



Report Reference Number: 2019/0476/FUL

To: Planning Committee
Date: 2 June 2021
Author: Fiona Ellwood: Principal Planning Officer
Lead Officer: Ruth Hardingham: Planning Development Manager

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| APPLICATION NUMBER: | 2019/0476/FUL | PARISH: | Saxton Parish Council |
| APPLICANT: | Karen and Giles Mason and Richell | VALID DATE: EXPIRY DATE: | 15 th May 2019 10 th July 2019 |
| PROPOSAL: | Erection of new dwelling | | |
| LOCATION: | Land to the west of Saxon Holme Coldhill Lane Saxton | | |
| RECOMMENDATION: | APPROVE | | |

This application has been brought before Planning Committee as the site is located within the Green Belt and is contrary to the Development Plan but there are Very Special Circumstances to warrant approval.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site comprises part of the large side garden to 'Saxon Holme', a large, detached dwelling on the south west edge of Saxton village. The application site includes the western part of the garden and part of the adjoining land to the west which consists of a large open paddock of mown grass which abuts the cricket club site. The garden to Saxton Holme is bounded to Coldhill Lane by a limestone wall with trees and garden shrubs. Beyond the garden the land is bounded by indigenous hedgerow and trees. The western boundary to the red line site is currently open with no means of

enclosure as this boundary is beyond the garden of Saxon Holme. Within the site there is an existing stable block constructed of breeze block with a tiled roof. The site area is generally flat with a level change between the garden area and the paddock.

The Proposal

- 1.2 The proposal is a revised scheme for a detached dwelling and a carport/garage. There are two extant permission for dwellings on the site (see detailed notes on planning history section below). Access would be onto Coldhill Lane directly south in accordance with a previous approval for a new access. The scheme originally submitted under this application initially had a different red line application site to the previous approvals. This has now been amended to reflect the previous permissions. The design of the dwelling has also been significantly amended in regard of form, siting and materials. It is now a 'T' shape dwelling of traditional limestone under a pantile roof. The dwelling would occupy a similar position to the two previous approvals. The scheme necessitates the removal of a large Norway Maple which is the subject of a TPO. The garage position is now to the south west corner and provides for a cart/barn type design.

Relevant Planning History

- 1.3 The following historical applications are considered to be relevant to the determination of this application.
- CO/2002/1078 (Permitted - 06.12.2002) Alterations and extension to existing dwelling (Saxon Holme) including first floor extension over garage.
 - 2005/0529/FUL (Permitted - 02.09.2005) Erection of an agricultural building on land adjacent to Saxon Holme- Permitted in 2005.
 - 2009/1107/TCO (Permitted - 29.01.2010) Works to trees in a Conservation Area – Permitted in 2010.
 - 2010/0316/FUL (Refused/Allowed) - 17.08.2011) The erection of a two storey dwelling with associated garage/studio following the demolition and re build of existing stable block –(see **Note 1** below);
 - 2016/0783/FUL (Permitted - 09.11.2016) Proposed erection of a new dwelling-revised design for the above. (see **Note 2** below)
 - 2017/1117/FUL (Permitted-18.05.2018) Creation of new access (following closure of existing access) at Saxon Cricket Club. (**Note 3** below)
 - 2017/1127/HDG- (Permitted – 11.05.2018) Hedgerow removal notice
 - 2019/0944/DOC- (Condition decision-31.10.2019) conditions 2,4,5,6 of 2016/0783/FUL
 - 2020/1376/TPO – (PCO-) Removal of 1 no Norway Maple covered by TPO 5/2016. (see **Note 4:** below)

- 1.4 **Note 1:** Members may recall this case. The 2010/0316/FUL was written up with a recommendation for refusal under delegated powers. Unfortunately, the decision notice issued was clerically incorrect. It stated that the decision was to Grant planning

permission but then set out the reasons for refusal. The effect of the decision notice was to grant an unconditional planning permission.

- 1.5 Initially Selby considered it expedient to seek to revoke the permission but following representations and an appeal process it was considered expedient to modify the permission adding appropriate planning conditions. There followed an extensive process through the Planning Inspectorate with claims for costs from objectors.
- 1.6 The outcome was the, then, Secretary of State for Communities and Local Government confirmed a Modification Order under S98 of the 1990 Act. The effect of the order was to confirm the planning permission and to add planning conditions. During the process of reaching the decision, the Inspector accepted that the development had already started. The 2010 application has therefore been started but not completed and remains an extant permission which could be completed at any time.
- 1.7 It allowed a modern large 5 bedroom detached dwelling of limestone, under a welsh slate roof, with areas of cedar cladding, large glazed areas and grey aluminium windows. It also included for a double garage with studio above and a replacement stable block following demolition of the existing block. Access was via a lengthy route on the southern boundary through the entire paddock, emerging adjacent to the cricket club grounds building.
- 1.8 **Note 2:** Following discharge of the relevant conditions, a technical commencement has also been made on Planning Permission Reference 2016/0783/FUL for an alternative design dwelling. Photographs, plans and a letter of confirmation of technical commencement are recorded. This permission also allows a large, detached dwelling similar in scale and footprint to the previous approval. It was a more contemporary design with a mix of limestone, render and cedar wood walls under a tiled roof.
- 1.9 **Note 3:** This application provided for an alternative access breaking through part of the stone wall directly south onto Coldhill Lane replacing the long access through the open land to the west.
- 1.10 **Note 4:** There is a current TPO application 2020/1376/TPO under consideration for the removal of the Norway Maple within the front of the site. A specialist agricultural appraisal has been obtained to assist the consideration of its removal on this and the TPO application.

