



**Report Reference Number:** 2020/1168/FUL

**To:** Planning Committee  
**Date:** 9 December 2020  
**Author:** Fiona Ellwood (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/1168/FUL	PARISH:	Church Fenton Parish Council
APPLICANT:	Mr & Mrs G Bradley And Mrs B Bradley	VALID DATE: EXPIRY DATE:	4 <sup>th</sup> November 2020 30 December 2020
PROPOSAL:	Construction of new access off Main Street, Church Fenton to serve outline planning permission under application reference 2015/0615/OUT, Main Street, Church Fenton, Tadcaster, North Yorkshire, LS24 9RF		
LOCATION:	Land Adjacent Village Hall Main Street Church Fenton Tadcaster North Yorkshire LS24 9RF		
RECOMMENDATION:	GRANT subject to a UU and Conditions.		

This application has been brought before Planning Committee as the development would function to serve a reserved matters scheme (2017/0736/REMM) for residential development relating to under outline planning permission reference 2015/0615/OUT. The reserved matters was refused by the Planning Committee on 4<sup>th</sup> March 2020 and is now the subject of a planning appeal.

An Appeal has also been lodged against non-determination of an identical application under reference 2020/0821/FUL and the two appeals have been linked for concurrent determination by the Planning Inspectorate via a Public Inquiry. This precedes this item on

the agenda today and seeks Members views on how they would be minded to determine it.

This application is for determination by Members today.

## **1. INTRODUCTION AND BACKGROUND**

### **Site and Context**

- 1.1 The red line application site relates to a small strip of land between the village hall and the dwelling known as the Gables on main street.
- 1.2 The reserved matters application red line site relates to a series of agricultural fields south of Main Street and East of Church Street, Church Fenton. The site sweeps round from Church Street around the rear of St Marys Church up to the rear of the parish hall on Main Street and along the rear of the properties along Main Street. The site then follows the dyke south from the Pumping Station and then steps in before sweeping back on Church Street. The fields are laid to crops.
- 1.3 Access was agreed at the outline planning stage and provided for a long sweeping access from Church Street south of St Mary's Church. The proposal is meant to be an alternative access to serve the residential development area as submitted under the reserved matters application.

### **The Proposal**

- 1.5 This is a full planning application for the construction of a new access off Main Street, Church Fenton to serve outline planning permission under application reference 2015/0615/OUT, Main Street, Church Fenton, Tadcaster, North Yorkshire, LS24 9RF. The applicant has indicated they will provide a Unilateral Undertaking not to implement the original access should this access be approved.

### **Relevant Planning History**

- 1.6 The following historical applications are relevant to the determination of this application.
- 1.7 2015/0615/OUT- Permitted 03/12/2015

Outline application to include access for a residential development on land to the south of Main Street, Church Fenton was granted subject to 30 conditions and a Section 106 agreement to secure the following:

- Affordable Housing - 40% (unless an alternative figure is justified in accordance with the Affordable Housing SPD and agreed by the Council). Tenure split- 30-50% Intermediate housing and 50-70% Rented Housing/ Allocation of the units and delivery.
- Waste and recycling contribution - Amount and Phasing of payment
- Education contribution - towards Kirk Fenton Primary School, and
- Open Space – Extent/Layout/Delivery/Maintenance and Management

The application was approved at a time when the Council did not have a five-year land supply.

1.8 A Deed of Variation to the S106 was completed on 19 September 2016 which amended the wording to the definition of the term 'Application' to exclude reference to the number of dwellings.

1.9 2016/0463/MAN- Permitted 15/04/2016

Non-material Amendment to approval 2015/0615/OUT which amended the conditions referencing plans. The change resulted in reference to the location plan only which is a red edge plan around the application and to remove the inclusion of the indicative layout plan which should not have been included in the list of plans.

1.20 2017/0736/REMM- Refused 05/03/2020

Reserved matters application relating to appearance, layout and scale for the erection of 50 dwellings of outline approval 2015/0615/OUT for residential development including means of access.

The application was refused by the Planning Committee for the following reasons;

*1. The design details of this reserved matters submission would, due to the lack of integration with the quality and characteristics of its surroundings, the use repeated standard house designs at odds with the quality, variation and characteristics of the surrounding development and a layout dictated by roads, parking arrangements and garaging fail to have regard to the local character, identity, the context of the village and the historic surroundings, and would also fail to contribute to enhancing community cohesion through high quality design. The details would therefore conflict with the aims of Policies ENV1 of the Local Plan and with Policy SP19 of the Core Strategy and with the NPPF.*

*2. The design details of this reserved matters submission would due to the lack of integration with the quality and characteristics of its surroundings, the use of repeated standard house designs at odds with the quality, variation and characteristics of the surrounding development and a layout dictated by roads, parking arrangements and garaging, would be harmful to the setting of the Church of St Mary, other nearby listed buildings and would diminish the established historic links between them. The details submitted would therefore fail to have the "Special regard" required by Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would conflict with the aims of Policies SP18 and SP19 of the CS and with the NPPF.*

1.3 2020/9821/FUL - This application is also on the agenda today.

