



**Report Reference Number:** 2020/0768/FUL

**To:** Planning Committee  
**Date:** 27 January 2021  
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APPLICATION NUMBER:	2020/0768/FUL	PARISH:	Tadcaster Town Council
APPLICANT:	Mr Tom Wilson	VALID DATE: EXPIRY DATE:	4th August 2020 29th September 2020
PROPOSAL:	Erection of a detached dwelling		
LOCATION:	Land to Rear Of 5-13 Stutton Road Tadcaster		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee at a discretion of Head of Planning Service.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The site is located within the defined development limits of Tadcaster which is identified as a Local Service Centre in the Core Strategy. It is located immediately to the rear of terraced residential properties located along the Stutton Road and there are residential garden areas adjacent to the north, south and south west of the site, and allotments with open area beyond them along the eastern boundary of the site.
- 1.2 The application site is of an irregular shape which amounts to approximately 280 square metres of undeveloped land which is generally flat and located on a slightly lower ground level than the row of terraced properties to the west.

- 1.3 The boundaries of the site are marked by the high close boarded timber fence with concrete base and posts along its north western boundary, close boarded timber fence along its boundary on the north east, a combination of close boarded timber fence and post and rail fence along eastern boundary and a vertical open single boarded timber fence along its boundary on the south west.
- 1.4 It is noted from a site visit and Google Earth image search that there is a hardstanding area constructed within the northern part of the site which requires planning permission as there was no evidence to demonstrate that the land is residential curtilage. Prior to the submission of the application, the applicants have sought to argue that the land subject of the application is residential land but this position is not agreed, and the Applicants were advised in both May 2019 and October 2019 of the Council's view and that they would need to demonstrate this via a Certification, but no submissions were made to the Council to seek a Certificate of Lawfulness.

### **The Proposal**

- 1.5 The application seeks full planning permission for the erection of a detached dwelling on the application site.
- 1.6 The proposed dwelling would have a flat roof and would be of an L-shape measuring approximately 10 metres in width and approximately 8.5 metres in depth with a height of approximately 3.35 metres. It is proposed to be constructed of brick, render and cedar boarding for the external walls, fibreglass for the roof and UPVC windows and doors.
- 1.7 The proposed boundary treatments would consist of a 2-metre closed boarded timber fence along north west boundary as existing and a hedgerow along east and south east boundaries.

### **Relevant Planning History**

- 1.8 The following historical application is considered to be relevant to the determination of this application.
- Application Number CO/1997/0725 (8/73/492/PA) - outline application for the erection of a bungalow on 0.03ha of land to the rear of 5,7,9 and 11 Stutton Road, Tadcaster was refused in October 1997
  - Application Number 2006/0757/FUL (8/73/492A/PA) for the erection of a garage on land to the rear of 7 Stutton Road, Tadcaster was refused in August 2006
  - Application Number 2016/0145/FUL for the erection of a detached dwelling on land to the rear of No's 5 - 13 Stutton Road, Stutton Road, Tadcaster was refused in June 2016 for the following reasons:
    1. *The size and scale of the proposed dwelling would cause an unacceptable impact on the character and form of the locality and would fail to improve the character and quality of the area. therefore, the proposal is contrary to Policy ENV1(4) of the Selby District Local Plan, Policies SP2, SP4 and SP19 of Core Strategy and the NPPF*

2. *Given the very small scale of 5 - 13, their existing proximity to each other and the limited level of amenity currently afforded by small back yards any reduction to this minimal standard would reduce living conditions unacceptably. The proximity of the building and the bulk, size and position would be oppressive and create a solid wall along the length of the properties where currently they have an open outlook. This would be unacceptably oppressive. The proposed dwelling therefore fails to accord with Policy ENV1(1) of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF."*

The application was dismissed on Appeal in May 2017 for the following reasons:

