



**Report Reference Number:** 2021/0129/S73

**To:** Planning Committee  
**Date:** 12<sup>th</sup> May 2021  
**Author:** Yvonne Naylor (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2021/0129/S73	PARISH:	Little Fenton Parish Council
APPLICANT:	Mr and Mrs Watson	VALID DATE: EXPIRY DATE:	2nd February 2021 30th March 2021
PROPOSAL:	Section 73 to vary/remove condition 02 (approved plans) of planning permission reference number 2019/0578/FUL proposed conversion of ancillary building to dwelling granted on 5 March 2020		
LOCATION:	Willow Barn Sweeming Lane Little Fenton Leeds North Yorkshire LS25 6HF		
RECOMMENDATION:	APPROVAL		

The application has been brought to Committee as a result of a call-in request from Cllr Richard Musgrave and the proposals are contrary to Policy H12 of the Local Plan.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site is located outside the defined development limits of any settlements and is therefore located within the open countryside. The site is also identified as potentially contaminated on the basis of its use for agricultural purposes and within the consultation zone for the Leeds East Airport at Church Fenton.
- 1.2 At the time of the granting of the original consent on the site under Application 2019/0578/FUL the site contained a mainly block built single storey building with a

profile sheet steel roof. The eastern part of this was constructed of a block and steel portal frame which at that time accommodated a store area and there was an open fronted timber walled store both of which have a profile roof. At this stage, the land to the east of the existing ancillary building was occupied by a range of other structures including a polytunnel and sheds as well as grassed areas. This area was currently defined by a fence / metal gate and was shown to the garden area to the new dwelling. At this stage there was also an existing access which served the subject building and also "The Courtyard", as such the access from Sweeming Lane was shown to be the vehicle access to serve the dwelling via the existing gravel driveway. The land to the south of the access driveway is not within the application site.

- 1.3 Works have commenced on site in terms of the works to the host building, and there has been further construction works undertaken within the eastern part of the site in terms of garaging and a new access has also been created from Sweeming Lane.

### **The Proposal**

- 1.4 Section 73 to vary/remove condition 02 (approved plans) of planning permission reference number 2019/0578/FUL proposed conversion of ancillary building to dwelling granted on 5<sup>th</sup> March 2020.
- 1.5 The site is shown on Plan 2781/01/03B with access from Sweeming Lane, parking is to be to the front of the dwelling and garden area to the east. This is as consented to be consistent with the consent issued under 2019/0578/FUL and referenced in Condition 3 on the Decision Notice.
- 1.6 The elevational changes under this S73 submission (as shown on Plan 2781-02-01E scale 1:100 at A2) can be summarised as follows:-
- Front / Southern Elevation – change in the ground levels for the single storey element but height retained to match consent issued under 2019/0578/FUL.
  - Side / Eastern Elevation – windows changed to utilise a three-pane window and double doors rather than a five pane glazed door.
  - Side / Western Elevation – door and small window removed and elevation now showing as blank.
  - Rear / Northern Elevation - addition of 3 small windows, 1 larger window and a door all of which are to be obscured glazed.

The ground levels are also shown as consistent throughout the building on the revised plans.

Further internal changes have also been shown on the revised Plan Ref 2781-02-01E to the internal layout as follows:

- Reorganisation of internal floor plan to reorientate and create open plan layout with lounge area facing towards south rather to the east and to reorganise internal rooms; and
- Addition of staircase accessed mezzanine floor.

The external finish is confirmed as being mix of timber cladding and steel cladding for the walls and a profiled steel clad roof. The wall cladding would be timber

cladding for the lower section of the main building and the single-story element on the eastern side of the building and the steel cladding on the upper section.

The submission also includes a drawing showing how works were proposed under 20198/0578/FUL, i.e., the use of an internal skin within the wholly retained structure to that now proposed which is a new external skin on the side elevations, and an internal skin which will be part retained structure and part new structure. In addition, on the 23<sup>rd</sup> March 2021 the Agent provided a photo showing how the roof structure would be constructed to the beam on the wall.

