



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY, 11 APRIL 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 R Musgrave**

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 March 2018.

6. Planning Applications Received (Pages 7 - 8)

6.1. 2015/0969/OUT - Manor Garth, Kellington, Goole, East Yorkshire (Pages 9 - 44)

6.2. 2017/1329/MLA - Main Road, Hambleton, Selby, North Yorkshire (Pages 45 - 54)

G. Marshall

Gillian Marshall, Solicitor to the Council

Dates of next meetings (5.00pm)

Wednesday, 9 May 2018

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

Recording at Council Meetings

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



Minutes

Planning Committee

Venue:	Council Chamber
Date:	Wednesday 7 March 2018
Time:	2.00pm
Present:	Councillors J Cattanach (Chair), I Chilvers, J Deans, M Jordan, R Packham, C Pearson, P Welch and D White.
Officers present:	Ruth Hardingham, Planning Development Manager, Kelly Dawson, Senior Solicitor, Alpha Love-Koh, Solicitor, Keith Thompson, Senior Planning Officer (for minute items 65.1 and 65.2); Diane Wilson, Planning Officer (for minute item 65.3), Louise Milnes, Principal Planning Officer (for minute item 65.5), Ann Rawlinson, Principal Planning Officer (for minute item 65.4) and Victoria Foreman, Democratic Services Officer
Public:	12
Press:	1

60. APOLOGIES FOR ABSENCE

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

61. DISCLOSURES OF INTEREST

All Committee Members declared that they had received pictures in relation to application 2016/1254/FUL – The Bungalow, 31 Lumby Hill, Monk Fryston, but had not expressed opinions on the scheme.

Councillor R Packham declared a pecuniary interest in relation to agenda item 6.2 – 2017/1287/OUT – Land South of 4 Sir Johns Lane, Sherburn in Elmet, as the application had been submitted by his partner. Councillor Packham confirmed that he would leave the meeting during consideration of the application.

62. CHAIR'S ADDRESS TO THE PLANNING COMMITTEE

The Chairman asked the Planning Development Manager to update the Committee on the outcomes of a number of recent appeals at Ulleskelf, North Duffield and Church Fenton. The Committee noted the update.

The Chairman thanked Diane Wilson for her work in planning during her time at Selby District Council, as she was leaving the authority for a new role at Hambleton District Council.

Lastly, 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. 2017/0008/OUT – Land South of Holmes Drive, Riccall
2. 2016/1254/FUL – The Bungalow, 31 Lumby Hill, Monk Fryston
3. 2017/1287/OUT – Land South of 4 Sir Johns Lane, Sherburn in Elmet
4. 2017/1001/FUL – Beech Tree House, Main Road, Burn
5. 2015/0341/OUT - Land at Flaxley Road, Selby

63. 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.

64. MINUTES

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

RESOLVED:

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

65. PLANNING APPLICATIONS RECEIVED

The Committee considered the following planning applications:

65.1 Application: 2017/0008/OUT

Location: Land South of Holmes Drive, Riccall

Proposal: Outline application including access (all other matters reserved) for 8 No. dwellings

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 contrary to the Officer recommendation to approve the application.

Members noted that the application was for an outline permission including access (all other matters reserved) for 8 No. dwellings.

The Committee were informed by the Senior Planning Officer that access was currently conditioned to be from Holmes Drive, and that it was a non-allocated site.

Mr John Duggan spoke in objection to the application.

Brian Keen, representing Riccall Parish Council, spoke in objection to the application.

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

The Committee debated the application further and considered matters raised by the objector and the Parish Council including drainage, access and footpath access. The Committee felt that the outline application was appropriate for the site in question.

It was proposed and seconded that the application be approved.

RESOLVED:

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

65.2 Application: 2016/1254/FUL

Location: The Bungalow, 31 Lumby Hill, Monk Fryston

Proposal: Partial demolition of existing bungalow and erection of 4 No 3 bedroom semi-detached and 1 No 4 bedroom detached houses

Members noted that the application was for partial demolition of existing bungalow and erection of 4 No 3 bedroom semi-detached and 1 No 4 bedroom detached houses.

The Senior Planning Officer explained to the Committee why the application was recommended for refusal.

John Mackman spoke in objection to the application as Ward Councillor.

Simon Nabarro, agent, spoke in support of the application.

The Committee debated the application further and asked questions of the Officer regarding green field and green belt land.

Some concerns were raised by members in general terms about pre-application discussions and the consistency of advice to applicants.

It was proposed and seconded that the application be refused.

RESOLVED:

To REFUSE the application for reasons set out in paragraph 7.0 of the report.

Councillor Packham left the meeting at this point before consideration of agenda item 6.2 – 2017/1287/OUT – Land South of 4 Sir John’s Lane, Sherburn in Elmet.

65.3 Application: 2017/1287/OUT

Location: Land South of 4 Sir John’s Lane, Sherburn in Elmet

Proposal: Outline application for the erection of a single dwelling with all matters reserved

The Planning Officer presented the application that had been brought to the Committee due to the applicant being the partner of a District Councillor.

Members noted that the application was for outline permission for the erection of a single dwelling with all matters reserved.

The Committee considered the application to be appropriate and it was subsequently proposed and seconded that the application be approved.

RESOLVED:

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

Councillor Packham re-joined the meeting at this point following consideration of agenda item 6.2 – 2017/1287/OUT – Land South of 4 Sir John’s Lane, Sherburn in Elmet.

65.4 Application: 2017/1001/FUL

Location: Beech Tree House, Main Road, Burn

Proposal: Proposed erection of new detached dwelling on Plot 2 (previously Plot 3)

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

Members noted that the application was for the proposed erection of a new detached dwelling on plot 2 (previously plot 3).

The Committee were informed that there had been a previous consent for three detached dwellings on the site.

The Committee debated the application further and asked a question of the Officer regarding a log cabin which had been previously included in the application, but due to concerns from the Parish Council and Officers, had now been removed.

Members requested that under the 'Planning History' section of committee reports the decision details previous applications be given in full, and that compass points be supplied on all maps and plans.

It was proposed and seconded that the application be approved.

RESOLVED:

The Committee were minded to APPROVE the application subject to conditions set out at paragraph 9.0 of the report.

65.5 Application: 2015/0341/OUT

Location: Land at Flaxley Road, Selby

Proposal: Deed of variation to Section 106 Agreement attached to consent 2015/0341/OUT for hybrid application

The Principal Planning Officer presented the application that had been brought to the Committee due to the applicant seeking to alter the Section 106 Agreement which was determined by Planning Committee.

Members noted that the application was for a Deed of Variation to Section 106 Agreement attached to consent 2015/0341/OUT for hybrid application.

The Committee debated the application further and expressed some concerns about levels of affordable housing and the length of time that consented schemes took to be commenced and finished.

The Principal Planning Officer confirmed that the phasing plan was not subject to a condition.

It was proposed and seconded that the application be approved.

RESOLVED:

To APPROVE the application subject to delegation to Officers for the completion of a Deed of Variation to the original Section 106 agreement to allow the Developer to provide 27% affordable housing in perpetuity.

The meeting closed at 3.20pm.

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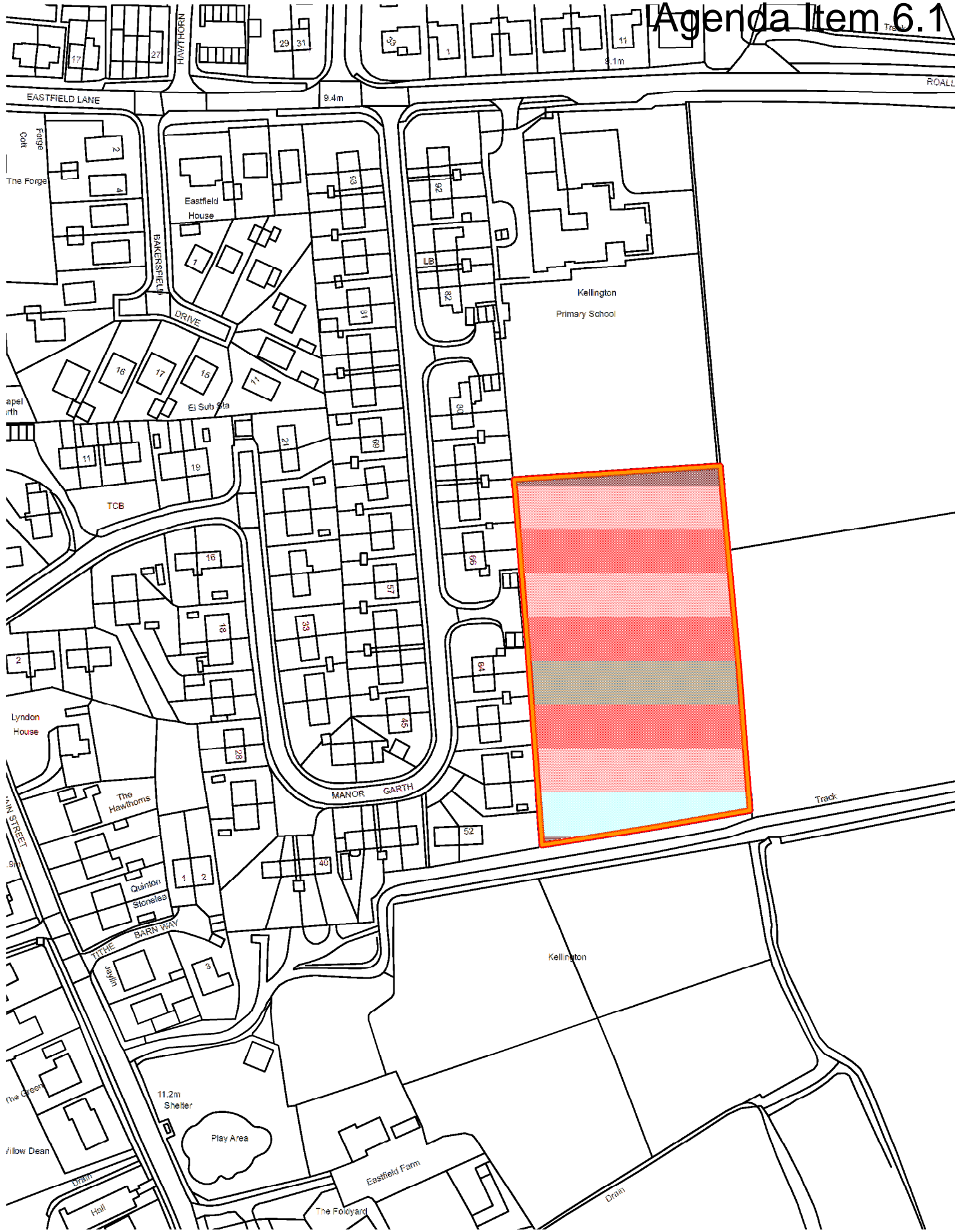
Agenda Item 6