*"[...] the proposal would have a significant detrimental effect on the character and appearance of the locality. As a result, it would be contrary to Policy ENV1 of the Selby Local Plan 2005 (LP), Policies SP2, SP4 and SP19 of the Selby Core Strategy 2013 (CS) and the relevant guidance within the Framework. Amongst other matters, these policies and guidance seek to ensure that development does not significantly harm the character or appearance of its surrounding area."*

*"[...] the proposed development would have a detrimental impact on the outlook of neighbouring occupiers, particularly those at Nos 7 and 9 Stutton Road. Therefore, it would not comply with Policy ENV1 of the LP, Policy SP19 of the CS and the Framework. Amongst other matters, these policies and guidance seek to ensure that development has no adverse effect on the living conditions of nearby residents, including outlook."*

- Application Number 2018/0056/FUL for the erection of a detached dwelling on Land to Rear Of 5-13 Stutton Road, Tadcaster was refused in March 2018 for the following reasons:
  1. *The proposed dwelling would reduce the open and spacious aspects of the immediate area due to its size, scale and position and would cause an unacceptably harmful impact on the character and form of the locality and would fail to improve the character and quality of the area. Therefore, the proposal is contrary to Policy ENV1(4), of the Selby District Local Plan, Policies SP2, SP4 and SP19 of Core Strategy and the NPPF.*
  2. *The proposed development is considered to cause a significant detrimental impact on the residential amenities of the neighbouring properties, in particular number 5-13 Stutton Road and would reduce their living conditions unacceptably with regard to outlook and would be contrary to Policy ENV1 of the Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.*

It was dismissed on appeal in September 2018 for the following reason:

*"The proposal would therefore fail to harmonise with its setting, would appear out of context, and would depart radically from the prevailing local character in terms of openness. As a result, it would unacceptably harm the character and appearance of the area.*

*Accordingly, the proposal would be contrary to Policy ENV1(4) of the Selby District Local Plan 2005 (the LP) and Policies SP4 and SP19 of the Selby District Core Strategy 2013 (the CS). When taken together these policies seek, amongst other*

*things, to ensure that new development preserves and enhances the character of the local area. In addition, the proposal would also run contrary to the Framework's core planning principle of seeking to secure high quality design."*

## 2. CONSULTATION AND PUBLICITY

- 2.1 **NYCC Highways** – In the first response the Highways Officer noted that the Highway Authority did not object to the previous planning application. However, when assessing this application, the Highways Officer advised that they could not ignore the fact that the plot would appear to have no on-site turning which would result in vehicles having to reverse onto the highway. Given the site's location close to the junction with the A659 this is not an ideal situation and Highways Officer therefore recommended that the applicant provides a plan showing that on-site turning can be achieved and that they await amended documents before making a formal recommendation.

Following submission of additional information the Highways Officer was re-consulted and raised no objections in the second response subject to conditions related to parking and Construction Phase Management Plan for small sites.

- 2.2 **Yorkshire Water Services Ltd** – No response received.

- 2.3 **Ainsty (2008) Internal Drainage Board** - If Yorkshire Water is content with the proposed arrangement and is satisfied that the asset has the capacity to accommodate the flow, then the Board would have no objection to the new proposed arrangement.

- 2.4 **Contaminated Land Consultant** - The Screening Assessment Form does not identify any significant potential contaminant sources, so no further investigation or remediation work is required. However, it is advised to add a condition related to reporting of unexpected contamination.

- 2.5 **Urban Designer** - Advised that their first impression was that some form of small-scale development might be possible on the proposed site, but this was quickly eroded by developing a better understanding of the area, the context for development, and the various constraints. Concerns raised in regards to access, parking and that the shaded area suggesting ownership on the parking plan does not match the red line boundary provided on the layout plan, space about dwellings, impact on drainage and sewerage infrastructure, biodiversity in addition to the following:

Urban Form - To the east of Stutton Road, primarily linear roadside development characterised by long rear gardens, with lengths determined by the extent and alignment of former railway line and siting of allotments (which used to be more extensive and located on the opposite side of Stutton Road), developed incrementally since the turn of the 19th/20th centuries, but following that same basic template. The proposals represent a departure from the existing strong pattern of development, potentially establishing an unwelcome precedent for future garden infill.

