3 Selby Area Internal Drainage Board

No objection (A surface water condition is on the Outline permission).

2.4 Church Fenton Parish Council

Initial comments on the scheme noted an “Objection” to the development on the basis of the following grounds:

- Overdevelopment,
- Loss of amenity to residents in Fieldside Court,
- Parking a problem,
- Out of character.

3.0 **SITE CONSTRAINTS AND POLICY CONTEXT**

Constraints

- 3.1 The application site lies outside the defined boundary of Church Fenton with access to the site taken through Station Mews from Station Road. The site is located adjacent to the defined village development boundary.
- 3.2 The site is within Flood zone 1 which is 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. 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:

- 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)".

The relevant Selby District Local Plan Policies are:

- ENV1 - Control of Development

Other Documents

Church Fenton Village Design Statement February 2012.

4.0 APPRAISAL

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

1. Principle of development
2. Scale, Layout and External Appearance
3. Landscaping
4. Impact on Residential Amenity

Principle of Development

4.2 Objections have been received with regards to the location of the development and being located outside defined development limits. The application site was subject to an outline approval for the development of 5 dwelling with all matters except access reserved granted in September 2016 under Application Reference 2016/0505/OUT. Therefore, the principle of development and the access approach for the development has been established through the outline permission and only the reserved matters noted in the description of development can be considered at this stage by Members.

Scale, Layout and External Appearance

- 4.3 The application has been submitted with scale, layout and external appearance being sought for approval.
- 4.4 Plot 5 would be two storey unit, with the remaining plots being 3 storeys units. Within the 3 storey units the ground floors would include living and dining spaces and integral garage space. The first and second floors (for plots 1-4) would occupy four bedrooms and bathrooms
- 4.5 The houses would be constructed using red brick walls and grey tile roof and there would be on-site parking to the front of each property and garden space to the front and enclosed garden to the rear.
- 4.6 The site lies adjacent to a group of houses on Station Mews to the south which contains three pairs of semi-detached houses two storey high. There is a larger housing estate located to the east of the site which comprises semi-detached, detached and a terrace of houses. The houses immediately adjacent to the site on Fieldside Court include two storey and three storey semi-detached houses. The submitted cross section plans indicate that the proposed height of the three storey plots would not be taller than these three storey houses (nos. 7, 9, 17 and 19).
- 4.7 The Church Fenton Village Design Statement refers to the Fieldside Court development and describes the development of the houses and density. It is considered that it would be appropriate in this case to accept a design that relates to the immediate setting rather than impose the style of houses on Main Street which were each developed one at a time and using a mix of materials. The houses surrounding the site are post 2000 and the proposed design, scale and appearance of the houses proposed in this scheme would not conflict with the design of development of houses nearby.
- 4.8 It would be reasonable and necessary to seek to see samples of materials prior to commencement of development and this can be secured by condition.
- 4.9 Objections received refer to the lack of parking spaces on the site and for each plot. These comments are noted, but each plot (excluding plot 5 which has off street parking) indicates an integral parking space through provision of a garage and two off street parking spaces for each house providing a total of three parking spaces for each plot. This is considered sufficient for a four bedroom dwelling. Car parking dimensional requirements are 4.8m x 2.4m and the hardstanding for each dwelling would permit two spaces using these dimensions.
- 4.10 Given the mixed character of the area and the noted context it is considered, that the proposed scale, layout and external appearance of the dwellings would be sympathetic to the locality where similar scale and external appearance of house are evident. There would be adequate space about the dwellings for future occupiers to enjoy.
- 4.11 As such subject to the agreement of the materials the scale, layout and external appearance of the proposed development is considered to be acceptable in accordance with Policy SP19 of the Core Strategy Local Plan, Policy ENV 1 (4) of

the Local Plan and the advice contained within the NPPF which seeks good quality design in new development.

Landscaping

- 4.12 The landscaping plan indicates soft landscaping to each property with grassland to the front and to the rear. There is an existing hedgerow along part of the eastern perimeter of the site that butts the rear gardens of houses on Fieldside Court and a hedge next to plot 5.
- 4.13 In terms of views from the countryside to the north west of the site the boundary treatment proposed includes a 1.8m high vertical timber fencing which mirrors the type of fencing on the perimeter of the adjacent estate at Station Mews. A hedge is also proposed to be planted on Plot 3 northern boundary to provide an enclosure to the rear garden in addition to a vertical close boarded fence. The principle of this type of landscaping would be acceptable and the species and size of planting and its lifespan can be secured by condition.
- 4.14 Taking into account the above policies it is concluded that the proposal is considered acceptable and is in accordance with Policy ENV1 (1) of the Selby District Local Plan and Policy SP19 of the Selby District Core Strategy Local Plan and national planning policy guidance as set out in the NPPF.

Impact on Residential Amenity

- 4.15 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the sheer size, scale and massing of the development proposed.
- 4.16 The application is submitted for the development of the site for 5 dwellings. There would be 4 units that are three storey and a two storey house at Plot 5.
- 4.17 The site layout plan indicates that the separation distances from the row of houses on plots 1-3 would be circa 21m from the front elevation of the houses to the rear elevation of the houses on Fieldside Court directly facing them.
- 4.18 The boundary treatment which includes hedging and fencing at the rear of the houses at Fieldside Court would offer screening of the rear gardens and the separation distance is considered an acceptable distance to ensure no adverse overlooking, overshadowing or oppressive from these houses.
- 4.19 Revised plans have been received for the house on Plot 5 which has been reduced in scale to a two storey house and moved further away from the shared boundary with Fieldside Court, as a result of discussions during the life of the application. This dwelling would be set off the red line boundary by circa 5.6m. The separation distance from the gable wall of the house to the rear elevation of the adjacent house at 17 Fieldside Court would be circa 15.8m which is considered an acceptable separation distance for this type of relationship.
- 4.20 Plots 1, 2 and 3 would have a first floor balcony which is open on two sides. The balcony to Plot 3 would have side views towards Plot 4 and it would be necessary

to seek a privacy screen on the side elevation to protect privacy of the first floor bedroom window. This can be secured by condition.