Items for Planning Committee

11 April 2018

Item No.	Ref	Site Address	Description	Officer	Pages
6.1	2015/0969/OUT	Manor Garth, Kellington, Goole, East Yorkshire	Outline application with all matters reserved for residential development on land to the east of Manor Garth, Kellington	JETY	11 - 44
6.2	2017/1329/MLA	Main Road, Hambleton, Selby, North Yorkshire	Request for a Deed of Variation to Section 106 agreement dated 02 December 2015 seeking a reduction in the proportion of affordable housing to be provided within scheme for 115 dwellings approved under references 2015/0105/OUT (outline) and 2017/0117/REMM (reserved matters).	ANMA	45 - 52

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APPLICATION SITE

Item No: 2015/0969/OUT

Address: Manor Garth, Kellington

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RECEIVED
24 August 2015
BUSINESS SUPPORT

Proposed Residential Development at
Land located off Manor Garth, Kellington, DN14 0NP
For Mr & Mrs Dickinson
Site Layout as Proposed
1:500 @ A3
R33295 SK18/06/15-1



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To: Planning Committee
Date: 11 April 2018
Author: Jenny Tyreman (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2015/0969/OUT	PARISH:	Kellington Parish Council
APPLICANT:	Mrs Sharon Dickinson	VALID DATE: EXPIRY DATE:	25 August 2015 24 November 2015
PROPOSAL:	Outline application with all matters reserved for residential development on land to the east of		
LOCATION:	Manor Garth, Kellington, Goole, East Yorkshire		
RECOMMENDATION:	REFUSE		

1. INTRODUCTION AND BACKGROUND

- 1.1 This application has been brought back before Planning Committee following consideration at the 11 May 2016 meeting, where Members resolved to support the Officer recommendation to grant planning permission subject to completion of a Section 106 Agreement to secure 40% on-site affordable housing provision and a waste and recycling contribution; no objections being received from the Strategic Flood Authority and any conditions received from the Strategic Flood Authority; and the conditions detailed in section 3 of the committee report.
- 1.2 Since this resolution, there have been a number of changes to the Council's position in terms of the five year housing land supply. Further, the Strategic Flood Authority submitted objections following the previous resolution and further information has been submitted by the applicant in respect of flood risk and the Strategic Flood Authority have been re-consulted.
- 1.3 As such Planning Committee needs to re-consider this application in light of these material changes.

2. CONSULTATION AND PUBLICITY

Since the resolution at Planning Committee on 11 May 2016 the following additional comments have been received.

- 2.1 **Planning Policy** – Comments provided in respect of impact on the Councils housing land strategy, the principle of the development, previous levels of growth and the scale of the proposal, relationship of the proposal to the development limit, and recreational open space.
- 2.2 **Sport England** – No objections. General guidance and advice referred to.
- 2.3 **Environmental Health** – No objections, subject to a condition relating to the provision of a scheme to minimise the impact of noise, vibration, dust and dirt on residential properties in close proximity to the site during the construction phase.
- 2.4 **Strategic Flood Authority** – Comments provided in respect of runoff destinations, flood risk, peak flow control, volume control, pollution control, designing for exceedance, highway drainage, climate change/urban creep, construction and maintenance. Clarification and further information is requested to be submitted in respect of runoff destinations, peak flow control, volume control, pollution control, designing for exceedance, climate change/urban creep, construction and mitigation.
- 2.5 **Landscape Architect** – Objects. The proposed development would adversely affect views, landscape character and setting of Kellington village, particularly on approach along Roall Lane.
- 2.6 **Neighbour Comments** – A further letter of objection has been received since this application was heard at the 11 May 2016 Planning Committee. This letter objects to the proposed development and raises a number of issues: (1) requests that clarification should be provided as to why the site is no longer suitable for its allocated intended purpose, how this decision was made and when and how this saved policy can lawfully be considered out of date; (2) requests clarification on whether or not recreational open space is to be provided on site and required as part of the S106 agreement; (3) states that KEL/1 is a restrictive policy and as such the tilted balance in paragraph 14 does not apply where the Local Planning Authority cannot demonstrate a 5 year housing land supply; (4) requests that the Council explain what has changed to alter the view that the site is reserved for ROS and would remain so until the new allocations document is adopted.

3. APPRAISAL

- 3.1 The main issues which require re-consideration since the application was last presented to Planning Committee are as follows:
 - The Principle of the Development
 - Impact on the Character and Appearance of the Area
 - Flood Risk, Drainage and Climate Change
 - Recreational Open Space.

The Principle of the Development

- 3.2 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.

- 3.3 The application site is located outside the defined development limits of Kellington, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside.
- 3.4 Policy SP2A(c) of the Core Strategy states that “Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.”
- 3.5 The proposal does not comply with Policy SP2A(c) as it is not for rural affordable housing need and there are no special circumstances. The application should therefore be refused unless material considerations indicate otherwise.
- 3.6 Since the application was considered at Committee, the Council has published a 5 Year Housing Land Supply Report 2017-2022, Position at 30 September 2017 which identifies that the Council do have a five year supply of housing land. 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 (SP2) and (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.
- 3.7 The NPPF is a material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development. Paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.

Sustainability of the Development

- 3.8 In respect of sustainability, the site is located adjacent to the development limits of Kellington, which is a Designated Service Village as identified in the Core Strategy, where there is some scope for additional residential and small scale employment to support rural sustainability. The village contains a number of local services, including a post office, a general store, a public house, a village hall, a primary school and is also located on a bus route between Selby and Pontefract.
- 3.9 It is noted that the village of Kellington has been identified as a Designated Service Village, both within the Selby District Local Plan and the Core Strategy, which demonstrates that the Council has considered the village a sustainable location in a rural context. The village is considered to be “less sustainable” in Core Strategy Background Paper 5, Sustainability Assessment of Rural Settlements, Revised July 2008, meaning that two of four indicators assessed were in the highest two categories (accessibility by public transport to service centres and access to local employment opportunities). The type and range of facilities, public transport accessibility and access to employment opportunities identified in Kellington was broadly similar in the PLAN Selby Site Allocations, Designated Service Villages,

Growth Options Report, Draft For Stakeholder Engagement, June 2015 (recognising that there are some differences with the studies). Furthermore, it is considered the situation in respect of the sustainability of Kellington has remained broadly similar since June 2015 to date. Having taken these points into account, despite the fact that the site is located outside the defined development limits of Kellington, it is adjacent to the boundary and would be served by the facilities within the settlement. However, this needs to be considered alongside the levels of growth of the settlement.

Previous Levels of Growth and the Scale of the Proposal

- 3.10 Core Strategy Policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability. This policy sets a minimum target of 2000 new dwellings for Designated Service Villages as a whole over the period 2011 to 2027. The most recent monitoring indicates that this figure has been exceeded by completions and permissions in these settlements as a whole. However, the Core Strategy does not set a minimum dwelling target for individual Designated Service Villages, so it is not possible at this point to ascertain exactly whether Kellington has exceeded its dwelling target.
- 3.11 In order to assess the scale of housing allocations to apportion to each Designated Service Village in the Site Allocations Local Plan, the Council published a Designated Service Villages Growth Options Report as part of the evidence base for the PLAN Selby Site Allocations Local Plan Document in June of 2015; this document was subject to a 6 week public consultation.
- 3.12 The evidence set out in the Growth Options report provides a guide for decision making as to the amount of housing development that is appropriate in Designated Service Villages. The research and analysis undertaken in the Growth Options report included a numerical assessment of the housing supply per village and a detailed assessment of the services and infrastructure of each village, in order to determine its sustainability.
- 3.13 This approach accords with the spatial strategy of the Core Strategy which envisages only “limited” growth in Designated Service Villages to support rural sustainability. Any other approach would inevitably lead to unsustainable levels of housing development in the villages and a fundamental undermining of the spatial strategy.
- 3.14 The Growth Options report indicates minimum growth options of between 16-26 dwellings for Kellington. To date, Kellington has seen 4 (gross) dwellings built in the settlement since the start of the Plan Period (4 net) in April 2011 and has extant gross approvals for 13 dwellings (12 net), giving a gross total of 17 dwellings (16 net). Taking into account the range of growth options identified for this settlement, the scale of this individual proposal, at 27 dwellings, is considered to be appropriate to the size and role of Kellington which is designated as a Designated Service Village, as the size of this one development alone would be only marginally more than the upper growth range of 26. However, the individual scale of the proposal must also be considered in terms of the cumulative impact it would have on previous levels of growth in this settlement that have occurred since the start of the plan period. If the scheme were to be permitted, the cumulative impact would increase the number of approvals to 40 dwellings (39 net), giving a gross total of 44

dwellings (43 net). Taken cumulatively, this would be significantly more than the upper growth range of 26 and would not be considered to be appropriate to the size and role of Kellington which is a Designated Service Village.

- 3.15 Having had regard to the above and given that the site is outside the development limit, the proposal would conflict with Policies SP1, SP2A(c) and SP5 of the Core Strategy and thus would undermine the established settlement hierarchy.

Impact on the Character and Appearance of the Area

- 3.16 The application site is located outside the defined development limits of Kellington, which is a Designated Service Village as identified in the Core Strategy, and is therefore located within the open countryside. The application seeks outline planning permission for the erection of a residential development of twenty seven dwellings, with all matters reserved.
- 3.17 The application site comprises land to the east of Manor Garth, which is identified as 'Proposed Recreation Open Space' under Policy KEL/1 of the Selby District Local Plan. The application site is bound by residential development to the west, Kellington Primary School to the north, and open fields to the south and east. It is noted that the application site benefits from mature hedging along the northern, southern and eastern boundaries.
- 3.18 Dwellings within the immediate vicinity of the application site are varied in terms of size, scale and design, with two storey and single storey semi-detached and terraced properties with hipped roof forms prevalent along Manor Garth and bungalows and two storey semi-detached dwellings with pitched roof forms prevalent along Roall Lane. Materials are generally clay pantiles, natural slates and concrete interlocking roof tiles for the roofs and bricks of varying colours for the walls.
- 3.19 An indicative layout plan was been submitted with the application, which demonstrates how the site could be laid out to accommodate twenty seven dwellings.
- 3.20 When the application was taken to Planning Committee on 11 May 2016, Members were advised that an appropriate layout, scale, appearance and landscaping could be achieved at the reserved matters stage to ensure that there would be no significant adverse impacts on the character and appearance of the area.
- 3.21 Since the application was previously taken to Planning Committee, the Council have sought advice from their Principal Landscape Architect, given the location of the application site outside the defined development limits of Kellington on the settlement fringe.
- 3.22 The Councils Principal Landscape Architect has advised that the application site, outside the defined development limits of Kellington on the settlement fringe is moderately sensitive to development due to the openness of views. The site is situated on a low but prominent ridgeline therefore housing development would be particularly visible. He therefore considers that the location and scale of the development would be detrimental to the landscape character and setting of the village, particularly on the approach along Roall Lane from the east. The Councils

Principal Landscape Architect therefore considers that the development should not be supported in landscape and visual terms as it is contrary to Local Plan Policy ENV1 (1) and (4) and Policy SP19 of the Core Strategy.

