



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY, 7 MARCH 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 R 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 - 6)

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

6. Planning Applications Received (Pages 7 - 8)

6.1. 2016/1254/FUL - The Bungalow, 31 Lumby Hill, Monk Fryston (Pages 9 - 24)

6.2. 2017/1287/OUT - Land South of 4 Sir John's Lane, Sherburn in Elmet (Pages 25 - 40)

6.3. 2017/0008/OUT - Land South of Holmes Drive, Riccall (Pages 41 - 58)

6.4. 2017/1001/FUL - Beech Tree House, Main Road, Burn (Pages 59 - 74)

6.5. 2015/0341/OUT - Land at Flaxley Road, Selby (Pages 75 - 82)

G. Marshall

Gillian Marshall, Solicitor to the Council

<p>Dates of next meetings (5.00pm) Wednesday, 11 April 2018</p>
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Enquiries relating to this agenda, please contact Victoria Foreman on 01757 292046 or vforeman@selby.gov.uk.

Recording at Council Meetings

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Minutes

Planning Committee

Venue:	Council Chamber
Date:	Wednesday 7 February 2018
Time:	2.00pm
Present:	Councillors J Cattanach (Chair), I Chilvers, J Deans, M Jordan, R Packham, C Pearson, D Peart (Vice Chair), P Welch and Mrs D White.
Officers present:	Kelly Dawson, Senior Solicitor, Martin Grainger, Head of Planning; Ruth Hardingham, Planning Development Manager, Keith Thompson, Senior Planning Officer (for minute items 59.1 and 59.2); Ann Rawlinson, Principal Planning Officer (for minute item 59.3); Andrew Martin, Principal Planning Officer (for minute item 58) and Victoria Foreman, Democratic Services Officer
Public:	10
Press:	1

52. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Mrs E Casling. Councillor Mrs D White was in attendance as a substitute for Councillor Mrs E Casling.

53. DISCLOSURES OF INTEREST

There were no disclosures of interest.

54. CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

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

1. 2017/0443/REM – Land Adj to Station Mews, Church Fenton, Selby
2. 2017/1269/FUL – Land Adj to Common Farm, Biggin Lane, Biggin
3. 2017/1228/FULM – Land Off East Acres, East Acres, Byram, Knottingley

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

55. 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.

56. MINUTES

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

The Committee noted that Councillor J Deans had been present at the meeting but his attendance had been omitted from the minutes; Officers were asked to correct this.

The Committee also noted that in reference to minute item 51.2 – 2017/0701/OUT – Yew Tree House, Main Street, Kelfield, that the appeal on the site had been dismissed by the Planning Inspector.

RESOLVED:

To approve the minutes of the Planning Committee meeting held on 10 January 2018 for signing by the Chairman, subject to the amendment of Councillor J Deans' attendance.

57. REASONS FOR PLANNING DECISIONS – P/17/2

The Committee were 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.

The Committee had previously received a briefing session on the content and implications of the report.

Councillor B Packham proposed and Councillor J Deans seconded that paragraph 2.6, as detailed in the recommendation, be amended to only include the first three bullet points, as set out below:

'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.'*

A vote was taken on the amendment and was carried.

RESOLVED:

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

58. PLANNING VALIDATION CHECKLIST FOR PLANNING AND RELATED APPLICATIONS – P/17/3

The Principal Planning Officer presented the report and asked the Committee 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 Committee expressed some concerns around accessibility to the document for people who did not use the internet; Officers confirmed that paper copies would be available at the Council Offices, Contact Centre and on request.

It was proposed and seconded that the report be noted by the Committee.

RESOLVED:

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, and that the review will include a six-week period of public consultation.

59. PLANNING APPLICATIONS RECEIVED

The Committee considered the following planning applications:

59.1 Application: 2017/0443/REM

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

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

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

Members noted that the application had been deferred at the December meeting of Planning Committee for a site visit, undertaken on Tuesday 6 February. 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.

The Committee were informed that the application was 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).

In reference to the officer update note, the Planning Officer explained that a further 10 objections to the revised plans, which made amendments to plot 5, had been received. The objections had been noted but did not raise any new material planning considerations that had not already been discussed in the committee report. One objection referred to the Outline consent showing 5 affordable houses; this was factually incorrect as there was no affordable housing shown or required in the Outline application.

Alan Wilson spoke in objection to the application.

Ross Higham, representing Church Fenton Parish Council, spoke in objection to the application.

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

The Committee debated the application further and asked questions of Officers regarding separation distance, permitted development rights, car parking provision and the positioning of windows on the gable end of Plot 5.

It was proposed and seconded that the application be approved.

RESOLVED:

To APPROVE the application subject to conditions set out in paragraph 7.0 of the report.

59.2 Application: 2017/1269/FUL

Location: Land Adj to Little Common Farm, Biggin Lane, Biggin

Proposal: Proposed erection of a six bedroom detached dwelling with integral garage

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

The Committee was informed that the application was for the proposed erection of a six bedroom detached dwelling with integral garage.

In reference to the officer update note, the Senior Planning Officer explained that one further objection had been received from a neighbour citing reasons already discussed in the report, and reference to protecting their hedge referring to another Planning Authority's guidance.

Tony Bowey spoke in objection to the application.

Nick Watson, agent, spoke in support of the application.

The Committee noted that the matter of prevention of damage to the neighbouring boundary hedge could be dealt with under condition 9 as set out in the report; that the development would not be brought into use until a scheme detailing the boundary treatment of the site had been submitted to and approved in writing by the Local Planning Authority.

It was proposed and seconded that the application be approved.

RESOLVED:

To APPROVE the application subject to conditions set out in paragraph 8.0 of the report.

59.3 Application: 2017/1228/FULM

Location: Land Off East Acres, East Acres, Byram, Knottingley

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

The Planning Officer presented the application that had been brought before the Committee due to the proposal being contrary to Policy SP16 (Improving Resource Efficiency) of the Selby District Core Strategy (2013).

The Committee were informed that the application was for a 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.

It was proposed and seconded that the application be approved.

RESOLVED:

The Committee were minded to approve the application, subject to:

- i) 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;**

ii) no new issues being raised as a result of publicity within the remainder of the consultation period (to expire 8 February 2018) and;

iii) the conditions set out in paragraph 6.0 of the report.

The meeting closed at 3.07pm.

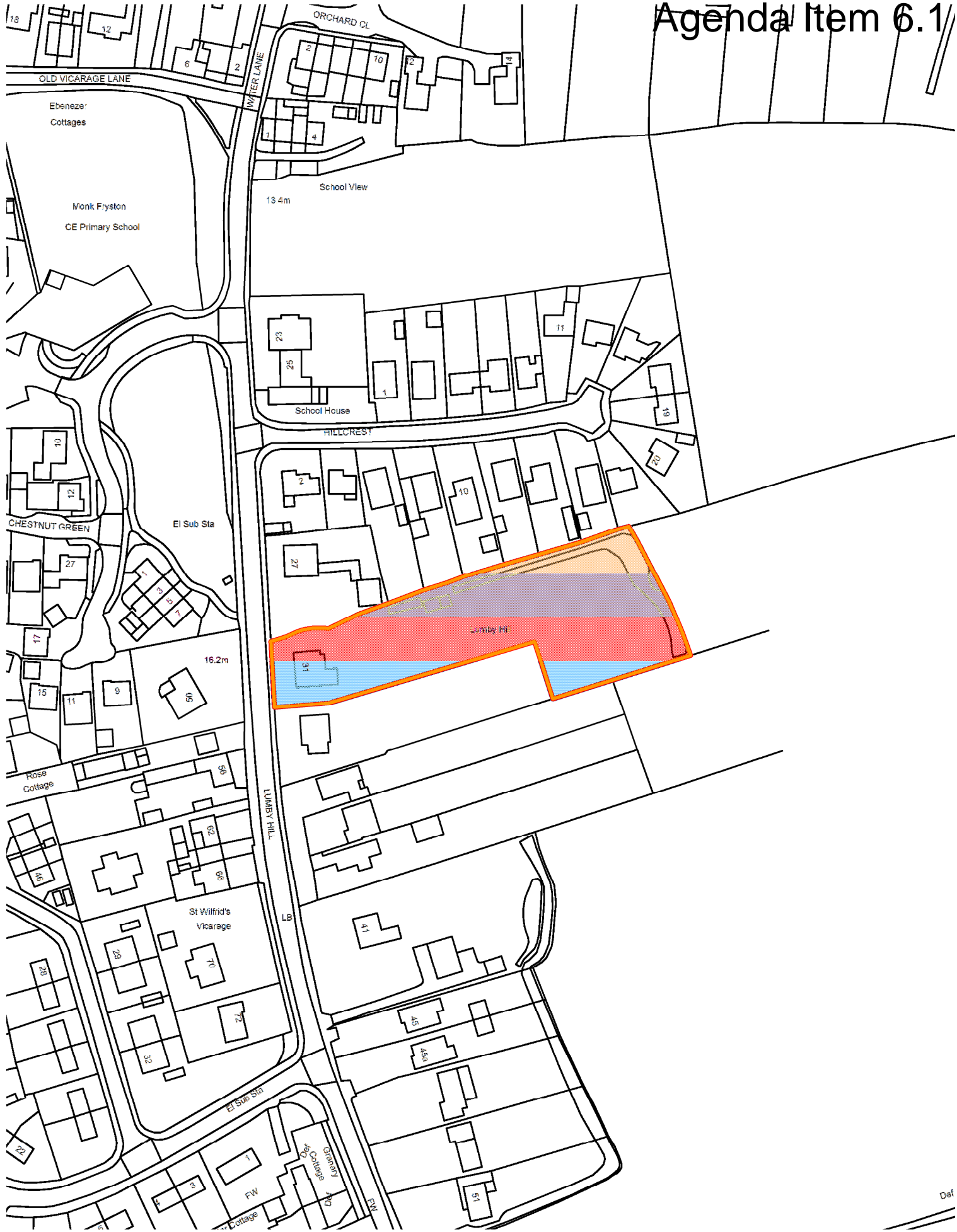
Agenda Item 6

Items for Planning Committee

7 March 2018

Item No.	Ref	Site Address	Description	Officer	Pages
6.1	2016/1254/FUL	The Bungalow, 31 Lumby Hill, Monk Fryston	Partial demolition of existing bungalow and erection of 4 No 3 bedroom semi-detached and 1 No 4 bedroom detached houses	KETH	13 - 26
6.2	2017/1287/OUT	Land South of 4 Sir John's Lane, Sherburn in Elmet	Outline application for the erection of a single dwelling with all matters reserved	DIWI	27 - 40
6.3	2017/0008/OUT	Land South of Holmes Drive, Riccall	Outline application including access (all other matters reserved) for 8 No. dwellings	KETH	41 - 56
6.4	2017/1001/FUL	Beech Tree House, Main Road, Burn	Proposed erection of new detached dwelling on Plot 2, (previously Plot 3)	ANRA	57 - 70
6.5	2015/0341/OUT	Land at Flaxley Road, Selby	Deed of variation to Section 106 Agreement attached to consent 2015/0341/OUT for hybrid application comprising outline proposals for the erection of circa 200 new dwellings including the construction of a new junction onto Flaxley Road, the laying out of open space and children's play area, pumping station, siting of electricity substation, landscaping and creation of areas for sustainable drainage including connection to water course and detailed proposals for the conversion of agricultural buildings to form 2 dwellings together with associated works including the creation of curtilages and areas of driveways/hardstanding (including external areas relating to the existing farm house) and demolition	LOMI	71 - 76

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APPLICATION SITE

Item No: 2016/1254/FUL

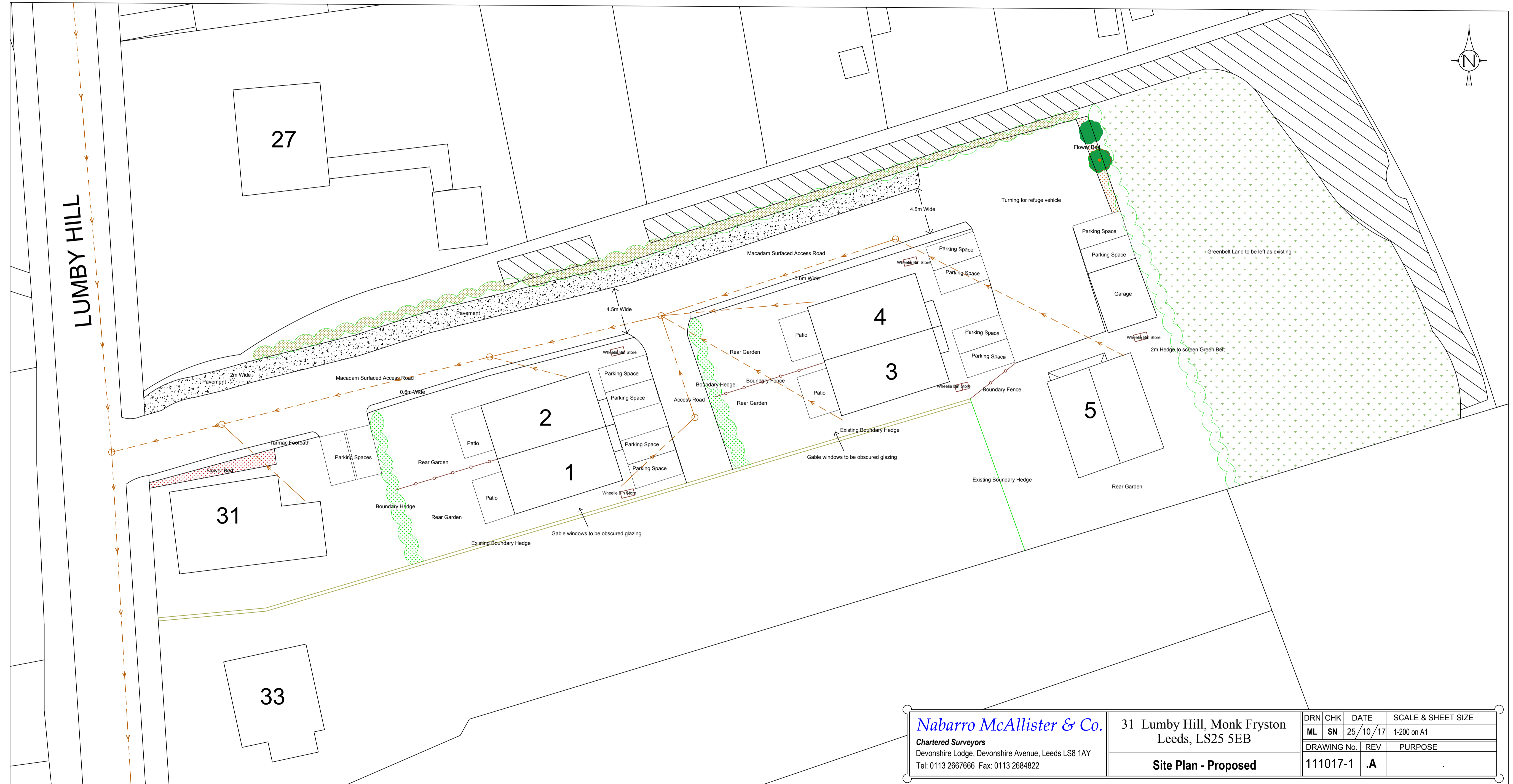
Address: The Bungalow, 31 Lumby Hill, Monk Fryston

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**AMENDED
DRAWING**

RECEIVED
23 November 2017
DEVELOPMENT MANAGEMENT



Page 11

Nabarro McAllister & Co.		31 Lumby Hill, Monk Fryston Leeds, LS25 5EB		DRN	CHK	DATE	SCALE & SHEET SIZE
Chartered Surveyors				ML	SN	25/10/17	1:200 on A1
Devonshire Lodge, Devonshire Avenue, Leeds LS8 1AY				DRAWING No.		REV	PURPOSE
Tel: 0113 2667666 Fax: 0113 2684822		Site Plan - Proposed		111017-1		.A	.