## **2. CONSULTATION AND PUBLICITY**

### **2.1 Church Fenton Parish Council: First response**

1. The outline permission for the application in question 2015/0615/OUT has expired as 2x Reserved Matters have been applied for and refused within 3 years. (*officer note- there has only been one reserved matters application*)

2. Highways Dept need to note that the proposed road layout reduces to 4.8m wide at the corner of the village hall. This could be a potential pinch point for 2 way traffic into and out of the estate on a blind bend. The Title Deeds of the village hall on that side do follow the line of the wall and then provide around 2m access behind the village hall. The narrowest part of this access road will be where there is a building next to it - this could potentially cause problems.
3. The technical note from Bryan G Hall makes reference to the stagger distances for the junctions and actually references one in Church Fenton (Fieldside Court and Brockley Close - 11.3m). However, they do not mention, that within a few meters either side, that they have private accesses from either a dwelling or the village hall, wanting to join the road at more or less the same juncture. Laurel Farm Drive (serving 28 dwellings) is 5.2m away and the recommended distance for a staggered junction is 3 times more. When stood on Main Street looking at these 2 junctures, it does look like this will effectively become a crossroads on an extremely busy stretch of road.
4. The proximity to the Public House, the Community Village Hall, Primary School, Methodist Chapel & Hall and Nursery have not been considered along with an island bollard and at least 10 private access roads within a few meters of a potential new road for 50 properties (at least 100 cars), directly opposite a housing development of 25 homes. All of this is within a 40m stretch of road. Staggered junctions - the recommended distance is 15m - the new access will be 5.3m from Laurel Farm Drive (serving 28 properties) with the new access serving 50 homes, this will be almost 80 properties accessing the local distribution road (Main Street). Notwithstanding and most importantly, the comparative junction referred to in the application does not have the same level of local amenities. E.g. Pub, School, Nursery, Community Amenity, 28 homes (Laurel Hall Drive) and 18 homes (Chapel Close) as well as 12 private driveways ALL WITHIN a 40 m stretch of road. Village Hall carpark - as the car park for the village hall is directly in front of the building, this creates a physical barrier in terms of visibility splay when turning right into Main Street.
5. In the application, a Traffic survey had taken place in the school holidays during a govt lockdown. This should be re-done during September when the children are back in school and nursery; also when local gatherings are potentially taking place as venues such as the Village Hall, the Chapel, Jigsaw Nursery, the primary school or the White Horse Public House.
6. On the planning application from they have incorrectly filled in question 22. The site is clearly visible from the public highway.
7. AAH planning consultants advise the Neighbourhood plan should not be given any weight in consideration; due to how incomplete it is. This is not the case, it was at submission stage in early March and due to Covid19, SDC are not receiving plans at this point.
8. How can the introduction of the road allow the reserved matters to relate better to the character of the area and negate the need for development to wrap round the Grade I Listed Church. There are still Grade I listed buildings on Main Street. *(Officer note- there are Grade II LB's on Main Street but the church is the only Grade I LB in the vicinity)*

9. Sink Hole - during works to complete the development on Laurel Farm Drive (opposite the proposed access road), in August 2017; Main Street was closed for a number of weeks due to a sink hole that was created with the highway works to create a new access road for the new development. This demonstrates that the area is predisposed to sinking sand and sink holes which will clearly inhibit the costs and progression of any roadworks in this area.
10. The RM application was refused because the design was not suitable due to the standardised design of the homes and no individuality, which does not fit within the village, particularly in that area. Also if the road does not pass the Church; a development of this size would still affect the nearby listed buildings particularly the Old Vicarage which would clearly back onto this; assuming that the loss of the public footpath from the Church to the Old Vicarage has been dealt with previously. CFPC suggest that the following material considerations are affected: - Overbearing nature of the proposal - Design and appearance - Layout and density of buildings - Effect on listed buildings - Access or highways safety - Flood risk.

## 2.2 Church Fenton Parish Council: Second response received

1. The outline PP requires an appropriate highway to an adoptable standard. Therefore, the adoptable standard of a road width of 5.5m is not achievable.
2. Concerned about the structural stability and subsidence regarding any highways work so close to the village hall. Plan suggests it will be <2m from the building.
3. Concerned with proximity of drainage and inspection chamber running along the boundary of the village hall site,(within 1m of the suggested road) and a gas pipe which runs along the external wall of the village hall (about 75cm high). Currently, this creates no problem as it is adjacent to a disused piece of land. However, this could create a potential problem should new works take place within 2m of this gas pipe.
4. This main drain sewer runs across the front of the village hall and diagonally across this proposed access towards Church Street. Needs consideration for any potential access to cross the land.
5. The boundary to the west of the village hall is 0.9144m from the hall wall. An inspection chamber and drainage for the toilets and kitchen amenities along the length of the hall wall within this 1yd parameter. This would reduce the potential road access width to 3.8m at the narrowest point (at the back westerly corner of the hall building) and 4.5m back towards the local distribution road (Main Street). With a recommended road width minimum of 5.5m, this would make the new road 1.7m below the recommended.
6. The Parish Council have on file a copy of a ST1 (Statement of Truth for Adverse Possessory Title) dated 4/7/12 and signed by the planning applicant (G Bradley). The PC are aware that land ownership is not required for a planning application. However, the PC have historical title deeds dating to 1922 which indicate the applicants will not achieve Absolute Title on this piece of land where the proposed access road will run. Impact on Planning app: the applicants will potentially not achieve absolute title to this land prior to the deadline of July 2024 and therefore the rightful owners may not give consent to the proposed access road.