Flood Risk, Drainage and Climate Change

- 3.23 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 3.24 When the application was taken to Planning Committee on 11 May 2016, Members were advised that subject to no objections from the Strategic Flood Authority being received, the proposal would not have any significant impact on flood risk, drainage or climate change. However, the day following Planning Committee on 12 May 2016, objections were received from the Strategic Flood Authority, and further information was requested in respect of run-off destinations, volume control, pollution control, designing for exceedance, urban creep and mitigation.
- 3.25 Further information was submitted to the Local Planning Authority on 28 November 2017 in response to the comments of the Strategic Flood Authority. This included a Sustainable Urban Drainage Systems (SuDS) Report undertaken by WA Consulting Engineers dated November 2017 and Site Investigation Report undertaken by Geo Investigate dated November 2017. These documents have been reviewed by the Strategic Flood Authority, who have advised that clarification and further information is required to be submitted in respect of runoff destinations, peak flow control, volume control, pollution control, designing for exceedance, climate change/urban creep, construction and mitigation. This information has not been submitted.
- 3.26 Having regard to the above, it is considered that insufficient information has been submitted in respect of flood risk, drainage and climate change and as such the Council cannot be satisfied that appropriate drainage arrangements can be incorporated into the scheme and that there would be no detrimental impacts on flood risk. The proposal is therefore contrary to Policy ENV1 (3) of the Selby District Local Plan, Policies SP15, SP16 and SP19 of the Core Strategy and the advice contained within the NPPF.

Recreational Open Space

Loss of land reserved as Recreational Open Space

- 3.27 The application site comprises land to the east of Manor Garth and to the south of Kellington Primary School, which is identified as 'Proposed Recreation Open Space' under Policy KEL/1 of the Selby District Local Plan. Policy KEL/1 states "Land to the east of Manor Garth, Kellington, as identified on the Proposals Map, is reserved for recreational open space purposes". The pre-text to Policy KEL/1 sets out "The Parish Council has identified a need for a sports pitch within the village. Agreement has been reached with a local landowner to acquire an area of land to the east of Kellington for this purpose. The site is identified on the Inset Proposals Map".
- 3.28 Since 2005, this proposed designation has not been brought forward. As the existing use of the land is not currently for recreational open space the proposal, for residential development, would be contrary to Policy KEL/1, as the land would no longer be reserved for the purpose of recreational open space. However, having

regard to the pre-text to the policy, it is noted that the Parish Council and Kellington Primary School, who identified the need for a sports pitch within the village, which led to the land being identified as 'Proposed Recreation Open Space' under Policy KEL/1 of the Selby District Local Plan, have not raised any objections to the proposals and the loss of the land as proposed recreational open space, demonstrating that they no longer require it to be reserved for this purpose.

- 3.29 The Planning Policy Officer has advised that the proposal should be assessed against Policy RT1 of the Selby District Local Plan, which relates to 'Recreational Open Space' as existing. However, the application site is identified as 'Proposed Recreation Open Space' as opposed to 'Recreation Open Space' as existing and as such it is not appropriate to assess the proposal against Policy RT1 of the Selby District Local Plan. Policy KEL/1 is a policy specific to the application site as 'Proposed Recreation Open Space', and the proposal should be assessed against that policy.
- 3.30 Having regard to the above, while the proposal would be contrary to Policy KEL/1 of the Selby District Local Plan, it is considered that there are material considerations which would outweigh the conflict with this specific policy, these being that neither the Parish Council nor NYCC Education have no longer identified a need for this land and as such the proposals are considered acceptable in terms of its impacts on recreational open space, having regard to Policy KEL/1 of the Selby District Local Plan.

Recreational Open Space Provision

- 3.31 Policy RT2 of the Selby District Local Plan relates to "Open Space Requirements for New Residential Development" and states that for schemes of more than 10 dwellings but less than 50 dwellings there are four options for the provision of recreation open space, which are subject to negotiation. In the first instance, recreational open space would be expected to be provided on-site.
- 3.32 The application has been supported by an indicative layout plan (drawing no. R33295 SK18/06/15-1), which does not show the provision of any recreational open space on-site. When the application was taken to Planning Committee on 11 May 2016, Members were advised that the applicants were willing to pay a financial contribution to enable the provision of recreational open space elsewhere and that this would be captured by CIL. However, no consideration was given to whether recreational open space could be provided on-site and no evidence was submitted with the application to demonstrate that this was not viable.
- 3.33 It is considered that given the size of the development site an appropriate amount of on-site recreational open space could be incorporated on-site at the reserved matters stage and this could be secured through a Section 106 agreement. It should however be noted that this would have implications for the number of dwellings which could be achieved on the site which would need to be reduced to accommodate the appropriate level of provision as set out in Policy RT2. The applicant has been made aware of this and has confirmed that they would be willing to provide the appropriate level of recreational open space on-site at the Reserved Matters Stage and this has been incorporated into the draft Section 106 agreement.

- 3.34 Having regard to the above, it is considered that an appropriate level of recreational open space could be provided on-site at the Reserved Matters Stage, subject to a Section 106 agreement. On this basis, the proposals are considered acceptable in respect of recreational open space provision in accordance with Policy RT2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

Legal Issues

- 3.35 Planning Acts
This application has been determined in accordance with the relevant planning acts.
- 3.36 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.
- 3.37 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

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

4. CONCLUSION

- 4.1 The proposed dwellings would be located outside the defined development limits of Kellington and would therefore be located within the open countryside, where in accordance with the overall Spatial Development Strategy for the District, development will be restricted. The proposals do not comply with any of the types of development permitted by Policy SP2A(c). Furthermore the proposed development exceeds the growth options for this settlement and as such would undermine the established settlement hierarchy. The proposals to develop this land for residential purposes are therefore contrary to Policies SP1, SP2A(c) and SP5 of the Core Strategy.
- 4.2 Whilst further information has been provided in respect of flood risk, drainage and climate change, the Strategic Flood Authority have advised that clarification and further information is required to be submitted in respect of runoff destinations, peak flow control, volume control, pollution control, designing for exceedance, climate change/urban creep, construction and mitigation. Therefore, insufficient information has been submitted in respect of flood risk, drainage and climate change and the proposal is contrary to Policy ENV1 (3) of the Selby District Local Plan, Policies SP15, SP16 and SP19 of the Core Strategy and the advice contained within the NPPF.
- 4.3 The proposals are considered to adversely affect views, landscape character and the setting of Kellington Village, particularly on the approach along Roall Lane from

the east. The proposals are therefore contrary to Selby District Local Plan policy ENV1 (1) and (4) and Policy SP19 of the Core Strategy.

5. RECOMMENDATION

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

01. The proposed dwellings would be located outside the defined development limits of Kellington and would therefore be located within the open countryside, where in accordance with the overall Spatial Development Strategy for the District, development will be restricted. The proposals do not comply with any of the types of development permitted by Policy SP2A(c). Furthermore the proposed development exceeds the growth options for this settlement and as such would undermine the established settlement hierarchy. The proposals to develop this land for residential purposes are therefore contrary to Policies SP1, SP2A(c) and SP5 of the Core Strategy.
02. Insufficient information has been submitted in respect of runoff destinations, peak flow control, volume control, pollution control, designing for exceedance, climate change/urban creep, construction and mitigation. As such the Council cannot be satisfied that appropriate drainage arrangements can be incorporated into the scheme and that there would be no detrimental impacts on flood risk. The proposal is therefore contrary to Policy ENV1 (3) of the Selby District Local Plan, Policies SP15, SP16 and SP19 of the Core Strategy and the advice contained within the NPPF.
03. The proposals are considered to adversely affect views, landscape character and the setting of Kellington Village, particularly on the approach along Roall Lane from the east. The proposals are therefore contrary to Selby District Local Plan policy ENV1 (1) and (4) and Policy SP19 of the Core Strategy.

Contact Officer:

Jenny Tyreman
Senior Planning Officer

Appendices:

Appendix 1 - 11 May 2016 Planning Committee Report



Report Reference Number: 2015/0969/OUT (8/53/280/PA) **Agenda Item No:** N/A

To: Planning Committee
Date: 11 May 2016
Author: Mr Nigel Gould (Planning Officer)
Lead Officer: Richard Sunter (Lead Officer – Planning)

APPLICATION NUMBER:	2015/0969/OUT	PARISH:	Kellington Parish Council
APPLICANT:	Mrs Sharon Dickinson	VALID DATE:	25th August 2015
		EXPIRY DATE:	24th November 2015
PROPOSAL:	Outline application with all matters reserved for residential development on land to the east of		
LOCATION:	Manor Garth Kellington Goole East Yorkshire		

This application has been brought before Planning Committee due the proposals being a Departure from the Development Plan.

Summary:

The proposed scheme is made in outline with all matters reserved for later consideration. An indicative layout plan shows a layout of 27 residential properties around a central spine road accessed via the existing cul-de-sac between 64 and 66 Manor Garth.

The application site is located outside but adjacent to the defined development limits of Kellington. The proposal is therefore contrary to Policy SP2A(c) of the Core Strategy. However, development limits are currently under review as part of the PLAN Selby sites and allocations document in line with commentary detailed in the Core Strategy. In evaluating the application, the relationship of the proposal to the edge of the settlement and defined development limit (as set out on the Policies Map) the proposal is considered, on balance, to be acceptable.

From the emerging PLAN Selby evidence on the sensitivity of the landscape to development it is considered that the overall landscape assessment parcel for the area to which the application relates is of medium sensitivity to development, with the settlement fringe considered of low quality.

It is considered that an acceptable proposal could be designed so that it would achieve an appropriate layout and appearance at reserved matters stage so as to respect the character of the local area, and not significantly detract from highway safety and residential amenity. The proposals are also considered to be acceptable in respect of, the impact on flooding, drainage and climate change, protected species, contaminated land and affordable housing.