- 4.21 Plots 1 and 2 balconies would overlook of gardens to the new dwellings, with plot 2 facing the rear garden of plot 1, and plot 1 facing the adjacent rear garden of the house on Station Mews (no. 6). For the same reason above, it would be reasonable to impose a condition to secure a privacy screen to the side of these balconies to prevent overlooking between the new dwellings.
- 4.22 An objection refers to noise, dust and dirt being an issue as a result of the development. The Outline approval has a construction method statement condition attached which includes a requirement for the developer submitting measures to control the emission of dust and dirt during construction. It is considered that any noise disturbance from the construction of the dwellings can be managed under separate Environmental Health legislation should it be considered to raise a nuisance.
- 4.23 As such, subject to conditions on the outline consent and proposed conditions for this reserved matters stage, it is considered that the proposed layout of the dwellings would result in a development which would provide a good standard of amenity for occupiers of the dwellings and not adversely impact on residential amenity in accordance with Policy ENV1 (1) of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Other Matters

- 4.24 Objections refer to the principle of development that has already been established through the Outline Consent, and thus the principle of development cannot be revisited in this application.
- 4.25 It is considered that a right to a countryside view is not a material consideration in determining this application.
- 4.26 Objections that refer to access, flood risk, contamination and drainage have been resolved in the Outline application with conditions where appropriate attached to that permission. These are matters not for consideration in this application.
- 4.27 The application was advertised by site and press notice and neighbour notification letter of properties whose land touches the application site. It is considered that this depth of publicity was adequate to notified local residents of this application.
- 4.28 An objection received disputes the position of the boundary hedge on the eastern perimeter of the site that butts Fieldside Court gardens and claims that the existing hedge is not included within the site ownership. The agent confirmed that the survey shows that the hedge is on the applicant's side of the existing timber fence. No evidence has been received to the contrary.

Legal Issues

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

5.2 Human Rights Act 1998

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

5.3 Equality Act 2010

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

Financial Issues

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

6.0 CONCLUSION

6.1 The application site was subject to an outline approval with access agreed and other matters reserved in 2016 (reference 2016/0505/OUT). Therefore the principle of development and the access has been established through the outline permission and only the reserved matters noted here can be considered at this stage.

6.1.1 The reserved matters details for the appearance, scale, layout and landscaping details are considered to be acceptable. The details ensure that the proposal would not result in a significant or detrimental impact on the residential amenity of surrounding properties or on the character or appearance of the area.

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

7.0 RECOMMENDATION

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

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

- Site Location Plan 3304(1)001
- Site Layout plan 3304(1)002 REV Q
- Site Sections 3304(1)005 REV B
- Site Landscaping Plan 3304(1) 006 REV D
- Type C Plans 3304(1)003 REV B
- Image 1 3304(1)001 REV B
- Image 2 3304(1)002 REV B
- Image 3 3304(1)003 REV B
- Image 4 3304(1)004 Rev B

Reason

For the avoidance of doubt

02. Prior to the commencement of development, details of the materials to be used in the construction of the exterior walls and roof(s) of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

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

03. Development shall not commence until a scheme detailing species and size of planting to be carried out on the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the phasing of the landscaping and planting. The development and the works comprising the approved scheme shall be implemented in accordance with the approved phasing. The approved landscaping scheme shall, from its completion, be maintained for a period of five years. If, within this period, any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced with others of similar size and species unless the Local Planning Authority gives its written consent to any variation.

Reason:

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity.

04. The development shall not be brought into use until a scheme for privacy screening to the balconies of plots 1, 2 and 3 has been submitted to and approved in writing by the Local Planning Authority. The approved screen shall be maintained for the lifetime of the development.

Reason:

In the interests of amenity in accordance with Policy ENV1 of Selby District Local Plan.

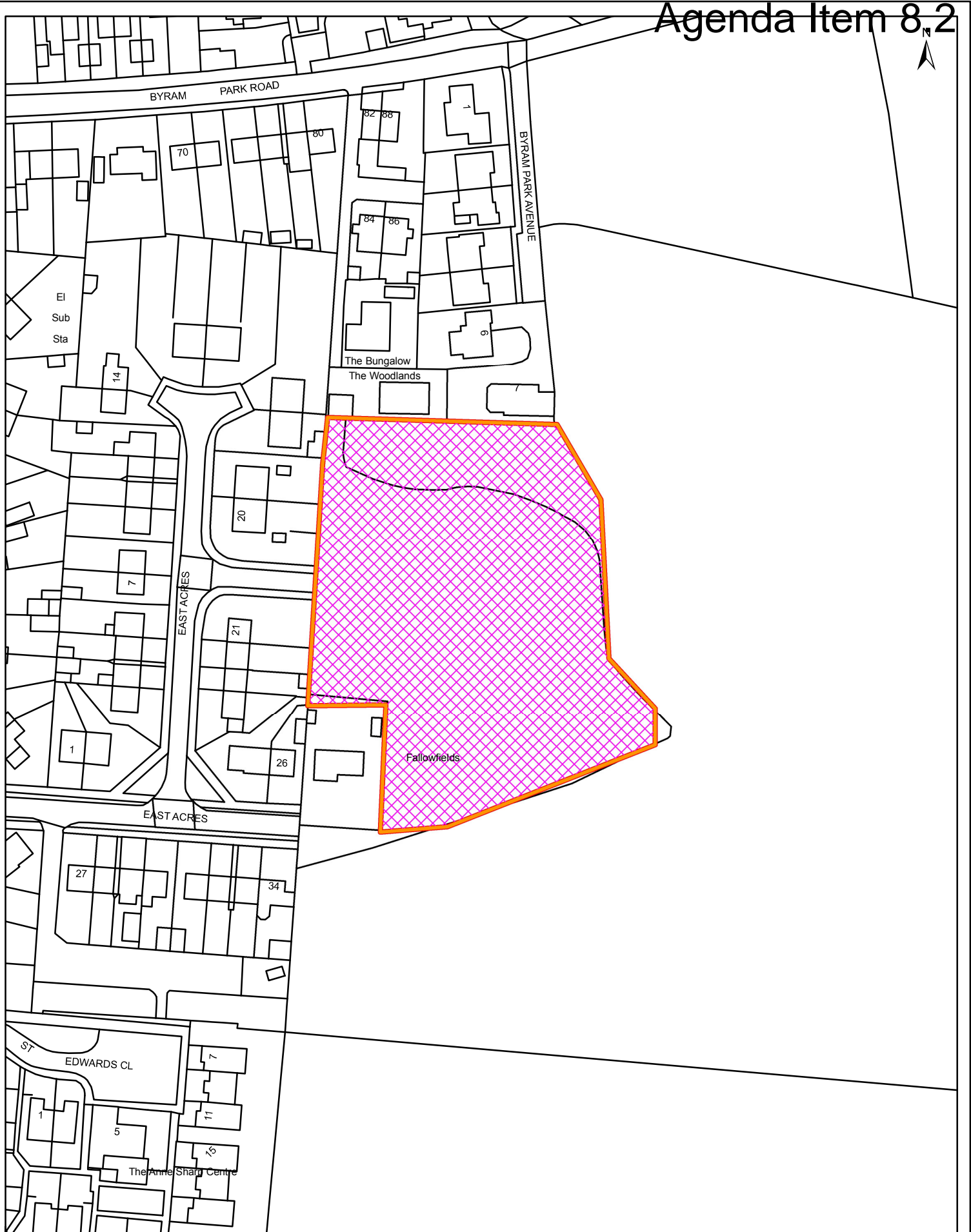
Contact Officer:

Keith Thompson, Senior Planning Officer
Selby District Council
kthompson@selby.gov.uk

Appendices:

None

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APPLICATION SITE

Land off East Acres, Byram
2017/1228/FULM

1:1,250



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To: Planning Committee
Date: 7 February 2017
Author: Ann Rawlinson (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/1228/FULM	PARISH:	Byram Cum Sutton Parish Council
APPLICANT:	Strategic Team Group	VALID DATE: EXPIRY DATE:	8 November 2017 7 February 2018
PROPOSAL:	Section 73 to vary condition 10 (10% Energy) of approval 2016/0831/FUL: Development on scrub land to provide 29 dwellings accommodating 1,2,3 and 4 bedrooms in a mix of semi-detached and terraced houses		
LOCATION:	Land Off East Acres, East Acres, Byram, Knottingley, West Yorkshire		
RECOMMENDATION:	APPROVE SUBJECT TO COMPLETION OF A DOV		

It is appropriate that this application be determined by the planning Committee due to the proposal being contrary to Policy SP16 (Improving Resource Efficiency) of the Selby District Core Strategy (2013).

1. Introduction and Background

1.1 The Site

The application relates to a planning condition on the housing development site at land off East Acres in Byram which was approved in 2017. Construction of the scheme for 29 dwellings is underway.

1.2 The Proposal

The application seeks permission under Section 73 of the Town & Country Planning Act to vary condition number 10 (energy supply of the development) from planning application 2016/0831/FUL: Development on scrub land to provide 29 dwellings

accommodating 1, 2, 3 and 4 bedrooms in a mix of semi-detached and terraced houses at land off East Acres in Byram.

Condition 10 of planning permission 2016/0831/FUL is as follows;

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

This application seeks consent to vary the condition in accordance with the submitted Sustainability Statement accompanying the application (Appendix B) to allow the utilisation of a fabric first approach to achieve a 10.51% improvement over and above a specification achieving Part L of the Building Regulation 2013 only, through a detailed specification comprising of energy efficient technology. More specifically a waste water heat recovery system would be utilised to recycle heat from waste water to save energy, as well as energy demand reduction measures through improvements to the dwelling fabrics, thermal bridging, ventilation, heating, lighting and water consumption.

1.3 Planning History

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

2016/0831/FUL (Permitted on 15th February 2017) Development on scrub land to provide 29 dwellings accommodating 1, 2, 3 & 4 bedrooms in a mix of semi-detached and terraced houses.

2017/0197/DOC (Discharged on 3rd December 2017) Discharge of condition 02 (materials), 03 (Construction Environmental Management Plan), 05 (Landscaping/Tree Planting), 08 (Management/Maintenance Plan - Surface Water Drainage), Condition 10 (10% Energy), 15 (Engineering Drawings), 17 (Accesses), Condition 19 (Highways Condition Survey) and 20 (Storage and Parking) of approval 2016/0831/FUL: Development on scrub land to provide 29 dwellings accommodating 1,2,3 & 4 bedrooms in a mix of semi-detached and terraced houses.

2.0 Consultations and Publicity

Parish Council – No comments received.

- 2.1 The application was advertised by site notice and neighbour notification resulting in no representation being received.

Members should note that at the time of writing of this report the site notice and publicity consultation exercise advertising the application as a departure from the Local Plan has not expired. The consultation period expires on 8 February 2018. A verbal update in respect of any correspondence received

post-completion of this report, up until the date of the Committee meeting, will be provided at the Committee meeting.

3.0 Site Constraints and Policy Context

3.1 The site is subject of Tree Preservation Order 3/2016.

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

Selby District Local Plan

3.5 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)".

The relevant Selby District Local Plan Policies are:

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

4.0 Appraisal

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

- Sustainable Development, Climate Change and Resource Efficiency

Sustainable Development, Climate Change and Resource Efficiency

4.2 Policy SP15 of the Core Strategy (Sustainable Development and Climate Change) seeks to promote sustainable development through a number of measures. SP15 B aims to ensure the design and layout of development contributes towards reducing carbon emissions and are resilient to the effects of climate change. It requires that where necessary or appropriate schemes should (criteria a) & b)) improve energy efficiency and minimise energy consumption and should incorporate sustainable design and construction techniques. Criterion e) requires the incorporation of decentralised, renewable and low carbon forms of energy generation in line with Policies SP16 & SP17 of the Selby District Core Strategy (2013).

4.3 Policy SP18 seeks to protect and enhance the environment through a number of measures including criterion SP18 (8) which seeks to ensure that developments minimise energy and water consumption, the use of non-renewable resources and the amount of waste material.

4.4 Policy SP16 of the Core Strategy relates to Improving Resource Efficiency. It is the key policy relating to this proposal. In order to achieve this objective the policy requires, amongst other things, that unless a particular scheme would be demonstrably unviable or not feasible;

“New residential developments of 10 dwellings or more or non-residential schemes of 1000 m² gross floor space or more to provide a minimum of 10% of total predicted energy requirements from renewable, low carbon or decentralised energy sources (or else in accordance with the most up to date revised national, sub regional or local targets”

Notes supporting this policy objective state that:

“Whilst building standards for insulation and energy efficiency are not directly within the remit of the planning system, the council, when considering development proposals will take into account the need to utilise energy efficient designs for all aspects including layout (e.g. orientation and passive solar design).”