7. Request Highways Case Officer visit at a time where this section of Main Street is busiest e.g. 8.50am on a Monday or Friday morning now school is back in. Allowing the Highways Officer to see the parking at school and nursery drop-off and pick up times would clearly demonstrate how busy this stretch of road is.
8. Public Rights of Way - Footpath no4 runs alongside the proposed access and has a separate title deed that the planning applicants do not own. This will be drastically reduce the proposed width available for an access road.
9. The 2017 REM application which has been refused has a site plan which delineates an emergency access road of 3.2m width. The applicants are now suggesting that this can be converted to the only double width road access to the proposed new development of 5.5m road width and 2x footpaths of 2m width each. This width can only be achieved by using Parish Council land and footpath land (neither of which are owned by the planning applicants).

### 2.3 NYCC Highways

The applicant provided a highway note to address issues associated around the proposed access and its location. A speed survey was carried out on the 15 July 2020 which recorded speeds of 30 mph to the right and 26 mph to the left. Given the current restrictions in place on the UK NYCC would normally want to have seen speeds surveys carried out when all children had returned to school. However it is noted that the speeds recorded to the right do comply with the 30mph speed limit, and whilst the speeds to the left were recorded as slightly lower, which could be accurate given the mini roundabouts location to the site. NYCC would not require another speed survey being undertaken given that Manual for Streets would allow for the visibility splay to the left to be measured to the centre line, given the proximity of the proposed access to the mini roundabout and the zigzag markings adjacent. Therefore, achieving the 43 metres required for a 30mph speed limit if measured to the centre line.

No alternative emergency access is acceptable since the development is not to exceed 50 dwellings. If more dwellings are proposed at a later date then an emergency access will have to be provided.

The staggered junction distance is below the 15metres required for a Major Access Road but has advised the access road to the site is in fact a Minor Access Road. Whilst this is not disputed, the road in question (Main Street) is in fact a Local Distributor Road and as such the stagger distances do need to be taken into consideration. The applicant has however provided 2 case studies for similar situations, one in Church Fenton, both of which have not resulted in accidents associated with the stagger lengths. Therefore, whilst this situation is not ideal, it is acknowledged that a recommendation of refusal based around the stagger length is unlikely to be substantiated at an appeal. Therefore, no Local Highway Authority objections are raised to the proposed access subject to recommended conditions relating to:

- New and altered private access or verge crossing requirements
- New and altered private access or verge crossing requirements (licence requirements for works in the public highway)
- Visibility splays

## 2.4 Yorkshire Water Services Ltd

Comments made and conditions recommended:

- 1) On the Statutory Sewer Map, there is a 225 mm diameter public surface water sewer recorded to cross the site. It is essential that the presence of this infrastructure is taken into account in the design of the scheme.
  - i) It may not be acceptable to raise or lower ground levels over the sewer and we will not accept any inspection chambers on the sewer to be built over.
  - ii) In this instance, Yorkshire Water would look for this matter to be controlled (by Requirement H4 of the Building Regulations 2000).
  - iii) A proposal by the developer to alter/divert a public sewer will be subject to Yorkshire Water's requirements and formal procedure in accordance with Section 185 Water Industry Act 1991.
- 2) The developer is proposing to discharge surface water to SUDS however, sustainable development requires appropriate surface water disposal. Yorkshire Water promote the surface water disposal hierarchy and the developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer. The developer and LPA are strongly advised to seek comments on surface water disposal from other drainage bodies as further restrictions may be imposed.
- 3) As the proposal site is currently undeveloped, no positive surface water is known to have previously discharged to the public sewer network. Surface water discharge to the existing public sewer network must only be as a last resort and the developer is required to eliminate other means of surface water disposal.

## 2.5 Selby Area Internal Drainage Board

Makes comments/recommendations:

If Surface water via a soakaway system - advise that the ground may not be suitable and percolation tests are essential.

If surface water via mains - no objection, providing that the Water Authority are satisfied that the existing system will accept this additional flow.

If the surface water is to be discharged to any ordinary watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission, and would be restricted to 1.4 litres per second per hectare or greenfield runoff.

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

## 2.6 Environmental Health

No objections.

## 2.7 **The Environment Agency**

No comments received.

## 2.8 **Village Hall Committee**

No comments received.

## 2.9 **Conservation Officer**

The original access was an unusually long, sweeping road leading from Church Street that was considered to be harmful to the setting of the grade I listed church and the Grade II Croft and Vicarage to its north. The principle of securing an alternative access to the possible housing development would be highly beneficial in terms of the impact on the heritage assets (and to the scheme generally). The new access, off Main Street, is a gap site between the village hall and the frontage to the adjoining property. This was previously proposed as the location of a pedestrian access. It comprises part field and part PROW. The location of the access here essentially contains it within the development and so there is a better relationship. There doesn't seem to be any direct impact on designated heritage assets, over and above the impact of the development generally (though there are NDHA's located on the street nearby).

Concerned that the space for the access appears incredibly tight and whether a good quality access into the site could be achieved. It would be tight up against the village hall and would highly change the character of the PROW (and harm what would have been a pleasant pedestrian route into the development).

Conclude, if it were possible to create a well-designed and safe access here, even if slightly comprised, there would still be the significant benefit of having been able to omit the previous access from Church Street. Consideration of the implications of the alternative access for the layout of the housing development would need to be made (particularly taking into account the southern edge of the site and how it affects the setting of the listed buildings).