1.7 The submission of the S73 to the Council has occurred as a result of complaints made to the Council and investigation undertaken by the Planning Enforcement Team. The applicants have as part of the Application provided a report setting out the works undertaken on site which outlines their view on these works relate to those consented under 2019/0578/FUL in terms of the host building, dated 29<sup>th</sup> January 2021. In summary, the report confirms that at this stage the Applicants: -

- i) had removed all external cladding (timber and steel sheets) from the building.
- ii) removed the majority of the main buildings eastern lower-level blockwork gable wall between the main building and the timber lean too on the eastern elevation.
- iii) The timber lean to extension on the eastern side had been removed and partly rebuilt using blockwork cavity wall insulation.

The report also notes that the following elements had been retained at this stage: -

- i) the concrete slab foundation.
- ii) the steel portal frame including the steel bracing and gable posts.
- iii) the timber edge beam.
- iv) all roof cladding.
- v) most of the lower-level blockwork.
- vi) existing steel roller shutter door and runners.

The report notes that it is considered by the Applicants that the main difference in terms of what was on site at that stage and the approved consent were as follows:

- i) new external blockwork outer leaf insulation.
- ii) existing door and window on western elevation had been blocked up.
- iii) the eastern elevation has been rebuilt on a new footing.
- iv) the floor level within the extension has been set at the same level as the floor level of the main building.
- v) the eastern extension has been divided into two spaces with a different door / window arrangement on the eastern elevation.

Revision D was later updated to Rev E to correct reference to the roof design on the single storey element within the Notes on the plan so that it matched the drawing.

The agent asserts that the scheme remains a conversion and that the works undertaken would not make the building bigger and will only change the window/door openings to reflect level changes within the building. The agent further asserts that the changes are of a scale and nature that should be acceptable to the Council on all grounds, and that the approach is reflective of approaches supported by the Council on other schemes within the District for conversions.

## **Relevant Planning History**

- 1.8 Consent for the building was granted as an agricultural building under Application Reference CO/1998/0077 (Alt Ref 8/60/5G/PA) on the 12 March 1998 when it was in the curtilage of Isle Farm and Condition 3 noted that the building could only be used for purposes incidental to the enjoyment of the dwelling and not for any commercial purpose.
- 1.9 The original consent for the conversion of the building to a dwelling was considered under Application Number 2019/0578/FUL, with consent being issued subject to conditions following consideration of the application by the Planning Committee on the 5<sup>th</sup> March 2020. This application was considered by Planning Committee on the basis that the proposal was considered to be contrary to the requirements of the development plan (namely Criterion 1 of Policy H12 of the Selby District Local Plan) but it was considered there were material considerations which would justify approval of the application, namely that the scheme as a conversion was acceptable. The initial consent was considered to be acceptable on the basis that it was a conversion / re-use of redundant or disused building which was considered acceptable in the countryside. The building was considered to be structurally capable of conversion within the fabric and not to require extensive alteration, rebuilding and / or extension. The side extension was considered to tie in with the main building to be converted and replicated the character and form of the structure that was to be removed. As such, the scheme was considered to result in a proposal that would generally take place within the fabric of the existing building and be acceptable as a conversion with a limited extension.
- 1.10 There is also an application pending with the Council (under Application Number: 2020/1221/FUL) for the erection of an oak framed car port, field access and domestic drive (retrospective) adjacent and part within the application site. These building and the access are proposed to serve the dwelling known as "Willow Barn" but these will be considered on their merits separate to this application.

## **2. CONSULTATION AND PUBLICITY**

- 2.1 **NYCC Highways** – Confirmed no objections to the submission.