Built Form - Although largely built across the span of a hundred years, key ordering principles have remained consistent in the area - the use of robust, easily maintained materials (primarily brick), use of pitched roofs, and a traditional ordering to forms and elevations of top/middle/bottom. Rather than responding to

the character of the area, the proposed development appears to be driven by the constraints of the site.

Amenity - Although the proposals do offer a degree of outdoor space, the main benefit that development might have offered appears ignored or overlooked, in terms of relationship to the allotment gardens - visual links to/from the property would have provided a less insular compound approach, as well as offering natural surveillance to the allotments.

2.6 **Neighbour Summary** - All immediate neighbours were informed by letter and a site notice was erected on the 7<sup>th</sup> September 2020. 5 letters of objections have been received as a result of this advertisement with further two letters received following a re-consultation raising the following concerns:

1. Proposal will affect rearward facing view of terraced properties and will further limit the light to some of them thus decreasing their value.
2. The access lane proposed to be utilised by the development has poor drainage and floods after just a moderate rainfall and is also falling into a state of disrepair so extra traffic will cause rapid erosion of the lane. This access road also contains the main access inspection manhole for all the adjacent properties.
3. Additional strain on the sewers, the surface water drain that runs to the council allotments near to the old railway embankment, water and gas supplies. The plans do not seem to have taken land drains into consideration.
4. Impact on highway safety due to close proximity to junction with Leeds Road and due to this part of Stutton Road being a regular bus route with a bus stop by Nos 9-13 Stutton Road. There is absolutely no facility for construction traffic and material storage.
5. The access road is not the width of two vehicles as shown on the plans and manoeuvring in and out of the proposed parking would block the access lane to any other user. The turning radius shown on the submitted drawing is impossible.
6. Erection of a large fence between terraced properties and the site and construction of a concrete base without planning permission.
7. The plans for the house are not in keeping with the terraced houses it overlooks and would spoil the area.
8. Will set precedent for tandem building on Stutton Road where any house with a large back garden will be able to have a small development within their rear garden areas.
9. Once approved, amendments could potentially be applied to increase the size of the development or the building would be extended in the future.
10. Impact on health and wellbeing of the residents due to stress these applications are causing.
11. Restrictive covenant stipulating that there should be no building on part of the development.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The site is located within the defined development limits of Tadcaster which is identified as a Local Service Centre in the Core Strategy. The site does not contain any protected trees and there are no statutory or local landscape designations. Similarly, there is no Conservation Area designation or local listed buildings that are affected. The site is situated within Flood Zone 1.

### **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)."*

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

The relevant Core Strategy Policies are:

- SP1 – Presumption in Favour of Sustainable Development

- SP2 – Spatial Development Strategy
- SP4 - Management of Residential Development in Settlements
- SP5 - The Scale and Distribution of Housing
- SP9 - Affordable Housing
- SP15 – Sustainable Development and Climate Change
- SP18 – Protecting and Enhancing the Environment
- SP19 – Design Quality

#### 4.7 **Selby District Local Plan**

The relevant Selby District Local Plan Policies are:

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

### **5 APPRAISAL**

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

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Highway Issues
- Flood Risk, Drainage and Climate Change
- Nature Conservation
- Contamination Issues
- Affordable Housing

#### **The Principle of the Development**

5.2 Policy SP1 of the Selby District Core Strategy Local Plan (2013) outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the NPPF.

5.3 The application site is situated within the Development Limits of Tadcaster which is the Local Service Centre as identified in the Core Strategy. Policy SP2A(a) of the Core Strategy states "Sherburn in Elmet and Tadcaster are designated as Local Service Centres where further housing, employment, retail, commercial and leisure growth will take place appropriate to the size and role of each settlement." and that "Proposals for development on non-allocated sites must meet the requirements of Policy SP4."