## 2.10 **Urban Designer**

No comments received.

## 2.11 **Public Rights of Way Officer**

Comments that a PROW is within the application site. If affected permanently a Path order/diversion order is required. If affected temporarily during the works a temporary closure order is needed. Details given of where to apply are given. No objections raised.

## 2.12 **Contaminated Land Consultant**

No land contamination concerns.

## 2.24 **Neighbour Summary**

The application was advertised by site notice and neighbour notification resulting in responses from 42 individuals. Comments are summarised below:

- The application would create an access to a development which the council have refused and it should therefore be refused
- Site visit needed before committee makes a decision
- Stagger distances don't mention the individual accesses either side
- This would make a crossroads with Laurel farm Drive
- Safety issues due to proximity to school and nursery not considered
- Barrier to village hall car park visibility
- Traffic survey was in the summer holidays, when usage of the road was low and not representative and should be when the children are back
- Pedestrian safety reduced
- Noise and nuisance to surrounding properties
- Proximity to bus stop and roundabout
- Visibility will be reduced due to parked cars
- Neighbourhood plan not given sufficient weight
- Construction where there is known running sand and gypsum
- Urbanisation of the historic core of the village
- Advise Conservation Officer and Heritage Consultants are consulted
- Main street is busy, narrow and vehicles exceed the speed limit
- There is already a petition to make the speed limit 20mph
- Planning application made during the month the PC don't meet therefore disadvantaging the residents
- School and nursery were not consulted
- Goes against the principles of promoting children walking to school
- Potentially 100 cars using the new access
- Increased car pollution
- This will also be a works entrance with HGV's making it worse
- Some properties not consulted
- Emergency vehicles/ refuse/large vehicles would potentially have to reverse onto the main road due to the pinch point
- There have been near misses for accidents
- Public footpath not taken into account
- Query whether there is sufficient width
- Not in keeping with the character and style of the village
- Submitting the design of a new access during the appeal process should not be allowed
- A refusal on nearby Hillgarth pointed to the problems with the nature of the road and 3 dwellings on that site were not acceptable.
- The land doesn't belong to the applicants
- Development south of Main Street is at odds with the linear nature of the village
- Adverse impact on the church
- Ornamental ponds on the site and associated birds could cause bird strike
- Village infrastructure, sewer, leisure, school can't cope
- Sewage is at a capacity
- Insufficient leisure area
- Loss of the copse over Carr Dyke and hedgerows and loss of associated wildlife
- Loss of PROW

- Gas Pipe and sewer pipe under the access

### **3 SITE CONSTRAINTS**

- 3.1 The majority of the red line of the application site lies within the development limits of Church Fenton which runs tight along the back of the village hall. The southern tip of the red line site is just outside the development limits.
- 3.2 Nearby Listed Buildings include the 'Old Vicarage' to the east of the village hall and 'The Croft' to the south west. St Mary's Church is located south west of this access site and is a Grade I Listed Building.
- 3.3 A Public Right of Way (PROW) runs through the site linking Main Street to the open land to the south. It links in with a Prow leading to the old vicarage and to a Prow running south past the Croft and linking into the Prow leading to the church from the east.
- 3.4 The land is within Flood Zone 2.

### **4 POLICY CONSIDERATIONS**

- 4.1 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.
- 4.2 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.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

*"213...existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the*

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

## **Selby District Core Strategy Local Plan**

### **4.6 The relevant Core Strategy Policies are:**

SP1 - Presumption in Favour of Sustainable Development  
SP2 - Spatial Development Strategy  
SP4 - Management of Residential Development in Settlements  
SP5 - The Scale and Distribution of Housing  
SP9 - Affordable Housing  
SP18 - Protecting and Enhancing the Environment  
SP19 - Design Quality

## **Selby District Local Plan**

### **4.7 The relevant Selby District Local Plan Policies are:**

ENV1 - Control of Development  
ENV3 - Light Pollution  
H2 - Location of New Housing Development  
T1 - Development in Relation to Highway  
T2 - Access to Roads  
T8 - Public Rights of Way

## **Church Fenton Neighbourhood Development Plan**

- 4.8 At the time of writing this report the Church Fenton Neighbourhood Plan (NP) has been subject to the pre-submission consultation stage (Regulation 14 of the Neighbourhood Planning (General) Regulations 2012) and in preparation for this the Council has undertaken a screening report to determine whether or not the contents of the draft Church Fenton Neighbourhood Development Plan requires a Strategic Environmental Assessment (SEA) and/or Habitats Regulations Assessment (HRA). In line with the SEA requirements the Council has undertaken a six-week consultation from 20 December 2018 to 31 January 2019 with the relevant consultation bodies (Environment Agency, Historic England and Natural England).
- 4.9 In October 2020 the Parish Council submitted their NP to Selby District Council under Regulation 15. At the time of writing this report the Council await some additional information before proceeding with Regulation 16 Consultation.
- 4.10 Although, the Plan has been subject to pre-submission consultation (Reg 14) and is proceeding to the next stage, it is considered that limited weight can be given to the Neighbourhood Plan at this stage as it is still subject to consultation, examination and referendum and therefore may still be subject to significant change.