2 CONSULTATION AND PUBLICITY

2.1 Conservation Officer-First response to initial scheme-

Context: The application site is located within the Saxton Conservation Area and to the southern edge of the village of Saxton. The village is characterised by the use of limestone as a building material. Roof materials vary from clay pantiles to Welsh slate. The scale and design of the buildings within the conservation area differ and includes small terraced single and two storey cottages as well as larger detached two storey properties. Differing roof height levels provide texture to the streetscape, however the

height does not exceed two storey with the exception of the church which should remain the dominant structure within the village. At the southern edge of the village, the plots are more spacious and the density of buildings reduces. Two previous applications have been approved on site; the most recent was in 2016 which saw the approval of a detached dwelling which had a similar height to the neighbouring site, Saxon Holme, the materials were proposed to be limestone and render panels with aluminium windows and a slate and clay pantile roof. It also incorporated a section of cedar panelling.

Assessment: The scheme has a similar appearance to a barn conversion found in the south of England, a clad structure, square openings and large areas of glazing. It is not domestic and has little relevance to its surroundings. There is no garage. There is no objection to a modern design solution, however the materials and design must have some relevance to its context. Being located within a conservation area, there is a duty to preserve or enhance the character or appearance of the conservation area. It is difficult to see how this development will achieve any of this. There has been a Heritage Statement provided, however the content does not reflect the requirements of a Heritage Statement and it does not meet the requirements of the NPPF section 16 or the Planning (Listed Buildings and Conservation Areas) Act 1990. There also appears to be no Design and Access Statement to provide an explanation to the design ethos or how the character of the area has been analysed or influences the development.

Recommendations-There are concerns with the new design in terms of the materials uses and the design approach as there has been little consideration for the character and appearance of the Saxton Conservation Area.

Second response to revised scheme -The amended scheme is a significant improvement due to use of facing stone, pan tiles and simplified form of building. Advice points given include suggesting removal of roof lights, comments about overall scale and massing, impact on the Maple tree, amount of fenestration on the west elevation, stone faced chimneys would be beneficial, no information on boundary treatments, boundary wall to the east is too high (frontage wall to road is lower) and should be local magnesian limestone.

Third Response -Heritage statement now provided and is acceptable. Rooflights have been omitted, wall now tapers down which is beneficial. Loss of the tree is regrettable. Note 5 trees are to be planted to offset loss.

2.2 Landscape Consultant -In order to protect the LILA, local character and setting of the Conservation Area recommend the following clarification and adjustment are needed:

- Existing and proposed levels clearly shown on the plans (the site and adjoining land levels, spot levels and contours)
- Tree protection measures for all existing trees to be retained (to BS5837), as a tree protection plan (also to consider the large tree to the north side of the site potentially with root protection area into the site). Plans to clearly identify all existing trees and hedgerows to be retained / removed.

- The proposed replacement trees to be the following min size : Standard (semi-mature), 4x transplanted, 20-25cm stem girth, min 450cm high, rootball or containerised.
- West side boundary to be post and rail fence with native species mixed hedgerow (at least 2m wide space will be needed for hedgerow growth and maintenance access)
- East side and south side (front) boundary wall to be lower (similar material, style and height as adjoining property front wall).

Notwithstanding the above, if the scheme were to be approved I would recommend a detailed hard and soft landscaping scheme should be conditioned, soft planting to be implemented in the first available planting season, minimum 5 year replacement defects period.

- 2.3 Tree Consultant** – The Applicants advisors believe the tree to be infected with Phytophthora requiring urgent action to fell. The assessment is due to the presence of dark lesions on the tree.

The tree has been re-assessed to determine its current and long-term condition. It is not felt that the lesions are conclusive evidence of infection or even if infection is present this may not lead to severe decline in health in the short term. Laboratory testing would confirm and annual monitoring would provide information on progress of the infection if it exists. Clearance of shrubs close to the tree stem is strongly recommended as this creates damp conditions which assists spread of infection.