5.4 Policy SP4(a) states that "in order to ensure that development on non-allocated sites contributes to sustainable development and the continued evolution of viable communities, the following types of residential development will be acceptable in principle within Development Limits in different settlement types" and states that "In Selby, Sherburn In Elmet, Tadcaster and Designated Service Villages - conversions, replacement dwellings, redevelopment of previously developed land,

and appropriate scale development on greenfield land (including garden land and conversion/redevelopment of farmsteads)."

- 5.5 The proposal is considered to fall within one of the types of development identified within SP4(a) of the Core Strategy and is therefore acceptable in principle subject to technical matters and the material considerations.

### **Design and Impact on the Character and Appearance of the Area**

- 5.6 Relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 (1), (4) and Policies SP4 and SP19 of the Core Strategy.
- 5.7 Policy SP4 (c) states that "In all cases proposals will be expected to protect local amenity, to preserve and enhance the character of the local area, and to comply with normal planning considerations, with full regard taken of the principles contained in Design Codes (e.g. Village Design Statements), where available".
- 5.8 Policy SP19 requires that "Proposals for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside. Both residential and non-residential development should meet the following key requirements:
- A) Make the best, most efficient use of land without compromising local distinctiveness, character and form;
  - B) Positively contribute to an area's identity and heritage in terms of scale, density and layout.
- 5.9 Selby District Local Plan Policy ENV1 (1) requires development to take account of the effect upon the character of the area, with ENV1 (4) requiring the standard of layout, design and materials to respect the site and its surroundings. Local Plan Policy ENV1 is broadly consistent with the aims of the NPPF and should therefore be given significant weight.
- 5.10 Relevant policies within the NPPF, which relate to design include paragraphs 124 to 131.
- 5.11 The proposed dwelling would have a flat roof and would be of an L-shape measuring approximately 10 metres in width and approximately 8.5 metres in depth with a height of approximately 3.35 metres. It is proposed to be constructed of brick, render and cedar boarding for the external walls, fibreglass for the roof and UPVC windows and doors. The proposed boundary treatments would consist of a 2 metre closed boarded timber fence along north west boundary as existing and a hedgerow along east and south east boundaries. Although a scheme of landscaping has not been submitted with the proposal, it is considered that a suitable condition could be imposed requiring a scheme of landscaping be submitted prior to commencement of development.
- 5.12 The proposed dwelling would be located within close proximity to north west and south east boundaries and would be distanced from them by approximately 1.3 – 1.4 metres. The eastern corner of the dwelling would be distanced from the eastern boundary by approximately 2 metres and the dwelling would be distanced from its north east boundary by approximately 13 metres.