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

APPLICATION NUMBER:	2016/1254/FUL	PARISH:	Monk Fryston Parish Council
APPLICANT:	Ms Helen Ripley	VALID DATE:	25 October 2016
		EXPIRY DATE:	20 December 2016
PROPOSAL:	Partial demolition of existing bungalow and erection of 4 No 3 bedroom semi-detached and 1 No 4 bedroom detached houses		
LOCATION:	The Bungalow, 31 Lumby Hill, Monk Fryston, Leeds, West Yorkshire LS25 5EB		
RECOMMENDATION:	REFUSE		

1. Introduction and background

1.1 The Site

1.1.1 The application site includes no. 31 Lumby Hill, a detached dwelling and its rear garden. The development site lies to the east of the dwelling on land that slopes from the roadside to the east. The northern perimeter of the site is enclosed by a quarry wall with houses situated to the north on Hillcrest. The southern perimeter has a hedge that separates the site with no. 33. The eastern part of the site lies within the Green Belt and the quarry edge forms the perimeter of the eastern part of the site.

1.2 The proposal

1.2.1 The application seeks planning permission for the erection of 5no. dwellings within the garden of the host dwelling and the creation of a smaller garden for this dwelling.

1.2.2 The proposed dwellings would include 2 no. pairs of three bedroom semis and a 4no. bedroom detached house at plot 5.

- 1.2.3 An estate road would be constructed from Lumby Hill to serve each of the dwellings with a turning are refuge vehicles to the front of plot 5.

1.3 Planning History

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

- 1.3.1 CO/1992/0910 was permitted on 29 September 1992 for the proposed construction of a pitched roof to replace existing flat roof at no. 31 Lumby Hill.

2.0 Consultation and Publicity

The application has been publicised by site and press notice and neighbour notification letter with 5 objections received (including a Councillor objection) citing the following concerns:

- Houses with chimneys burning fuel would be on the same level as our rear garden,
- Privacy between windows on houses on Hillcrest and new dwellings,
- Will the road be private or adopted by the Council,
- Who will be responsible for the quarry wall should there be any damage and the hedge,
- Who will be responsible for the flower bushes, trees,
- Will the existing property still have ownership of the Green Belt land and its maintenance,
- Distant views of shrubs and trees would change to roofs an chimneys,
- Drainage concerns,
- Monk Fryston school is over prescribed,
- Traffic will be increased,
- Overdevelopment,
- Adequate on-site parking should be provided,
- Reassurances on any subsidence issues with quarry wall,
- Noise from traffic from the houses.
- Contrary to the Development Plan being located in the Green Belt,
- Views from the Green Belt into the site have to be appraised,
- Sequentially PDL is preferred over greenfield land,
- Creates back land development.

On 11 January additional and amended plans which include levels survey plan and house 5 proposed plans were consulted on with no comments received as a result of this publicity.

2.1 NYCC Highways

No objection subject to conditions.

2.2 **Yorkshire Water**

Clarification on a public sewer recorded to cross the site sought. No objection in principle to the proposed building position near to public sewer subject to control under Part H4 Building Regulations 2000.

2.3 **Selby Area Internal Drainage Board**

No comment.

2.4 **Monk Fryston Parish Council**

Objection on grounds of density and adequacy of the arrangement of the proposed vehicular access and lack of provision for visitor parking within the development.

2.5 **Environmental Health**

No objections.

2.6 **Natural England**

No comment.

2.7 **North Yorkshire Bat Group**

No comments received on the application.

2.8 **Public Rights Of Way Officer**

No comments received on the application.

2.9 **Contaminated Land Consultants**

No objection subject to SDC standard contaminated land conditions being applied. This is in order to address the potential risks associated with historic quarrying within close proximity to the site.

3.0 **Site Constraints and Policy Context**

Constraints

3.1 The application site is partly located within defined development limits with part of the site located within the Green Belt. The proposed development would all take place within the development limits and the area of land within the Green Belt would remain undeveloped.

3.2 The application site is located within Flood Zone 1.

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

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

Selby District Core Strategy Local Plan

- 3.5 The relevant Core Strategy Policies are:

SP1	Presumption in Favour of Sustainable Development
SP2	Spatial Development Strategy
SP3	Green Belt
SP4	Management of Residential Development in Settlements
SP5	Scale and Distribution of Housing
SP8	Housing Mix
SP9	Affordable Housing
SP15	Sustainable Development and Climate Change
SP18	Protecting and Enhancing the Environment
SP19	Design Quality

Selby District Local Plan

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

ENV1	Control of Development
ENV2	Environmental Pollution and Contaminated Land
T1	Development in Relation to Highway
T2	Access to Roads
CS6	Development Contributions-Infrastructure

Supplementary Planning Documents

3.8 Monk Fryston Village Design Statement Aug 2011.

4.0 APPRAISAL

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

1. Principle of Development
2. Green Belt
3. Design and Impact on the Character and Appearance of the Area
4. Residential Amenity
5. Highway Safety
6. Flood Risk, Drainage and Climate Change
7. Nature Conservation and Protected Species
8. Land Contamination
9. Affordable Housing
10. Recreational Open Space

4.2 Principle of Development

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

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

4.2.3 The application is located part inside the defined development limits of Monk Fryston and part outside on land within the Green Belt. The housing scheme, access road and associated garden space are all located within the development limits and thus the proposal would be subject to Policy SP2a which permits in Designated Service Villages scope for additional residential development.

4.2.4 Policy SP4A permits appropriate scale of development on greenfield land which includes garden land. The proposed development is considered to be out of scale and would not be in keeping with the character and appearance of the area and this is discussed further below. As such the proposal fails to accord with Policy SP4A of Selby District Core Strategy.

4.2.5 The Council has a five year housing land supply. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.

4.3 Green Belt

- 4.3.1 Relevant policies in respect to the principle of the development in the Green Belt are Policy SP3 of the Core Strategy and NPPF paragraphs 79 to 92. It is noted that no new development is proposed in the area of the site that is within the Green Belt. This area of land would remain as garden land for the host dwelling.
- 4.3.2 Part of the application site (land to the eastern area of the former quarry) is located outside defined development limits and is located within the Green Belt as such, national guidance contained within the NPPF and Policies SP2 (d) and SP3 of the Core Strategy are relevant.
- 4.3.3 The decision making process when considering proposals for development in the Green Belt is in three stages, and is as follows:
- a) It must be determined whether the development is appropriate development in the Green Belt. The NPPF and Local Plan set out the categories of appropriate development.
 - b) If the development is appropriate, the application should be determined on its own merits unless there is demonstrable harm to interests of acknowledged importance, other than the preservation of the Green Belt itself.
 - c) If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which outweigh the presumption against it.
- 4.3.4 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 4.3.5 The quarry wall provides a distinct and natural boundary to the edge of the site and intersects Green Belt land. A public footpath located to the south east of the site provides views toward the site and it is largely screened. Trees and planting is visible that lies on the perimeter of the quarry with only houses at Hillcrest and The Crescent visible in the distance. The eastern edge of the developed part of the site would have a new 2m high hedge planted, a detached garage and parking spaces introduced and situated along the Green Belt boundary.
- 4.3.6 The visual impact on the open characteristics of the Green Belt have been considered and the proposal would provide a distinct and clear visual boundary between the development site and the Green Belt. Despite the new built form being close to the Green Belt boundary, the new hedge and the tall quarry wall that arcs around the eastern perimeter of the existing garden, ensures that the visual quality of this area of Green Belt would not be adversely harmed.
- 4.4.7 Paragraphs 89 and 90 of the NPPF set out what does not constitute inappropriate development in the Green Belt. The proposal states that the land designated as Green Belt would be left as garden land for the host dwelling no. 31 Lumby Hall. There would be no new buildings erected on this land and there would be no change of use of land. Therefore in terms of principle of development the proposal

would not result in adverse impact upon the openness of this area of Green Belt land.

4.3.8 It is therefore considered that the proposal would accord with Policies SP2 (d) and SP3 of the Core Strategy and Section 9 of the NPPF.

4.4 Impact on Character and Form of the Locality

4.4.1 The proposed housing development would be laid out with two pairs of semi-detached dwellings and a detached dwelling in the eastern area of the site.

4.4.2 The separation distance between the semis would be circa 21.5m and the distance from the host dwelling to plots 1 and 2 would be circa 17.5m and 20.5m to rear elevation that has windows. The site slopes significantly from the roadside to the rear elevation of plots 1 and 2, some 17m from the rear elevation of the host dwelling.

4.4.3 The application site and housing plots to the south are characterised by dwellings fronting Lumby Hill and large rectangular gardens to the rear which measure circa 30m – 65m long, which shorten further south. The application site has one of the larger rear gardens which measures circa 100m long, and also wraps around the rear garden of no. 33 Lumby Hill. These existing plots have generous space about each dwelling, compared to the plots proposed on the application site which have rear gardens 9.5m long, parking to the front of the four semi-detached plots with no option of parking to the side of these plots.

4.4.4. The housing estate located to the north at Hillcrest have spacious rear gardens which measure circa 10m – 20m and front gardens with off street parking mainly located to the side of houses. The housing plots on this estate also have generally more space about each dwelling compared to the plots on the application site.

4.4.5 The agent has been rigid in the approach to the housing layout and this has limited the opportunities to design a scheme that takes influence from the characteristics of housing plots in close proximity to the site at Hillcrest and also at plots further south of the site. For example, reducing the scheme to four dwellings could provide significantly improved space on each plot, which would appear in character to the local area. However, the proposal would result in the layout of the scheme appearing out of character, due to the alien layout proposed. Furthermore, the proposal would also significantly reduce the space about the host dwelling at no. 31 by reducing the rear garden to 6m and would be partly occupied by two off street parking spaces.

4.4.6 The agent considers that the proposal is not dissimilar in layout to Hillcrest located to the north. Officers disagree insofar that dwellings on Hillcrest have a much more generous layout with driveways located to the side of houses and space about dwellings being more generous in the main, with gardens to the front and rear of dwellings. The contrived layout of the proposal does not relate to the character and layout of housing situated on Lumby Hill which it's acknowledged varies with different lengths of gardens, but nevertheless this scheme is negatively at odds with the neighbouring plots layout character which are more spacious. The site would not integrate with the character of development in this part of the village, effectively appearing as a development that looks inward on itself.

- 4.4.7 The layout of plot 5 located in the eastern area of the site would be sited close to a quarry wall which has foliage growing over it. The height of the wall is circa 2-3m high and this would appear as an oppressive form of enclosure. This is not considered a good form of layout and raises issues of outlook for future occupier(s) of the plot.
- 4.4.8 Policy ENV1 (1) and (4) of Selby District Local Plan states that when considering proposals the standard of layout and design in relation to the site and its surroundings shall be taken into account. This proposal would result in a housing development that does not ameliorate with its surroundings in terms of layout and design and thus would appear out of keeping and character with its surroundings.
- 4.4.9 A submitted cross section levels plan indicates that roughly the middle area of the rear garden would be excavated to develop plots 1 and 2. No levels are provided for plot 5. The excavation works that would be required would change the topography of the site, but this is considered to have a neutral effect on the immediate setting of the site.
- 4.4.10 There would be adequate space for waste and recycling provision within each plot and this could be secured by condition.
- 4.4.11 To conclude, it is considered that the character and appearance of the village would be adversely harmed by this proposed layout which does not relate to or ameliorate with its surroundings. The proposal is considered to fail to accord with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 a and b of the Core Strategy and the advice contained within the NPPF, in particular Chapter 7 (requiring Good Design) at paragraphs 60 relating to promotion or reinforcement of local distinctiveness, and paragraph 66 requiring applicants to work closely with those directly affected to evolve designs that take account of the views of the community.

4.5 Impact on Residential Amenity

- 4.5.1 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 4.5.2 Objections received from neighbours include concerns with privacy and overlooking from the new houses. The application site has a sloping ground level that extends from Lumby Hill toward the middle area of the garden. The houses on Hillcrest are on significantly higher ground level. The adjacent houses that lie to the south of the site have a similar ground level with their gardens falling to the east. The northern and eastern edge of the site is formed by the remains of a quarry edge and this provides a physical barrier between the site and neighbour's. When constructed the houses would have a roof line that peaks above the ground level of Hillcrest, but would not likely to be higher to raise issues of privacy or appear overbearing on these neighbour's outlook.
- 4.5.3 Plots 1 and 3 would have gable windows that face the rear garden of no 33 but these are noted as being obscured glazing and can be controlled by condition.

- 4.5.4 Plot 5 would be set off the shared boundary with no. 35 rear garden by circa 5m and there are two first floor bedroom windows that face this garden and would overlook the quarry wall as the windows are circa 3.5m to cill level from the ground. It is acknowledged that the neighbour's garden is circa 90m long and there are trees located in this area of the garden, but nevertheless it is not good design to introduce this unavoidable overlooking aspect of the proposal.
- 4.5.5 As such it is considered that the proposed development would raise concern in terms of impact on residential amenity of no. 35 and thus fails to accord with Policy ENV1 (1) of the Local Plan in this regard and the advice contained within the NPPF which requires a good standard of design in new development.