4.5 The Town and Country Planning Act 1990 Section 73 allows for applications to be made to undertake development without complying with conditions attached to such an approval. Paragraph (2) of Section 73 states "On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
 - (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application."
- 4.6 As such the only consideration of this application is in relation to the conditions of the approval and the impact the proposed variation would have. Therefore key to the determination of this application is whether a new planning consent for the development with the proposed variation to Condition 10 (energy supply of the development) would be contrary to the provisions within the development plan or whether there are reasonable grounds for refusal if the condition was retained in its present form.
- 4.7 On this application, the applicants are not seeking to dispense with the need to address climate change in terms of sustainable buildings and their energy demands. Rather, an alternative 'fabric first' approach is proposed, which would reduce the energy demands of the housing development and its CO2 emissions, through the use of energy efficient technology. The applicants advise that this approach is sought to be taken for a combination of reasons including; viability and cost, installation and rectifying issues, maintenance and practicability having regard to site specific constraints.
- 4.8 Such an approach would not accord with the specific requirement of Policy SP16. It is however necessary to assess the extent to which Policy SP16 is consistent with the NPPF. The core planning principles of the NPPF include supporting the transition to a low carbon future in a changing climate and encouraging the use of renewable resources. In addition paragraph 95 of the NPPF advises that LPA's should plan for new development in locations and ways which reduce greenhouse gas emissions. Significantly it also advises that any local requirements should be consistent with the Government's zero carbon buildings policy and that nationally described standards should be adopted.
- 4.9 The most relevant nationally described standards are those in Part L of the Building Regulations. These have been amended significantly in recent years since the adoption of the Core Strategy. In 2013 & 2014 the Government made clear its intention to rely on a 'Building Regulations only' approach with no optional additional local standards in excess of those in Part L(2).
- 4.10 The overall aim of addressing the causes of climate change by reducing carbon emissions in Core Strategy Policy SP16 and the related policies is still broadly consistent with the NPPF. However, seeking to achieve that aim by specifying a target for on-site energy generation from renewable sources does not now accord with Paragraph 95 of the NPPF and would exceed national requirements in terms of carbon reduction.
- 4.11 On a recent appeal decision for a very similar case (APP/T3725/A/14/2226904) against Warwick District Council, the Inspector gave limited weight to an adopted Local Plan Policy which required 10% of the developments energy demands to

come from renewable recourses. The appeal was allowed and the condition varied on the basis that the Policy exceeded national requirements.

- 4.12 The applicant on this case has proposed the alternative approach of reduced energy demand which is set out in the Sustainability Statement accompanying the application. It is proposed to apply a 'Fabric First' approach to achieve a 10.51% energy reduction, compared to achieving Part L compliance only using the energy efficiency technology of a waste water heat recovery system which recycles heat from waste shower water and delivering energy demand reduction, through improvements to the dwelling fabrics, thermal bridging, ventilation, heating, lighting and water consumption.
- 4.13 Energy reductions would be built in to the lifetime of the dwellings rather than the limited lifespan of bolt-on renewable energy technologies. The scheme would be able to achieve the required 10% reduction in energy demand for the development as a whole.
- 4.14 Given that the proposed variation of Condition 10 would accord with national planning policy guidance and with the emerging approach to climate change and to energy related aspects of sustainable buildings, it is considered that planning permission should be granted, subject to the imposition of a planning condition requiring the development to be built out in accordance with Annex B of the submitted Sustainability Statement.

Legal Issues

- 4.15 Planning Acts: This application has been considered in accordance with the relevant planning acts.
- 4.16 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.
- 4.17 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

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

5.0 Conclusion

- 5.1 Having taken into account the policy context, national changes and requirements and the advice within the NPPF, the proposed variation of Condition 10 is considered acceptable. The proposed development with the varied conditions would be a sustainable form of development which would contribute towards reducing carbon emissions and be resilient to the effects of climate change. The scheme would improve energy efficiency and minimise energy consumption and should incorporate sustainable design and construction techniques. Overall the benefits of

the scheme are considered to outweigh the conflict with the requirements of Policy SP16.

6.0 Recommendation

6.1 This application is recommended to be granted permission subject to the applicant entering into a Section 106 Deed of Variation Legal Agreement in order to secure the affordable housing, recreational open space and waste and recycling contribution secured as per planning permission 2016/0831/FUL, subject to no new issues being raised as a result of publicity within the remainder of the consultation period (expires 8 February 2018) and subject to the imposition of the following conditions as set out below;

01. The development for which permission is hereby granted shall be begun within a period of three years from 15 February 2017 (the date of the original permission under reference 2016/0831/FUL).

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:

The development hereby permitted shall be carried out in accordance with the plans/drawings listed below as approved on 15 February 2017 by planning permission 2016/0831/FUL:

Location Plan Ref 370-64-(02)-034 received 12 July 2016
Boundary Plan Ref SK4067/04 received 12 July 2016
Topographical Survey Ref STG1005-001 received 12 July 2016
Proposed Site Layout Plan Ref 370-64-(02)-001 Revision G received 13th December 2016
370-64-(02)-013 - Block A received 19 December 2016
370-64-(02)-014 - Block B received 19 December 2016
370-64-(02)-015 - Block C received 19 December 2016
370-64-(02)-016 - Block D received 19 December 2016
370-64-(02)-017 - Block E received 19 December 2016
370-64-(02)-018 - Block F received 19 December 2016
370-64-(02)-019 - Block G received 19 December 2016
370-64-(02)-020 - Block H received 19 December 2016
370-64-(02)-021 - Block A Elevations received 19 December 2016
370-64-(02)-022 - Block B Elevations received 19 December 2016
370-64-(02)-023 - Block C Elevations received 19 December 2016
370-64-(02)-024 - Block D Elevations received 19 December 2016
370-64-(02)-025 - Block E Elevations received 19 December 2016
370-64-(02)-026 - Block F Elevations received 19 December 2016
370-64-(02)-027 - Block G Elevations received 19 December 2016
370-64-(02)-026 - Block H Elevations received 19 December 2016

Reason: For the avoidance of doubt and in accordance with policy ENV1 of the Selby District Local Plan.