- 5.13 It should be noted that the applicant was advised that the presence of a dwelling on a plot of limited scale would materially and significantly reduce the existing sense of openness which would be to the detriment of the character of the locality and the applicant provided various sketches of potential alternative schemes and potential changes to the proposal. However, the submitted information did not change the position of the Council and the application is therefore determined on the basis of the information as originally submitted.
- 5.14 The application site is a small plot of land situated to the rear of a small terrace of 2-storey Edwardian dwellings and to the front of open space used for allotments. Access to the appeal site is via a narrow lane, which also provides access to the rear of 5-13 Stutton Road. This application is a resubmission of similar schemes refused in 2016 under planning reference 2016/0145/FUL and 2018 under reference 2018/0056/FUL. The applicant appealed previous decisions and both appeals were dismissed under Appeal References APP/N2739/W/16/3166323 and APP/N2739/W/18/3204952 respectively. The proposal is for a single storey dwelling which is similar in size and scale to the scheme refused in 2018 with some changes to design and appearance, reduction of footprint by approximately 1.9 square metres and reduction in height by approximately 1.15 metres due to change of roof design to flat roof.
- 5.15 The Council's Urban Designer was consulted on the proposal who, in summary, concluded that the proposals represent a departure from the existing strong pattern of development, potentially establishing an unwelcome precedent for future garden infill and that rather than responding to the character of the area, the proposed development appears to be driven by the constraints of the site.
- 5.16 The Planning Inspector considered at the time of the latest appeal that paragraph 127 of the NPPF to be of relevance, which states that development should be sympathetic to local character, including the surrounding built environment and that whilst variety exists in regard to design, the proposed contemporary materials would be in marked contrast to the existing use of more traditional materials. Furthermore, the Planning Inspector considered that given the location of the allotments and open space beyond the appeal site, the immediate locality has a notable sense of openness and that the presence of a dwelling on a plot of limited scale would materially and significantly reduce the existing sense of openness which would be to the detriment of the character of the locality. The Inspector therefore concluded that the proposal would fail to harmonise with its setting, would appear out of context, and would depart radically from the prevailing local character in terms of openness and would therefore unacceptably harm the character and appearance of the area.
- 5.17 Although the scheme was slightly amended from that refused in 2018, it is still considered that the proposal is for a backland development which fails to take into account the local form, setting and context of its surroundings thus failing to improve design and quality of the area and departing radically from the prevailing local character in terms of openness. Furthermore, it is considered that the new proposal has sought to maximise the development potential on the site without taking account of the design, appearance and siting of the adjacent terraced properties and results in a dwelling which occupies a large part of the site with limited space around it. As a result, it is therefore considered that it would unacceptably harm the character and appearance of the area.

- 5.18 Having had regard to all of the above it is considered that the proposal would cause an unacceptable incoherent cramped overdevelopment of the site and would cause adverse detrimental impacts on the character and appearance of the area and as such would be contrary to Policy ENV 1(1) and (4) of the Local Plan, Policies SP4 and SP19 of the Core Strategy and the NPPF.

### **Impact on Residential Amenity**

- 5.19 Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1 (1) of the Selby District Local Plan and Policy SP4 of the Core Strategy. Significant weight should be attached to Policy ENV1 as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved.
- 5.20 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the sheer size, scale and massing of the development proposed. Similarly, consideration needs to be given to whether existing surrounding residential development would give rise to the potential for overlooking of the proposed dwellings, overshadowing of the proposed dwellings, and whether oppression would occur from the size, scale and massing of existing neighbouring properties. Furthermore, consideration is given to the provision of an appropriate level of good quality external amenity space for future occupiers and suitable boundary treatments between existing and proposed dwellings.
- 5.21 Comments relating to impact on rearward facing view of terraced properties thus decreasing their value are noted. However, both of these issues are not planning matters. Comments related to further limitation of the light to some of the properties are noted and discussed further in this section of the report.
- 5.22 The proposed dwelling would be located on land to the rear of 5 – 13 Stutton Road which are two storey terraced properties. The boundary treatment between the site and those properties consists of a 2-metre high close boarded timber fence with concrete base and posts.
- 5.23 The proposed dwelling would have one single window in the north west elevation facing neighbouring properties 5-13 Stutton Road, which would serve an en-suite bathroom which can be conditioned to be obscure glazed in order to retain the privacy of the future occupants. It is not considered that any of the other windows of the proposed dwelling would be overlooked nor is it considered that they would cause detrimental overlooking issues to neighbouring properties due to being at the ground floor level and due to the existing and proposed boundary treatments.
- 5.24 The proposed dwelling would be distanced from private amenity space of Nos 7,9, and 11 Stutton Road by approximately 5.3 metres and the separation distance between rear elevations of those neighbouring properties and the north west elevation of the proposed dwelling would be approximately 10 metres. Properties 5 – 13 Stutton Road have a limited levels of amenity space and light due to their small back yards and plot size and layout. As such the current open outlook to the rear contributes significantly to their living conditions and enjoyment of small private amenity spaces. Although findings of the Planning Inspector in terms of limited impact on outlook are noted, it is considered that introduction of a building at this

location would create a sense of enclosure and would increase level of overshadowing to limited private amenity spaces of those properties.