4.6 Impact on Highway Safety

- 4.6.1 The proposed dwellings would benefit from a vehicular access onto Lumby Hill. Each dwelling would have off street parking and an estate road would serve each dwelling. North Yorkshire County Council Highways raise no objections to the proposal subject to conditions.
- 4.6.2 Objections have been raised by the Parish Council regarding access from the site onto Lumby Hill. It is noted that the development would be more intense than the current single dwellinghouse access but there are no known capacity issues on Lumby Hill that would lead to the view that this scale of development would pose a highway safety risk or lead to adverse highway capacity issues.
- 4.6.3 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.

4.7 Flood Risk, Drainage and Climate Change

- 4.7.1 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. It is noted that in complying with the 2013 Building Regulations standards, the development will achieve compliance with criteria (a) to (b) of Policy SP15 (B) and criterion (c) of Policy SP16 of the Core Strategy.
- 4.7.2 Paragraph 14 of the NPPF states "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking."
- 4.7.3 The NPPF, paragraph 94, states that local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations. The NPPF, paragraph 95, states that to support the move to a low carbon future, local planning authorities should plan for new development in locations and ways which reduce greenhouse gas emissions and which actively support energy efficiency improvements to existing buildings.
- 4.7.4 The application site is located within Flood Zone 1, which has a low probability of flooding.

4.7.5 Yorkshire Water and the IDB did not raise any objections to the proposal with Yorkshire Water seeking under Building Regulations safeguarding of a water pipe on the site. As such, the proposal would raise no adverse drainage issues.

4.8 Nature Conservation and Protected Species

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

4.8.2 The application site is not a designated protected site for nature conservation.

4.8.3 It is considered that the proposal would not harm any acknowledged nature conservation interests and is therefore in accordance with Policy ENV1 (5) of the Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

4.9 Land Contamination

4.9.1 The application has been reviewed by the Councils contaminated land consultants who advise based on the information submitted by the agent in the form of Contaminated Land information, should control the development by attaching standardised conditions, which would be reasonable and necessary.

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

4.10 Affordable Housing

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

4.11 Recreational Open Space

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

4.12 Other Issues

4.12.1 Objections from a neighbour refer to matters that are not considered a material planning consideration with respect to a right to a view from a dwelling window.

4.12.2 Smoke emanating from the proposed dwellings and impacting on houses on Hillcrest would be a matter for environmental health legislation if found to be a nuisance.

4.12.3 The quarry wall, bushes and flowers would be subject to care and maintenance by the landowner whether that is the existing landowner no. 31 or new owners when land is sold.

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 scheme is considered to be located within a sustainable location within a Designated Service Village and new housing development would be supported in principle if the development was of appropriate scale on a greenfield site. It is considered that the proposal raises significant adverse concern with the design and layout of the scheme and thus would fail to accord with Policy SP4A of Selby District Core Strategy.

6.2 It is considered that the character and appearance of the village would be adversely harmed by this proposal due to its layout, which does not relate to or ameliorate with its surroundings.

6.3 The proposal is considered to fail to accord with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 (a) and (b) of Core Strategy and the advice contained within the NPPF, in particular Chapter 7 (requiring Good Design) at paragraphs 60 relating to promotion or reinforcement of local distinctiveness, and paragraph 66 requiring applicants to work closely with those directly affected to evolve designs that take account of the views of the community.

6.4 The proposed layout of the scheme raises adverse concern with regards to plot 5, insofar, as the rear first floor windows would overlook into the private rear garden of no. 35 Lumby Hill, to the detriment of the neighbour's privacy.

7.0 Recommendation

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

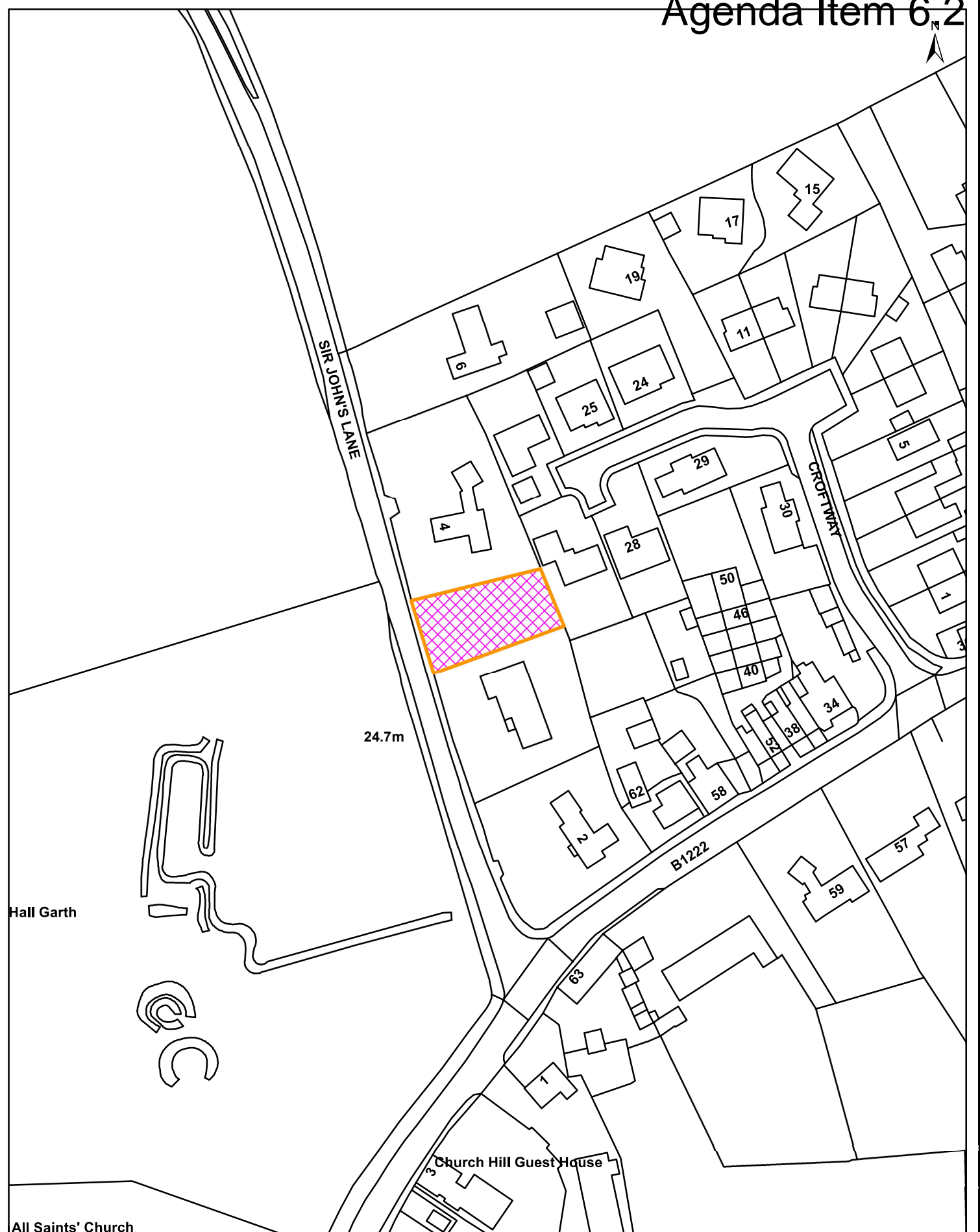
01. Non-allocated sites located within Designated Service Villages are supported in principle, subject to an appropriate scale development on greenfield land. The proposed development is not considered to be an appropriate scale development on this greenfield site, and thus would fail to accord with Policy SP4A of Selby District Core Strategy.
02. The character and appearance of the village would be adversely harmed by this proposal due to its layout, which does not relate to or ameliorate with its surroundings. The proposal is considered to fail to accord with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 (a) and (b) of Core Strategy and the advice contained within the NPPF, in particular Chapter 7 (requiring Good Design) at paragraphs 60 relating to promotion or reinforcement of local distinctiveness, and paragraph 66 requiring applicants to work closely with those directly affected to evolve designs that take account of the views of the community.
03. The proposed layout of the scheme raises adverse concern with regards to plot 5, insofar, as the rear first floor windows would overlook into the private rear garden of no. 35 Lumby Hill, to the detriment of the neighbour's privacy. As such the proposal would fail to accord with Policy ENV1 of Selby District Local Plan.

Contact Officer:

Keith Thompson, Senior Planning Officer

Appendices:

None.



APPLICATION SITE

2017/1287/OUT

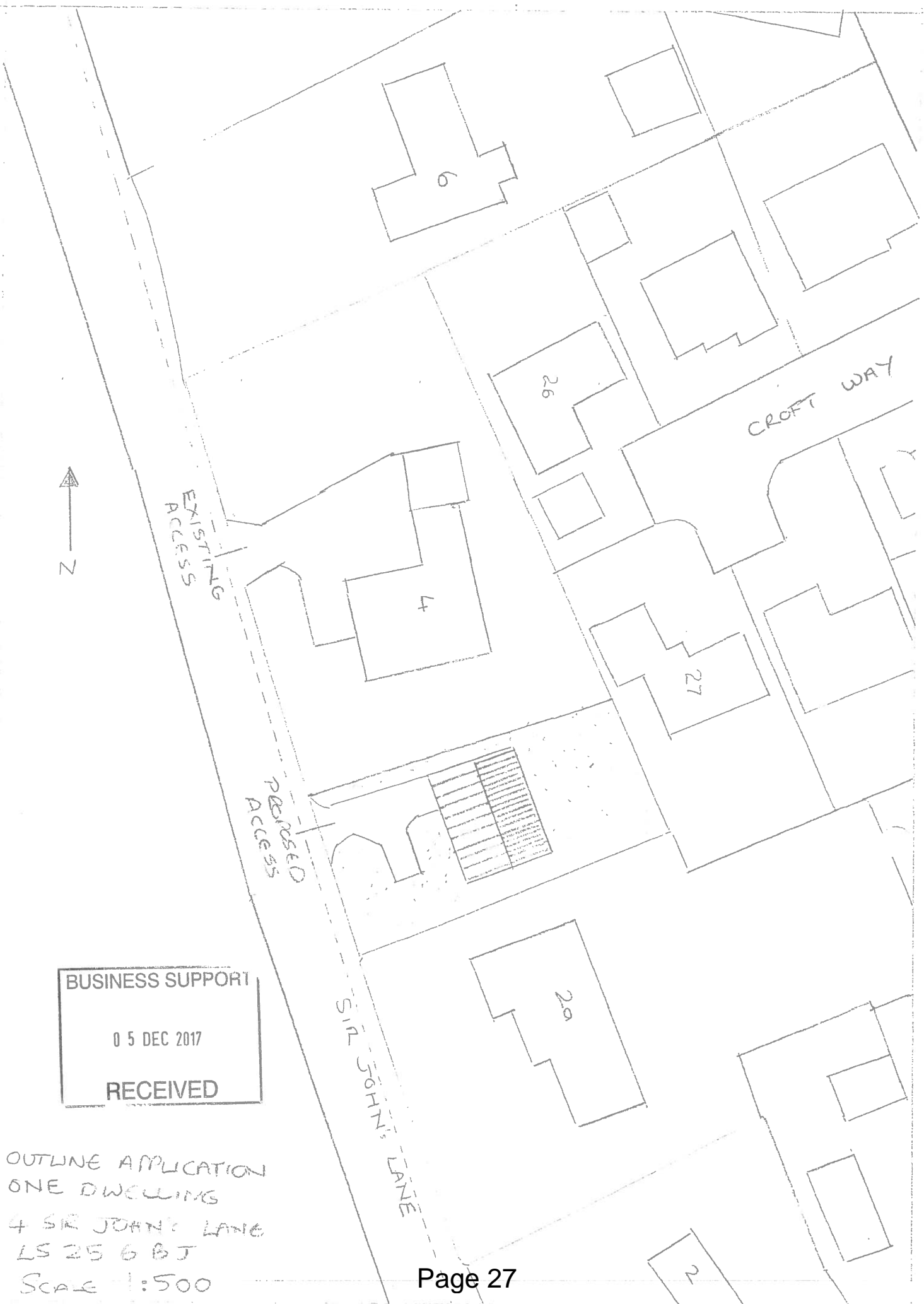
Land south of 4 Sir John's Lane, Sherburn in Elmet

1:1,250



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BUSINESS SUPPORT
05 DEC 2017
RECEIVED

OUTLINE APPLICATION
ONE DWELLING
4 SIR JOHN'S LANE
LS 25 6 BT
SCALE 1:500

Layout

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To: Planning Committee
Date: 7 March 2018
Author: Diane Wilson (Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/1287/OUT	PARISH:	Sherburn in Elmet Parish Council
APPLICANT:	K Packham	VALID DATE: EXPIRY DATE:	5 December 2017 30 January 2018
PROPOSAL:	Outline application for the erection of a single dwelling with all matters reserved		
LOCATION:	Land South of 4 Sir Johns Lane, Sherburn in Elmet, Leeds LS25 6BJ		
RECOMMENDATION:	APPROVE		

The above application is referred to the Planning Committee for a decision due to the applicant being the partner of a District Councillor.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located within the defined development limits of Sherburn in Elmet, which is a Local Service Centre as identified in the Selby District Core Strategy.
- 1.2 The site consists of a detached bungalow set within spacious gardens. The site is bounded by hedging along the eastern, southern and eastern boundaries with stone walling along the northern boundary. The properties immediately surrounding the site are a mixture of bungalows and two storey dwellings constructed to varying designs with a mix of materials. The site level is slightly higher than that of St Johns Lane, however the site is flat in itself.
- 1.3 The application site faces on to some agricultural land and part of a Scheduled Monument to the west.

The Proposal

- 1.4 The application seeks outline planning permission for the erection of one residential dwelling with all matters reserved for later consideration. The applicants are therefore not seeking agreement to the appearance, landscaping, layout, scale or access at this stage.
- 1.5 The application includes a red line plan and an “Indicative Layout Plan” which shows how the site could accommodate one detached dwelling and demonstrates how an access can serve the site off Sir Johns Lane.