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

**Selby Area Internal Drainage Board** - No response received.

**Environmental Health** – No objections.

**Enforcement Team** – No response received.

**Environment Agency (Liaison Officer)** – No response received.

**Little Fenton Parish Council** – No response received.

**Publicity** – the application was advertised via a site notice and in the Press (as a Departure) erected on the 26<sup>th</sup> February 2021. As a result, comments were received

from one property (Granstable House) in objection to the scheme and ten submissions of support have also been received from a mix of neighbours and other third parties who do not live within the immediate vicinity of the site.

## **Objections**

Initial comments (26<sup>th</sup> February 2021) related specifically to the submitted "Construction Progress Report" and the scheme shown within this, which has been subsequently changed by the latest drawing. The comments made at this stage can be summarised as follows:

- The new window and door openings on the northern elevation have been partially concealed in the applicant's photos even though these are on the drawings – these impact on upper bedrooms of the objector's property.
- There is no information of what has been built on site and the plans do not reflect the reality – if it was built in accordance with that approved would not object and it is considered that the proposal aims to build outside of the original barns' footprint with blockwork walls, clad with steel and timber.
- There is no justification given for the alternative and fundamentally different approach to the construction and why the internal cladding approach that was proposed was not used.
- Materials samples should be supplied as part of the S73 application for all walls and the roof.
- Windows on the northern elevation can see directly into the upper floors of the neighbouring property, and vice versa.
- Reference to the requirements of the Building Inspector not evidenced.
- The FRA does not require floor levels in single storey element to match main so no justification for changing and impacts on roof height which impacts further on neighbours.
- The original building is not retained it is built around on the outside and it is not a conversion.
- The only part of the superstructure being retained now is the "Portal Frame". The existing cladding is going to be replaced with a traditional blockwork wall construction which is being re-clad.
- The extension is 100% new build, so it is not a conversion and it has a changed roof design making it visible to neighbours especially when combined with the ground level changes.
- No detail on how the existing roof structure will be tied into the new external blockwork walls and this should be sought at this stage.
- The structural evidence is not credible, and the information is not detailed so as to establish that the building frame is not being compromised by the works
- The integrity and professionalism of the information should be questioned.

Subsequent comments received (12<sup>th</sup> March 2021) post submission of Drawing Number 2781-02-01-D to the Council added the following comments, which can be summarised as follows: -

- The drawing includes no dimensions.
- Use of obscure glass does not address impact of the window / door on the northern elevation.
- The introduction of a new skylight on the scheme will result in overlooking into bedrooms even if obscured.

- The revised plan still does not show the detailing correctly in terms of the relationship to the steel frame.
- The submitted drawing is misleading as Note 1 shows the insulation is between the new built external breeze block walls and the existing inner steel / existing breeze block, and complete opposite of the drawing.
- The overall plan footprint of the extension is also not as currently constructed.
- If the single pitch roof is such and the height is as previously consented, then objection is removed.
- The now proposed finished floor level is driven by the Flood Risk Assessment findings, and evidence of the AOD should be provided.

Further comments (29<sup>th</sup> March 2021) noted comments of other parties in terms of the proposed windows on the northern windows and notes that none of the neighbours will be affected by these windows and restating that the windows will impact on the privacy of upper floors.

## **Support**

As noted above **ten submissions of support** have been received on the application, including from some immediate neighbours and others from outside the settlement, these can be summarised as follows:

- The development will allow the applicants to remain in the village.
- The scheme is sympathetic to the area and context and is not a new build and it will not impact on adjacent neighbours.
- The new windows on the northern elevation will not impact on the neighbouring properties, are at ground floor level and are behind a fence to the immediate neighbour so maintain the privacy into adjacent gardens. In addition, these windows are obscured.
- Design and specification of the proposed property is outstanding and totally in keeping with the surroundings.
- The layout and elevational treatment appear to have been carefully considered, without affecting the privacy of any neighbouring structures.
- The scheme will enhance the area.
- Changes focus on re-roofing and some changes to the windows, primarily to the northern elevation – both are minor amendments to the original planning and unobtrusive.
- The roofing works are beneficial and may mean don't need as much maintenance.
- The buildings are very sympathetic to the style and feel to our hamlet and enhance the overall ambiance.
- The conversion has already massively enhanced outlook, with no overlooking windows, and a promised finish to the building is appreciated.
- Cannot see that the amendment will incite any issue to any surrounding properties due to their location and taking into account the height of all fences and bushes, it would be unreasonable to state otherwise.
- Reduces the carbon footprint of lighting what would be dark rear rooms whenever inhabited and also seeks to protect the privacy of the neighbour affected.
- Scheme is a sustainable design and will be an aesthetic improvement on what was existing to make an old eyesore into a modern and beautiful home.  
There should be the option to replace outdated ugly and old materials to match the new design.

- The amendments noted are going to improve the look and feel of the whole property. Allowing more light into dark areas whilst being obscure so there are no privacy issues This makes the back corners more usable. Light is such an important feature for people's mental health and well-being.
- Replacing the roof cladding will improve not only the functionality from the delapidated panels but also improve the look of the whole house. This will also be improving the outlook to neighbours as the rusted panels are only deteriorating.
- The scheme accords with the National Framework and should be supported.
- The new insulated roof cladding with a higher thermal insulation value has been requested because the current roofing has deteriorated. In line with Standard Assessment Procedures (SAP) calculations and promoting eco-friendly buildings, it clearly makes sense to build the property with the best thermal materials and fits with the overall design.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The application site is located outside the defined development limits of any settlements and is therefore located within the open countryside.
- 3.2 The application site is located within Flood Zone 2, which has a medium probability of flooding.
- 3.3 The site is also identified as potentially contaminated on the basis of its use for agricultural purposes and within the consultation zone for the Leeds East Airport at Church Fenton.

### **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 took place early in 2020. Consultation on preferred options took place in early 2021. 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
- SP9 - Affordable Housing
- SP15 – Sustainable Development and Climate Change
- 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
- ENV2 – Environmental Pollution and Contaminated Land
- H12 – Conversion to Residential Use in the Countryside
- T1 – Development in Relation to the Highway Network
- T2 – Access to Roads

## **5 APPRAISAL**

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

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application."

As such the only consideration of this application is in relation to the proposed variation to the plans and the impact the proposed changes would have and whether a new planning consent for the development with the proposed variation to Condition 2 (plans) of consent 2019/0578/FUL would be contrary to the provisions within the development plan or whether there are reasonable grounds for refusal if these conditions were not retained in their present form.

5.2 As noted above the original consent for the conversion of the building to a dwelling was considered under Application Number 2019/0578/FUL, with consent being issued subject to conditions following consideration of the application by the Planning Committee on the 5<sup>th</sup> March 2020. This application was considered by Planning Committee on the basis that the proposal was considered to be contrary to the requirements of the development plan (namely Criterion 1 of Policy H12 of the Selby District Local Plan) but that there are material considerations which would justify approval of the application, namely that the scheme as a conversion was acceptable. The initial consent was considered to be acceptable on the basis that it was a conversion / re-use of redundant or disused building which would be considered acceptable in the countryside. The building was considered to be structurally capable of conversion within the fabric and not to require extensive alteration, rebuilding and / or extension. The side extension was considered to tie in with the main building to be converted and to replicate the character and form of the structure that was to be removed. As such the scheme was considered to result in a proposal that would generally take place within the fabric of the existing building and be acceptable as a conversion with a limited extension.

5.3 The works that occurred on site prior to the submission of the S73 to the Council which was made following input from the Enforcement Team were as follows: -

1. Removal of the upper sections of blockwork / wall structure on the original building which was to be retained under the approved scheme.
2. The removal of the side elevation wooden lean to element which was to be removed to facilitate the new single storey extension.
3. Addition of a new external blockwork outer leaf which was not part of the consent as the conversion was to be undertaken using an internal skin with external wall retained.
4. Addition of openings over those consented on the original scheme.