Having had regard to the above, it is considered that, on balance, the proposal would be acceptable when assessed against the policies in the NPPF, the Selby District Local Plan and the Core Strategy

Recommendation

Subject to no objections being received from the Strategic Flood Authority this planning application is recommended to be APPROVED subject to delegation being given to Officers to complete the Section 106 agreement to secure 40% on-site affordable housing provision and a waste and recycling contribution and subject to any conditions received from the Strategic Flood Authority and the conditions detailed at paragraph 3 of the report.

1.0 Introduction and background

1.1 The Site

- 1.1.1 The application site is located adjacent to but outside of the defined development limits of Kellington.
- 1.1.2 The application site comprises approximately 0.86 hectares of agricultural land.
- 1.1.3 The application site is not within flood zones 2 or 3 and comprises a rectangular field east of Manor Garth and south of the school. The field boundaries would be retained and follows the approximate layout of the school land adjacent to the northern boundary. The field was overgrown when visited and did not appear to be actively used.
- 1.1.4 The site is accessed via Manor Garth with the new access to serve the site proposed at the end of small cul-de-sac between 64 and 66 Manor Garth serving 4 small lock up garages. To the west is Manor Garth and the housing estate, to the north the school and to the east and south open fields.

1.2 The Proposal

- 1.2.1 The applicant is seeking outline application with all matters reserved for residential development on land to the east of Manor Garth.

1.3 Planning History

- 1.3.1 There is no relevant planning history for this site.

1.4 Consultations

- 1.4.1 Parish Council –

Kellington Parish Council held a 'drop in' session at the Village Hall to enable residents to see the details of the proposal provided by the developer. Typical comments from residents were:

'Too much heavy construction traffic passing by the school and up our narrow residential street. There will of course be increased traffic once completed. I welcome new houses just not behind the school. The building works would detract from the children's education, they currently have open views which is good for them'

'Wildlife habitat lose and access of heavy goods traffic on Manor Garth are the main issues'

'I have not got a problem with the housing, but I cannot see how the construction traffic will be able to get down Manor Garth without constantly mounting the pavement, which will damage the path and is dangerous for people, especially children, walking. There are always cars and at least one van parked on Manor Garth.

Also the entrance to the field will not be safe. There is no pavement shown on the map. How can kids get to and from the new houses safely?'

'If the people who use the garages park in front of their garage. people going to or from the field will have to walk in the road to get to the field. That cannot be right'

'Support the housing but the access will be dangerous. Manor Garth is too narrow and always has cars and vans parked on it. The access for the construction should go from Roall Lane alongside the school to the back of the site, then it will be safe'

'Proposed access for construction vehicles will be impossible Manor Garth is too narrow. Heavy lorries will not make a good access along Roall Lane and also cars are parked outside the school all day.

'An Ambulance going to 60 Manor Garth but the person had to be picked up in the garage turning area due to parked traffic'

'The proposed entrance is a 'Turning head' designed for vehicle especially delivery lorries to turn round in it should not be used for an entrance'

'Will it be safe to get into the garage and also park outside my garage? Don't think it will be safe for children to walk along and passed garages with no pavement. Speed bump right outside my house is not on. We had a 'no ball games' sign in the turning head and need to keep this. Cars parked outside garages will make this so called entrance unsafe. The entrance to the site should not be down Manor Garth or though the turning head. Is should be off Roall Lane where it will be safe.

'The village needs new housing but this access is not safe. Manor Garth is already congested with legally parked cars, the dustbin lorry struggles to get down once a week.'

Objection to access of construction traffic up Manor Garth and amount of extra traffic when housing is built.

'Concerned about access up Manor Garth .Already have problems with driving up and down the road .'

'How is the construction traffic going to get to the site? The road is not wide enough to get lorries down so how are they going to deliver materials are they going to mount the pavement. That is the only way to get it down.'

'The entrance is where the cars turn - a turning head. So we need it otherwise we would have to go all the way around Manor Garth causing an issue to other people.'

'We need to make sure the children will be able to walk to school safely, so we need to ensure that the pavements are kept at the right size on both side of any new entrance.'

'At present the field is a wonderful area for wildlife. We see barn owls in the field and bats fly around at night. The grass land is a habitat for various creatures.'

'We need to make sure that we have housing the fits in with the area. We don't want three storey buildings'

'Some of the houses should be housing to rent for local people as we have a real need for that.'

'Roall Lane could be very busy with heavy lorries carrying materials right outside the school. Even if restrictions are put on this area people are coming and going to the school throughout the day.'

'The road is too narrow for construction traffic. We have problems already trying to get around the Garth, this is going to make it worse.'

'We need more houses but the entrance should not be down Manor Garth, it should be directly from Roall Lane, then it would be safe.'

'Traffic is the big problem with this site, the school is on Roall Lane and is incredibly busy at school times but there are always cars parked outside the school all day and Manor Garth always has cars and vans parked on it. It will not be safe and the access passed the garages will also not be safe'

'How can they have an access to the new estate with no safe pedestrian pavement?

'It will be a nightmare for Manor Garth residents during the construction time. Manor Garth is a narrow street with cars parked on both sides how will the huge vehicles delivering bricks etc to the site get down this narrow road. They will break up the pavements and the roads and we will be left with pavements that resident will be tripping up on because of the holes. The houses are okay but there should be a better access right off Roall Lane.'

1.4.2 NYCC Highways

In assessing the submitted proposals and reaching its recommendation the Local Highway Authority has taken into account the following matters:

The design standard for the site is Manual for Streets and the required visibility splay is 2.4 metres by 45 metres. The visibility splay to the north of the site is not achievable at 45m. However a speed survey has highlighted that vehicles speeds are in line with 21mph. Therefore a reduction in the northern visibility splay to 27m is considered acceptable. The southern visibility splay can be measured to the centre line, whilst the visibility drawing (001) does not show the visibility splay to the centre line it is achievable. As is 27m to the northern splay.

During pre-application discussions I raised concerns about visibility being blocked for the existing garages. It is noted that drawing no. SHF.1214.TR.P.002A has annotated on it that the boundary walls of plots 1 and 27 will not exceed a height of 0.6m in order for the garages to have appropriate visibility.

Consequently the Local Highway Authority recommends that conditions are attached to any permission granted.

1.4.3 Yorkshire Water Services Ltd

If planning permission is to be granted, conditions should be attached in order to protect the local aquatic environment and YW infrastructure:

1.4.4 Danvm Drainage Commissioners Shire Group Of IDBs

Comments not received.

1.4.5 Lead Officer-Environmental Health

Comments not received.

1.4.6 Strategic Flood Authority

The comments of the Strategic Flood Authority are awaited and their response and Planning Committee will be updated on the day of Committee.

1.4.7 Policy Officer –

The key issues which should be addressed are:

1. The Principle of Development
2. Impact on the Council's Housing Land Strategy
3. Previous Levels of Growth and the Scale of the Proposal
4. Relation of the Proposal to the Development Limit
5. Recreation Open Space

1. The Principle of Development

Paragraph 11 of the NPPF restates planning law that requires planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF re-emphasises that an up-to-date Development Plan is the starting point for decision-making, adding that development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The policies in the SDLP and Adopted CS are consistent with the NPPF.

It is noted also that under para 14 of the NPPF that the presumption in favour of sustainable development should be seen as a golden thread running through decision-taking. Para 49 of the NPPF also states that housing applications should also be considered in the context of the presumption in favour of sustainable development.

CS Policies SP2 and SP4 direct the majority of new development to the Market Towns and Designated Service Villages (DSVs), restricting development in the open countryside. Kellington is defined in the Core Strategy as a Designated Service Village, which has some scope for additional residential and small scale employment to support rural sustainability.

This outline proposal for 27 dwellings is on land that is adjacent to, but outside of, the defined Development Limits of Kellington as defined on the Policies Map of the SDLP. The proposal is therefore contrary to Policy SP2A(c) of the Core Strategy. However, Development Limits are currently under review as part of the PLAN Selby sites and allocations document in line with commentary detailed in the Core Strategy. In evaluating the application, the relationship of the proposal to the edge of the settlement and defined Development Limit (as set out on the Policies Map) should be given due consideration as detailed under Section 4 of this response.

2. Impact on the Council's Housing Land Strategy

On the 3 December 2015, the Council's Executive formally endorsed an updated five year housing land supply Methodology and resultant housing land supply figure of 5.8 years, as set out in the Five Year Housing Land Supply Statement. 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 can be considered up to date. The NPPF aim of boosting and maintaining the supply of housing is a material consideration when evaluating planning applications. This application would provide additional dwellings to housing supply, although it needs to be proved by the applicant that the site can contribute dwellings within the first 5 years of the plan period.

3. Previous Levels of Growth and the Scale of the Proposal

CS policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability, it is important to determine in housing applications the impact a proposed scheme has on this level of growth, taking into account previous levels of growth since the start of the plan period and the scale of the proposal itself. Kellington has seen 6 dwellings built and/or approved in the settlement since the start of the Plan Period in April 2011; CS policy SP5 does not set a minimum dwelling target for individual service villages, so it is not possible to ascertain exactly whether Kellington has exceeded its dwelling target.

As a guide, the Council consulted on various growth options for the DSVs as part of the development of PLAN Selby in July / August 2015 and at this point the research indicated minimum growth options of between 12-24 dwellings for Kellington. While the level of development in the settlement may be under its potential growth options, the scale of this individual proposal, at 27 dwellings, is considered to be appropriate to the size and role of a settlement designated as a Designated Service Village in the Core Strategy.

4. Relation of the Proposal to the Development Limit

Core Strategy Policy SP18 aims to protect the high quality and local distinctiveness of the natural and man-made environment; therefore it is important to determine the impact the proposed scheme has on its surroundings. The site is located in the countryside and outside of Development Limits. The draft PLAN Selby evidence document "Settlement Setting Landscape Assessment" (January 2016) finds that on the sensitivity of the landscape to development, it is considered that the overall landscape assessment parcel for the area to which the application relates is of medium sensitivity to development. The proposal extends into the countryside and in determining the application, thought will need to be applied as to:

- the overall impact of the proposed development on the countryside;
- whether the current Development Limit as defined in the Policies Map remains robustly defined, or has changed and,
- whether the proposed development would set a new clearly defensible boundary.

Detailed issues to consider when reviewing the Development Limit and the potential impact of the development, include:

- planning history;
- physical extent of existing settlement;
- settlement form and character;
- the type, function and range of buildings on the edge of the settlement;
- impact of the development on the countryside, environment and amenity, and
- the extent of current defensible boundaries, which are durable and likely to be permanent, and whether the development would erode or contribute towards maintaining a clear defensible boundary.