Given the change in ground level for the new driveway and turning circle significant damage to root protection zone would occur. For this reason, despite the trees condition removal and replacement is the only realistic option if the driveway and turning circle is to be implemented.

- 2.4 NYCC Highways** -No Objections -Conditions recommended for construction traffic and a Construction Management Plan

- 2.5 Yorkshire Water** - No comments received.

- 2.6 Ainsty (2008) Internal Drainage Board** -Summary- This appears to enlarge the impermeable area on site and has the potential to increase the rate of surface water run-off from the site if this is not effectively constrained. Comments made about surface water and foul sewage and conditions recommended. Contact details given for informative.

Concludes that any approval granted to the proposed development should include the recommended conditions

- 2.7 Parish Council** – first response June 2019

- Potential due to reduction in grassland and increase in hard surfacing to contribute to the risk of flooding.
- materials and design not in keeping within the village, and particular raised to the use of cladding.

- Query whether the site is within the village boundary, or outside development limits.

Parish Council 2nd response - Objection based on the following points;

1. reference to a garage in the supporting notes, but the garage is not shown on the planning application drawings; where is this to be located
2. The foul treatment plant proposed is outside the development curtilage of the village, evidenced by the additional commentary on the site plan which shows the location of the treatment package to be outside the development curtilage
3. The materials -not in keeping with those already used locally;
 - inadequate notation on drawings to illustrate the use of materials in specific locations;
 - a standing seam metal roof, not consistent with the conservation area in such large areas;
 - extensive use of wood cladding to the elevations is inconsistent with the buildings surrounding this proposed structure.
 - prefer more stone and render used in the elevations, to match in with the cricket club, Saxon Holme and Meadowcroft.
4. to limit the impact of flood potential -request all hard standing areas be permeable.
5. How will the protected trees (all within the conservation area) be preserved during construction and beyond? No drawings or method statements are provided in this connection.
6. The design of the proposed house is very modern in format, window shape and material finish. A more traditional approach to the design, coinciding with the conservation principles of the village at large would be better appreciated and would enhance the nature and streetscape of this predominantly limestone village.

2.8 Publicity and Neighbour Notification

The application was advertised by site and press notice.

One letter of response received and the comments are summarised below:

- Development area includes land not in the applicants ownership;
- The relocation of the building means a section is built on land not in the ownership of the applicants and there is an issue of right to light/overshadowing of established garden and how the building will be maintained in the absence of access;
- Difficulties of construction at the north boundary; and
- Have not received a neighbour notification letter.

3 SITE CONSTRAINTS

- 3.1 Apart from a small strip to the east, most of the site is outside the development limits of Saxton, a Secondary Village. The eastern half of the site is within the village Conservation Area Boundary, which extends beyond the development limits. The remainder of the site lies within the 100 metre Conservation Area buffer zone. The whole of the site lies within the Green Belt which washes over the village and the

surrounding countryside. The whole site also lies within a Locally Important Landscape Area. The western part of the site is within an area of land which was included, under a modification to the local plan, as an area designated as Recreation Open Space under Policy RT1. There is a TPO (TPO 5/2016) on some of the trees within the site and along the southern boundary.

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:

The relevant Core Strategy Policies are:

SP1- Presumption in Favour of Sustainable Development
SP2- Spatial Development Strategy
SP3- Green Belt
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
ENV 15- Conservation of Locally Important Landscape Areas
ENV25 - Development in Conservation Areas
RT1 - Protection of Existing Recreational Open Space

5 APPRAISAL

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

1. Principle of the development and whether the proposal is appropriate development in the Green Belt
2. Impact the openness of the Green Belt.
3. Impact on the character of the area
4. Impact on heritage assets
5. Residential amenity
6. Flood Risk, Drainage and Climate Change
7. Affordable Housing
8. Balancing whether very special circumstances exist sufficient to outweigh the harm to the Green Belt by reason of inappropriateness.

Principle of the development and whether the scheme is appropriate development in the Green Belt

- 5.1 The relevant Development Plan Policies in respect of the principle of this proposal include Policies SP1 “Presumption in Favour of Sustainable Development”, SP2 “Spatial Development Strategy” and SP3 “Green Belts” of the Core Strategy (CS) and RT1 of the Local Plan.
- 5.2 Policy SP1 of the Core Strategy outlines that “when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework” and sets out how this will be undertaken.
- 5.3 The application site lies outside the development limits and is within the Green Belt. Policy SP2 D requires that in the Green Belt, including villages washed over by Green Belt, development must conform to Policy SP3 and national Green Belt policies. Policy SP3 of the Core Strategy aligns with the Green Belt policy in the NPPF. It should therefore, in accordance with para 213 of Annex 1 of the NPPF, be accorded

significant weight. This sets out the fundamental aims of Green Belt land which are to prevent urban sprawl and keep land permanently open and that the essential characteristics of Green Belts are their openness and their permanence as set out at paragraph 133 of the NPPF.