However, the applicants have now removed the external blockwork outer leaf and reinstated the upper sections of blockwork / wall structure on the original building which was to be retained under the approved scheme on top of the lower sections that were never removed.

5.4 As such the scope of the changes under this S73 submission (as shown on **Plan 2781-02-01E**, scale 1:100 at A2) can be summarised as -

- Front / Southern Elevation – change in the ground levels for the single storey element but height retained to match consent issued under 2019/0578/FUL.
- Side / Eastern Elevation – windows changed to utilise a three-pane window and double doors rather than a five-pane glazed door.
- Side / Western Elevation – door and small window removed and elevation now showing as blank.
- Rear / Northern Elevation - addition of 3 small windows, 1 larger window and a door all of which are to be obscured glazed.

The ground levels are also shown as level across the building on the revised plans specifically to provide a single floor level through the building.

Further internal changes have also been shown on the revised **Plan Ref 2781-02-01E** to the internal layout as follows:

- Reorganisation of internal floor plan to reorientate and create open plan layout with lounge area facing towards south rather to the east and to reorganise internal rooms; and
- Addition of staircase accessed mezzanine floor.

- 5.6 It is the scope of the work undertaken on site and the scope of the changes to the scheme that need to be considered under this S73 submission. In terms of both the principle of the development and the acceptability of the detailed design changes, the Local Planning Authority is required to consider if given the works done on the structure on site are so extensive that the scheme can no longer be considered to be a conversion and is in fact a new build.

Taking these aspects in turn.

#### **Is the scheme still a conversion of a building that can be supported under Policy H12 of the Local Plan?**

- 5.4 In considering the original application under reference 2019/0578/FUL, then the scheme was supported by the Local Planning Authority on the basis that although it was considered to be contrary to the requirements of the development plan (namely Criterion 1 of Policy H12 of the Selby District Local Plan) it was considered that there were material considerations which would justify approval of the application, namely that the scheme as a conversion was acceptable.
- 5.5 As noted at Paragraph 5.3 then there have been works undertaken on site to the original structure which were not wholly in accordance with the consent but since the issues were first investigated by the Council, the applicants have sort to rectify matters and have not only removed the outer leaf blockwork wall but have also rebuilt the walls in the original locations on top of retained blockwork. So, the applicants have rectified matters to reinstate key elements of the building and other than the changes to the window opening the building now on site is of a scale and character that was expected to result from the original consent. As such it is considered that the eventual building will be as consented and will reflect that which was shown on the initial scheme.
- 5.6 As such it is still the view of the Officers that on balance the scheme can be considered to accord with Policy H12 of the Local Plan and is acceptable as a change to the original consent under S73.

#### **Are the changes to the windows / opening acceptable in design and residential amenity terms?**

- 5.7 The changes to the scheme in terms of windows has not only changed the window detailing on the eastern elevation facing towards the garden area for the conversion but also on the western elevation. A series of windows and an entrance door to the northern elevation which adjoins neighbouring residential properties are shown on the revised drawings and space has been left in the elevation for these in terms of

the work undertaken on site to date. These are all shown on the submitted drawings as being obscured glazed in response to comments from the neighbour.

- 5.8 The Officers Report on the original consent noted that all windows on the scheme faced away from the adjacent residential properties and as such it was concluded that there would not be a significant adverse impact on the amenity of these dwellings. However, in the interests of amenity of adjacent occupiers the consent did remove permitted development rights for any further outbuildings, extensions and new windows other than those shown on the submitted drawings without consideration by the Local Planning Authority.
- 5.9 Objections have been made on the S73 submission to the inclusion of these windows as part of the changes to the scheme.
- 5.10 Having considered their siting and taken account of the fact that they are obscured glazed then it is the view of Officers that their inclusion would not result in a significant adverse impact on residential amenity so as to warrant refusal, particularly given that they are to be obscured glazed, which is confirmed on the plans and a condition could be utilised to ensure that a minimum obscurity level was utilised and that this was retained for the lifetime of the development.