5. Recreation Open Space

The proposal lies on top of land designated as Recreation Open Space by saved policy RT1 of the 2005 Selby District Local Plan, which states that:

Proposals which would result in the loss of existing recreation open space and allotments will not be permitted unless:

- 1) The use has been abandoned and the site is not required to remedy an existing deficiency for recreation or allotment use elsewhere in the locality; or
- 2) Alternative provision of at least the equivalent size, accessibility and quality is made within the locality to serve the needs of the existing community; or
- 3) Sports and recreation facilities can best be retained and enhanced through the redevelopment of a small part of the site.

When considering this proposal, you will need to be satisfied that the scheme satisfies the requirements of the policy.

1.5 Publicity

1.5.1 The application was advertised by site notices, neighbour notification letter and advertisement in the local newspaper resulting in 5 objections and 1 letter of support being received. The issues raised can be summarised as follows:

- The access is dangerous.
- Parking and congestion is already a problem on Manor Garth and this proposal will make things worse.
- The road surface on Manor Garth is already damaged; the development and construction traffic will make this worse.
- Concern about children playing/walking to school and the extra traffic.
- The village has a poor public transport service. The development will encourage car use.
- The village has no village amenities.
- The village should not get larger.
- The site is not suitable for development.
- Loss of privacy and amenity if approved.
- How will construction traffic get through the narrow road?

- We welcome new residents but ask that no construction traffic is allowed during school start and end times.

2.0 Report

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

2.2 Selby District Core Strategy Local Plan

The relevant Core Strategy Policies are:

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

2.3 Selby District Local Plan

Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, the guidance in paragraph 214 of the NPPF does not apply and therefore applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

The relevant Selby District Local Plan Policies are:

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

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

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

The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development. Paragraph 14 of the NPPF states "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking".

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

2.5 Key Issues

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

1. The appropriateness of the location of the application site for residential development in respect of current housing policy and guidance on sustainability contained within the Development Plan and the NPPF.
2. Identifying the impacts arising from the development:
 1. Layout, scale, landscaping and design
 2. Flood Risk, drainage and climate change
 3. Impact on highway
 4. Residential Amenity
 5. Impact on nature conservation and protected species
 6. Affordable housing
 7. Community Infrastructure Levy
 8. Recreational open space
 9. Education, Healthcare, Waste and Recycling
 10. Contaminated land and ground conditions
 11. Other Issues

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

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

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

- 2.6.3 Policy SP2 identifies Kellington as being a Designated Service Village which has some scope for additional residential development to support rural sustainability. The application site is located outside the defined development limits of Kellington at the eastern boundary of the settlement. Policy SP2A(c) states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.
- 2.6.4 In light of the above policy context the proposals for residential development are contrary to policy SP2A(c) of the Core Strategy.
- 2.6.5 The proposal should therefore be refused unless material considerations indicate otherwise. One such material consideration is that despite the Council confirming that housing policies are up to date, as it now has a 5.8 year supply of deliverable housing land, this supply needs to be maintained until the Sites and Policies Local Plan (PLAN Selby) allocates new sites suitable for housing. It is noted that the timescale envisaged for PLAN Selby to be adopted is May 2018 and as such the housing supply needs to be maintained until PLAN Selby is adopted and this should be done in such a way that it does not cause significant harm to acknowledged interests, which are discussed later within this report. In this instance the applicants have confirmed that the proposals would contribute towards the Council's housing supply and would be delivered within the first five years of the Plan period so as to assist in maintaining the Council's five year housing land supply until PLAN Selby is adopted.
- 2.6.6 The NPPF is another material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development, with particular emphasis on boosting significantly the supply of housing. Paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Sustainability of the Development

- 2.6.7 In respect of sustainability, the application site lies outside but adjacent to the defined development limits of the village of Kellington which is a Designated Service Village as identified in the Core Strategy where there is scope for additional residential growth to support rural sustainability. The village contains a post office/general store, a public house, village hall, primary school and sport and recreation facilities. It has a bus service to Selby. It is therefore considered that the settlement is reasonably well served by local services which weigh in favour of a conclusion that in terms of access to facilities and a choice of mode of transport, that despite the site being located outside the defined development limits of the settlement, the site can be considered as being in a sustainable location.

Previous Levels of Growth and the Scale of the Proposal

- 2.6.8 Core Strategy Policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability. It is important to determine in housing

applications the impact a proposed scheme has on this level of growth, taking into account previous levels of growth since the start of the plan period and the scale of the proposal itself. Kellington has seen 6 dwellings built and/or approved in the settlement since the start of the Plan Period in April 2011. However, Core Strategy Policy SP5 does not set a minimum dwelling target for individual service villages, so it is not possible to ascertain exactly whether Kellington has exceeded its dwelling target.

- 2.6.9 As a guide, the Council consulted on various growth options for the Designated Service Villages as part of the development of PLAN Selby in July / August 2015 and at this point the research indicated minimum growth options of between 12-24 dwellings for Kellington. While the level of development in the settlement may be under its potential growth options, the scale of this individual proposal, at 27 dwellings, is considered to be appropriate to the size and role of a settlement designated as a Designated Service Village in the Core Strategy.

Relationship of the Proposal to the Development Limit

- 2.6.10 Core Strategy Policy SP18 aims to protect the high quality and local distinctiveness of the natural and man-made environment; therefore it is important to determine the impact the proposed scheme has on its surroundings. The site is located partly within and partly outside the development limit. From emerging PLAN Selby evidence on the sensitivity of the landscape to development it is considered that the overall landscape assessment parcel for the area to which the application relates is of moderate sensitivity to development, with the settlement fringe considered of low quality.
- 2.6.11 The proposal extends into the countryside, however when looking at the development limit boundary this site would effectively create a defensible landscaped boundary which would ensure that the development would be neither visually prominent, nor discordant within the landscape with the retention of the field boundary hedges and the in-line orientation of the school land adjacent. For these reasons the proposals in this context would set a new clearly defensible boundary with the open countryside around it and is considered acceptable in this respect. Development within the site would be seen within the context of the existing settlement of Kellington.
- 2.6.12 Having had regard to the above it is considered, on balance, that the proposals are acceptable in principle. However, proposals that are acceptable in principle are still subject to the detailed policy tests both within the Development Plan and the NPPF. This report will now go on to look at these matters of detail by looking at other impacts of the proposal.

2.7 Identifying the Impacts of the Proposal

- 2.7.1 The NPPF makes it clear that sustainable development is not merely about the spatial relationship of development to existing settlements, but also has a social, economic and environmental dimension. Paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. The following sections look at the impacts of the proposal on these dimensions.

2.8 Layout, Appearance, Scale and Landscaping

- 2.8.1 Relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 (1) and (4) and ENV3 (external lighting) of the Selby District Local Plan, and Policy SP19 “Design Quality” of the Core Strategy. In addition Policy SP8 of the Core Strategy of the Local Plan requires an appropriate housing mix to be achieved.
- 2.8.2 Significant weight should be attached to Local Plan policies ENV1 and ENV3 as they are consistent with the aims of the NPPF.
- 2.8.3 Relevant policies within the NPPF, which relate to design, include paragraphs 56, 60, 61, 65 and 200.
- 2.8.4 The application is outline with all matters reserved for future consideration. Notwithstanding this an indicative layout plan has been submitted which illustrates how the applicant considers the site could accommodate up to 27 dwellings. The character and appearance of the local area is varied comprising a wide range of house types, development forms and materials. Materials are generally clay pantiles, natural slates and concrete interlocking roof-tiles. The Design and Access Statement stipulates that Kellington is a medium sized village with a concentration of estate development in the northern and central portion. The proposed layout is simple in its form and has been designed to be in keeping with the existing character of this part of the village. The density of the dwellings has also been kept to a level to be in keeping with the settlement and respect this location. Furthermore, the proposed new dwellings are positioned such that there will be no harmful overlooking or over dominance to nearby residential properties. It is envisaged that the proposed dwellings will be two storey and sympathetic to the scale and form of the existing residential dwellings in the vicinity of the application site. The applicant also states that it is their intention that the materials and appearance will be in keeping with the local context. Officers therefore consider that having had regard to the indicative layout provided and the surrounding context of the site there is nothing to suggest that an appropriate appearance could not be achieved at reserved matters stage.
- 2.8.5 Local residents have expressed concerns that the scale of the proposed development would lead to a loss of amenity and privacy, however having taken into account the context of the site it is considered that an appropriate layout could be achieved at reserved matters stage.
- 2.8.6 Policy SP8 of the Selby District Core Strategy Local Plan (2013) states that proposals must ensure that the types and sizes of dwellings reflect the demand and profile of households evidenced from the most recent Strategic Housing Market Assessment. The Strategic Housing Market Assessment carried out in 2009 is the most up to date strategy. As this proposal is an outline scheme which is seeking to establish if the principle of development is acceptable there are limited details to what the proposed housing mix would comprise of. However officers consider that an appropriate mix of housing could be achieved at reserved matters stage taking into account the housing needs identified within the Strategic Housing Market Assessment.
- 2.8.7 In terms of landscaping the existing site has a mature hedge along the north, east and southern boundaries. There are small clusters of trees along the western boundary but otherwise the field is clear of any trees. The retention of the boundary

hedge is important and would form part of the detailed landscaping required as part of the reserved matters.