## **5 APPRAISAL**

### **5.1 The main issues when assessing this application are:**

- The Principle of the Amended Access
- Impact on Highway Safety and PROW's
- Impact on the Character and Appearance of the Area and on Heritage Assets

- Impact on Residential Amenity
- Flood Risk
- Affordable Housing
- Other matters raised

### **The Principle of the Amended Access**

- 5.2 Policy SP1 of the Core Strategy sets out the presumption in favour of sustainable development. Applications which accord with the development plan should be approved unless material considerations indicated otherwise. Policy SP2 sets out the spatial development strategy for the district. Under SP2 Church Fenton is a Designated Service Village which has some scope for additional residential and small-scale employment growth to support rural sustainability. Policy SP4 allows, within development limits, conversions, replacement dwellings, redevelopment of previously developed land and appropriate scale development on greenfield land (including garden land and conversions/redevelopment of farmsteads).
- 5.3 The site is an undeveloped greenfield strip of land mostly within the development limits. As such there is nothing within the development plan which would identify this type of development as being unsustainable or preclude in principle development of this type in this location
- 5.4 The current planning history position is also a material consideration.
- 5.5 This application seeks full permission for an alternative means of access to replace the long access south of the Church approved under 2015/0615/OUT. A full application was necessary since the time for submitting a revised reserved matters layout has expired.
- 5.6 The principle of development and the means of access were established under the outline planning permission (reference 2015/0615/OUT). Reserved Matters were submitted within the required timescale but were refused by this Council on 5<sup>th</sup> March 2020. An appeal has been lodged and therefore a final decision on the reserved matters has yet to be made and due to this the planning permission for the site is in effect still 'live'.
- 5.7 This application gives the opportunity for an alternative means of access to the long access from the south which wraps around the east side of properties and the Church of St Marys on Church Street. As such it is necessary to make a comparison between the approved access and the access now proposed and to determine whether there would be less or more material harm to acknowledged interests if this application were supported.
- 5.8 The impacts of the proposal are considered in the following sections of this report based on a comparison with the approved access.
- 5.9 The applicant has indicated they will provide a Unilateral Undertaking not to implement the original access should this access be approved.

### **Impact on Highway Safety and PROW's**

- 5.10 The proposed access occupies the position of the emergency access which was to be provided on the reserved matters submission. This would have been necessary in addition to the main access from Church Street when more than 50 dwellings

were proposed. As the scheme progressed and was amended it was reduced to only 50 dwellings. In these circumstances, the emergency access would not be necessary and could have been removed. The indicative layout on the outline scheme showed it only as a pedestrian access.

- 5.11 The Applicants have submitted a technical note which sets out this access would be in the form of a priority T-junction from main Street into the site. The junction would be approximately 75 meters to the east of the existing Main Street/Station Road/Church Street mini-roundabout junction. The proposed access will have an initial carriageway width of 5.5 metres and will also include 2.0 metre wide footways formed on both sides of the access road. Due to site constraints, the carriageway will then be reduced in width after 20 metres from the junction with Main Street to a minimum width of 4.8 metres, after which the width of the access increases again to 5.5 metres. The two footways either side of the carriageway will be maintained at 2.0 metres. The Parish Council (PC) consider that this could be a potential pinch point for 2 way traffic into and out of the estate on a blind bend. However, this would meet the requirements of the NYCC Residential design Guide which does allow a reduction in width provided the first 20metres width is maintained. The Highway Authority raise no concerns in this respect.
- 5.12 In terms of visibility a speed survey was undertaken in July 2020 to determine the prevailing speeds of vehicles along Main Street in the vicinity of the proposed site access. The results showed vehicle speeds of westbound 30mph and eastbound 26mph. In accordance with the Manual for Streets (MfS) guidance, visibility splays at the proposed access with Main Street should be 2.4 metres x 43.0 metres to the right for an 85th percentile wet weather speed of 30 mph, and 2.4 metres x 35.4 metres to the left for an 85th percentile speed of 26 mph.
- 5.13 The PC raise concerns that the traffic survey took place in the school holidays during a govt lockdown and should be re-done during September when the children are back in school and nursery; also when local gatherings are potentially taking place as venues such as the Village Hall, the Chapel, Jigsaw Nursery, the primary school or the White Horse Public House.
- 5.14 The Applicants point out that, there is guidance by Highways England relating to measuring vehicle speeds, in the Design Manual For Roads and Bridges document "CA185 – Vehicle Speed Measurement". Whilst this document is relating to the requirement for measurement of vehicle speeds on trunk roads and therefore have some points that would not be applicable in this situation, it is a useful document to follow. Fundamentally, the speed measurements should be taken of vehicles in free flow conditions. These being conditions where a driver can actually drive at a speed of their own choice and is not impeded by the proximity of other vehicles in front or obstructions in the road layout. It goes on to state at paragraph 2.8.2 that "Speed measurements should be undertaken outside of peak traffic flow periods" and these are defined as "Non-peak periods are typically between 10am and noon and 2pm and 4pm. In some cases these times need to be varied to take account of site specific circumstance e.g. if a school is nearby that closes at 3pm". The rationale behind this is to avoid conditions that could impact upon the free flow of vehicles along the road, i.e. slow them down, such as vehicles reducing their speeds in busy conditions, or vehicle slowing down to look for a parking space near a school etc. As a result it is considered that carrying out the speed surveys, outside of the peak hours, and not within school drop off or pick up times provides a robust picture of the speeds and if these were to be repeated at these times it is likely that they would be lower.