Planning History

- 1.6 The following historical applications are considered to be relevant to the determination of this application.
 - Application 2011/1017/HPA was permitted on the 24 November 2011 for extensions and alterations including replacing flat roof with pitched roof, insertion and alteration of dormers and roof lights to 4 St Johns Lane.
 - Application 2012/0066/DPC was permitted on the 13 March 2012 which agreed the discharge of condition 3 (Archaeology) of approval 2011/1017/HPA.

2. CONSULTATION AND PUBLICITY

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

- 2.1 **Sherburn in Elmet Parish Council** – No objection.
- 2.2 **NYCC Highways** – No objections subject to three conditions relating to private access construction requirements, required visibility splays and submission of a Construction Management Plan.
- 2.3 **Yorkshire Water** – No comments received during the statutory consultation period.
- 2.4 **Selby Area Internal Drainage Board** – The drainage board have no objection in principle.
- 2.5 **Historic England** – No comments to make on this application.
- 2.6 **Conservation Officer** – No objections. The majority of the wall along Sir Johns Lane would remain and the local character and distinctiveness of this street would be maintained. The development along Sir Johns Lane would not extend the built form of Sherburn or impinge upon the designated scheduled area.
- 2.7 **North Yorkshire Archaeologist** – No objections subject to a condition for a watching brief.
- 2.8 **Neighbour Comments** - No representation has been received during the statutory consultation period.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site is located within the defined development limits of Sherburn in Elmet.
- 3.2 The application site is located within Flood Zone 1.
- 3.3 The site is located in the vicinity of a "Scheduled Monument" which lies to the west of the application site. The application was advertised accordingly given this relationship.

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

- 3.4 On the 27 March 2012 the Government published the National Planning Policy Framework (NPPF). The NPPF replaced the suite of Planning Policy Statements (PPS's) and Planning Policy Guidance Notes (PPG's) and now, along with the Planning Policy Guidance (PPG), provides the national guidance on planning.
- 3.5 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development. Paragraph 14 of the NPPF states "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking".
- 3.6 The NPPF and the accompanying PPG provides guidance on wide variety of planning issues the following report is made in light of the guidance of the NPPF.

Selby District Core Strategy Local Plan

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

Selby District Local Plan

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

3.9 The relevant Selby District Local Plan Policies are:

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

4. APPRAISAL

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

- Principle of the Development
- Highway issues
- Design and Impact on the Character and Form of the Area
- Affect the Setting of Heritage Assets and Archaeological Remains
- Impact on Residential Amenity
- Flood Risk, Drainage and Climate Change
- Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing.

Principle of the Development

- 4.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework and sets out how this will be undertaken.
- 4.3 Relevant policies in respect of the principle of this proposal include Policy SP2 "Spatial Development Strategy", Policy SP4 "Management of Residential Development in Settlements" and Policy SP5 "The Scale and Distribution of Housing" of the Core Strategy.
- 4.4 The application site is a non-allocated site within the defined development limits of Sherburn in Elmet. Policy SP2 identifies Sherburn in Elmet as a Local Service Centre where further housing, employment, retail, commercial and leisure facilities will be supported in principle. Policy SP2 goes on to state that proposals for development on non-allocated sites must meet the requirements of Policy SP4.
- 4.5 Policy SP4 states that redevelopment of previously developed land and appropriate scale development on greenfield land is acceptable in principle subject to proposals protecting local amenity, preserving and enhancing the character of the local area and complying with normal planning considerations with full regard taken of the principles contained within Village Design Statements. It goes on to state that appropriate scale will be assessed in relation to the density, character and form of the local area and should be appropriate to the role and function of the settlement within the hierarchy. These matters are discussed later within the report.
- 4.6 It is noted that the Council's has confirmed that there is currently a 5 year housing land supply. Whilst this matter is a material consideration it is not a determining

factor in this application which is in any instance located within the defined development limits of a sustainable settlement within the District.

- 4.7 On the basis of the above policy context, regardless of whether the Council have a 5 year housing land supply or not, the proposals comply with Policies SP1, SP2 and SP4 of the Core Strategy with respect to the principle of development.

Highway issues

- 4.8 The application seeks outline planning permission for one dwelling with an indicative layout plan which demonstrates how the plot is suitable for one dwelling and how access could be taken from Sir Johns Lane. The plan also indicates that sufficient space can be provided within the site for parking facilities and a turning area. With respect to the visibility splays, Officers are comfortable that appropriate visibility could be achieved.
- 4.9 North Yorkshire County Highways have been consulted on the proposals and have advised that they have no objections to the proposals subject to three conditions relating to the approval of details for vehicular access crossing, visibility splays and a Construction Management Plan.
- 4.10 In terms of the proposed conditions for private access/verge crossings, visibility splays and a construction management plan, given that access is not being approved at this stage it is not considered reasonable to attach these conditions at outline stage. It should however be noted that these conditions can be attached at reserved matters stage or addressed through the plans submitted at reserved matters stage.
- 4.11 It is therefore considered that an appropriate scheme could be achieved at the reserved matters stage which would be acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and the advice contained within the NPPF.

Design and Impact on the Character and Form of the Area

- 4.12 The application seeks outline planning permission for the erection of one residential dwelling with all matters reserved. The applicants are therefore not seeking agreement to the appearance, landscaping, layout or scale of the proposed unit at this stage.
- 4.13 The application site comprises an area of garden land, is surrounded by residential development to the north, east and south, with agricultural land and a "Scheduled Monument" to the west. The dwellings within the immediate vicinity of the application site are generally detached bungalows, although there are two storey properties to the east of Sir Johns Lane which provide some variety.
- 4.14 An indicative layout plan has been submitted with the application, which demonstrates how the site could be laid out to accommodate one dwelling with sufficient space for parking to the site frontage and amenity space to the rear which could provide a development of a similar layout and form to other dwellings in the immediate vicinity of the site and thus could retain the character of the area.

- 4.15 Having had regard to the scale of properties along Sir Johns Lane it is noted that there is some variety, therefore given the fact that no. 4 to the north is a single storey bungalow, whilst no. 2a to the south is a two storey property, a dwelling of an appropriate scale could be designed to sit between these properties, whether this be single or two storey.
- 4.16 There are a variety of types of dwellings and materials used for the external finishes in the vicinity of the site. At this stage no details have been provided on the proposed approach for the unit, however as part of the reserved matters submission such details would be required as part of the detailed design and there is nothing to suggest that an appropriate appearance cannot be achieved.
- 4.17 With respect to landscaping it is noted that there are a series of trees along the eastern boundary with hedgerows along the eastern, southern and western boundaries and these could be retained and integrated into any detailed landscaping scheme.
- 4.18 Having regard to the above, it is considered that an appropriate scheme could be achieved at the reserved matters stage in terms of layout, scale, appearance and landscaping, which would not result in any significant detrimental impacts on the character and appearance of the area in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF.

Affect the Setting of Heritage Assets and Archaeological Remains

- 4.19 A "Scheduled Monument" (SM), known as Hall Garth, is located to the west of the application site. This consists of a number of earthworks, including building platforms, wall lines, ditches, terraces and small quarrying scoops. The site has been identified as the site of a palace built on land given by King Athelstan to the Archbishopric of York. The monument lies on a north facing hillside of the village, and lies adjacent to All Saints Church. Sir Johns Lane is located north of the Scheduled Monument and All Saints Church.
- 4.20 A Heritage Statement and Written Scheme of Investigation has been submitted with the application. The Council's Conservation Officer has been consulted as part of this application along with the North Yorkshire Archaeologist. The Conservation Officer notes that the surrounding area benefits from a Grade 1 listed church and an Scheduled Monument. The Conservation Officer also notes the scheduled monument is located in close proximity to the application site and is separated by Sir Johns Lane. As such in order to gain access into the site the stone wall which runs the length of Sir Johns Lane would be partially demolished. Given the majority of the wall could remain the local character and distinctiveness of this street could be maintained. Overall the Conservation Officer considers that although the proposal would increase the density of development in this area, the erection of one dwelling would not impinge upon the designated scheduled area or this area of Sherburn in Elmet.
- 4.21 The North Yorkshire Heritage Officer has also been consulted as part of this application and notes the heritage statement and written scheme of investigation for the archaeological monitoring. The Archaeologist notes that a watching brief took place during the construction of an extension to 4 Sir Johns Lane in 2012. The

results of this watching brief provided negative results and as such the assumption is that the development would not disturb significant archaeological remains. Notwithstanding the outcome of the previous watching brief the Archaeologist has recommended that further archaeological monitoring would be beneficial to the site and therefore a condition shall be attached that mitigation recording is undertaken upon commencement.

- 4.22 Having had regard to the type of development the Conservation Officer and North Yorkshire Archaeologist considers that a single dwelling would not impact upon the setting of the nearby Scheduled Monument.
- 4.23 It is therefore considered that with a Condition attached the proposal is acceptable and would not have a significant or detrimental impact on the character and appearance of the area, or affect the setting of the Scheduled Monument. The proposal is therefore considered acceptable in accordance with Policy ENV1, and ENV27 of the Selby District Local Plan, Policies SP18 and SP19 of Core Strategy and the advice contained within the NPPF.

Impact on Residential Amenity

- 4.24 The application seeks outline planning permission for one dwelling with all matters reserved. An indicative layout plan has been submitted with the application, which demonstrates how the site could accommodate one dwelling.
- 4.25 The layout, scale, appearance and landscaping of the dwelling is reserved for subsequent approval at the reserved matters stage. However, given the site context and the plot size, it is considered that an appropriate scheme could be achieved at the reserved matters stage to ensure that no significant adverse effects of overlooking, overshadowing or oppression between the proposed dwelling and existing dwellings occurs. The proposals are therefore in accordance with Policy ENV1(1) of the Selby District Local Plan and the advice contained within the NPPF.

Flood Risk, Drainage and Climate Change

- 4.26 The application site is located within Flood Zone 1, which has a low probability of flooding. The application form states that surface water would be disposed of via a soakaway there is no other information provided in terms of drainage. No information has been submitted in terms of climate change mitigation.
- 4.27 The Selby Area Internal Drainage Board has raised no objection in principle but advise that ground conditions may not be suitable for soakaway discharge therefore percolation tests need to be undertaken to establish if the ground conditions are suitable for soakaway drainage and this can be conditioned. Yorkshire Water have made no comments, however should any comments be made then these will be added to the officer update note and presented to Members. However, having had regard to the comments made by Selby Internal Drainage Board it is considered necessary for appropriate conditions to be attached to ensure adequate drainage provision can be achieved.
- 4.28 In addition, Officers consider that a condition in relation to separate systems for foul and surface water drainage to serve the development should be attached to any planning permission granted. As such subject to appropriate conditions it is

therefore considered that appropriate drainage arrangements can be achieved which accord with policy.

- 4.29 In terms of climate change Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate meet 8 criteria set out within the policy. Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. It is noted that in complying with the 2013 Building Regulations standards, the development will achieve compliance with criteria (a) to (b) of Policy SP15(B) and criterion (c) of Policy SP16 of the Core Strategy.

Nature Conservation and Protected Species

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

Land Contamination

- 4.32 The application has been supported by a Contamination Screening Assessment. The assessment notes that over a number of years the land has been in domestic use. Having visited the site the planning officer could not find evidence to the contrary and therefore on this basis given the context of the site the Contaminated Land Officer has not been consulted. However, a condition should be attached to any planning permission granted requiring that the Local Planning Authority be informed in the event that unexpected contamination is found at any time when carrying out the development.
- 4.33 Subject to the aforementioned condition, it is considered that the proposal would be acceptable in respect to land contamination and is therefore in accordance with Policy ENV2 of the Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Affordable Housing

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

Legal Issues

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

4.36 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.

4.37 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

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

5.0 CONCLUSION

5.1 The application seeks outline planning permission for one dwelling with all matters reserved.

5.2 The application site is located within the defined development limits of Sherburn in Elmet, which is a Local Service Centre as identified in the Core Strategy. The proposal would constitute a form of development which would be acceptable in principle under Policies SP2 and SP4 of the Core Strategy.

5.3 It is considered that an appropriate layout, scale, appearance, landscaping and access could be achieved at reserved matters stage so as to ensure that the proposal is acceptable in respect of the impact on the character and appearance of the area, the impact on residential amenity and impact on highway safety.

5.4 Furthermore, the proposals are considered to be acceptable in respect of flood risk, drainage and climate change, nature conservation and protected species, land contamination and the impact on heritage assets.

5.5 The scheme is considered contrary to Policy SP9 of the Core Strategy. However, in the context of the Court of Appeal decision it is considered that this is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. Officers therefore recommend that, having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

6.0 RECOMMENDATION

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

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

case of approval on different dates, the final approval of the last such matter to be approved.

Reason:

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

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

Reason:

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

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

- Location Plan - Drawing No. LOC01 - Date 05/12/2017

Reason:

For the avoidance of doubt.

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

Reason:

In the interest of satisfactory and sustainable drainage.

05. No development shall take place until details of the proposed means of disposal of surface water drainage, including details of any balancing works and off -site works, have been submitted to and approved by the local planning authority. If any discharge of surface water is to public sewer, the detail shall include the reasons for discounting other methods of drainage and the means of ensuring that the rate of discharge is restricted to greenfield rates. Furthermore, unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.

Reason:

To ensure that no surface water discharges take place until proper provision has been made for its disposal and in accordance with sustainable drainage principles.

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

scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:

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

07. No demolition/development shall take place other than in accordance with the Written Scheme of Investigation for archaeological monitoring submitted with the reserved matters planning application.

Reason:

This condition is imposed in accordance with Section 12 of the NPPF as the site is of archaeological interest.

08. The development shall not be occupied until the site investigation and post investigation archaeological assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured at reserved matters stage.

Reason:

This condition is imposed in accordance with Section 12 of the NPPF as the site is of archaeological interest.