- 2.8.8 Given this it is considered that the proposals demonstrate that the site could incorporate appropriate landscaping in accordance with Policy ENV1 (4) of the Local Plan, Policy SP19 of the Core Strategy and the NPPF subject to the detailed landscaping scheme being conditioned in order to that the development is carried out in line with the recommendations as set out in the submitted Tree Report.
- 2.8.9 Having had regard to all of the above elements it is considered that an appropriate design could be achieved at reserved matters stage so as to ensure that no significant detrimental impacts are caused to the character of the area in accordance with Policies ENV 1(1) and (4) and ENV3 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

2.9 Flood Risk, Drainage and Climate Change

- 2.9.1 Relevant policies in respect to flood risk, drainage and climate change include Policy ENV1 (3) of the Selby District Local Plan, and Policies SP15 “Sustainable Development and Climate Change”, SP16 “Improving Resource Efficiency” and SP19 “Design Quality” of the Core Strategy.
- 2.9.2 Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 2.9.3 Relevant paragraphs within the NPPF, which relate to flood risk, drainage and climate change include 94 and 95.
- 2.9.4 The application site is located within Flood Zone 1 which is at the lowest risk of flooding and therefore the proposal would not require a sequential test.
- 2.9.5 It should be noted that as from 6 April 2015 Local Planning Authorities are required to ensure that sustainable drainage systems (SuDS) for the management or surface water run-off are put in place, unless demonstrated to be inappropriate.
- 2.9.6 The SuDS Report submitted by the applicant states that the proposal is to connect the foul drainage from the proposed site into this existing mains sewer – a combined sewer exists in Manor Garth. Permission for this connection will need to be gained from Yorkshire Water prior to connection. The proposed method of disposal for surface water at the development is via soakaways to follow the hierarchy of Sustainable Urban Drainage Systems (SuDs). The ground conditions are to be assessed further (percolation testing) in order to determine that the proposed soakaway system would be suitable. If this is proved to be a feasible solution for surface water disposal, the Environmental Agency will need to be consulted for consent to discharge. The site is not within a ground water source protection zone, and so this method of disposal should be approved by the EA. The comments of the Strategic Flood Authority have not been received and their comments will be relayed to Planning Committee.
- 2.9.7 The increase in foul discharge from the proposed development is not considered to be significant and the risk of flooding to adjacent sites and local drainage infrastructure will not be significantly increased. The surface water runoff from the development should be designed to ensure that there is no risk of any flooding

during a 1 in 30 year rainfall event plus a 30% allowance for climate change. This will ensure that the risk of flooding to adjacent sites will not be significantly increased.

2.9.8 Therefore, subject to no objections from the Strategic Flood Authority being received, the proposal would not have significant impact on flood risk, drainage and the sewerage system. Having had regard to the above, subject to the inclusion of conditions the proposed scheme is therefore considered acceptable in accordance with Policy ENV1(3), Policies SP15 and SP16 of the Core Strategy and the NPPF with respect to flood risk, drainage and climate change, subject to attached conditions.

2.10 Highways

2.10.1 Policy in respect of highway safety and capacity is provided by Policies ENV1(2), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF. These policies should be afforded significant weight.

2.10.2 The application is accompanied by a Transport Report consisting of details of a traffic speed and vehicle survey undertaken over a week in June 2015. The comments from NYCC Highways are based on the average speeds and vehicle numbers along Manor Garth from this report. NYCC Highways raise no objections and suggest the attachment of conditions but as this is an outline application with all matters reserved the conditions are not attached below, the detailed highways aspects will be conditioned on any subsequent reserved matters or full application that includes access. The questions over safety for users of the existing garages by the site entrance have also been resolved. Local residents have raised concerns about the increase in traffic and construction vehicles along Manor Garth.

2.10.3 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.

2.11 Residential Amenity

2.11.1 Policy in respect to impacts on residential amenity and securing a good standard of residential amenity is provided by ENV1(1) of the Local Plan and Paragraph 200 of the NPPF.

2.11.2 As the application is for outline consent with all matters reserved the impact on the existing adjoining properties has been considered in the context of the matters to be determined and informed by the approaches as set out in the submitted Design and Access Statement. Concerns have been raised by nearby residents that the development would have an unacceptable intrusion of privacy. The indicative layout plan demonstrates that appropriate separation distances could be achieved between the existing and proposed dwellings so as to ensure that no significant detriment is caused through overlooking, overshadowing or creating an oppressive outlook.

- 2.11.3 The application site is not in a location which would be subject to significant noise impacts from roads or other sources within close proximity to the site.
- 2.11.4 This phase of the development may negatively impact upon nearby residential amenity due to the potential for generation of dust, noise and vibration. Concern has been expressed by local residents with respect to the noise, nuisance and general disturbance caused to existing residential properties. Whilst it is acknowledged that there would be some noise and disturbance during the construction phase, a scheme for mitigating noise and dust can be controlled via condition. Once occupied as residential properties the noise resultant from these would be akin to any residential scheme and as such would not be considered unduly detrimental to existing residents.
- 2.11.5 Having taken into account the matters discussed above it is considered that, subject to the attached conditions, the proposal would not cause significant detrimental impact on the residential amenities of either existing or future occupants in accordance with Policy ENV1(1) of the Local Plan and the NPPF.

2.12 Impact on Nature Conservation and Protected Species

- 2.12.1 Relevant policies in respect to nature conservation include Policies ENV1(5) of the Selby District Local Plan and Policy SP18 "Protecting and Enhancing the Environment" of the Core Strategy. Policy ENV1 should be afforded substantial weight as it is broadly consistent with the aims of the NPPF.
- 2.12.2 Protected Species are protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of a protected species is a material planning consideration.
- 2.12.3 The application site is not a formal or informal designated protected site for nature conservation or is known to support, or be in close proximity to any site supporting protected species or any other species of conservation interest.
- 2.12.4 The NPPF recognises the need for the planning system to contribute to and enhance the natural and local environment by recognising the wider benefits of ecosystem services and minimising impacts on biodiversity and providing net gains in biodiversity where possible. Paragraph 118 of the NPPF states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity and if significant harm results from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 2.12.5 The site is not within a designated SSSIs, or area protected under the Birds and Habitats Directives. The site is not known to provide habitat for protected species. There are no sites designated for nature conservation within 400m of the site. It is not anticipated that any hedgerows would be classed as important under the Hedgerow Regulations 1997 assessment. As stated the retention of the mature hedgerows is not only important to the setting of the site but in this context the protection of biodiversity. The retention of the hedgerows at the site where feasible, or replacement planting using native species should therefore form part of the

detailed landscaping plan to be submitted as part of the reserved matters application along with planting of a native hedgerow on the southern boundary.

2.12.6 It would therefore be recommended that the detailed landscaping scheme submitted, which takes into account the above comments and recommendations for enhancements, is secured via condition.

2.12.7 Having had regard to all of the above it is considered that subject to approval of reserved matters, there is no reason why the proposal would not accord with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation subject to a condition that the proposals be carried out in accordance with the recommendations set out in the Ecological Appraisal and further bat surveys.

2.13 Affordable Housing

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

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

2.13.3 The applicant has confirmed that they are prepared to provide 40% affordable units confirming that this is achievable and this provision would be secured via a Section 106 agreement. The Selby District Council Strategic Housing Market Assessment 2009 has identified a need for both 2 and 3 bedroom affordable homes with a required tenure split of 30-50% Intermediate and 70-50% Rented as a starting point for negotiation. The Section 106 agreement would secure up to the 40% provision on site and would ensure that a detailed Affordable Housing Plan is provided setting out the size and tenure mix.

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

2.14 Community Infrastructure Levy

2.14.1 The Community Infrastructure Levy (CIL) is a charge which Local Authorities can charge on most types of new development in their area. CIL charges are based on the size and type of the proposed development, with the money raised used to pay for strategic infrastructure required to support development growth within their District.

2.14.2 The Council will use CIL to secure strategic infrastructure, as detailed in the Regulations 123 list, whilst local infrastructure will be secured through planning obligations in line with relevant policies.

2.14.3 CIL charging was formally adopted by the Council on 1 January 2016 and given that the proposals relate to new housing a CIL contribution would be required for this development. However, this cannot be calculated in detail until the reserved matters application setting out the proposed floor space for the development has been submitted. It is therefore necessary to put an informative on the decision notice to make the applicant aware that any subsequent reserved matters application will be CIL liable and as such the appropriate CIL forms will need to be submitted at reserved matters stage.

2.15 Recreational Open Space

2.15.1 The 2005 Selby District Local Plan Inset Map for Kellington identifies the site as a 'Proposed Recreation Open Space' under KEL/1 stating

"The Parish Council has identified a need for a sports pitch within the village. Agreement has been reached with a local landowner to acquire an area of land to the east of Kellington for this purpose. The site is identified on the Inset Proposals Map."

Policy KEL/1 goes on to state

"Land to the east of Manor Garth, Kellington, as defined on the Inset Proposals Map, is reserved for recreation open space purposes."

Since 2005, this proposed designation has not been brought forward as it was considered the site was not suitable for recreational purposes due its proximity to nearby residential dwellings. As such it is considered that the Policy is now out of date and should be given little weight in the determination of this application. Although the policy officer has referred to Policy RT1, it is noted that this policy relates to the "loss existing recreational open space". As stated above the application site was never developed as recreational open space and therefore it would be inappropriate to subject the proposal to Policy RT1 of the Local Plan.

2.15.2 Policy in respect of the provision of recreational open space is provided by Policy RT2 of the Local Plan which should be afforded limited weight given it conflicts, in part, with the Council's Community Infrastructure Levy Charging Rates, the Developer Contributions Supplementary Planning Document, Policy SP19 of the Core Strategy and paragraphs 70 and 73 of the NPPF.

2.15.3 Policy RT2(b) states that for schemes of more than 10 but less than 50 dwellings there are four options for the provision of recreational open space and that these are subject to negotiation.

2.15.4 The applicants have confirmed that they would be willing to provide a commuted sum contribution towards Recreational Open Space works which would need to be identified by the Parish Council. This has not been formalised in any way and at this stage it is not considered necessary. Upon commencement of development the developer would need to pay an agreed CIL payment. The exact sum would be agreed post reserved matters but would incorporate a proportionate element that relates to ROS.

2.15.5 Having had regard to the size and location of the site it is considered acceptable in this instance for recreational open space not to be provided on-site and for payments towards recreational open space to be secured via the CIL charging system. It is therefore considered that the proposals are acceptable having had regard to Policies RT2 of the Local Plan, Policy SP19 of the Core Strategy and the NPPF.

2.16 Education, Healthcare, Waste and Recycling

2.16.1 Policies ENV1 and CS6 of the Local Plan and the Developer Contributions Supplementary Planning Document set out the criteria for when contributions towards education, healthcare and waste and recycling are required. These policies should be afforded limited weight due to their conflict with the Community Infrastructure Levy.

2.16.2 North Yorkshire County Council Education have not confirmed if a contribution would be required towards education provision at Kellington Primary School, however since the adoption of the Community Infrastructure Levy (CIL) a sum cannot be secured and the subsequent reserved matters application would secure a CIL payment which can be spent towards education provision in this area.

2.16.3 No response has been received from the Healthcare Service in relation to healthcare contributions, however no contribution would be required due to the adoption of CIL.

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

2.16.5 Having had regard to the above the proposals and having had regard to policies ENV1 and CS6 of the Local Plan, Policy SP19 of the Core Strategy and the Developer Contributions SPD are considered acceptable with respect to developer contribution.

2.17 Contamination

2.17.1 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. The application is accompanied by a contamination statement which establishes the previous uses of the application site, and land nearby, and identify potential sources of contamination, receptors and pathways. The report concludes that although the potential for site contamination is considered to be low, a cautious approach will be taken with the development. If permitted, and should contamination be identified during the ground work phase of development, works would be stopped and the Council's Environmental Health Officers would be notified so that they can provide advice on necessary remedial works associated with the contamination, and oversee works for the removal of contaminated soil to an appropriately licensed facility. This can be controlled through condition.