- 5.15 The Highway Authority are satisfied with the visibility and do not require another speed survey. In terms of visibility the proposed access is therefore considered acceptable.
- 5.16 The PC raise concerns regarding the proximity to other accesses and mention many examples. Moreover, the comparative junction referred to in the application does not have the same level of local amenities within a short stretch of road. In addition they point out the village hall car park creates a physical barrier in terms of visibility splay when turning right into Main Street.
- 5.17 The Applicant acknowledged that the stagger distance is less than the stagger for a major access road configuration, both the side roads are minor access roads, and given the relatively few dwellings served by Laurels Farm Drive, 25 units, and the proposed access, 50 units, it is considered that this reduced stagger distance is satisfactory as the 15 metre stagger distance suggested by NYCC is for potentially much larger developments in the order of 400 dwellings on each of the side roads. Reference is made to the proposal not being untypical in village settings and examples of others such Fieldside Court and Brockley Close in Church Fenton as well as others in other villages.
- 5.18 Highways point do not dispute the applicants report but point out that Main Street is a local Distributor Road and as such the stagger distances do need to be taken into consideration. They acknowledge the situation is not ideal but consider that a recommendation for refusal based around the stagger length would be unlikely to be substantiated at an Appeal. The Highway Authority therefore support the proposed access subject to conditions.
- 5.19 The PC raise concerns that the public footpath running alongside the proposed access has a separate title deed that the Applicants do not own. This they say would drastically reduce the proposed width available for an access road. They also suggest the Applicants do not fully own the access land.
- 5.20 The Agent confirms that the applicant has absolute title over the land with the boundary being the western wall face of the village hall. A copy of the land registry was provided and a letter from the Applicant's solicitor, confirming they have absolute title over the land. The red line of the application site does not incorporate any additional land over and above what was included at the outline and reserved matter stages. Even if land ownership was not proven, it is not necessary to own the land to apply for permission.
- 5.21 Comments received from the PROW Officer give the procedure for a Path diversion order which would be required. If affected temporarily during the construction works a temporary closure order is needed. Details given of where to apply are given. No objections raised. Given that the emergency access in this position on the previous layout plan incorporated the PROW along the line of the footpath and raised no objections from the PROW Officer, it is considered that this access would not alter that position. The footpath route is maintained but along the footpaths to the side of the access road and would link into the existing footpaths leading on towards the church and to the old vicarage.
- 5.22 The previously approved access onto Church Lane would also have been a safe access. Both are acceptable from a Highway Viewpoint.

- 5.23 Overall the proposed access is of a satisfactory standard subject to conditions and would not lead to a reduction in road safety requirements. Given the above it is considered that the proposed development of 50 residential dwellings can be satisfactorily accessed via a newly constructed priority T-junction from Main Street in place of the consented access. In this respect the development would comply with Policy ENV1, T1 and T2 of the Local Plan and with the NPPF

### **Impact on the Character and Appearance of the Area and on Heritage Assets**

- 5.24 Relevant policies within the NPPF which relate to development affecting the setting of heritage assets include paragraphs 189 to 198.
- 5.25 Paragraph 196 of the NPPF should be read in conjunction with paragraph 193 of the NPPF which states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”*. This wording reflects the statutory duties in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990.
- 5.26 Whilst considering proposals for development which affects a Listed Building or its setting, the statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'.
- 5.27 The site is located adjacent to a Grade I Listed Building (St Mary’s Church). In addition there are Grade II Listed Buildings adjoining the site, the Croft to the west and the Vicarage to the north. The application site forms part of the setting of the listed buildings and contributes to their significance. The impact of the proposal on the setting of the Listed Buildings is therefore a fundamental issue and is intrinsically linked to the impact on the character and form of the surrounding area.
- 5.29 In terms of the impact on the setting of the Grade 1 Listed Church of St Mary’s, the revised access would be an improvement. The original approved access swept around the church through open fields to the south and would intrinsically change the quiet rural open character with the provision of an urban access road of some considerable length. This proposal would enable the areas to the west and south of the church to remain undeveloped and little changed. The refused scheme contained an emergency access road in the position of this proposal. Although wider than the emergency road, visually there would not be a significant difference with a hard-surfaced estate character road in this position.
- 5.30 In terms of the impacts on the Heritage Assets, the Conservation Officer considered the original access to be harmful to the setting of the grade I listed church and the Grade II Croft and Vicarage to its north. The Conservation Officer considers the principle of securing an alternative access to the possible housing development would be highly beneficial in terms of the impact on the heritage assets (and to the scheme generally).
- 5.31 The location of the access in this position essentially contains the development within the northern part of the outline application site. Officers concur with the Conservation Officer that if it were possible to create a satisfactorily-designed and

safe access here, even if slightly comprised, there would still be the significant benefit of having been able to omit the previous access from Church Street and the impact on the Heritage Assets, particularly to the Grade I Church overall would be reduced.