- 5.4 Paragraph 143 of the NPPF provides that a local planning authority should regard the construction of new buildings as inappropriate development in the Green Belt. It then goes on to set out a limited list of exceptions to this. Paragraph 144 also makes clear that inappropriate development should not be approved unless 'Very Special Circumstances' (VSC) exist. VSC will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 5.5 The decision-making process when considering proposals for development in the Green Belt is in three stages, and is as follows: -
- a) It must be determined whether the development is appropriate or inappropriate development in the Green Belt.
 - b) If the development is appropriate, the application should be determined on its own merits.
 - c) If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are VSC's which outweigh the presumption against it.
- 5.6 The limited exceptions are set out in paragraphs 145 and 146 of the NPPF.
- 5.7 Paragraph 145 of the NPPF sets out that the construction of new buildings in the Green Belt is inappropriate unless it falls within a number of exceptions. The proposal is for the construction of a new building for use as a dwelling and this does not fall within any of the exceptions provided for in paras 145 or 146 of the NPPF. Since the building is not a replacement the starting point for the consideration is the same as a Greenfield undeveloped site.
- 5.8 It is therefore concluded that the development is inappropriate development in the Green Belt. Paragraph 144 of the NPPF makes clear that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. VSC's will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 5.9 The site also lies within an area defined in the Local Plan as Recreation Open Space. The application site encroaches into a large paddock to the west which was included, under a modification to the local plan, as an area designated as Recreation Open Space under Policy RT1 of the Local Plan. Policy RT1 sets out that proposals which would result in the loss of existing Recreation Open Space and allotments will not be permitted unless:

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

5.10 The development would result the permanent loss of part of this recreation land site. The site is not currently used for recreation purposes but is part of the wider area of land which includes the cricket pitch and pavilion. However, it is no known whether it is needed to remedy any deficiency here or elsewhere in the district. No alternative provision is offered and the proposal does not include for any enhancement of existing facilities. As such the scheme conflicts with the aims of Policy RT1 of the Local Plan.

Impact on the openness of the Green Belt

- 5.11 The fundamental aim of the Green Belt Policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
- 5.12 The openness of the Green Belt has both a visual and a spatial element. In terms of the spatial element the proposed scheme provides one large new dwelling introducing built urban form into an open currently undeveloped site. The presence of the built form of the new building is a significant urban encroachment which reduces the openness of the Green Belt. The creation of the extended garden curtilage and boundary treatments subdivides the paddock land to the west land creating boundary structures further reducing the openness. Overall, the impact of one dwelling and the carport will still result in a significant reduction in openness spatially.
- 5.13 In terms of the visual element, (the visual element of the Green Belt is not an assessment of visual quality), the site is part garden and part open field. It is currently devoid of development and visually green and open. The development would harmfully impair the visual aspects of this part of the Green Belt through the introduction of a substantial new residential dwellings where none previously existed, through the urbanisation of the site with manicured urban curtilage, the surfacing and access road, the boundary treatments dividing and enclosing the land and the overall change to the visually open appearance of this part of the Green Belt.
- 5.14 It is therefore concluded the development reduces the openness of the Green Belt both spatially and visually and conflicts with the fundamental aim of the Green Belt which is to keep land permanently open.

Impact on the Character of the Area

5.15 The relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 (1) and (4) and ENV 15 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy. SDLP Policy ENV1 requires the

effect of new development on the character of the area and the standard of design in relation to the site and its surroundings to be considered when considering proposals for new development. Similarly, CS Policy SP19 expects new development to have regard to the local character, identity and context of its surroundings. Paragraph 127 of the NPPF states that, planning decisions should ensure that development; is visually attractive as a result of good architecture, layout and appropriate and effective landscaping; sympathetic to local character and history. Policy ENV 15 sets out that within the Locally Important Landscape Area (LILA) priority will be given to the conservation and enhancement of the character and quality of the landscape. Attention should be given to design, layout landscaping of development and the use of materials in order to minimise its impact and to enhance the traditional character of buildings and landscape in the area.