2.17.2 It is recommended that planning conditions are attached to any permission granted. The proposals are therefore acceptable in regards to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

2.18 Conclusion

- 2.18.1 The proposed residential scheme is made in outline with all matters reserved with indicative plans showing a 27 dwellings.
- 2.18.2 The application site is located partly outside but adjacent to the defined development limits of Kellington. The proposal is therefore contrary to Policy SP2A(c) of the Core Strategy. However, development limits are currently under review as part of the PLAN Selby sites and allocations document in line with commentary detailed in the Core Strategy. In evaluating the application, the relationship of the proposal to the edge of the settlement and defined development limit (as set out on the Policies Map) the proposal is considered, on balance, to be acceptable.
- 2.18.3 From the emerging PLAN Selby evidence on the sensitivity of the landscape to development it is considered that the overall landscape assessment parcel for the area to which the application relates is of medium sensitivity to development, with the settlement fringe considered of low quality.
- 2.18.4 It is considered that an acceptable proposal could be designed so that it would achieve an appropriate layout and appearance at reserved matters stage so as to respect the character of the local area, and not significantly detract from highway safety and residential amenity. The proposals are also considered to be acceptable in respect of, the impact on flooding, drainage and climate change, protected species, contaminated land and affordable housing.
- 2.18.5 Having had regard to the above, it is considered that, on balance, the proposal would be acceptable when assessed against the policies in the NPPF, the Selby District Local Plan and the Core Strategy.

3.0 Recommendation

Subject to no objections being received from the Strategic Flood Authority this planning application is recommended to be APPROVED subject to delegation being given to Officers to complete the Section 106 agreement to secure 40% on-site affordable housing provision and a waste and recycling contribution and subject to any conditions received from the Strategic Flood Authority and the conditions detailed below:

01. Applications for the approval of the reserved matters referred to in No.2 herein shall be made within a period of three years from the grant of this outline permission and the development to which this permission relates shall be begun not later than whichever is the later of the following dates:
- (i) The expiration of five years from the date of the grant of outline planning permission; or
 - (ii) 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 92 of the Town and Country Planning Act 1990.

02. Approval of the details of the (a) layout, (b) scale, (c) external appearance of the buildings, (d) the landscaping of the site and (e) means of access (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, and as required by Section 92 of the Town and Country Planning Act 1990.

03. 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.

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 piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water, other than the existing public sewer, have been completed in accordance with details to be submitted to and approved by the local planning authority before development commences.

Reason:

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

06. Prior to commencement of development details of the foul water discharge shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the development. The scheme shall include:

- Foul water domestic waste should discharge to the 225mm diameter public foul water sewer recorded in Main Street, at a point approximately 165 metres from the site. The developer will be required to provide information on any unmapped sewer they wish to connect to (such as pipe diameter, depth, surveyed location).
- If an off-site foul water sewer is require this may be provided by the developer and considered for adoption by means of a sewer adoption agreement under Section 104 of the Water Industry Act 1991. Alternatively, the developer may in certain circumstances be able to requisition off-site sewers under Section 98 of the Water Industry Act 1991.

Reasons:

To ensure the development is provided with satisfactory means of foul water drainage.

07. No development approved by this permission shall be commenced until the Local Planning Authority has approved a Scheme for the provision of surface water drainage works. Any such Scheme shall be implemented before the development is brought into use.

The following criteria shall be considered:

- Discharge from “greenfield sites” taken as 1.4 lit/sec/ha (1:1yr storm).
- Storage volume shall accommodate a 1:30 yr event with no surface flooding and no overland discharge off the site in a 1:100yr event.
- A 20% allowance for climate change shall be included in all calculations.
- A range of durations shall be used to establish the worst-case scenario.
- The suitability of soakaways, as a means of surface water disposal, shall be ascertained in accordance with BRE Digest 365 or other approved methodology.

Reason:

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

8. Unless approved otherwise in writing by the Local Planning Authority 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:

- (i) on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway.
- (ii) on-site materials storage area capable of accommodating all materials required for the operation of the site.

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

Reason

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

9. No development shall take place until details of the proposed means of disposal of foul water drainage, including details of any balancing works and off-site works, have been submitted to and approved by the local planning authority. No buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason:

To ensure that the development can be properly drained and in accordance with Policy ENV1 of the Selby District Local Plan.

10. Prior to the site preparation and construction work commencing, a scheme to minimise the impact of noise, vibration, dust and dirt on residential properties in close proximity to the site, shall be submitted to and agreed in writing with the Local Planning Authority. The development of the site shall be carried out in accordance with the approved scheme.

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

(to be inserted when the decision is issued).

Reason:
For the avoidance of doubt

Informatives:

The applicant should be advised that the Board's prior consent is required for any development including fences or planting within 9.00m of the bank top of any watercourse within or forming the boundary of the site. Any proposals to culvert, bridge, fill-in or make a discharge to the watercourse will also require the Board's prior consent.

There should be no development within 8 metres of the flood defences adjacent to the site. Any development near these defences will require the prior written consent of the Environment Agency. Please contact Claire Brown (0113 819 6073) to discuss.

3.1 Legal Issues

3.1.1 Planning Acts

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

3.1.2 Human Rights Act 1998

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

3.1.3 Equality Act 2010

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

3.2 Financial Issues

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

4. Conclusion

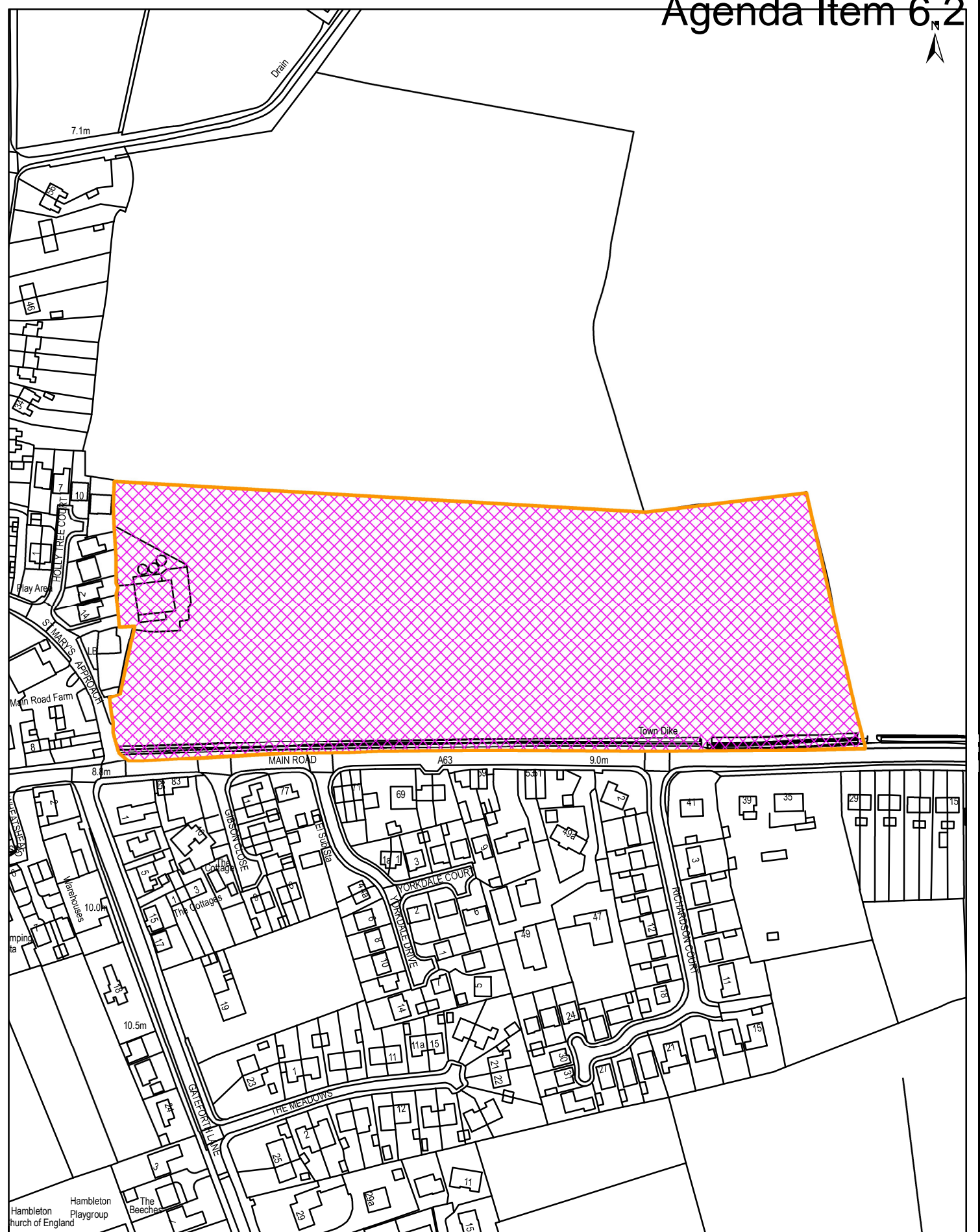
4.1 As stated in the main body of the report.

5. Background Documents

5.1 Planning Application file reference 2015/0969/OUT and associated documents.

Contact Officer: Richard Sunter (Lead Officer Planning)

Appendices: None



APPLICATION SITE

2017/1329/MLA
Main Road, Hambleton

1:2,500



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Public Session

Report Reference Number: 2017/1329/MLA

Agenda Item No: 6.2

To: Planning Committee
Date: 11 April 2018
Author: Andrew Martin, Principal Planning Officer
Lead Officer: Ruth Hardingham, Planning Development Manager

APPLICATION NUMBER:	2017/1329/MLA	PARISH:	Hambleton
APPLICANT:	Taylor Wimpey North Yorkshire	VALID DATE:	24 July 2017
		EXPIRY DATE:	
PROPOSAL:	Request for a Deed of Variation to Section 106 agreement dated 02 December 2015 seeking a reduction in the proportion of affordable housing to be provided within scheme for 115 dwellings approved under references 2015/0105/OUT (outline) and 2017/0117/REMM (reserved matters).		
LOCATION:	Main Road, Hambleton, Selby, North Yorkshire		

This matter has been brought to Planning Committee for consideration due to it being a proposal to reduce the percentage of on-site affordable housing from the 40% agreed by Members in 2015.