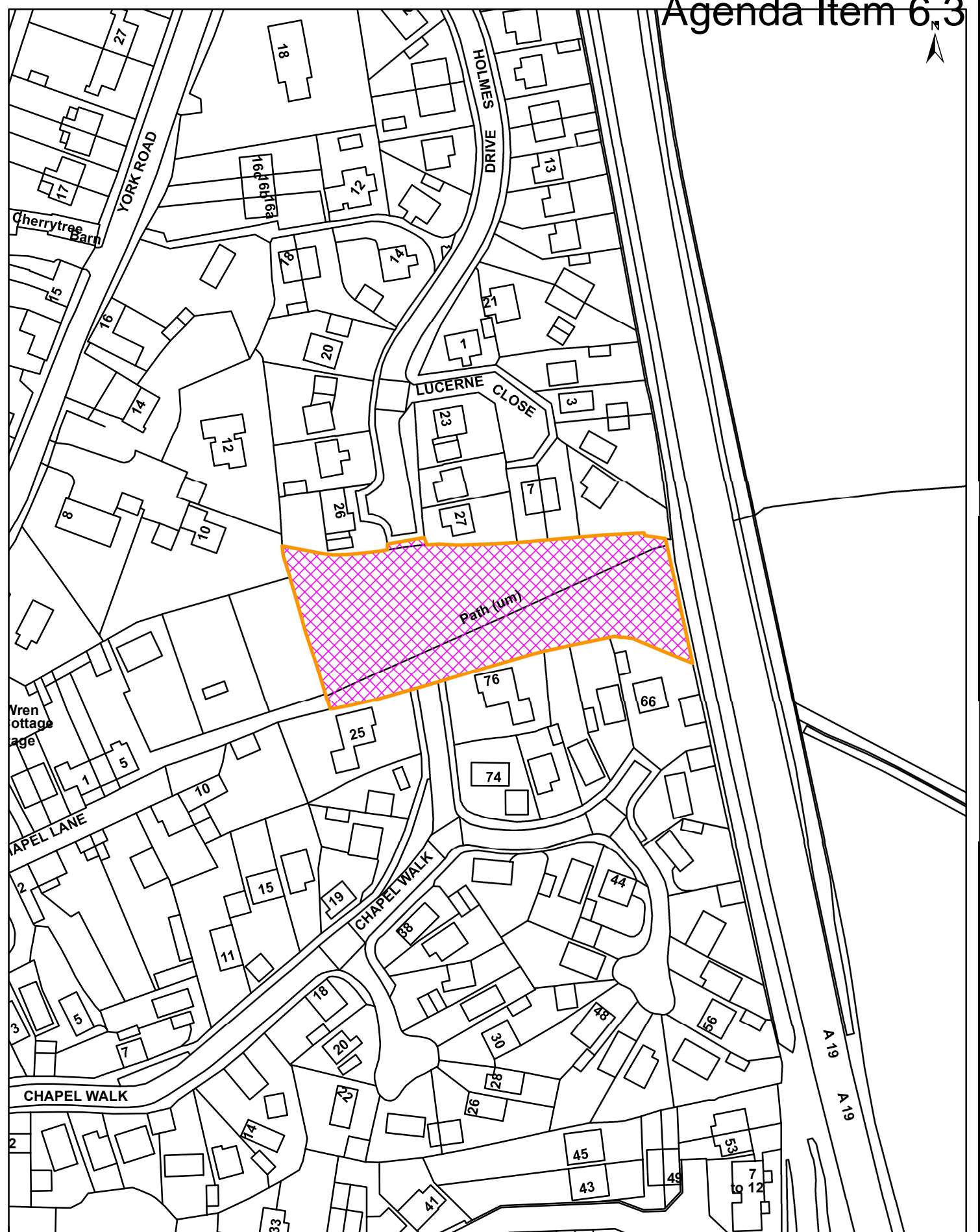
Contact Officer:

Diane Wilson, Planning Officer

Appendices:

None

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blank.



APPLICATION SITE

2017/0008/OUT

Land south of Holmes Drive, Riccall

1:1,250



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ADOPTABLE ROAD -
EXTENSION OF
HOLMES DRIVE

NOTE: CHAPEL
WALK BETWEEN
NOS. 74/76 AND
95 IS NOT
ADOPTED

DIVERGED PROW
PRIVATE DRIVE

Path (um)

PROPOSED RESIDENTIAL DEVELOPMENT OFF
HOLMES DRIVE, RICCALL, YORK
FOR MR J A KILMARTIN

ILLUSTRATIVE SITE LAYOUT
DRAWING NO. X/005A/02

JANUARY 2017

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

APPLICATION NUMBER:	2017/0008/OUT	PARISH:	Riccall Parish Council
APPLICANT:	Mr James Arthur Kilmartin	VALID DATE: EXPIRY DATE:	19 January 2017 16 March 2017
PROPOSAL:	Outline application including access (all other matters reserved) for 8 no. dwellings		
LOCATION:	Land South of Holmes Drive, Riccall, York, YO19 6QH		
RECOMMENDATION:	APPROVE		

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

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site comprises a roughly rectangular parcel of land which measures circa 0.3ha. The site has several trees and is grassed and untended. The site is bounded by housing development on its north, west and southern boundaries. The A19 lies to the east. There is a public right of way (no. 35.53/9/1) that cuts through the site in a diagonal route from Chapel Lane to the A19.
- 1.2 The application site lies within the defined development limits of Riccall, which is a Designated Service Village in the Selby District Core Strategy. The site falls within Flood Zone 2 which is medium probability of flooding.

The proposal

- 1.3 The application is submitted as an outline scheme including access which would be taken through Holmes Drive, with all other matters reserved. An indicative site

layout plan has been submitted to illustrate 8 no. dwellings on the site and the PROW diverted to follow a road.

Relevant Planning History

1.4 There is no relevant planning history for this site.

2.0 CONSULTATION AND PUBLICITY

The application was advertised by site notice and neighbour notification letter with 12 objections being received citing the following concerns:

- Drainage capacity issues in the area,
- Access is via Holmes Drive, but emergency services will require access from Chapel Walk,
- Can services such as water, sewage, electricity and gas cope in the village,
- Will eradicate a public right of way,
- Previous application refused on environmental and animal habitat reasons,
- Extra traffic at junction of Holmes Drive and York Road,
- If access at some stage is taken via Chapel Walk to York Road, it will become a 'rat run',
- Using Holmes Drive access could destabilise house foundations of these properties closest to the access due to land level differences,
- Increase in parking and traffic on Holmes Drive,
- Building on the field would mean overlooking and overshadowing of no. 5 Lucerne Close,
- Would devalue homes.

2.1 Parish Council

No objection in principle but suggest a drainage condition and expect flood risk mitigation measures to take account of the drainage issues on Chapel Walk.

2.2 NYCC Highways

No objection subject to conditions.

2.3 Yorkshire Water

No objection subject to a condition.

2.4 Heritage Officer

No objection.

2.5 Development Policy

No comments received on the application.

2.6 Environmental Health

No objection subject to a condition.

2.7 Natural England

No comments to make on this application.

2.8 North Yorkshire Bat Group

No comments received on the application.

2.9 Public Rights Of Way Officer

No objection with suggested informative to protect the PROW.

2.10 The Ouse and Derwent Internal Drainage Board

No objection subject to surface water drainage condition.

2.11 Councils Land Contamination Consultants

Do not recommend that contaminated land conditions are required, based on the currently available information.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site lies within the defined development limits of Riccall which is a Designated Service Village in the Selby District Core Strategy. The site lies within flood zone 2 and there is a public right of way that runs through the site.

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

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

Selby District Core Strategy Local Plan

3.4 The relevant Core Strategy Policies are:

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

3.5 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
- RT2 Open Space Requirements for New Residential Development
- CS6 Developer Contributions to Infrastructure and Community Facilities
- T1 Development in Relation to the Highway Network
- T2 Access to Roads

Other Documents

Affordable Housing Supplementary Planning Document
Developer Contributions Supplementary Planning Document
Riccall 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. Layout, appearance, scale and landscaping
3. Flood risk, drainage and climate change
4. Impact on highways
5. Residential amenity
6. Nature conservation and protected species
7. Affordable housing
8. Waste and recycling and Recreational open space
9. Contamination.

4.2 Principle of Development

- 4.2.1 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP2 identifies Riccall as being a Designated Service Village which has some scope for additional residential development to support rural sustainability. Policy SP4 of the Core Strategy states that in order to ensure that development on non-allocated sites contributes to sustainable development and the continued evolution of viable communities, appropriate scale development on greenfield land in DSVs such as Riccall are acceptable in principle.
- 4.2.2 The proposal would develop what is considered a greenfield site that is devoid of buildings and thus the proposal would accord with Policy SP4, subject to the development being of an appropriate scale which is assessed in relation to the density, character and form of the local area. The proposal is noted illustratively for 8 dwellings and the site area is circa 0.3ha. The density of the development would therefore equate to 27 dwellings which is considered an effective use of land in a Designated Service Village and an appropriate density having had regard to the surrounding context.
- 4.2.3 As such, it is considered that the proposed development accords with Policies SP1, SP2 and SP4 of Selby District Core Strategy.

4.3 Layout, appearance, scale and landscaping

- 4.3.1 With the exception of access, all other matters are reserved for later determination. Nevertheless, the agent has submitted an illustrative site layout plan which shows four plots between no. 26 Holmes Drive and no. 25 Chapel Walk and four plots to the east which demonstrates that an appropriate layout could be achieved at reserved matters stage. Furthermore the indicative layout demonstrates that the existing public right of way could be retained albeit diverted through the site.
- 4.3.2 There is a mix of house types in this residential location and therefore an appropriate scale, external finishes, house types and mix can be achieved at reserved matters stage.
- 4.3.3 In terms of landscaping, this is also reserved for later determination. There is however scope to provide adequate soft landscaping including soft boundary treatments both within and around the outer boundaries of the site in order to ensure that it integrates with the surrounding development.
- 4.3.4 Having had regard to all of the above elements it is considered that an appropriate layout, scale, appearance and landscaping could be achieved at reserved matters stage so as to ensure that no significant detrimental impacts are caused to the character of the area in accordance with Policies ENV 1(1) and (4) of the Local Plan, Policies SP4 and SP19 of the Core Strategy and the NPPF.

4.4 Flood risk, drainage and climate change

- 4.4.1 The application site lies within Flood Zone 2 which is at medium probability of flooding and comprises land assessed as having between a 1 in 100 and 1 in 1,000

annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5%- 0.1%) in any year.

- 4.4.2 Paragraph 101 of the NPPF states, 'the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.' Development should be directed to areas of Flood Zone 1 wherever possible, and then sequentially to Flood Zones 2 and 3, and to areas of least flood risk within Flood Zones 2 and 3.
- 4.4.3 The Council's Flood Risk Guidance Note sets out the Geographical Coverage Area for the Sequential Test and states that for Designated Service Villages the search area applied can be within that particular DSV. Parts of the western and northern areas of the village are also located within flood zone 2. The central core of the village is within flood zone 1.
- 4.4.4 The agent has submitted a flood risk assessment which states that sites identified in the list of sites provided by the Council to inform the sequential test either lie within the development limits of DSVs and are allocated for development in the adopted 2005 Local Plan (i.e. BYR/1, EGG2, EGG3 and CAM1) or a strategic sites identified in the Core Strategy. Furthermore, the assessment states that there are no brownfield or other greenfield sites currently with planning permission or otherwise within the development limits of Riccall.
- 4.4.5 The latest database of sites contributing to the 2017-2022 five year housing land supply shows that there are 7 sites in Riccall with planning permissions for housing development. However there are no allocated sites. It is therefore considered that there are no available sites within Riccall that are at lower risk of flooding and available for development. The proposal is therefore considered to pass the sequential test.
- 4.4.6 Surface water is noted as being discharged into adjacent sewers at an attenuated rate and foul water would be disposed of to the mains sewer. There are no objections from the statutory consultees on this matter subject to conditions. The proposals are therefore considered satisfactory in terms of the impacts on flooding and drainage in accordance with Policy.

4.5 Impact on highways

- 4.5.1 Access is for consideration in this application and that would mean that future occupants would take a route from York Road via Holmes Drive to the site as shown on the submitted location plan. Objections received by residents raise concern with using Holmes Drive for reasons of increase traffic and parking. Whilst there would be increase in vehicle movements, this is not considered to be significantly harmful. Furthermore residents have highlighted the fact that Holmes Drive is not a level surface and it is noted that the application site does sit lower than Holmes Drive, however it is considered that despite this an appropriate access could be achieved.
- 4.5.2 NYCC Highways have not raised an objection to the proposed access and as such have suggested conditions which are considered necessary and reasonable. It is

considered that the proposed access would be acceptable and raises no policy issues.

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

4.6 Residential amenity

- 4.6.1 Objections refer to this proposal leading to traffic and parking issues and noise and disturbance which are noted. There would obviously be more traffic on Holmes Drive as a result, but for a small scale development of 8no. dwellings, this is not likely to be significantly detrimental to the amenity of existing residents.
- 4.6.2 An objection refers to overlooking from the development on a neighbouring garden, however the indicative plan shows how 8no. dwellings could be developed on the site and it is possible that adequate separation distances can be achieved to ensure that neighbours and future occupiers can experience sufficient privacy and not be subject to adverse overlooking or overshadowing.
- 4.6.3 Furthermore, the Environmental Health Officer raises no objections to the proposal in terms of noise and disturbance, but recommends a condition due to the potential noise effects emanating from the A19 York Road.
- 4.6.4 Having regard to the above, it is considered that an appropriate scheme could be achieved at the reserved matters stage, which would not result in any significant detrimental impacts on the residential amenities of the occupiers of the existing or proposed dwellings in accordance with Policy ENV1(1) of the Selby District Local Plan and the advice contained within the NPPF.

4.7 Nature conservation and protected species

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

4.8 Affordable housing

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

4.9 Waste and recycling and Recreational open space

- 4.9.1 In respect of contributions towards waste and recycling, the Council will seek provision or a contribution from the developer to ensure that, prior to the occupation of any dwelling, storage bins and boxes are provided. This can be secured by way of condition.
- 4.9.2 In respect of contributions towards recreational open space, these policies should be afforded limited weight due to their conflict with CIL. It is considered that no direct contribution is required due to the adoption of the CIL.

4.10 Contamination

- 4.10.1 The application is accompanied by a contaminated land assessment screening form which has been reviewed by the Council's Contaminated Land Consultants. They advise that they do not recommend that contaminated land conditions are required based on currently available information.
- 4.10.2 The proposal is therefore in accordance with Policy ENV2 of the Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

4.11 Other Matters

- 4.11.1 Impact on the public right of way that passes through the site has been noted and also referred to by the PROW Officer. There is separation legislation that controls PROW and their diversion and the landowner would have to apply and receive agreement from the Council (NYCC), on this separate non-planning matter.
- 4.11.2 Issues of drainage capacity issues in the locality are noted and subject to details of drainage being agreed in compliance with conditions, the matter has been adequately addressed.
- 4.11.3 An objection referring to devaluing property prices is not considered a material planning consideration in determining this application.
- 4.11.4 An objection referred to the development destabilising house foundations are noted but at this outline stage, without the benefit of detailed layout and design there is no evidence to substantiate these claims or to warrant a reason for refusal.