03. The boundary treatments as shown on Proposed Site Plan (Ref 370-64-(02)-001 Revision G) approved on 15 February 2017 under ref: 2016/0831/FUL shall be implemented in accordance with the approved scheme before the occupation of the associated dwelling hereby approved.

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

04. Notwithstanding the provisions of Class A and Class E of 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, 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 residential amenity having had regard to Policy ENV1 of the Selby District Local Plan.

05. The development shall be carried out in complete accordance with the Flood Risk Assessment (Revision A, prepared by Dunster Consulting - Report 16-071, dated December 2016), and approved on 15 February 2017 under ref: 2016/0831/FUL.

Reason: In the interest of satisfactory and sustainable drainage in order to comply with Policy ENV1 of the Selby District Local Plan and the NPPF.

06. The development shall be carried out in accordance with findings and mitigation measures outlined in the Phase 1 Ecological Appraisal prepared by ECUS Environmental Consultants as received 12th July 2016 and approved 15 February 2017 under ref:2016/0831/FUL.

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

07. Details of any external lighting of the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to the occupation of the first dwelling. This information shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details.

Reason: In accordance with Policy ENV1 of the Selby District Local Plan and to ensure that the ecologically sensitive areas of the nearby woodland is not impacted by the proposed lighting scheme of the site in line with Policy ENV1 and the NPPF.

08. The development shall be undertaken in accordance with the Arboricultural Impact Assessment and Arboricultural Method Statement received 12th July 2016 and Landscape Management Plan prepared by Home Group received 4th August 2016, both approved 15 February 2017 under ref:2016/0831/FUL.

Reason: In order to effectively protect trees and to ensure compliance with Policy ENV1 of the Selby District Local Plan and the contents the NPPF.

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, in order to comply with Policy ENV1 and ENV2 of the Selby District Local Plan and the NPPF.

10. No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to base course 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 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.

11. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas have been constructed in accordance with the submitted drawing (Reference Drawing number 370/64(02)001 G). Once created these 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 to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

12. The development shall be carried out strictly in accordance with the approved Materials Schedule received on the 31st May 2017 and approved on 13 December 2017 under ref: 2017/0197/DOC. Only the approved materials shall be utilised.

Reason: To ensure that the proposals respect the character and appearance of the area in accordance with Policy ENV1 of the Selby District Local Plan and SP19 of the Selby District Core Strategy Local Plan.

13. The development shall be carried out strictly in accordance with the approved Construction Method Statement: East Acres Home Housing Group, prepared by Strategic Team Group received 20th March 2017 and approved on 13 December 2017 under ref: 2017/0197/DOC detailing the control and mitigation of noise, dust and other airborne pollutants, vibration, smoke, and odour from construction work. The clearance of the land and the construction of the Development shall be completed in accordance with the approved Plan.

Reason: To protect the amenity of the area, the environment and local residents from noise and other emissions to comply with Policy ENV1 of the Selby District Local Plan and SP19 of the Selby District Core Strategy Local Plan.

14. The development shall be carried out strictly in accordance with the approved Landscape Proposal Drawing Ref 5301.01.K and approved Recreational Open Space Works Specification received 23rd February 2017 with seating area and bin provision as per Site Layout Plan Ref 370/64(09/003) received on the 12th May 2017 and approved on 13 December 2017 under ref: 2017/0197/DOC. The approved scheme shall be carried out in its entirety within the period of twelve months beginning with the date on which development is commenced. All trees, shrubs and bushes shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason: 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".

15. The development shall be carried out strictly in accordance with the following approved drainage plans:

Drainage Calculations prepared by Dunster Consulting and received on the 23rd February 2017

Plan 16071.A1.002/C prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.003/C prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.004/C prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.004(1)/C prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.004(2)/D prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.005/C prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.006/C prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.007/C prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.008/H prepared by Dunster Consulting and received on the 13th December 2017

Plan 16071.A1.009/E prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.010/A prepared by Dunster Consulting and received on the 31st May 2017.

All approved on 13 December 2017 under ref: 2017/0197/DOC.

The approved drainage system shall be implemented in accordance with the approved detailed design prior to completion of the development.

Reason: In the interest of satisfactory and sustainable drainage and 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 , in order to comply with Policy ENV1 of the Selby District Local Plan and the NPPF.

16. The development shall be carried out strictly in accordance with the following highways plans:

Drainage Calculations prepared by Dunster Consulting and received on the 23rd February 2017

Plan 16071.A1.002/C prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.003/C prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.004/C prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.004(1)/C prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.004(2)/D prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.005/C prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.006/C prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.008/H prepared by Dunster Consulting and received on the 13th December 2017

Plan 16071.A1.009/E prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.010/A prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.S38/G prepared by Dunster Consulting and received on the 13th December 2017

Plan 16071.A1.009/E prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.010/A prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.S38/G prepared by Dunster Consulting and received on the 25th July 2017

Plan 16071.A1.009/E prepared by Dunster Consulting and received on the 31st May 2017

Plan 16071.A1.S38/G prepared by Dunster Consulting and received on the 25th July 2017

Plan 16071.A1.009/E prepared by Dunster Consulting and received on the 31st May 2017.

Dilapidated Survey received 31st March 2017

All approved on 13 December 2017 under ref: 2017/0197/DOC.

Informative to Condition

You are advised that a separate licence must be obtained from the Highway Authority in order to allow any works in the adopted highway to be carried out.

Reason: In accordance with Policy ENV1 of the Selby District Local Plan and to secure an appropriate highway constructed to an adoptable standard and to ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the amenity and convenience of highway users In accordance with Policy ENV1 of the Selby District Local Plan.

17. The development shall be carried out strictly in accordance with the Site Set Up Plan received on the 23 February 2016, approved on 13 December 2017 under ref: 2017/0197/DOC.

The approved areas shall be kept available for their intended use at all times that construction works are in operation. No vehicles associated with on-site construction works shall be parked on the public highway or outside the application site.

Reason: In accordance with Policy ENV1 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.