- 5.25 It is also considered that detrimental impact of noise and disturbance would be caused to neighbouring properties, particularly those immediately bordering with the site due to vehicle movements associated with the proposed new dwelling.
- 5.26 Furthermore, most of the amenity space of the proposed dwelling would be overlooked by the above-mentioned neighbouring properties and the scheme as proposed has potential to create a sense of overlooking to the future occupiers of the proposed new dwelling.
- 5.27 Having had regard to the above, the proposed development is considered to create a sense of enclosure, to increase level of overshadowing to limited private amenity spaces of neighbouring properties, to have detrimental impact of noise and disturbance and to have a potential to create a sense of overlooking to the future occupiers of the proposed new dwelling. As such it is therefore considered that the proposed development would cause a significant detrimental impact on the residential amenities of the neighbouring properties and would be contrary to Policy ENV1 of the Local Plan, Policies SP4 and SP19 of the Core Strategy and the advice contained within the NPPF.

### **Highway Issues**

- 5.28 Policies ENV1 (2), T1 and T2 of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements. It is considered that these policies of the Selby District Local Plan should be given significant weight as they are broadly in accordance with the emphasis within the NPPF.
- 5.29 The proposed dwelling would be served from an existing shared access road from Stutton Road. Concerns have been raised in regards to access to the site, the width of the access road, the poor quality of the access road, turning radius and highway safety.
- 5.30 The Highways Officer was consulted and advised that on-site turning facility should be provided to ensure the vehicles can leave site in forward gear. The applicant was advised of those comments and following some discussions submitted an amended location plan and parking plan which include part of shared rear access road which is within the ownership of the applicant and is proposed to be used for turning.
- 5.31 The Highways Officer was re-consulted and confirmed that that they have no objection to the proposed scheme subject to conditions related to construction of parking related facilities and submission of a Construction Phase Management Plan for small sites. The recommended conditions are considered reasonable and appropriate given the location of the site.
- 5.32 Having considered all of the above, notwithstanding objections raised and due to the scale of the proposal and location of the site, the development is not considered to cause detrimental harm to highway safety and the proposed scheme is in accordance with policies ENV1(2), T1 and T2 of the Local Plan and the NPPF with respect to the impact on the Highway network subject to conditions.

## **Flood Risk, Drainage and Climate Change**

- 5.33 Relevant policies in respect to drainage, climate change and flood risk include Policy ENV1(3) of the Local Plan and Policies SP15 and SP16 of the Core Strategy and the NPPF. Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 5.34 Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate meet 8 criteria set out within the policy. Having had regard to the nature and scale of the proposal, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria of SP15 (B) of the Core Strategy. Therefore, having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.
- 5.35 The proposed dwelling would be located within Flood Zone 1 which is at a low probability of flooding and as such and given the size of the site and that there was no evidence found that the site is identified as having any issues listed in footnote 50 of the NPPF, a site-specific flood risk assessment is not required in this instance.
- 5.36 The submitted application forms states that foul and surface water would be directed to the mains sewer and objections related to drainage issues are noted.
- 5.37 However, Ainsty Internal Drainage Board was consulted and advised that if Yorkshire Water is content with the proposed arrangement and is satisfied that the asset has the capacity to accommodate the flow, then the Board would have no objection to the new proposed arrangement. Yorkshire Water was consulted but there was no response received. As such and given that drainage arrangements would have to be separately agreed with Yorkshire Water, notwithstanding objection raised, the proposal is considered acceptable in terms of its impact on drainage.
- 5.38 Having considered all of the above, it is therefore considered that the proposal is acceptable in terms of flood risk, drainage and climate change in accordance with Policy ENV1 (3) of the Local Plan, Policies SP15 and SP16 or the Core Strategy and the advice contained within the NPPF.