- 5.12 The site is located within the Locally Important Landscape Area and abuts the edge of the settlement. It is screened by established boundary treatment to the south and there is hedgerow and trees extending along Coldhill Lane which partially screen the site. However, the new dwelling will still be clearly visible within the site from the surrounding area. Coldhill lane rises to the west and the dwelling will be a prominent feature visible above the established boundaries. Views will also be visible from the east within the village as it will sit further forward to the road than its neighbour Saxon Holme. It will also be widely visible from the cricket grounds and the lane to the north. The dwelling due its size, scale and position will clearly have a significant harmful impact in comparison to the current undeveloped site.
- 5.12 However, the fallback position is the two planning permissions which have been started and remain extant. Either of these could be implemented. In comparison the dwelling now proposed, although similar in size, is of a more sympathetic design and materials for this location. It occupies a similar position and footprint but is simpler in form than the last approval and the materials now proposed are Magnesium Limestone and clay pantile roof which reflect the predominant material of the locality. The dwelling has contemporary fenestration features which have been simplified and reduced from the original submission. The dwelling is split into various elements with lowered roof to the south wing to help reduce its impact. It is acknowledged that this could be improved further, however, the design is now a significant improvement over the original submission which was designed to look like a large rectangular agricultural building. Moreover, it is an improvement on both earlier schemes. The first approval was a fairly bland detached large dwelling of stone and slate. The second was a contemporary dwelling with split levels, large amounts of render, wood panelling and random stonework. In contrast this scheme more closely reflects the local materials and is more simple in form with lowered roof sections.
- 5.13 The scheme will result in the loss of one large Norwegian Maple Tree protected by a TPO. This is necessary to achieve the access parking and turning area to the front of the dwelling. The alternative in order to keep the tree would be to revert to the use of the long access through the paddock. Overall, this would have a much more intrusive impact on the locality. The removal of the Maple and the use of the southern access enables the site to be more contained without extensive intrusion into the open recreation land to the west. The applicant has agreed to replace the tree with an oak

which would be protected long term as a TPO replacement planting. It is considered that in the long term, the loss of this tree with the access to the south would be less harmful to the character and appearance of the area. Four further trees are proposed for planting which will enhance the visual character of the site. Full details of these can be agreed via a condition including the timing of their planting and future retention.

- 5.14 Concerns were raised by the Conservation Officer and the Landscape Officer about the boundary treatments which showed a high stone wall to the eastern boundary which would have stood well above the road height. This has now been stepped so that it is only two metres high between the proposed dwelling and its neighbour Saxon Holme but would gradually step down in height towards the road. Post and rail fencing, and indigenous tree planting has been agreed to the western boundary to the west. A suitably worded condition can be imposed to ensure the full details of these are provided and implemented. The modified consent includes a condition requiring the details of the landscaping and boundary treatments to be submitted for approval and sets out a timetable for implementation. This condition can be repeated on this scheme.
- 5.15 Overall the layout, appearance, scale and landscaping of this scheme are considered acceptable in comparison with the previous approvals and therefore there would be no additional harm to the character and appearance of the locality. Moreover, since this scheme would be an improvement on the previous scheme and is contained within the approved site area it would not have any increased impact on the designated Recreation Open Space area or the Locally Important Landscape Area.
- 5.16 In comparison with the previous approvals, the scheme is overall slightly smaller, simpler design, more suitable materials and includes new tree planting and appropriate boundary treatments. Therefore it is considered that the proposals accord with the relevant policies in respect to design and the impacts on the character of the area including Policies ENV1 (1) and (4) and ENV 15 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy and policy contained within the NPPF.

Impact on Heritage Assets

- 5.17 Relevant policies in respect to the impact on the character and appearance of Saxton Conservation Area and the Locally Important Landscape Area include Policies ENV1 (5) and ENV15 and ENV25 of the Selby District Local Plan, and Policy SP18 and SP19 of the Core Strategy.
- 5.18 Whilst considering proposals which affect Conservation Areas regard is to be made to S72 (1) and S66 (1) of the Town & Country Planning (Listed Building and Conservation Area) Act 1990 which states that with respect to any buildings or other land in a Conservation Area, of any powers, under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area and also 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'.