**Are the proposed materials acceptable in design and character terms to the Local Planning Authority?**

- 5.11 The mix of materials to be utilised on the external skin of the building are noted on the submitted drawings although no specific colours have been stated nor have the details of any colour stain for the timber cladding been shown.
- 5.12 The Application Form on the initial submission noted that materials for the walls and roof would match existing and the host building was at this stage a mix of profiled steel sheeting, over cladding and block work, with the timber single storey side extension.
- 5.13 The materials shown on the S73 plans would reflect the mix of materials that were present on the original building at the time of the granting of the original consent and before works were undertaken. It is not considered that the proposed approach now shown on the S73 plans would be unacceptable to Officers but details of colour finishes for all materials can be controlled via condition so as to ensure that the colour palette if the scheme had been is considered still to be a conversion, which is clearly not accepted.

**Are the changes to the floor levels acceptable in design, amenity and character terms to the Local Planning Authority?**

- 5.14 The S73 plans have been amended to show a single floor level across the building as a whole, and the roof heights have been retained at a level to reflect that of the original consent.
- 5.15 This has been argued by the applicants to be required as a direct result of the FRA context, a fact disputed by the Objectors.
- 5.16 The Officers Report on the original consent confirmed consultations with the EA on the submitted FRA and that the FRA included a range of measures on flood

resilience. Condition 6 on the consent also required development to be undertaken in accordance with the measures in the FRA.

- 5.17 The change to the scheme shown on the S73 plans and thus the single level floor is considered to accord with the measures in the FRA and the use of a single level floor without any increase in the roof height of the single storey element is considered acceptable in design, amenity and character.

**Is the addition of the mezzanine floor acceptable?**

- 5.18 As part of the changes to the internal layout, the revised drawing shows the provision of an internal mezzanine floor which is a partial floor and does not create a full floor within the upper part of the building. There are no external changes required to facilitate this element and the roof windows that will provide light for this area were shown on the original consent.
- 5.19 The addition of a mezzanine floor would have been possible as an internal alteration once the building was occupied without the need for any additional planning permission. As an internal change, the LPA would have no control over this. However, as this is shown as a change as part of the S73 plans it should however be assessed at this stage. The change is however only internal and although it does introduce a second-floor use within the unit orientated to maximise light from the rooflights, which were part of the initial consent, it is considered that the approach to the setting back of a mezzanine floor and the fact that there is a void under the rooflights area means that it would be acceptable and there would be no impact on neighbouring amenity.

**Are there any other aspects arising from the Neighbour Comments or Consultations that mean the Scheme is unacceptable to the Council on any other grounds as a S73 submission?**

- 5.20 The objector has made a series of additional points relating to the works that have been undertaken on site to date and noted that they consider the drawings are not to scale. The applicants have accepted that the works initially undertaken on site are not in accordance with the 2019/0578/FUL consent hence the external blockwork outer leaf and reinstated the upper sections of blockwork / wall structure on the original building which was to be retained under the approved scheme on top of the lower sections that were never removed and the submission of the S73 application to the Council. In terms of the submitted drawings then these are scale and sufficient detail it is considered that these are sufficient for planning purposes where we to accept that a conversion was being undertaken, which we do not.
- 5.21 In terms of the structural integrity of the building, a concern raised by the Objector, when application 2019/0578/FUL was consented then the Council had no reason to request additional justification for the scheme and details were provided that showed the use of an internal structure to facilitate the construction. This was reported to Members as part of the assessment of the application and the scheme was assessed on its own merits accordingly. The approach shown for the conversion has not been what has occurred on site hence the S73 submission but the external blockwork outer leaf has been removed and the applicants have reinstated the upper sections of blockwork / wall structure on the original building which was to be retained under the approved scheme on top of the lower sections that were never removed and as a result the scheme will be as was expected under

the original consent in appearance and scale except for the minor changes shown on the submitted drawing.