- 5.32 There would be some increased harm to the character of the street scene as the green space between the village hall would be lost and replaced with an urban estate road. It would be tight up against the village hall and would change the character of the green and pleasant pedestrian route into the development. However, when weighed against the harm from the previous access to the character of the area and the rural setting of the village there would again be considerable benefit.
- 5.33 The access will result in some minor changes to the housing layout and the applicant's agent has submitted these to the Inspector for consideration. The details of these are not a matter for consideration here moreover, it is not known at this stage whether the Inspector will accept these as part of the appeal process.
- 5.34 When weighed against the public benefits of the reduced harm to the substantially larger open setting around the Grade I church, any minor disbenefits to the character of the street scene are justified. Other than this there would be no additional harm to the setting of the Listed Buildings beyond that which would be associated with the outline application and which was assessed on the reserved matters application. Overall, it is considered that the access would have significantly less harmful impacts on the Heritage Asset and on the character and appearance of the areas than the approved access.
- 5.35 In this respect the development would comply with Policy ENV1 of the Local Plan, SP18 & SP19 of the Core Strategy and with the NPPF.

#### **Impact on Residential Amenity**

- 5.36 The access road has the potential to have the greatest impact on any dwellings flanking its route due to increased noise and disturbance associated with the comings and goings of vehicles movements associated with 50 dwellings. The east side is flanked by the village hall beyond which other houses front the main street. These include Aldfeld House and Wyke Holme whose gardens back on to the outline application site. These don't directly flank the access and their gardens back onto the intended open space area. Given the position and distance and current ambient noise levels from traffic on main street, which is nearer their boundaries, it is not considered the vehicle movements would give rise to undue levels of noise and disturbance.
- 5.37 On the west side of the proposed new access two properties flank the site. These include The Gables and Hind House. These are set well back from the main road where the noise of vehicles stopping and manoeuvring in and out of the junction would be the greatest. Moreover, between the access site and the dwellings and their gardens there is the buffer of their long driveway which runs in parallel serving Hind House. The gardens to both dwellings have well established trees and hedges to the east boundaries. Given the position and distance, boundary treatments. It is not considered the vehicle movements would give rise to undue levels of noise and disturbance.

- 5.38 In addition to the above considerations, the reserved matters layout for the development would already result in a degree of vehicle movements around these dwellings. However, the proposed access would provide a point of concentration for vehicles moving in and out of the new development in a different position to the previously approved access. In terms of residential amenity, the main vehicle movements would be drawn away from the existing residential development surrounding the outline permission site towards the southern access. In this respect, the proposed access would generally increase the noise and disturbance associated with the development by concentrating vehicular movements in and out of the site nearer to existing dwellings.
- 5.39 Overall the proposed access would not improve the residential amenity for the occupants of nearby dwellings when compared with the previously approved access position. However, given the juxtaposition of the nearest dwellings as described above and the fact that Main Street is already a busy road with other similar junctions leading from it, the degree of additional noise and disturbance from the use of this access is not considered to result in sufficient harm to substantiate a refusal.

### **Flood Risk and Drainage**

- 5.40 Since the approval of outline consent when the site was in Flood Zone 1, remodelling of the floodplain has been conducted on behalf of the Environment Agency. The modelling exercise increases the extent of Flood Zone 2, this now encompasses the entire outline application site including this current planning application site. Flood Zone 2 has an Annual Exceedance Probability (AEP) of flooding between 1.0% and 0.1% and denotes an undefended floodplain.
- 5.41 The proposed access is located within Flood Zone 2 which means that the proposed access is at a medium risk of flooding. Core Strategy Policy SP15, 'Sustainable Development and Climate Change' commits Selby District Council to:
- Ensure that development in areas of flood risk is avoided wherever possible through the application of the sequential test and exception test; and ensure that where development must be located within areas of flood risk that it can be made safe without increasing flood risk elsewhere
  - Support sustainable flood management measures such as water storage areas and schemes promoted through local surface water management plans to provide protection from flooding; and biodiversity and amenity improvements.
- 5.42 Table 2 of the National Planning Policy Framework (NPPF) Flood Risk and Coastal Change Matrix outlines the flood risk vulnerability classification of land. The proposed access classification is 'Essential infrastructure' defined as 'Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk'. The access would serve the wider 'More vulnerable' consented residential development which would be occupied by residential dwellings (Classified within Table 2 as; Buildings used for dwelling houses). Development of both Essential Infrastructure and More Vulnerable uses within Flood Zone 2 is an acceptable principle in accordance with the NPPF and demonstrable by the existing outline consent.

- 5.43 The proposed development site and its surroundings are all located within Flood Zone 2, and there are no other possible locations for the access which are situated outside of the flood zone. In addition, it will tie into existing ground levels and therefore will not impact flood plain storage or lead to an increase in flood risk elsewhere.
- 5.44 There is no sequential benefit to the position of the approved or proposed highway access points on to Church Street and Main Street respectively. Both access locations are within Flood Zone 2 and have a low ground level in the order of 7.8m AOD as denoted by the site topographic survey attached to this TN in Appendix B. Therefore, in Flood Risk terms there is no benefit or disbenefit from the revised access position.
- 5.45 Therefore, it is considered that the proposed access is in accordance with Policy SP15 of Selby District Core Strategy.