- 5.19 Policy ENV15 of the Selby District Local Plan requires to prioritise the conservation and enhancement of the character and quality of the landscape and pay particular attention to the design, layout, landscaping of development and the use of materials in order to minimise its impact and to enhance the traditional character of buildings and landscape in the area.
- 5.20 Significant weight will be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF. Relevant policies within the NPPF, which relate to development affecting the setting of a Conservation Area, include paragraphs 189, 190, 192, 193, 196 and 197.
- 5.21 Saxton is a village set in a valley surrounded by agricultural landscape. Its character is derived from the traditional limestone buildings and the most prominent feature of the church. Many of its farmsteads within the village have been redeveloped and there have been many infill plots. There is therefore a mix of traditional and more modern dwellings within the village of varying size, design and materials. However, the most usual materials which reflect the traditional character of the village are limestone with either a slate or a clay pantile roof. Many of the properties have stone walls to the street frontage. The application site is on the western edge of the village fronting Coldhill Lane which is rural in character with hedgerows and trees to the road frontage. There is only one other dwelling fronting Coldhill Lane which is Saxon Holme. This is a large white rendered 1930's detached house.
- 5.22 The 2010 extant permission which exists for this site is for a large-detached dwelling with an extensive floor area set out in an 'L' shaped arrangement with a linked double garage. The building proposed was to be constructed in rough faced limestone under a slate roof. It had large aluminium glazed areas and cedar cladding on the west elevation. The 2016 extant permission provided a unique modern character property with varying levels, roof form and a mix of materials including render, stone and timber under a tiled roof. Either of these, due to the sheer volume, scale, design and presence would visually dominate this end of the village and have an adverse effect on the character and appearance of the Conservation Area. However, given the planning history, the baseline from which to assess this proposal is a comparison of the current scheme with the two extant approvals.
- 5.23 In comparison the dwelling now proposed, although similar in size, is of a more sympathetic design and materials for this location. It occupies a similar position but has been pulled further back into the site from the south so does not project so far forward. This will reduce the impact on the streetscape making it appear less prominent than the previous two schemes. The footprint is simpler in form than the last approval and the materials now proposed are Magnesium Limestone and roof materials to be either clay pantile or slate roof with a stone gable which reflect the predominant material of the locality. The dwelling has contemporary fenestration features which have been simplified and reduced from the original submission. The wings are set down to appear lower and subservient to the main part of the house. The garage now proposed is of a

cart barn design – a double garage with oak frame, clay pantile roof, brick base, timber boarded infill to the sides. The position is set forward of the house close to the access. This simple rural design is acceptable in this location and improves on the previous large garage with studio above.

- 5.24 It is acknowledged that this large dwelling on this site is not ideal and would be resisted if the original permission had not been granted. However, the design is now a significant improvement over the original and subsequent approvals. Having had regard to the above and taking into account the NPPF, it is considered that the proposals are considered acceptable with respect to the impact on designated and non-designated heritage assets in accordance with Policies ENV1 of the Selby Local Plan, Policies SP18 and SP19 of the Selby Core Strategy and the NPPF.

Residential amenity

- 5.25 Policy ENV1 of the Selby District Local Plan (2005) requires the District Council to take into account the effect that proposals for development will have on the amenity of adjoining occupiers. Further, one of the twelve core planning principles of the NPPF is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. In addition to that it is noted that paragraph 127 (f) of the NPPF requires that development creates a high standard of amenity for existing and future users.
- 5.26 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.
- 5.27 The proposed dwelling, due to its size, scale, siting, orientation and overall relationship with the neighbouring property Saxon Holme, is not considered to result in any adverse effects of overshadowing or overbearing.
- 5.28 The amended scheme would not have a greater impact on the adjacent dwelling Saxon Holme. A new stone boundary wall would be erected between the two properties ensuring privacy levels are maintained. The dwelling has been designed to avoid overlooking of the adjoining property with main room windows orientated to the west or ground floor. Both previous approvals had a main projecting two storey wing in the south east corner of the site. This scheme will have less impact than the two previous permissions due to being orientated slightly further north and west and is set further away from its neighbour.
- 5.29 It is noted that the windows to the first floor level east elevations which would most affect the neighbouring dwelling, are only bathroom windows which can be obscure glazed. One secondary first floor bedroom window has been agreed to be removed. Given the relationship with the respective neighbouring properties it is considered reasonable and appropriate to remove permitted development rights to create new openings in these elevations to protect amenity in the future. As such, it is considered

that the amenities of the adjacent residents would therefore be preserved in accordance with Policy ENV1 (1) of the Selby District Local Plan.

Flood Risk, Drainage and Climate Change

- 5.30 Relevant policies in respect to flood risk, drainage and climate change include Policy ENV1(3) of the Selby District Local Plan, and Policies SP15 “Sustainable Development and Climate Change”, SP16 “Improving Resource Efficiency” and SP19 “Design Quality” of the Core Strategy. Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF.
- 5.31 The application site is located in Flood Zone 1 (low probability of flooding) and as such it is not at risk from flooding. The application details state that in respect of surface water run-off drainage will be via soakaway and sustainable drainage system. Foul water is stated to be via a package treatment plant. No conditions were imposed by the Inspector on the original 2010 permission. However, drainage details submitted at the time proposed a sustainable system with a reed bed within the land to the west. Since this application refers to the details previously submitted, conditions are recommended by the drainage board to ensure these details are acceptable and therefore it would be reasonable to impose these on this application.
- 5.32 The proposal is not considered to have significant impact on flood risk, drainage and the sewerage system. Subject to the afore mentioned conditions, the proposed scheme is therefore considered acceptable in accordance with Policy ENV1(3), Policies SP15 and SP16 of the Core Strategy and the NPPF with respect to flood risk, drainage and climate change.