18. The development shall be carried out strictly in accordance with the Statement prepared by Sustainable Services, Appendix B, received 2 November 2017. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.

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

7. Background Documents

Planning Application file reference 2017/1228/FULM and associated documents.

Contact Officer:

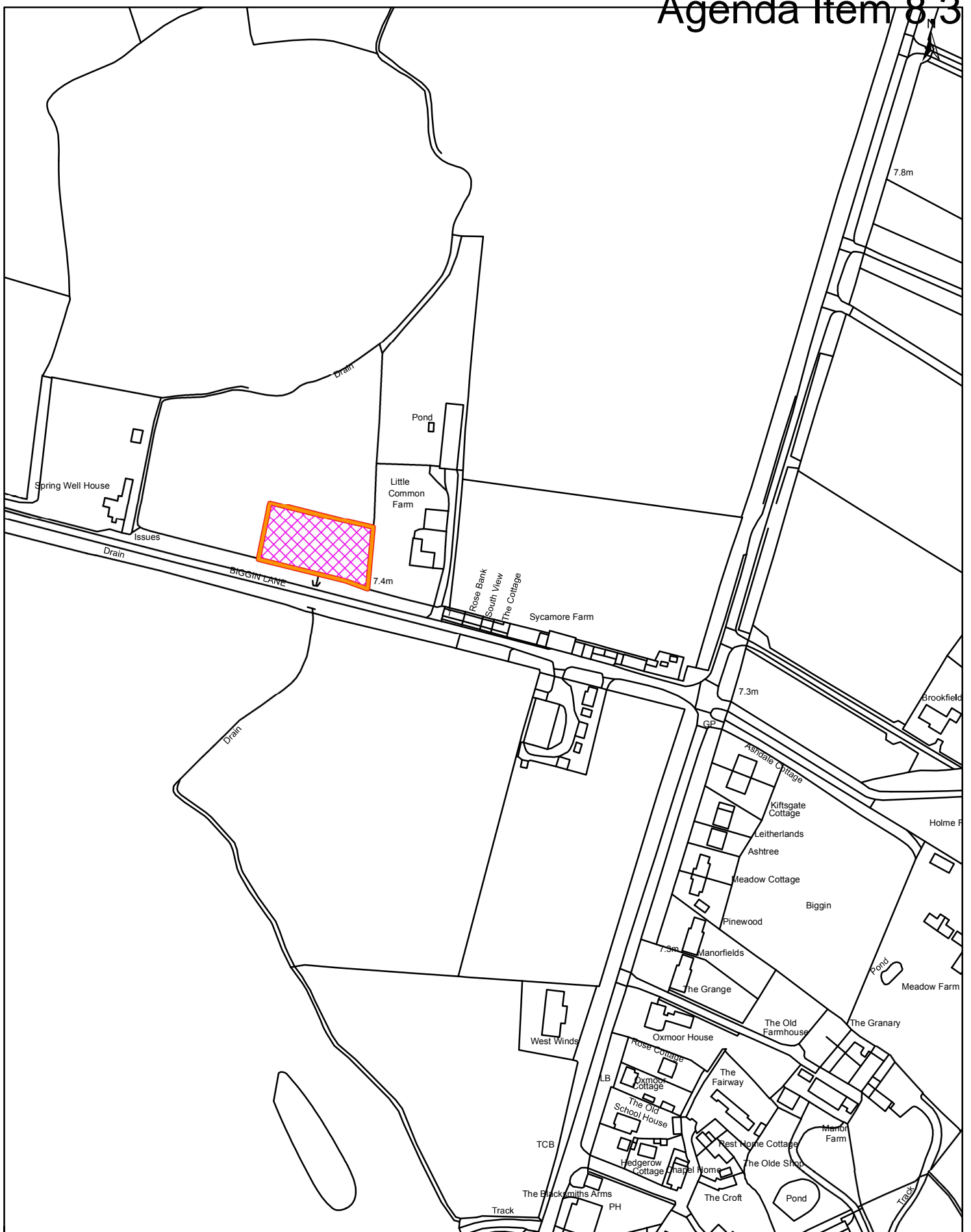
Ann Rawlinson, Principal Planning Officer
Selby District Council
arawlinson@selby.gov.uk

Appendices:

None

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APPLICATION SITE

Land adjacent to Little Common Farm, Biggin Lane, Biggin
2017/1269/FUL

1:2,500

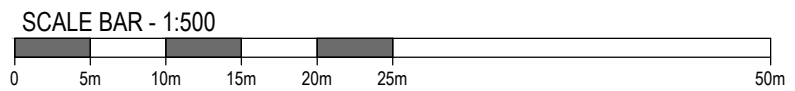


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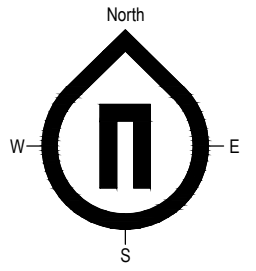
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NOTES
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DRAWING STATUS/TYPE KEY

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



REV	DESCRIPTION	DRAWN	DATE	CHECKED	DATE
REVISIONS					

NW-ARCHITECTS
 27 York Place - Leeds - LS1 2EY
 leads@nw-architects.co.uk - Tel: 0113 880 0510 - Fax: 0113 880 0511
 www.nw-architects.co.uk

CLIENT
 Mr Watson

PROJECT
 Biggin Lane
 Biggin

DRAWING TITLE
 Site Plan Proposed

Scale	Drawn By	Date Drawn
1:500 @ A3	NW	20-11-17
	Checked By	Date Checked
	LW	20-11-17

Drawing No. 17063-P100
 Revision -

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To: Planning Committee
Date: 7 February 2018
Author: Mr Keith Thompson (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Development Manager)

APPLICATION NUMBER:	2017/1269/FUL	PARISH:	Biggin Parish Council
APPLICANT:	Mr Watson	VALID DATE: EXPIRY DATE:	24 November 2017 19 January 2018
PROPOSAL:	Proposed erection of a six bedroom detached dwelling with integral garage		
LOCATION:	Land Adj To Little Common Farm Biggin Lane Biggin Leeds West Yorkshire		
RECOMENDATION:	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 is for the erection of a detached dwelling. The site is located in an area of open countryside outside the defined development limits of Biggin. The proposal would be located on land on an agricultural field lying to the west of the village of Biggin and located between two existing properties along the northern side of Biggin Lane. There is an established hedgerow to the east of the site wherein Little Common Farm is located. There are no protected trees which surround the site. The site is situated within Flood Zone 1, 2 and 3, with the property being erected within the Flood Zone 1 which is at low probability of flooding.