- 5.22 In terms of the accuracy of the plans and what has been built on site to date, then it is considered that the plans are sufficient to ensure that works are undertaken in accordance with the plans.
- 5.23 In terms of the proposed Conditions set out below then as development has commenced on site there is no condition noted requiring commencement of development within 3 years of the date of the 2019/0578/FUL consent as would be the case had development not commenced. There is also a noted change to the wording of what is now noted as Condition 4 to state that the works to improve the access should be undertaken prior to the occupation of the dwelling. In addition as noted above Conditions have been added on materials and obscure glazing.

## 6 CONCLUSION

- 6.1 It is the conclusion on balance that Officers consider that the revisions that will result from the S73 submission are acceptable as the eventual building will be as consented and will reflect that which was shown on the initial scheme granted. The application is therefore recommended for approval subject to the revised plans list and with the addition of Conditions pertaining to agreement of materials and the use of obscure glazing to the additional windows on the rear / northern elevation that would be required to be retained for the lifetime of the development. So, it is the view of the Officers that on balance the scheme can be considered to accord with Policy H12 of the Local Plan and is acceptable as a change to the original consent under S73.

## 7 RECOMMENDATION

This application is recommended to be **APPROVED** subject to the following conditions and informatives:-

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

- Location Plan (Drawing Reference 2781/01/03B) as submitted under Application 2019/0578/FUL
- Existing Block Plan (Drawing Reference 2781/01/02B) as submitted under Application 2019/0578/FUL
- Existing Floor Plan and Elevation (Drawing Reference 2781/01/01) as submitted under Application 2019/0578/FUL
- Existing Layout Plan (Drawing Reference 2781/01/02A) as submitted under Application 2019/0578/FUL
- Proposed Plans and Elevations (Ref 2781-02-01E)

Reason:

For the avoidance of doubt.

02. Notwithstanding the provisions of Class A to Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) no extensions, garages, outbuildings or other structures shall be erected, nor new windows, doors or other openings inserted other than those hereby approved.

Reason:

In order to ensure that the character and appearance of the surrounding area is protected in the interests of residential amenity having had regard to Policies ENV1 and H12 of the Selby District Local Plan.

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

Reason:

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

04. The dwelling shall not be occupied until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements
- The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E6d.g. Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.

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

Reason:

In accordance with Policy T1 and ENV1 of the Selby District Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience

05. The site shall be developed with separate systems for surface water and foul water.

Reason:

In the interest of securing satisfactory drainage of the site.

06. The development shall be carried out in accordance with the flood mitigation measures as set out in the Flood Risk Assessment submitted with the application received by the Local Planning Authority on 20<sup>th</sup> January 2020 as submitted under Application 2019/0578/FUL.

Reason:

In the interests of flood risk and flood risk reduction and in order to comply with the advice contained within the NPPF and NPPG.

07. Within three months of this consent full details of all external materials to be used for the construction of the external surfaces of the shall be submitted to the Local Planning Authority for agreement. The agreed materials should then be used and retained for the lifetime of the development.

Reason:

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

08. The development hereby permitted shall not be occupied until all windows on the rear ground floor northern elevation have been fitted with obscure glazing. The obscure glazing shall be to a minimum of Level 5 obscurity. These shall thereafter be retained for the lifetime of the development.

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

## INFORMATIVES

01. NPPF – The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.

02. You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in Condition 5.

03. You are advised that separate consent will be required from the Internal Drainage Board for any discharge into an existing watercourse of surface water and there shall be no development within 9m of any such watercourse.

## 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 2021/0129/S73 and associated documents.

**Contact Officer: Yvonne Naylor (Principal Planning Officer)**

**Appendices: None**