Affordable Housing

- 5.33 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) set out the affordable housing policy context for the District. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District.
- 5.34 Whilst the Policy seeks financial contributions from sites below the threshold of 10 dwellings, the NPPF is a material consideration and states at Paragraph 63 that provision of affordable housing should not be sought for residential developments which are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). In respect of sites where the yield is to be less than 10 units, a financial contribution is identified as being appropriate. Policy SP9 has in this regard been superseded by the Ministerial Statement and national advice. Tariff style charges such as that identified in Policy SP9 can no longer be applied. The LPA has confirmed that this approach will be applied.

- 5.35 The application is for less than 10 units and the proposal is for a single dwelling. In addition, the proposal is not considered to be major development as defined in Annex 2 of the NPPF.
- 5.36 It is therefore considered that having had regard to Policy SP9 of the Core Strategy, the Affordable Housing SPD and the advice contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

Balancing whether Very Special Circumstances (VSC) exist sufficient to outweigh the harm to the Green Belt by reason of inappropriateness.

- 5.37 It is clear that what is proposed is inappropriate development in the Green Belt. The main issue to assess is whether any of the above matters taken individually or collectively, amount to the VSC necessary to outweigh the harm to the Green Belt through inappropriateness.
- 5.38 What constitutes Very Special Circumstances (VSC), will depend on the weight of each of the factors put forward and the degree of weight to be accorded to each is a matter for the decision taker. Firstly, it is to determine whether any individual factor taken by itself outweighs the harm. Secondly to consider whether, a number of factors ordinary combine to create VSC.
- 5.39 The weight to be given to any particular factor will be a matter of degree and planning judgement. There is no formula for providing a ready answer to any development control question on the green belt. Neither is there any categorical way of deciding whether any particular factor is a 'very special circumstance' and the list is endless but the case must be decided on the planning balance qualitatively rather than quantitatively.
- 5.40 The harm that has been identified is the inappropriate development of a new dwelling which does not fall within any of the allowable exceptions set out in the NPPF in the Green Belt. Harm is also identified due to the significant increase in built form and the reduction in the openness of the Green Belt.
- 5.41 The original scheme for a dwelling on this site was granted an unconditional permission in error. Through the Courts it was agreed not expedient to revoke the permission but to modify it and to add conditions. In the process the Inspector declined to impose a S106 Agreement and stated that a Flood Risk Assessment, Recreational Survey and Ecological Survey were not necessary. It was accepted that a lawful commencement had been made within the relevant time period. Conditions were imposed for materials to be agreed, for improvements to the access and for the stable block which exists on the site not to be used commercially.
- 5.42 The two permissions as described in this report are both extant having had lawful commencements made. Either (but not both) of these could be completed at any time. This is a significant fall-back position which contributes to Very Special Circumstances.

- 5.43 The current scheme is an improvement on the previous schemes due to being a better design, a slightly smaller building, the reduction in the garage size and the use of local building materials appropriate to the locality. This is a factor in favour of the scheme and contributes to the case of VSC.
- 5.44 The loss of a substantial tree is a factor against the proposal but this would have occurred on both the extant schemes. In favour of this scheme, 5 new trees would be planted and the applicant has agreed a rural form of boundary treatment on the west side of the site consisting of post and rail fencing with indigenous hedgerow planting. These factors weigh in favour of the scheme compared to the previous approvals.
- 5.45 In comparison with a Greenfield site with no previous development, the above factors put forward by the developer are not considered either individually or collectively to amount to the VSC needed to clearly outweigh the harm to the Green Belt by reason of inappropriateness and the harm to the openness both spatially and visually.
- 5.46 For VSC to exist the harm by reason of inappropriateness needs to be “clearly outweighed”. It is not enough simply to show that the harm and the countervailing considerations are in balance or marginally providing improvement to the site.
- 5.47 In this case, due to fall back position the development of this site was highly likely to go ahead even if this application were refused. As such this fallback position combined with the clear improvements to the site by the development proposed which this scheme affords, it is considered that these collectively amount to the VSC to clearly outweigh the harm by reason of inappropriateness to the Green Belt.

6.0 CONCLUSION

- 6.1 The development would result the permanent loss of part of an area of land designated as recreation open space. The site is not currently used for recreation purposes but is part of the wider area of land which includes the cricket pitch and pavilion. However, it is not known whether it is needed to remedy any deficiency here or elsewhere in the district. No alternative provision is offered and the proposal does not include for any enhancement of existing facilities. As such the scheme conflicts with the aims of Policy RT1 of the Local Plan.
- 6.2 The proposal to provide one new dwelling is inappropriate development in the Green Belt as it does not fall within any of the exceptions listed in paragraphs 145 and 146 of the NPPF. As such, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It is also considered that the development reduces the openness of the green belt both spatially and visually and conflicts with the fundamental aim of the Green Belt which is to keep land permanently open. The development therefore conflicts with Policy SP3 d) of the Core Strategy and with the NPPF
- 6.3 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposed development would not result in any harm over and above that of the

two current extant permissions for the site in terms of residential amenity, flood risk, drainage and climate change.