The Proposal

- 1.2. This application is for full planning permission for the erection of a six bedroom detached dwelling with integral garage. It is proposed the vehicular access into the site would be taken from Biggin Lane. The dwelling would be located on the eastern area of the site due to other areas of the site being located within flood zones 2 and 3.

Relevant Planning History

- 1.3. 2016/0154/OUT (Refused – 13 July 2016) Outline application with all matters reserved for the erection of two detached dwellings on land at Little Fenton Field. – **Allowed on appeal** dated 9 December 2016.
- 1.4. 2017/0733/FUL (Approved 13 October 2017) Proposed erection of new 5 bedroom detached house with detached double garage and car port. This is on the adjacent site.

2.0 CONSULTATION AND PUBLICITY

The application was advertised as a departure from the Development Plan by site notice, neighbour notification and advertisement in the local newspaper.

2.1 NYCC Highways

No objections to the proposal subject to conditions.

2.2 Yorkshire Water Services

No comments received.

2.3 Selby Internal Drainage Board

No objections with guidance provided for surface water disposing to a watercourse.

2.4 Parish Council

Comments received refer to the Outline permission and the plans and conditions associated with that permission, height of the proposed dwelling and drainage.

Neighbour comments

- 2.5 The application was advertised by site notice, neighbour notification letter and advertisement in the local newspaper resulting in two representations being received citing the following comments:
- Foul drainage assessment has been inaccurately completed with reference to field drains possibly crossing the site,
 - Reference to the Outline permission, plans and conditions associated with the permission,
 - Plans have no dimensions,
 - Reference to removing permitted development in the blue edged land.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The site lies outside of the defined development limits of Biggin a secondary village as defined in the Core Strategy Local Plan. As such the application site is therefore within the open countryside.
- 3.2 The site is in three flood zones. Flood Zone 1 which is the designation for the majority of the site and is where the dwelling would be constructed, with the remaining parts of the site being within Flood Zone 2 and 3.

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
 - SP4 - Management of Residential Development in Settlements
 - SP5 - The Scale and Distribution of Housing
 - SP9 - Affordable Housing
 - SP15 - Sustainable Development and Climate Change
 - SP16 - Improving Resource Efficiency
 - SP18 - Protecting and Enhancing the Environment
 - SP19 - Design Quality

Selby District Local Plan

- 3.6 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)".

The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development

ENV2 - Environmental Pollution and Contaminated Land

T1 - Development in Relation to Highway

T2 - Access to Roads

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
- Flood Risk, Drainage, Climate Change and Energy Efficiency
- Impact on Highways
- Residential Amenity
- Impact on Nature Conservation and Protected Species
- Affordable Housing
- Land Contamination.

Principle of Development

4.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF and should be afforded significant weight.

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

4.4 The application site is located outside the defined development limits of Biggin and is therefore located within the open countryside. The proposals are contrary to Policies SP2 and SP4 of the Core Strategy (2014). Outline planning permission was granted on the 9th December 2016 (reference 2016/0154/OUT) for the erection of two detached dwellings with all matters reserved. Therefore the principle of development has been established in principle on this site through the outline permission and reserved matters submissions could be made against this consent by the applicants.

4.5 It is considered that significant weight is given to the material consideration that is

the extant Outline permission that would outweigh the proposal being contrary to the development plan.

Design and Impact on the Character of the Area

- 4.6 The character and appearance of the local area is varied comprising a range of house types, development forms and materials. The submitted layout plan demonstrates that the dwelling would be set back from the site frontage along a similar line to the existing dwelling at Little Common Farm. There would be provision for parking areas to the frontage of the property, along with an integral garage. The materials of the property at Spring Well House are a cream render and orange pantile with little architectural merit. The bungalow at Little Common Farm is finished using rendered walls and red roofing. The application form indicates the external materials would mean the proposed dwelling would be erected using facing brickwork and natural slate roof. Given the varied mix of building materials in the village and adjacent to the site, it is considered that these materials would be acceptable.
- 4.7 With respect to the character of the area and landscape character of the village it is noted that the site is set within an agricultural field with an established Leylandi which separates the site and the neighbouring property Little Common Farm. The application form notes that the proposed boundary treatment would be a 1.2m high post and rail fence which is not an uncommon form of boundary found in the countryside, although no details have been submitted on plan and therefore this can be secured by condition.
- 4.8 The application site comprises of an open field with a drainage dyke to the front of the site separating the road from the site. An access driveway would be created to facilitate the crossing into the site. The proposed dwelling would be located in a linear position to the neighbouring property to the east.
- 4.9 The proposed dwelling would measure a maximum of 21.5 metres in width by 12.5 metres in depth. The proposed dwelling would be two storey and would have a pitched roof with an approximate ridge to a height of 8.4 metres with the approximate eaves height of 5.5 metres.
- 4.10 With regard to the red line boundary which surrounds the application site area, as indicated above, there is a similar red edge approved under the outline consent in December 2016. The layout plan submitted has identified some land in owner ship coloured in blue. This land is not considered to be residential curtilage and was not included within the original outline consent. Therefore it is considered that the land which lies outside of the red edge is still open countryside and not residential curtilage.
- 4.11 Having had regard to the above elements, it is considered that the design, scale and layout is acceptable and with conditions attached would be acceptable and not result in creating a detrimental impact on the character and form of the open countryside location contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Flood Risk, Drainage, Climate Change and Energy Efficiency