Summary:

Taylor Wimpey intends to develop out an approved scheme for 115 houses on the north side of Main Road in Hambleton, which was granted outline planning permission in 2015. A section 106 agreement concluded in association with that consent requires, amongst other things, 40% of the total number of dwellings (46 units) to be provided as affordable housing. However, having now undertaken a detailed appraisal, the company finds that the agreed level of provision would render the scheme unviable and would stall the development. It is therefore seeking a deed of variation to reduce the provision of affordable housing to a level where the scheme can proceed unhindered to completion. Taylor Wimpey's initial submission proposed 8% affordable housing (9 units), but after further negotiation it is now proposing 20% (23 units). The tenure split

would remain as originally agreed: 30-50% Intermediate Housing and 50-70% Social/Affordable Rented Housing.

Recommendations:

- i. That the request for a Deed of Variation be approved on the basis that the overall provision of affordable housing is reduced to 20%, but with the original tenure split remaining unchanged.**
- ii. That the Deed of Variation remains effective for a period of three years from the date of first occupation of the 115 dwellings, with any dwellings completed after that date being subject to the provisions of the original section 106 agreement.**

Reasons for recommendation

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

1. Introduction and background

- 1.1. Outline planning permission for residential development of this site was granted on 03 December 2015 (under reference 2015/0105/OUT) and was subject to a section 106 agreement which (amongst other things) secured the on-site provision of 40% affordable housing in accordance with Core Strategy policy SP9. This level of provision was not contested at the time and no viability arguments were advanced by the landowners.
- 1.2. In June of last year Taylor Wimpey applied for approval of reserved matters for a scheme of 115 dwellings on the site, registered under reference 2017/0117/REMM. At the same time it submitted a request for a deed of variation to reduce the affordable housing obligation, supported by a financial appraisal prepared by Great Northern Estates (Consultancy) Ltd (GNEC). That appraisal has been independently reviewed for the Council by District Valuer Services (DVS). In the meantime, the reserved matters application was approved in January of this year and Taylor Wimpey is now working to discharge the requirements of a number of pre-commencement planning conditions in order to implement the permission.
- 1.3. A deed of variation is an agreement between the parties to a Section 106 agreement to alter its terms for mutual benefit. There would be no right of appeal to the Secretary of State if the Council refused Taylor Wimpey's request, but we should nevertheless act reasonably and determine the proposal in the context of the planning policies and other material considerations that apply to the delivery of affordable housing.

2. Policy context

- 2.1. The pre-ambule to Core Strategy policy SP9 acknowledges that securing 40% affordable housing is a “*challenging target*” and that provision from this source will be heavily dependent upon economic circumstances and the health of the private housing market at any one time. It is also acknowledged that “*to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, should enable the development to be deliverable.*” This echoes advice in the paragraph 173 of the NPPF which states:

“To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”

- 2.2. The Growth and Infrastructure Act 2013 inserted Sections 106BA, BB and BC into the 1990 Town and Country Planning Act. These sections introduced a new application and appeal procedure for the review of planning obligations on planning permissions which related to the provision of affordable housing. These sections were repealed in April 2016, but the appeal decisions that emerged from this process provide some useful insights. And the associated Government guidance - *Section 106 affordable housing requirements: Review and appeal* – continues to have relevance where, as in this case, the request for a Deed of Variation is seeking the same objective. The introduction to the 2013 guidance sets the broad context for reviewing Section 106 agreements:

“Unrealistic Section 106 agreements negotiated in differing economic conditions can be an obstacle to house building. The Government is keen to encourage development to come forward, to provide more homes to meet a growing population and to promote construction and economic growth. Stalled schemes due to economically unviable affordable housing requirements result in no development, no regeneration and no community benefit. Reviewing such agreements will result in more housing and more affordable housing than would otherwise be the case.”

3. Assessment

- 3.1. The initial viability appraisal presented by GNEC on behalf of Taylor Wimpey concluded that the development could sustain 8% affordable housing, equating to 9 units. DVS has accepted from the start that this scheme cannot support a contribution of 40% affordable housing; its original appraisal indicated (subject to caveats in respect of the calculation of abnormal costs) that a contribution of approximately 23% (27 units) was more realistic. This significant difference of opinion reflected different assumptions on many of the variables underpinning the appraisals, including build costs and sales values. However, GNEC and DVS have subsequently exchanged evidence from their experiences with other projects and, as a consequence, have reached agreement on many of the key issues. The latest GNEC appraisal supports an affordable housing contribution of 19%, which Taylor Wimpey is proposing to increase to 20%. The remaining gap between the appraisals is due to different approaches in calculating the

developer's profit. This is discussed further below, along with further consideration of the abnormal costs.

- 3.2. All of the information submitted by Taylor Wimpey is marked as “..*confidential and commercially sensitive*..” and has not been placed on the public file. However, the company has agreed to certain information being released in order to aid Members' consideration of the following points.

Profit

- 3.3. Taylor Wimpey's expectation of profit is calculated as 20% of the total gross development value (GDV), whereas DVS favours a “blended” figure of 16.9%, which represents 17.5% applied to the market housing and 7% applied to the affordable housing, where the risks are judged to be much lower. Both parties have offered evidence in support of their differing positions: DVS through examples of other projects that it has worked on and Taylor Wimpey through (amongst other things) reference to two recent appeal decisions in the District made under Section 106BC: York Road in Barlby and Flaxley Road in Selby¹.

- 3.4. The Government's 2013 guidance states that:

“Profit levels (developers' return) varies significantly between projects to reflect the size and risk profile of the developer and the risks related to the development project.”

In other words there is no “one size fits all” level of return to the developer; it will depend upon the circumstances of each case.

- 3.5. Were the Council to insist on the 16.9% blended profit level then, other issues aside, the latest DVS calculations conclude that the scheme could support 23% affordable housing. At a 20% profit level DVS calculates that the contribution would drop to 18.26%.
- 3.6. Taylor Wimpey maintains that the DVS position on profit is unrealistic. The company's Land Manager has stated that:

“Any level of profit below [20%] would make the scheme commercially unviable from our perspective and hence prevent us from being able to develop the site, which would result in housing delivery from the site stalling.”

And in support of this position Taylor Wimpey points to the two appeal decisions referred to above. In both cases the inspector accepted 20% as an appropriate level of profit, justified on the basis that the schemes were stalled and that they would only be unlocked by a higher level of developer return.

1 (a) Appeal Ref: APP/N2739/S/17/3168721, Land north of The Laurels, York Road, Barlby, Selby YO8 5JH & (b) Appeal Ref: APP/N2739/S/16/3149425, Land off Flaxley Road, Selby YO8 4BW

Abnormal costs

- 3.7. Abnormal costs in this context refer to site-specific requirements over and above those costed within standardised build rates. In this case those additional costs now amount to £3.7m, which include: (a) financial contributions towards other Section 106 requirements (education, waste recycling and monitoring of the travel plan); (b) the costs of highway infrastructure including the construction of a new site entrance (incorporating a new right-hand turn lane on the A63) and the widening of the approach arms to the A162/A63 roundabout; and (c) various works within the site itself including the diversion of electrical infrastructure and the construction of a sustainable urban drainage system (SUDS). Although abnormal costs vary considerably from site to site, £3.7m is comparatively high for a greenfield site, a point noted by DVS in its assessment.
- 3.8. Taylor Wimpey's initial submission included very limited evidence to support these costs, although it has now submitted a series of contractors' quotes which support many of the figures contained within GNEC's appraisal. In fact, this revised information has pushed the abnormal costs up by an additional £100K, to the £3.7m now cited.
- 3.9. The author of the DVS report has accepted the abnormal costs at face value, but has made the point that given their significant impact on the overall viability of the scheme the Council may wish to have them scrutinised by an independent quantity surveyor.

4. Legal/Financial Controls and other Policy matters

Legal Issues

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

Financial Issues

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

Impact Assessment

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

5. Conclusion

- 5.1. The 115 houses proposed in this development represent a significant contribution to the Council's current 5-year housing supply and it is important that the scheme is implemented as soon as possible. The developer is clearly gearing up to make a start, but has stated unequivocally that this will not happen if the obligation to

provide 40% affordable housing is maintained. DVS concurs that a 40% contribution is unsustainable, but considers that the development could support a contribution of 23% at its favoured developer profit level of 16.9%. Taylor Wimpey considers that the scheme would not be viable at a profit level of less than 20% and is citing appeal decisions within the district as having established a precedent. Its advisers have re-run their viability appraisal adjusting most of the other assumptions in line with the views of DVS and at a 20% profit level they conclude that the development could support 19% affordable housing, which Taylor Wimpey has increased to 20%. This is higher than the 18.26% which DVS has calculated when inputting a 20% profit margin into its own appraisal.

- 5.2. Although this development has not stalled in the manner of the schemes subject of the two quoted appeal decisions, officers consider that there is insufficient evidence to maintain an argument for a developer's profit level less than 20%. Indeed, in the face of Taylor Wimpey's assertion that the deliverability of the scheme would be compromised by a lower figure any other position would probably be judged unreasonable.
- 5.3. The abnormal costs associated with this development are high and clearly impact upon the ability of the scheme to deliver a higher proportion of affordable housing. Nevertheless, all of the significant costs are now supported by evidence from independent contractors. It is still open to the Council to subject this element of the scheme to scrutiny by an independent quantity surveyor, but that would take time which in itself may impact upon the deliverability of the project.
- 5.4. Overall, officers consider that Taylor Wimpey's latest position is reasonable in all the circumstances.
- 5.5. When Section 106 BC was in force it ensured that if an Inspector were to modify an affordable housing obligation on appeal, that modification would remain valid for 3 years. The associated Government guidance states:

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

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

5.6. Taylor Wimpey accepts that this logic should apply to its current request if approved and has agreed to the deed of variation lasting for a period of three years from the date of first occupation of the 115 dwellings.

6. Background Documents

6.1. Outline planning permission ref. 2015/0105/OUT.

6.2. Approval of reserved matters ref. 2017/0117/REMM.

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Glossary of Planning Terms

Community Infrastructure Levy (CIL):

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

Curtilage:

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

Environmental Impact Assessment (EIA):

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

National Planning Policy Framework (NPPF):

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

Permitted Development (PD) Rights

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

Previously Developed Land (PDL)

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

Planning Practice Guidance (PPG)

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

Recreational Open Space (ROS)

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

Section 106 Agreement

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

Site of Importance for Nature Conservation

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

Site of Special Scientific Interest (SSI)

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

Scheduled Ancient Monument (SAM):

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

Supplementary Planning Document (SPD)

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

Tree Preservation Order (TPO):

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

Village Design Statements (VDS)

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



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