- 6.4 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposed development would result in less harm to the acknowledged interests of Heritage Assets, the character and appearance of the area and the LILA.
- 6.5 In this case, due to fall back position the development of this site is highly likely to go ahead even if this application were refused. Taken collectively, this fallback position combined with the clear improvements to the site by the development proposed which this scheme affords, it is considered that these collectively amount to the Very Special Circumstances to clearly outweigh the harm by reason of inappropriateness to the Green Belt.

7 RECOMMENDATION

7.1 This application is recommended to be APPROVED subject to the conditions set out below:

1. The development hereby permitted shall be carried out in accordance with the following approved plans: (To be inserted).

Reason:

For the avoidance of doubt, and in the interests of proper planning.

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

- Drawing

Reason:

For the avoidance of doubt.

3. Before any work commences above foundation level, the materials to be used in the construction of the external walls and roof of the development together with details of the eaves, verges, finishes and reveals and the boundary walls shall be provided for the written approval of the Local Planning Authority. The walls shall be of natural magnesium limestone walls and the roof in natural clay pantile roof and a sample panel wall to assess the mortar and sample roof material shall be provided on site for the written approval of the local planning authority. Only the approved details and materials shall be used for the development.

Reason:

In the interests of visual amenity and to preserve the character and appearance of the Conservation Area and the LILA in order to comply with Policy ENV1 and ENV15 of the

Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and advice contained within section 16 of the NPPF.

4. Before the dwelling hereby approved is occupied, details of the trees (species, size and location) to be planted as indicated on the Proposed Site Layout Plan reference 315/01 (02)020 Rev D shall be submitted for the written approval of the Local Planning Authority and shall be the following minimum size; Standard (semi-mature), 4x transplanted, 20-25cm stem girth, min 450cm high, rootball or containerised. The approved trees shall be planted in the first planting season following the bringing into use of the dwelling hereby approved and shall thereafter be maintained and retained for the lifetime of the development. All planted materials shall be maintained for five years and any trees or plants removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced with others of similar size and species to those originally required to be planted.

Reason:

In the interests of visual amenity and to preserve the character and appearance of the Conservation Area and the LILA in order to comply with Policy ENV1 and ENV15 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and advice contained within section 16 of the NPPF.

5. No earth movements shall commence on site until the trees on the site which are protected by a Tree Preservation Order have been enclosed by protective fencing, in accordance with British Standard 5837 (2005): Trees in Relation to Construction. Before the fence is erected its type and position shall be approved with the Local Planning Authority and after it has been erected, it shall be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising and or, lowering of ground levels, shall be allowed within the protected areas(s).

Reason:

To enable the Local Planning Authority to ensure the protection of trees on the site in the interests of visual amenity.

6. Before work starts above foundation level details shall be submitted for the written approval of the local planning authority of all boundary treatments and shall provide for a post and rail fence with indigenous hedge planting along the western boundary, retention of the stone wall to the road frontage (excluding the access) and the details of the stone wall to the east boundary. Thereafter the approved details shall be implemented and retained for the lifetime of the development.

Reason:

To safeguard the character and appearance of the area in accordance with saved Policies ENV1, and ENV25 of the Selby District Local Plan (SDLP), adopted 8 February and Policies SP2 and SP4 of the Selby District Core Strategy (CS), adopted 22 October 2013.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Schedule 2, Part 1, Classes A to H inclusive shall take place on the dwellinghouse hereby permitted or within its curtilage.

Reason:

In the interests of the character and appearance of the Conservation Area, the LILA and because the site is in the Green Belt and has only been approved due to very special circumstances and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.

8. No development on the drainage systems for the development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until surface water drainage systems have been implemented in accordance with the approved scheme.

Reason:

To ensure the scheme can be adequately and sustainably drained and to reduce the risk of flooding.

INFORMATIVES

1. As a reminder to the applicant, under the Land Drainage Act 1991 and the Board's byelaws, the Board's consent (outside of the planning process) is needed for any connection and / or discharge, or change in the rate of discharge, into a Board maintained watercourse, or any ordinary watercourse, in the Board's district. This applies whether the discharge enters the watercourse either directly or indirectly. Full details of the Consent process can be found on the Board's website:- <http://www.yorkconsort.gov.uk/index.html>

8 Legal Issues

Planning Acts

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

Human Rights Act 1998

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

Equality Act 2010

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

9 Financial Issues

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

10 Background Documents

10.1 Planning Application file reference 2019/0476/FUL and associated documents.

Contact Officer: Fiona Ellwood, Principal Planning Officer
fellwood@selby.gov.uk

Appendices: None