- 4.12 The proposal would consider energy efficiency/sustainable design measures within the scheme in order to meet building regulations requirements.
- 4.13 The application site is located within Flood Zones 1, 2 and 3. The NPPF states that Flood Zone 2 is of medium probability to flooding and defines it as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding or between a 1 in 200 and 1 in 1,000 annual probability of flooding from the sea. Flood Zone 3a has a 1 in 100 or greater annual probability of river flooding or a 1 in 200 or greater annual probability of flooding from the sea. Flood Zone 3b is the functional floodplain where water has to flow or be stored in times of flood. There is no residential development proposed within Flood Zones 2 and 3 of the application site.
- 4.14 The application is not accompanied by a Sequential Test because it is considered that the dwellings could be readily accommodated within Flood Zone 1, as shown in the layout plan.
- 4.15 In terms of drainage it has been confirmed by the agent that foul drainage would be provided by means of package sewage treatment plants discharging, subject to Environment Agency agreement, to watercourses. Yorkshire Water has been consulted as part of this proposal and has made no comment. Selby IDB has been consulted as part of this application and has no objections subject to their consent prior to any commencement if surface water was to be disposed to a watercourse.
- 4.16 Means of foul and surface water disposal can be secured by condition. The appeal decision for the outline consent approved in December 2016 stipulated that separate systems of drainage for foul and surface water shall be development. This should be coupled with no piped discharge of surface water from the application site to take place until works for a satisfactory outfall for surface water has been completed. The detail of the works shall be submitted to and approved by the local planning authority prior to the commencement of the development.
- 4.17 In view of the fact that no objection has been received from statutory consultees and that the proposal can be accommodated within Flood Zone 1, the proposed scheme is considered to be acceptable in terms of flood risk and drainage provision, subject to the inclusion of a condition requiring details of foul and surface water drainage as appropriate.
- 4.18 Subject to the aforementioned conditions it is therefore considered that the proposal is acceptable in terms of 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

- 4.19 The proposed dwelling would be served from an existing vehicular access from Biggin Lane and would involve the creation of a site access and a new driveway and hardstanding area for turning and parking. Having consulted NYCC Highways they have reviewed the proposal and assessed the application with respect to the impacts on the highway. They have raised no objections subject to conditions.

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

Residential Amenity

- 4.21 The proposed dwelling would measure circa 21.5m wide x 12.5m deep x 5.5m to eaves and 8.4m to ridge height. The integral garage eaves height would be 3.5m and 7m ridge height. The dwelling would be set off the shared boundary with Little Common Farm where there lies a tall mature Leylandi. The dwelling would be sited circa 21m from the nearest dwelling at Little Common Farm which is a bungalow. There is extant planning permission for a two storey dwelling on land west of the site and this would be circa 65m away. The dwelling would have a rear garden and a large garden west of the dwelling which is adequate to support a dwelling this size.
- 4.22 The separation distances noted above are considered to be acceptable to ensure that there are no adverse overlooking, overbearing or overshadowing of the neighbouring property and the new dwelling to the west.
- 4.23 As such it is considered that this proposal is in accordance with Policy ENV1 (1) of the Local Plan and the NPPF.

Impact on Nature Conservation and Protected Species

- 4.24 Having had regard to the location of the site it is noted that the application site does not contain significant areas of semi-natural habitat and is not subject to any formal or informal nature conservation designation or known to support any species given special protection under legislation.
- 4.25 However, the proposal is in the open countryside which has an intrinsic value for the character of the area. As such, it is considered that the proposal would accord with Policy ENV1 of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to the impact of the proposal on the open countryside.

Affordable Housing

- 4.26 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 a commuted sum. It is therefore considered that having had regard to Policy SP9 of the Core Strategy and PPG on balance the application is acceptable without a contribution for affordable housing.

Land Contamination

- 4.27 The application is accompanied by a Contamination Screening Assessment Form which sets out that there is no past or existing contamination issues associated with the site. It is recommended that a planning condition is attached to ensure that in the event of any unexplained contamination found when carrying out the approved development can be dealt with safely. This is a precautionary measure due to the agricultural use of the site.

- 4.28 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

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

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

7.0 CONCLUSION

- 7.1 The application proposes full planning consent for residential development comprising one dwelling. The application site lies outside the defined development limits of Biggin, a secondary village as established in the Core Strategy Local Plan. However there is an extant planning permission reference 2016/0154/OUT for two dwellings permitted by the Planning Inspector in December 2016.
- 7.2 As such, the application site benefits from an extant permission for an outline consent for two dwellings so the principle of residential development has been established on this site. Significant weight is applied to this permission and is considered to outweigh the departure from the development plan.
- 7.3 Matters of acknowledged importance such as energy efficiency, renewable considerations, flood risk, drainage, layout, scale, design, impact on residential amenity, impact on the highway network and affordable housing contributions are considered to be acceptable.

8.0 RECOMMENDATION

- 8.1 This planning application is recommended to be APPROVED subject to conditions detailed below:
01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

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

02. The development hereby permitted shall be carried out in accordance with the following approved plans:

Proposed Site Plan	17063-P100
Proposed Site Plan Flood Zones	17063-P101
Site Location Plan	17063-S100
South and West Elevations	17063-P210
North and East Elevations	17063-P211
Roof Plan	17063-P202

Reason:

For the avoidance of doubt.

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

- a. The existing access shall be improved with 6 metre radius kerbs, to give a minimum carriageway width of 4.1 metres, and that part of the access road extending 6 metres into the site shall be constructed in accordance with Standard Detail number E6d
- b. Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
- c. Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway and shall be maintained thereafter to prevent such discharges.

Reason:

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

04. 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. measures to control the emission of dust and dirt during construction

Reason:

In accordance with Policy T1 of 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.

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

Reason:

To ensure a satisfactory form of drainage in accordance with Policy SP15 of Selby Core Strategy.

06. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water has 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 installation of soakaways provide an adequate method of surface water disposal and reduce the risk of flooding, in accordance with Policy SP15 of Selby Core Strategy.

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

Reason:

To ensure that any potential risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policy ENV1 of Selby District Local Plan.

08. The development hereby permitted shall be constructed entirely of the material details of which are shown on the approved plans and application form.

Reason:

In the interests of visual amenity in accordance with Policy ENV1 of Selby District Local Plan.

09. The development shall not be brought into use until a scheme detailing the boundary treatment of the site has been submitted to and approved in writing by the Local Planning Authority. Details shall include the location, type,

height, style and method of installation. The development shall not be brought into use until the works comprising the approved scheme have been completed. The scheme shall thereafter be retained for the lifetime of the development.

Reason:

In the interests of the visual character of the area in accordance with Policy ENV1 of Selby District Local Plan and Policy SP19 of Selby District Core Strategy.

Contact Officer:

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Appendices:

None

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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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