Legal Issues

4.12 Planning Acts

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

4.13 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.

4.14 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

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

5.0 CONCLUSION

5.1 The application seeks outline planning permission for residential development with access for consideration. The application site is located within the defined development limits of Riccall which is a Designated Service Village as identified in the Core Strategy whereby the proposed development is supported in principle in this location.

5.2 The proposed access is considered to be acceptable and subject to conditions recommended by NYCC Highways, would raise no adverse highway safety issues.

5.3 Having assessed the proposals against the relevant policies, it is considered that an appropriate layout, scale, appearance and landscaping could be achieved at reserved matters stage so as to ensure an acceptable impact on the character and appearance of the area and impact on residential amenity. Furthermore, the proposals are considered to be acceptable in respect of flood risk, drainage and climate change, nature conservation and protected species, land contamination, recreational open space and waste and recycling.

6.0 RECOMMENDATION

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

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

Reason:

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

2. Applications for the approval of the reserved matters referred to in No.1 herein shall be made within a period of three years from the grant of this outline permission and the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason:

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

3. The development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason:

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

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

Site plan and location plan drawing number X/005A/01A

Reason:

For the avoidance of doubt.

5. There shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site, until the following drawings and details have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:
 - a. Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:
 - the proposed highway layout including the highway boundary
 - dimensions of any carriageway, cycleway, footway, and verges
 - visibility splays
 - the proposed buildings and site layout, including levels
 - accesses and driveways
 - drainage and sewerage system
 - lining and signing
 - traffic calming measures
 - all types of surfacing (including tactiles), kerbing and edging.
 - b. Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:
 - the existing ground level
 - the proposed road channel and centre line levels
 - full details of surface water drainage proposals.
 - c. Full highway construction details including:
 - typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
 - when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
 - kerb and edging construction details

- typical drainage construction details.
- d. Details of the method and means of surface water disposal.
 - e. Details of all proposed street lighting.
 - f. Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.
 - g. Full working drawings for any structures which affect or form part of the highway network.
 - h. A programme for completing the works.

The development shall only be carried out in full compliance with the approved drawings and details unless agreed otherwise in writing by the Local Planning Authority with the Local Planning Authority in consultation with the Highway Authority.

INFORMATIVE:

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

Reason:

In accordance with Policies ENV1 and T1 of the Local Plan and to secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of highway users.

6. No dwelling hereby permitted shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority in consultation with the Highway Authority before the first dwelling of the development is occupied.

Reason:

In accordance with Policy T1 of 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.

7. 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

- i The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number A1.
- ii The crossing of the highway verge and/or footway for individual dwellings shall be constructed in accordance with the approved details and/or Standard Detail number E6.
- iii. 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.
- iv. Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.

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

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.

8. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:
 - a. vehicular, cycle, and pedestrian accesses
 - b. vehicular and cycle parking
 - c. vehicular turning arrangements
 - d. manoeuvring arrangements.

Reason:

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

9. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number 8 are available for use unless otherwise approved in writing by the Local Planning Authority. 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 T1 of 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.

10. Means of access to the application site hereby permitted shall be from Holmes Drive only.

Reason:

In the interests of traffic safety and for the avoidance of doubt.

11. There shall be no HCVs brought onto the site until a survey recording the condition of the existing highway has been carried out in a manner approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason:

In accordance with Policy T1 of Selby District Local Plan and in the interests of highway safety and the general amenity of the area

12. There shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:
- a. on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway
 - b. on-site materials storage area capable of accommodating all materials required for the operation of the site.

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

Reason:

In accordance with 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.

13. 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 appropriate drainage in accordance with Policy SP15 of Selby Core Strategy.

14. No development shall take place until details of the proposed means of disposal of surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved in writing by the Local Planning Authority. Surface water discharging to public sewer shall be restricted to a maximum rate of 5 litres a second.

Reason:

To ensure that no surface water discharges take place until proper provision has been made for its disposal in accordance with Policy SP15 of Selby District Core Strategy.

15. Prior to construction commencing the applicant shall arrange for an appropriate noise survey and report to be undertaken by a suitably qualified consultant. If necessary a written scheme for protecting the proposed noise sensitive development must be submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the noise level in the garden area of the proposed development shall not exceed 50 dB LAeq (16 hour) between 0700 hours and 2300 hours and all works which form part of this scheme shall be completed before any part of the development is occupied. The scheme must also ensure the internal environment of the dwelling is protected from noise. The scheme shall ensure that the building envelope of the dwelling is constructed so as to provide sound attenuation against external noise. The internal noise levels achieved should not exceed 35 dB LAeq (16 hour) inside the dwelling between 0700 hours and 2300 hours and 30 dB LAeq (8 hour) and 45 dB LAmax in the bedrooms between 2300 and 0700 hours. This standard of insulation shall be achieved with adequate ventilation provided. All works which form part of the scheme shall be completed before any part of the development is occupied. The works provided as part of the approved scheme shall be permanently retained and maintained throughout the life of the development. The aforementioned written scheme shall demonstrate that the noise levels specified will be achieved.

Reason:

To protect the residential amenity of the development from noise in accordance with Policy SP19 of Selby District Core Strategy, the National Planning Policy Framework (NPPF) paragraph 123, the National Planning Practice Guidance (NPPG) in relation to noise and the policy aims of the Noise Policy Statement for England (NPSE).

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

Reason:

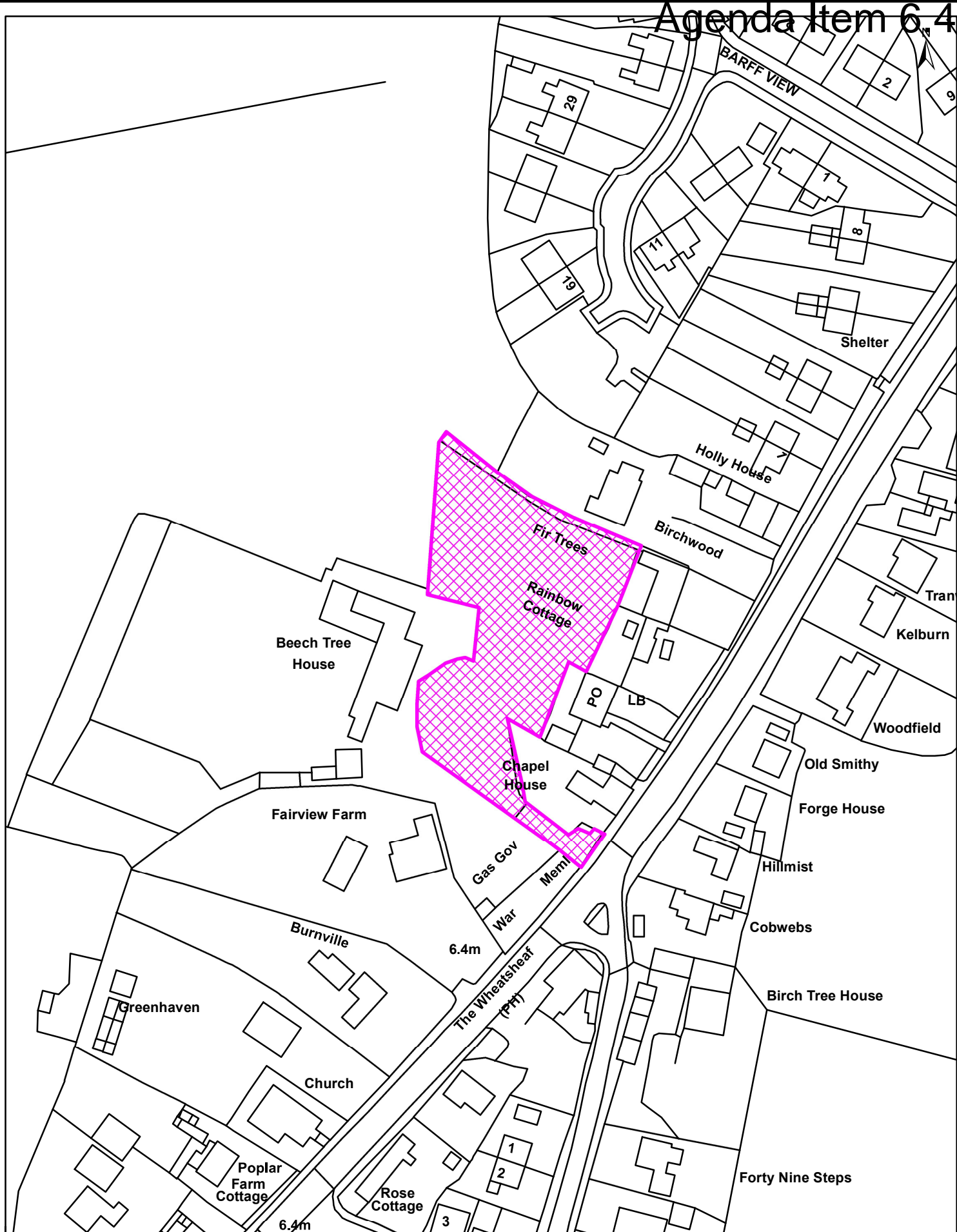
To protect the living conditions of local residents and in the interests of flood risk, in accordance with Policy ENV1 of Selby District Local Plan and Policy SP15 of Selby District Core Strategy.

Contact Officer:

Keith Thompson, Senior Planning Officer

Appendices:

None.



APPLICATION SITE

2017/1001/FUL
Beech Tree House, Main Road, Burn

1:1,250



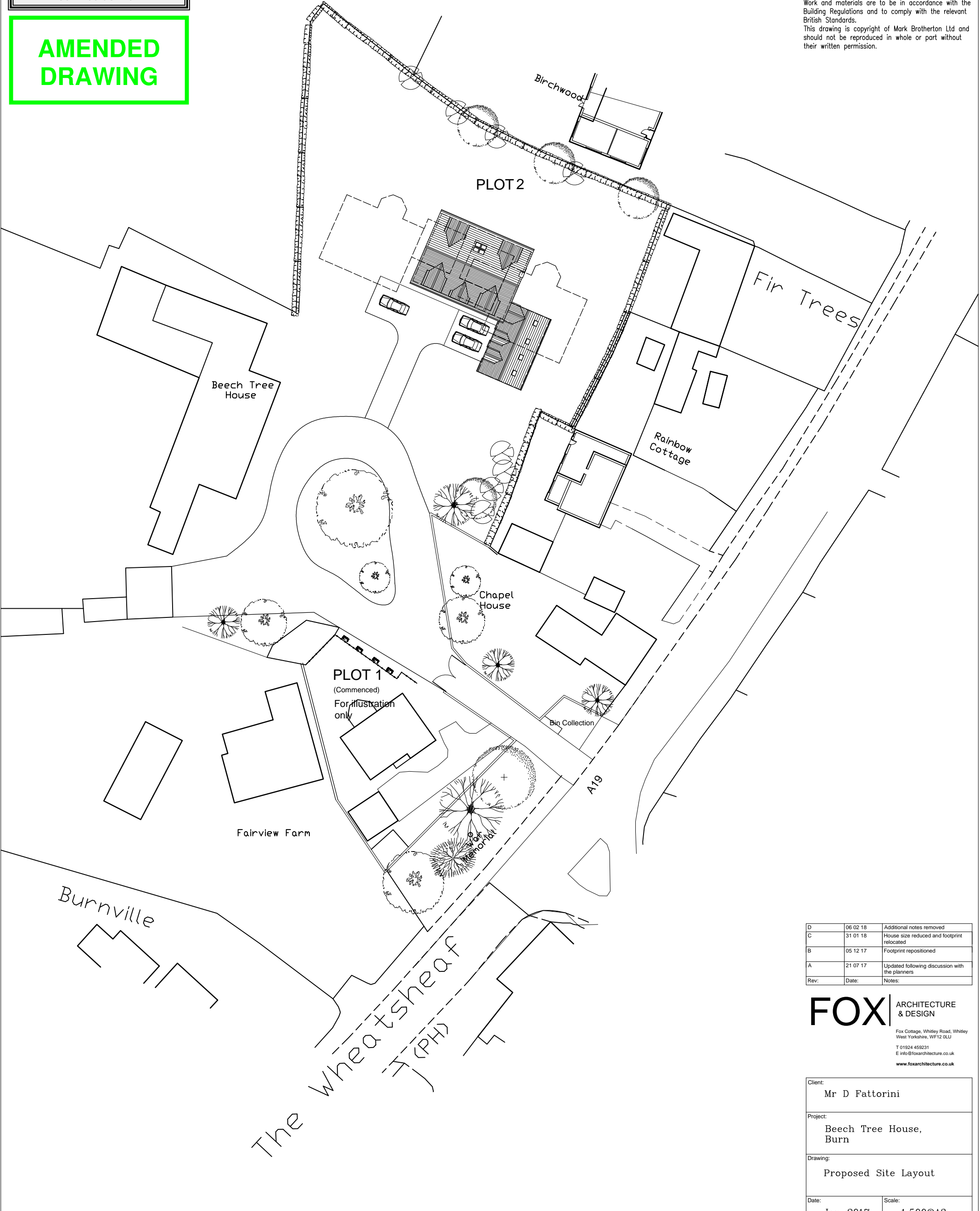
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RECEIVED
 06/02/2018
 BUSINESS SUPPORT

**AMENDED
 DRAWING**

NOTES
 DO NOT SCALE FROM THIS DRAWING.
 It is the Contractor's responsibility to check all governing dimensions and verify all dimensions on site before commencing any work or making any shop drawings.
 This drawing is to be read in conjunction with schedules of work, specifications, bills of quantities and other relevant information. Any discrepancies are to be reported to the Project Architect.
 Work and materials are to be in accordance with the Building Regulations and to comply with the relevant British Standards.
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D	06 02 18	Additional notes removed
C	31 01 18	House size reduced and footprint relocated
B	05 12 17	Footprint repositioned
A	21 07 17	Updated following discussion with the planners
Rev:	Date:	Notes:

FOX ARCHITECTURE & DESIGN
 Fox Cottage, Whitley Road, Whitley West Yorkshire, WF12 0LU
 T 01924 453231
 E info@foxarchitecture.co.uk
 www.foxarchitecture.co.uk

Client: Mr D Fattorini	
Project: Beech Tree House, Burn	
Drawing: Proposed Site Layout	
Date: Jan 2017	Scale: 1:500@A3
Drawing No: 1635/110	Rev: D

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To: Planning Committee
Date: 7 March 2018
Author: Ann Rawlinson (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/1001/FUL	PARISH:	Burn Parish Council
APPLICANT:	Mr Fattorini	VALID DATE: EXPIRY DATE:	20 September 2017 15 November 2017 EOT to be agreed
PROPOSAL:	Proposed erection of new detached dwelling on plot 2, (previously plot 3)		
LOCATION:	Beech Tree House, Main Road, Burn, Selby, North Yorkshire, YO8 8LJ		
RECCOMENDATION:	Minded to approve subject to conditions and expiry of re-consultation period		

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

1.0 Introduction and Background

Site and Context

- 1.1 The application site is located to the front garden area of Beech Tree House in Burn. The site is within the defined settlement limit of Burn. It comprises of a lawned and driveway area (to the south of the site). There are existing residential properties surrounding the site. There is an established hedgerow to the west and east of the site, with a small number of trees to the east also. The boundary to the north of the site comprises a close board timber fence of approximately 1.8 metres in height.
- 1.2 Trees to the site frontage of Beech Tree House are protected by Tree Preservation Order 10/2004. The proposal does not impact on these trees.