## **Nature Conservation**

- 5.39 Relevant policies in respect to nature conservation interests include Policy ENV1 (5) of the Selby District Local Plan, and Policy SP18 of the Core Strategy. Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 5.40 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.
- 5.41 Having had regard to the above it is noted that the application site does not contain significant areas of semi-natural habitat and is not subject to any formal or informal nature conservation designation or known to support any species given special protection under legislation. It is therefore considered that the proposal would

accord with Policy ENV1 of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation.

### **Contamination Issues**

- 5.42 Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. The Local Plan policy should be afforded significant weight.
- 5.43 The application has been supported by an application form and a contaminated land screening assessment form. The application form sets out that the land is not known to be contaminated and the contamination is not suspected for all or part of the site and that the proposed use would not be particularly vulnerable to the presence of contamination.
- 5.44 The Screening Assessment Form shows that the site has previously been used agricultural land/domestic garden, with no previous development. The Council's Contaminated Land Officer was consulted on the scheme who concluded that the Screening Assessment Form does not identify any significant potential contaminant sources, so no further investigation or remediation work is required and recommended a planning condition related to unexpected contamination. Given that the proposal is for a residential property, it is therefore considered reasonable and necessary to attach a condition suggested by the Contaminated Land Officer.
- 5.45 Subject to the aforementioned condition, it is considered that the proposal would be acceptable in respect of land contamination in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

### **Affordable Housing**

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

### **Other Issues**

- 5.47 Comments related to erection of a fence without planning permission are noted. However, it is noted that the fence does not exceed 2 metres in height and is not adjacent to a highway used by vehicular traffic and as such, does not require a formal planning permission.
- 5.48 Comments related to existing restrictive covenant on the title are noted. However, this is legal issue rather planning matter.
- 5.49 It is noted that in the submission applicant referred to pre-application advise he received prior to submission of the application. However, planning applications are considered on their individual merits with regard to the provisions of the planning acts, all relevant, national and local policy guidance, letters of representation and any other material planning considerations.

## **6 CONCLUSION**

- 6.1 The proposal is for a backland development which fails to take into account the local form, setting and context of its surroundings thus failing to improve design and quality of the area and departing radically from the prevailing local character in terms of openness. As such, the proposal is considered to cause an unacceptable impact on the character and form of the locality and fails to improve the character and quality of the area and is therefore contrary to Policy ENV1(4), of the Selby District Local Plan, Policies SP4 and SP19 of Core Strategy and the NPPF.
- 6.2 The proposed development is considered to create a sense of enclosure, to increase level of overshadowing to limited private amenity spaces of neighbouring properties, to have detrimental impact of noise and disturbance and to have a potential to create a sense of overlooking to the future occupiers of the proposed new dwelling. As such, it is therefore considered that the proposed development would cause a significant detrimental impact on the residential amenities of the neighbouring properties and on the amenities of future occupier of the proposed new dwelling and would therefore be contrary to Policy ENV1 of the Local Plan, Policies SP4 and SP19 of the Core Strategy and the advice contained within the NPPF.

## **7 RECOMMENDATION**

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

01. The proposal fails to take into account the local form, setting and context of its surroundings and is considered to be a cramped overdevelopment of the backland plot thus failing to improve design and quality of the area and departing radically from the prevailing local character in terms of openness. As such, the proposal is considered to cause an unacceptable impact on the character and form of the locality and fails to improve the character and quality of the area and is therefore contrary to Policy ENV1(4), of the Selby District Local Plan, Policies SP4 and SP19 of Core Strategy and the NPPF.
02. The proposed development is considered to create a sense of enclosure, to increase level of overshadowing to limited private amenity spaces of neighbouring properties, to cause detrimental impact of noise and disturbance and a potential to create a sense of overlooking to the future occupiers of the proposed new dwelling. As such, it is therefore considered that the proposed development would cause a significant detrimental impact on the residential amenities of the neighbouring properties and on the amenities of future occupier of the proposed new dwelling and would therefore be contrary to Policy ENV1 of the Local Plan, Policies SP4 and SP19 of the Core Strategy and the advice contained within the NPPF.

## **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 2020/0768/FUL and associated documents.

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**Appendices:** None