### **Affordable Housing**

- 5.46 The outline scheme and associated Section 106 agreement secured 40% on site provision of affordable housing, with a tenure split of 30-50% Intermediate and 50-70% Rented. Clauses within the S106 also require confirmation of the phasing plan for delivery and set the parameters for the allocation of units to occupiers.
- 5.47 On the reserved matters application the quantity of Affordable Housing provision was a matter for negotiation and the Council sought the advice of the District Valuer (DV). Due to several reasons, there were abnormal building costs on this site including the substantial length of access road relative the number of houses provided. The DV advised that the development could support the provision of only 5 units which amounted to 10% provision.
- 5.48 If the appeal is allowed based on this revised access, it is likely that its cost would be significantly less than the cost of the lengthy access running through open fields from Church Street. Whatever its potential cost, a fresh viability assessment would be needed to determine the level of affordable housing provision. If more affordable housing could be provided due to lower costs, then there would be greater public benefits associated with this revised access position.
- 5.49 This scheme for a revised access clearly has implications for the level of provision but are not a matter to resolve through this application. The affordable housing requirements are a requirement of the Section 106 Agreement on the outline permission and the amount of provision has yet to be agreed and will depend on what layout is approved.

### **Other matters raised**

- 5.50 Objectors refer to the land not being within the applicants ownership. The applicants say that it is entirely within their ownership as such the correct notices have been served. As such the question of ownership is a civil matter outside the scope of this application.
- 5.51 Objectors request that a committee site visit is made. This is a matter for the Planning Committee to decide.

## 6 CONCLUSION

- 6.1 The Council has refused the reserved matters application for the reasons given in the planning history section of this report. These relate to the quality and design of the scheme and this position is not changed by an opinion on this application.
- 6.2 This proposed revised access if approved subject to a UU would reduce the harm to the setting of the Listed Buildings from the removal of the long access road which would sweep around the church, carve up agricultural fields and urbanise the setting of the Church. The creation a well-designed and safe access here, even if slightly comprised in highway safety, would still be the significant benefit of having been able to omit the previous access from Church Street and the harmful impact on the Heritage Assets, particularly to the Grade I Church and on the character and form of the village setting overall would be reduced.
- 6.3 In terms of residential amenity the proposal would not improve the amenity over and above the previously approved access since there would be more vehicle movements closer to existing dwellings but on balance would not result in sufficient harm to warrant a refusal on the grounds of residential amenity.
- 6.4 The development is acceptable in terms of flood risk and highway safety.
- 6.5 In terms of affordable housing, this would need to be re-negotiated and the section 106 still requires up to 40% based on viability.
- 6.6 Overall it is considered that the benefits in terms of the reduction in harm to Heritage Assets and potentially the provision of additional affordable housing due to removing the southern access and replacement with this northern access justify supporting this scheme.

## 7 RECOMMENDATION

That members **APPROVE** the application subject to receiving a satisfactory Unilateral Undertaking to secure the original access not being implemented and subject to the following conditions;

01-Time period to follow the outline permission 2015/0615/OUT and reserved matters

Reason

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

To be inserted

Reason

For the avoidance of doubt.

03- The development must not be brought into use until the access to the site at Land Adjacent the Village Hall, Main Street, Church Fenton has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works" published by the Local Highway Authority and the following requirements:

- The access must be formed with 6 metres radius kerbs, to give a minimum carriageway width of 5.5 metres, and that part of the access road extending 20 metres into the site must be constructed in accordance with Standard Detail number A1 and the following requirements;
  - (i) Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
  - (ii) Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.
  - (iii) Measures to enable vehicles to enter and leave the site in a forward gear.

All works must accord with the approved details.

Reason

To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users.

04. There must be no access or egress by any vehicles between the highway and the application site at Land Adjacent the Village Hall, Main Street, Church Fenton until splays are provided giving clear visibility of 43 metres measured along the north eastern vehicle track and 43 metres measured along the southwestern centre line of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained, clear of any obstruction, and retained for their intended purpose at all times.

Reason

In the interests of highway safety.

- 05 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.

- 06 There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works , details of which will have been submitted to and approved by the Local Planning Authority If discharge to public sewer is proposed , the information shall include , but not be exclusive to:
  - i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
  - ii) the means of discharging to the public sewer network at a rate to be agreed by the Local Planning Authority in consultation with the statutory sewerage undertaker.

Reason

(o ensure that no surface water discharges take place until proper provision has been made for its disposal

## INFORMATIVES

Notwithstanding any valid planning permission for works to amend the existing highway, you are advised that a separate licence will be required from North Yorkshire County Council as the Local Highway Authority in order to allow any works in the existing public highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council as the Local Highway Authority, is available to download from the County Council's website;

[https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%2C%20highways%20and%20pavements/Specification\\_for\\_housing\\_\\_\\_in\\_d\\_est\\_roads\\_\\_\\_street\\_works\\_2nd\\_edition.pdf](https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%2C%20highways%20and%20pavements/Specification_for_housing___in_d_est_roads___street_works_2nd_edition.pdf) .

The Local Highway Authority will also be pleased to provide the detailed constructional specifications referred to in this condition.

## PROW

Applicant should contact the County Councils Countryside Access services at County Hall, Northallerton via [CATO@northyorks.gov.uk](mailto:CATO@northyorks.gov.uk) to obtain up to date information regarding the route of the way and to discuss any proposals for altering the route.

## **8 Legal Issues**

### 8.1 Planning Acts

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

### 8.2 Human Rights Act 1998

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

### 8.3 Equality Act 2010

This application has been 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.

## **9 Financial Issues**

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

## **10 Background Documents**

Planning Application file reference 2020/0821/FUL and associated documents.

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**Appendices:** None