The Proposal

- 1.3 Planning permission is sought to erect one dwelling with attached garage to the centre (approximately) of the front lawned garden area.
- 1.4 The proposed dwelling would be two and a half stories in height with three dormer windows to the front (south) elevation and two dormer windows to the rear (north) elevation, as well as four small roof lights. Dormer windows would have pitched roofs and the property would be gabled ended. Full height glazing would extend from the central dormer to the front elevation. There would be a Juliet balcony to the western gable elevation.
- 1.5 The proposed dwelling itself would be approximately 14 metres in width, 10.2 metres in depth, 9.2 metres in height, to ridge, and 5.5 metres in height to eaves.
- 1.6 Attached to south east corner of the dwelling would be a double garage, with room above. This would incorporate two dormer windows to the front, western elevation, with four roof lights to the rear. The proposed garage would be 10.6m in width, 6.6 metres in depth, 6.4 metres in height to ridge and 3.8m to eaves.
- 1.7 It is proposed that the dwelling and attached garage would be constructed with stone to ground floor level with rendered blockwork above. The roof would be constructed from artificial stone slate.
- 1.8 Access would be taken from the existing access to Beech Tree House, from Main Road and a driveway taken from the existing circular driveway to the front of Beech Tree House. This would extend into a parking area in front of the dwelling and garage.
- 1.9 It is noted that the plans have been amended from the initial submission to remove a timber ancillary building previously proposed to be sited to the north of the proposed dwelling. Minor amendments have also been made in relation to the footprint of the proposed garage. These amendments have been made in order to seek to address concerns raised during consideration of the proposal. The amended description and revised plans are noted in the description, as set out above, and are currently, at the time of writing this report, subject to a full consultee and neighbour re-consultation process.
- 1.10 The proposal is a re-submission of an application refused in April last year for the following reasons. The current application seeks to address these reasons for refusal:
 1. The proposed dwellings (plots 2 and 3) singularly and cumulatively are both considered to have a detrimental impact on the character and form of the area due to their, size, scale, massing, height, materials and design. The proposed scheme therefore fails to accord with Policy ENV1 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the framework within the NPPF
 2. The proposed attached garage to plot 3 is considered to have an oppressive and overbearing impact of the amenity space and properties of Old Post Office

and Rainbow Cottage. The proposed scheme is therefore considered to have a detrimental impact on the residential amenity of the occupants of those properties and therefore fails to accord with Policy ENV1 (1) of the Local Plan and the NPPF.

3. The proposed balcony and external stair case are considered to be stark alien features which appear as stand-alone features which are considered not to be in keeping and have detrimental impact on the character and form of the area. The scheme proposes an external staircase and balcony on the west elevation which is considered to overlook the proposed dwelling on Plot 2. The proposed scheme is therefore considered to have a detrimental impact on the residential amenity of the future occupants of Plot 2 and the character and form of the area and therefore fails to accord with Policy ENV1(1) of the Local Plan and the NPPF
4. Plot 2 has an appearance of a log cabin which is the appearance of a building or structure which would be expected to be found on a Holiday Park and does not have an appearance of a permanent structure. All of the other dwellings in the area are permanent structures. Plot 2 is therefore considered to be not in keeping with the character and form of the area and inappropriate for permanent retention. The proposed scheme therefore fails to accord with Policy ENV1 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the framework within the NPPF.

2.0 Planning History

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

- 2007/1073/OUT (PER - 15.11.2007) Renewal of outline Permission 8/21/1F/PA (CO/2004/1044) for the erection of 3 dwellings including means of access.
- 2008/1135/REM (PER - 10.12.2008) Reserved Matters application for the erection of 3no detached dwellings with associated garages on land adjacent to Beech Tree House, Main Road, Burn.
- 2012/01111/FUL (PER - 11.10.2012). Erection of 3No. detached dwellings.
- 2014/0122/FUL (PER - 07.04.2014) Proposed conversion/extension to existing garage and workshop to create an Annex for single occupancy.
- 2015/0524/DPC (COND - 10.07.2015) Discharge of conditions 2 (materials), 3 (boundary treatment), 4 (landscaping) & 11, 13, 14 (drainage) of approval 2012/01111/FUL (8/21/1J/PA) for the erection of 3 No. detached dwellings.
- 2017/0144/FUL (REF - 07.04.2017). Proposed erection of new detached dwelling on plot 3 and erection of timber cabin on plot 2.
- 2017/1238/HPA (PER - 02.01.2018) Proposed single storey home office/study extension.

- CO/2004/1044 (PER - 21.10.2004) Outline application for the erection of three dwellings (re-submission), including means of access.
- CO/2004/0306 (WDN - 30.04.2004) Outline application for the erection of three dwellings on land.

3.0 Consultation Responses

Highway Authority – No objections subject to the imposition of conditions.

Yorkshire Water Services Ltd – No comments received.

Selby Area Internal Drainage Board - No objections. Guidance provided for surface water disposing to a watercourse.

Burn Gliding Club Ltd - Consider that this application will be of low risk to flying operations at Burn Airfield, provided that no tall masts or other devices other than a TV aerial are attached to the property.

Parish Council - Wishes to make the following observations:

1. The Parish Council has grave concerns about the increase in the number of vehicles likely to access, and leave, the proposed development form and onto the already busy A19.
2. The provided plans do not make it clear as to where plot 3 is planned to be sited.
3. The Parish Council is concerned that the proposed development is resulting in over-development of the existing site.
4. The Parish Council is also concerned about the proposal to erect a residential log cabin in the garden of the proposed dwelling because such a structure does not match the surrounding buildings.

4.0 Publicity

The application has been advertised by site notice and neighbour notification letter resulting in no letters of representation having been received, at the present time.

5.0 Policy Context

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

- 5.1 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.

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

5.3 The relevant Core Strategy Policies are:

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

5.4 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

6.0 Appraisal

6.1 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 Highway Safety, Access and Car Parking

- Residential Amenity
- Impact on Nature Conservation and Protected Species
- Affordable Housing
- Land Contamination.

Principle of Development

- 6.2 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.
- 6.3 Policy SP1 of the Selby District Core Strategy Local Plan (2013) 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.
- 6.4 The application is for the erection of one detached dwelling and the site is situated within the defined development limits of Burn which is a designated Secondary Village as defined by Policy SP2 A of the Core Strategy.
- 6.5 Policy SP2 (A) allows for limited amounts of residential development inside Development Limits of Secondary Villages where it will enhance or maintain the vitality of rural communities. The policy then goes on to require that development on non-allocated sites must meet the requirements of policy SP4 of the Core Strategy.
- 6.6 Policy SP4 of the Core Strategy defines the type of development that would be acceptable within the defined development limits of Secondary Villages and this includes: conversions, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built up residential frontages, and conversion/redevelopment of farmsteads.
- 6.7 The scheme proposes the siting of one dwelling to the front of the existing dwelling of Beech Tree House. The site is located behind the main frontage dwellings lining Main Street in Burn.
- 6.8 Therefore the proposal is not considered not to be the filling of small linear gaps in otherwise built up residential frontages. The proposed scheme does not meet any of these forms of development and therefore fails to accord with Policy SP4 (A) of the Core Strategy.
- 6.9 Notwithstanding the above, it is established case law that if an applicant can demonstrate a fallback position i.e. an existing consent which could be implemented in the absence of a new permission; this constitutes a material consideration to be taken into account in determining the application. In this case there is a partially implemented planning permission for the erection of 3 dwellings under application number 2012/0111/FUL and this remains valid for the current application site. It is clear that a garage approved as part of this planning permission has been

constructed on the wider site. The implemented Planning Permission is considered as a clear fallback position that is a material consideration of sufficient weight to outweigh the provisions of SP2 and SP4 of the Core Strategy.

Design and Impact on the Character and Form of the area

- 6.10 In refusal of the previous planning application concerns were raised regarding an external stair case and large balcony which were considered as stark alien features and were not considered in keeping with the character of the area. These elements and a previous proposal for a timber ancillary out building which was considered to be out of keeping with the locality has now been removed from the proposals. A Juliet balcony is proposed to the west gable. This is considered an appropriate scale in relation to the property and would not be highly visible.
- 6.11 Concern was also raised regarding the size of the property, being three storeys. In this respect it is the view of the case officer that given the siting of the proposed dwelling to the rear of the building fronting onto Main Road, that the property would not be highly visible from the main road and would not be seen as being out of context from public vantage points.
- 6.12 In respect of the proposed materials, being a mix of stone and render, concern was previously raised that surrounding properties are either red brick or render, rather than a mix of materials. It is noted by the case officer that there are some properties in the village that are a mix of materials. Stone is proposed at ground floor level only which again would not be highly visible in the wider context.
- 6.13 It is acknowledged that the proposal is relatively large. Never the less it is considered in the context of the size of the garden area and set against the context of Beech Tree House itself, which is a large detached property that the dwelling would sit comfortably within the site. Regard is also had to the fall back position in that three dwellings are able to be constructed on this particular site.
- 6.14 Having regard to the above considerations it is considered that the proposal respects Policy ENV1 of the Selby District Local Plan, Policy SP19 of the Core Strategy and advice contained within the NPPF.

Flood Risk and Climate Change

- 6.15 The application site is within Flood Zone 1. The proposal would dispose of surface water via a soakaway and foul sewerage via the mains sewerage. The IDB have not objected to the proposal and no response has been received from Yorkshire Water. The proposed scheme is considered to be acceptable in terms of flood risk and drainage and therefore accords with Policies SP15, SP16, SP19 of the Core Strategy, and the advice contained within the NPPF.
- 6.16 Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. It must be acknowledged that the proposal is for the creation of a dwelling on a site that is in close proximity to the services of designated service village. The proposed development therefore complies with parts (a), (f) and (g). The proposal's ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is therefore

limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of SP15 (B) (b), (c) (d), and (e) of the Core Strategy Local Plan.

- 6.17 Part (h) of Policy SP15 (B) refers specifically to the requirement to fulfil part (a) of Policy SP16 of the Core Strategy Local Plan. The proposed development is below the threshold of 10 dwellings and this part of the policy is therefore not applicable in this case. Policy SP16(c) requires development schemes to employ the most up to date national regulatory standard for code for sustainable homes which the proposed development would do through the current Building Regulations regime. Therefore having had regard to policies SP15 (B) and SP16 (a) & (c) of the Core Strategy Local Plan it is considered that the proposal is acceptable.

Highway Safety, Access and Car Parking

- 6.18 The Highways Authority have assessed the application with respect to the impacts on the highway and on users of the network and have confirmed that the proposals are acceptable and should not give rise to highway safety issues. Proposed access, car parking and manoeuvring provision is considered appropriate.
- 6.19 It is therefore considered that the scheme would be acceptable and in accordance with policies ENV1(2), T1 and T2 of the Local Plan, Policy SP19 of the Core Strategy and Paragraph 39 of the NPPF with respect to the impacts on the highway network subject to conditions.

Impact on Residential Amenity

- 6.20 The proposed attached garage (rear elevation) is located the following distances (approximate) from the following properties:
- 9.5 metres away from the rear elevation of the Old Post Office and 4 metres away from the boundary of the Old Post Office.
 - 17.5 metres away from the rear elevation of Rainbow Cottage and 9 metres away from the boundary of Rainbow Cottage.
- 6.21 The proposed attached garage has been moved further away from the above mentioned properties than as set out within the previously refused application, of which concerns were raised in respect of the potential impact on surrounding residential amenity. It is noted that the proposed garage would be sited at a more oblique angle from the rear of The Old Post Office and not located directly in front of it at this distance. There are no windows proposed to the rear of the proposed garage, only roof lights to the roof slope. Furthermore the proposed garage is akin to a building of 1 ½ stories in height, as opposed to two stories and therefore is smaller in scale.
- 6.22 The scheme proposes windows to the south (rear) elevation which faces toward the property of Birchwood. The proposed windows have a separation distance of 12 metres to the boundary of Birchwood and 16 metres to the side elevation of the property of Birchwood itself. Due to the combination of the separation distances and the relatively high hedge screening on this boundary, as well as the fact that the proposed dwelling is sited at an angle to the rear elevation of Birchwood and

directly facing a secondary on the gable elevation of Birchwood, the proposed dwelling is considered not to have a significantly detrimental impact in respect of overlooking, loss of privacy, outlook or overbearing impact, subject to the windows closest to the gable elevation being of frosted glass. It is considered that the relationship between the proposed garage and dwelling at distances of 16 metres and 21 metres respectively from the rear garage and side dwelling elevations to the rear of Fir Trees are appropriate.

- 6.23 It is now considered that an appropriate relationship would be retained between the proposal and surrounding residential properties in respect of outlook, light, privacy, and overlooking. It is not considered that the proposal would have a significantly overbearing impact on neighbouring properties. The proposed scheme is therefore considered not to have a significantly detrimental impact on the residential amenities and therefore would accord with Policy ENV1(1) of the Local Plan and the NPPF.

Impact on Nature Conservation and Protected Species

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

Affordable Housing

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

Contamination

- 6.28 The submitted Contamination Screening Form does not indicate that the presence of contamination is likely. In respect of the previously refused application on the site, the Council's Contaminated Land Consultant advised that he had no objections subject a condition requiring further investigation in the event of the discovery of unanticipated contamination during redevelopment works. The condition shall be imposed on any grant of planning permission.
- 6.29 The proposal is therefore considered to be acceptable in regards to contamination

on the site subject to an appropriate condition and is therefore in accordance with Policy ENV2 of the Local Plan and Part 11 of the National Planning Policy Framework.

7.0 Legal and Financial Issues

Planning Acts

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

Human Rights Act 1998

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

Equality Act 2010

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

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

8.0 Conclusion

8.1 The proposed scheme proposes the siting of a dwelling to the front of Beach Tree House and the proposed scheme does not meet any of these forms of development and therefore fails to accord with Policy SP4 (A) of the Core Strategy.

8.2 Notwithstanding the above, it is established case law that if an applicant can demonstrate a fallback position i.e. an existing consent which could be implemented in the absence of a new permission; this constitutes a material consideration to be taken into account in determining the application. In this case there is an implemented planning permission for the erection of 3 dwellings under application number 2012/0111/FUL. The implemented Planning Permission is considered as a clear fallback position that is a material consideration of sufficient weight to outweigh the provisions SP2 of the Core Strategy, as the erection of 3 dwellings can be constructed in this location.

8.3 Matters of acknowledged importance such as energy efficiency, renewable considerations, flood risk, drainage, layout, scale, design, contamination, nature conservation, impact on residential amenity, impact on the highway network and affordable housing contributions are considered to be acceptable.

9.0 Recommendation

9.1 This planning application is recommended to be APPROVED subject to the imposition of the conditions set out below and subject to no new issues being raised within the re-consultation process which expires on the 23 of February 2018.

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

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

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

Proposed Site Layout Plan	1635/110 Rev. D
Proposed Layouts	1635/112 Rev. B
Site Location Plan	1635/100
Proposed Elevations	1635/113 Rev. B
Proposed Site Drainage	1635/115 Rev. C

Reason: For the avoidance of doubt.

3. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number 2:

- a. have been constructed in accordance with the submitted drawing (Reference «drawing number 1635/111 Rev A»)

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 T1 and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

4. 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 and part 11 of the National Planning Policy Framework.

5. 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.

6. The windows to the eastern side of the northern (rear elevation) at all levels shall be of opaque/frosted.

Reason: In the interests of privacy and to prevent overlooking of nearby residential properties having regard to Policy ENV1 of the Selby District Local and Part 11 of the National Planning Policy Framework.

9. Background Documents

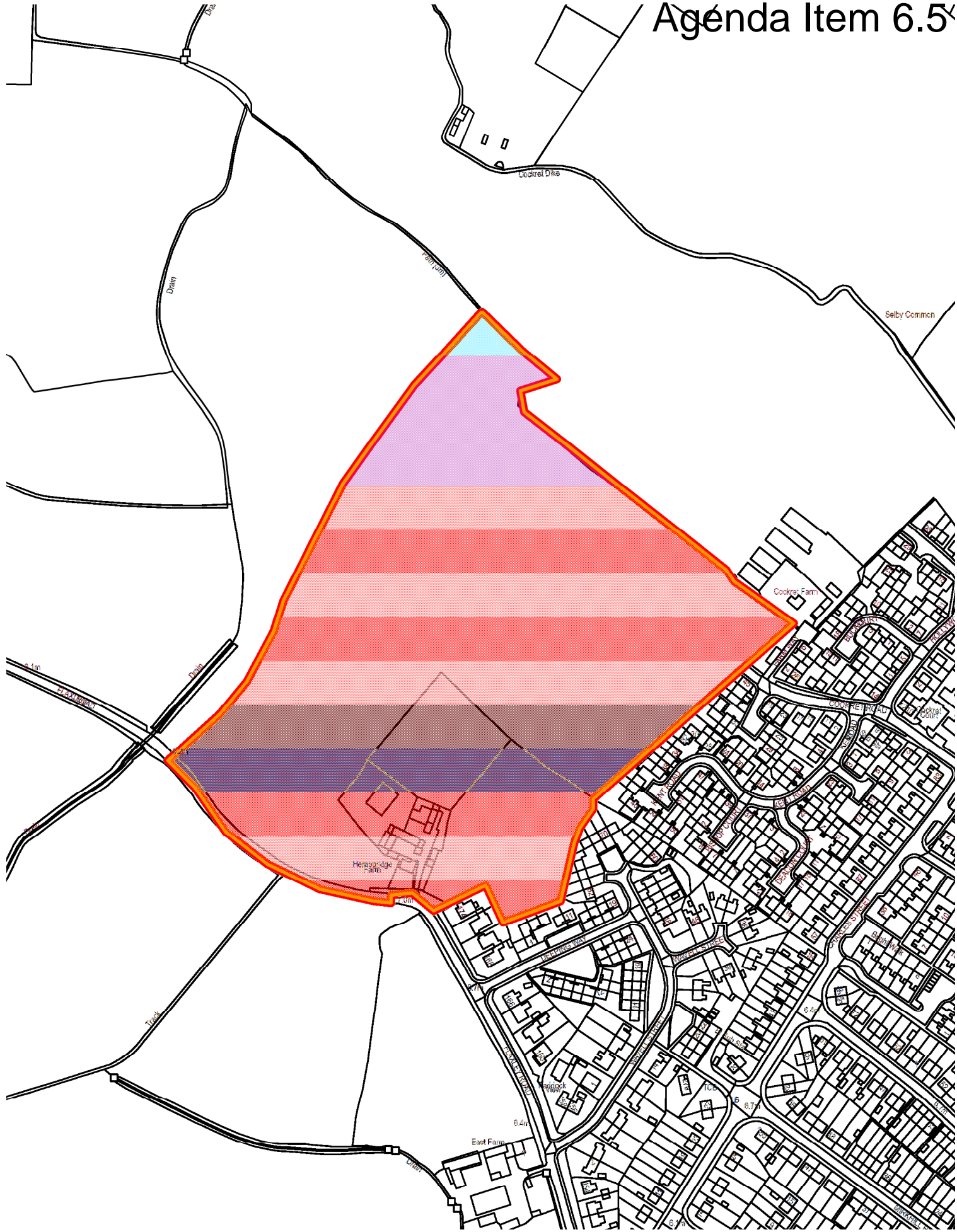
- 9.1 Planning Application file reference 2017/1001/FUL, and associated documents.

Contact Officer:

Ann Rawlinson, Principal Planning Officer

Appendices:

None



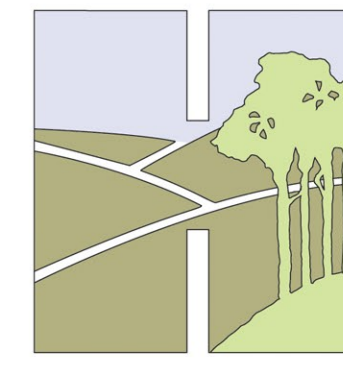
APPLICATION SITE

Item No: 2015/0341/OUT

Address: Flaxley Road, Selby

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ACCOMODATION SCHEDULE

CIRCA 200 NEW DWELLINGS
2 BARN CONVERSIONS
1 RETAINED EXISTING FARM HOUSE

AMENDED DRAWING



RECEIVED
15.10.2015
BUSINESS SUPPORT

Revision B | Amendment to layout to show 200 new dwellings
Revision A | Amendment to layout of dwellings at site entrance fronting Flaxley Road

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Report Reference Number: 2015/0341/OUT

Agenda Item No: 6.5

To: Planning Committee
Date: 7 March 2018
Author: Louise Milnes (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2015/0341/OUT	PARISH:	Selby Town
APPLICANT:	Mary Cook, Hallam Land Management and Harron Homes Ltd	VALID DATE: EXPIRY DATE:	N/A N/A
PROPOSAL:	Deed of Variation to Section 106 Agreement attached to consent 2015/0341/OUT for Hybrid application comprising outline proposals for the erection of circa 200 new dwellings including the construction of a new junction onto Flaxley Road, the laying out of open space and children's play area, pumping station, siting of electricity substation, landscaping and creation of areas for sustainable drainage including connection to water course and detailed proposals for the conversion of agricultural buildings to form 2 dwellings together with associated works including the creation of curtilages and areas of driveways/hardstanding (including external areas relating to the existing farm house) and demolition		
LOCATION:	Land at Flaxley Road, Selby, North Yorkshire		

This matter has been brought to Planning Committee for consideration due to the applicant seeking to alter the Section 106 which was determined by Planning Committee.

Summary:

The original approval for this site secured 40% Affordable Housing provision on the site. Subsequently the applicant submitted an application under Section 106BA of the Planning Act which sought to modify their affordable housing provision to 22%, this application was refused by the Council, however was allowed on Appeal whereby the Inspector agreed that 27% affordable housing could be provided. As part of the appeal decision it was stated that the revised affordable housing requirement would only be applicable for three years. The developer in this instance has indicated that they would not be in a position to complete the development within this three year period and as such are seeking to extend the time limit so that this provision can be made in perpetuity.

Recommendation:

The application is recommended to be **APPROVED** subject to delegation being given to Officers to complete a Deed of Variation to the original Section 106 agreement to allow the Developer to provide 27% affordable housing in perpetuity.

Introduction and Background

1.0 Planning History

1.1 Planning permission 2015/0341/OUT was Granted on the 3 December 2015 for a hybrid application comprising outline proposals for the erection of circa 200 new dwellings including the construction of a new junction onto Flaxley Road, the laying out of open space and children's play area, pumping station, siting of electricity substation, landscaping and creation of areas for sustainable drainage including connection to water course and detailed proposals for the conversion of agricultural buildings to form 2 dwellings together with associated works including the creation of curtilages and areas of driveways/hardstanding (including external areas relating to the existing farm house) and demolition.

The application was accompanied by a Section 106 Agreement which secured 40% affordable housing.

1.2 An application to modify the section 106 planning obligation under section 106BA following approval of 2015/0341/OUT was Refused on 11 April 2016. This was subsequently appealed and the Inspector allowed the appeal with a reduced level of 27% Affordable housing which had to be provided within a period of three years.

1.3 A Reserved Matters application 2017/0775/REMM relating to appearance, layout, landscaping and scale of approval 2015/0341/OUT was Pending Consideration.

1.4 A Discharge of Conditions application 2017/0811/DOC relating to Conditions 08 (energy supply), 21 (archaeological investigation), 22 (archaeological investigation), 29 (contamination), 30 (contamination) and 31 (contamination) of approval 2015/0341/OUT was Pending Consideration.

1.5 A Discharge of Conditions application 2017/1370/DOC relating to Conditions 05 (Surface Water), 12 (Surface Water) and 15 (Highway Improvements) of approval 2015/0341/OUT was Pending Consideration.

2.0 Assessment

2.1 The original approval for this site secured 40% Affordable Housing provision on the site. Subsequently the applicant submitted an application under Section 106BA of the Planning Act which sought to modify their affordable housing provision to 22%, this application was refused by the Council, however was allowed on Appeal whereby the Inspector agreed that 27% affordable housing could be provided.

- 2.2 Under the Section 106BA process the modification to the affordable housing provision is valid for 3 years. If development is not completed in that time, the original affordable housing obligation will apply to those parts of the scheme that have not been commenced. This is in order to incentivise developers to build out as much of their scheme as possible within 3 years. The legislation makes it clear that it will not be sufficient to commence one part of the development to secure the revised affordable housing obligation for the whole scheme.
- 2.3 The applicants in this instance have advised that they would be unable to meet the three year time limit which would expire on 2 November 2019 and have requested that the Section 106 agreement be modified so that they can retain the 27% affordable housing provision in perpetuity, with a completion on this site envisaged to be by the end of December 2022.
- 2.4 The applicants have submitted a reserved matters application which will shortly be determined and are also currently seeking to discharge relevant planning conditions to enable commencement within the next couple of months. The reserved matters scheme demonstrates that the site would accommodate 162 dwellings reduced from the 200 units envisaged at outline stage and as such the applicants have provided an updated viability position. Their viability report demonstrated that 21% affordable housing provision would now be viable based on proposed housing numbers.
- 2.5 The Council's Valuation Officer has reviewed this and is of the opinion that 27% affordable housing provision is still reasonable for this site, despite the reduction in housing numbers.
- 2.6 On this basis the Council are satisfied that the scheme can still provide 27% affordable housing and it is considered that the applicants have demonstrated sufficient progress of the scheme in order that the three year time limit for provision of the affordable units can be extended to enable them to meet their anticipated build out rate.

3.0 Recommendation

- 3.1 **The application is recommended to be APPROVED subject to delegation being given to Officers to complete a Deed of Variation to the original Section 106 agreement to allow the Developer to provide 27% affordable housing in perpetuity.**

Contact Officer:

Louise Milnes (Principal Planning Officer)

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.



DISTRICT COUNCIL

Tel: 01757 705101

www.selby.gov.uk

Planning Committee 2017-18



John Cattanach (C)

Cawood and Wistow

01757 268968

jcattanach@selby.gov.uk



Dave Peart (C)

Camblesforth & Carlton

01977 666919

dpear@selby.gov.uk



Liz Casling (C)

Escrick

01904 728188

cllr.elizabeth.casling@northyorks.gov.uk



Mike Jordan (C)

Camblesforth & Carlton

01977 683766

mjordan@selby.gov.uk



Christopher Pearson (C)

Hambleton

01757 704202

cpearson@selby.gov.uk



Ian Chilvers (C)

Brayton

01757 705308

ichilvers@selby.gov.uk



James Deans (C)

Derwent

01757 248395

jdeans@selby.gov.uk



Robert Packham (L)

Sherburn in Elmet

01977 681954

cllrpackham@selby.gov.uk



Paul Welch (L)

Selby East

07904 832671

pwelch@selby.gov.uk

Substitute Councillors



Richard Sweeting (C)
Tadcaster
07842 164034
rsweeting@selby.gov.uk



Debbie White (C)
Whitley
01757 228268
dewhite@selby.gov.uk



Ian Reynolds (C)
Riccall
01904 728524
ireynolds@selby.gov.uk



Mel Hobson (C)
Sherburn in Elmet
07786416337
clrmhobson@selby.gov.uk



David Hutchinson (C)
South Milford
01977 681804
dhutchinson@selby.gov.uk



David Buckle (C)
Sherburn in Elmet
01977 681412
dbuckle@selby.gov.uk



Brian Marshall (L)
Selby East
01757 707051
bmarshall@selby.gov.uk



Stephanie Duckett (L)
Barlby Village
01757 706809
sduckett@selby.gov.uk

(C) – Conservative (L) – Labour