



Report Reference Number 2019/0759/FUL

To: Planning Committee
Date: 7th July 2021
Author: Mandy Cooper (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0759/FUL	PARISH:	North Duffield Parish Council
APPLICANT:	Yorvik Homes Ltd	VALID DATE:	14th August 2019
		EXPIRY DATE:	9th October 2019
PROPOSAL:	Proposed erection of 5 dwellings and associated infrastructure		
LOCATION:	Land Adjacent A163 Market Weighton Road North Duffield Selby North Yorkshire		
RECOMMENDATION:	GRANT SUBJECT TO COMPLETION OF S106		

1. Introduction and Background

- 1.1 This application has been brought back before Planning Committee as an update to the report considered at the 27th January 2021 Planning Committee. Members debated the proposal; acknowledging that it was not a straightforward scheme and expressed concerns given it is a departure from the Council's Development Plan and a site that had been given initial permission when the Council did not have a five-year land supply.
- 1.2 The Committee agreed that the application should be deferred and looked at again by both the applicant and Officers, as there were alternative and more affordable proposals that the local community would be more likely to support. The Committee also asked for more information in general from Officers on sites that had been agreed previously when there had been no five-year land supply. It was proposed and seconded that consideration of the application be deferred in order for Officers to undertake further work on the proposals and examine alternative options, including a more affordable type of housing that would be better suited to the local community.
- 1.3 A copy of the officer's report presented to Planning Committee on 27th January 2021 is attached at **Appendix 1**.

The Proposal

- 1.4 This application seeks planning permission for five detached dwellings comprising one 2 bedroom bungalow; in addition to four no. 3 bedroom, two storey properties.

Relevant Planning History

- 1.5 The following historical applications are considered to be relevant to the determination of this application.

- 2015/0517/OUT, Alt Ref: 8/13/267/PA: Outline application to include access and layout for 35 dwellings on land to the west of York Road
Decision: Approved: 03.12.2015
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- 2015/0520/OUT, Alt Ref: 8/13/267B/PA: Outline application for residential development (9 units) on land to the north east of Kapuni
Decision: Approved: 08.10.2015
 - 2018/0273/REM: Reserved matters application relating to Reserved Matters approval appearance, landscaping, layout, scale and access of approval **2015/0520/OUT** Outline application (with all matters reserved) for residential development (9 dwellings) on land to the north east of Kapuni
Decision: Approved: 17.05.2018
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- 2015/0519/OUT, Alt Ref: 8/13/267A/PA: Outline application (with access and layout for approval and appearance/landscaping and scale reserved) for residential development (6 units), recreational open space and highway improvements: Green Lane, North Duffield
Decision: Approved 08.10.2015
 - 2016/1265/REM Reserved matters application (landscaping, appearance and scale) for residential development (6 units), recreational open space and highway improvements on land to the west of
Decision: Approved 21.12.2016
 - 2017/1061/FUL - Retrospective application for the creation of a new vehicular access and change of use of land to a car park and construction of parking bays
Decision: Approved: 03.01.2018
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- 2018/1344/OUTM: Outline application including access (all other matters reserved) for erection of dwellings and construction of access from York Road
Decision: Approved: 15.02.2021
- 2018/1346/FULM: Proposed erection of 14 dwellings and creation of new access on land at The Paddocks, York Road, North Duffield
Decision: Approved: 24.11.2020

2.1 Further issues to be taken into account when assessing this application are:

- **Update in Relation to Site History**
- **Design & Scale of Previously Approved Scheme**
- **Recreational Open Space - Allotments**
- **Affordable Housing**
- **Landscaping**
- **Footpath Provision**

Update in Relation to Site History

2.3 Planning permission was granted under application ref: 2015/0519/OUT in October of 2015 for the erection of six dwellings, with open space and highway improvements. The application included matters relating to access and layout, with landscaping reserved for future consideration. The subsequent Reserved Matters application (2016/1265/REM) being approved on 21 December 2016.

2.4 This application was however submitted along with two other applications:

- 2015/0517/OUT: Outline application to include access and layout for 35 dwellings on land to the west of York Road
- 2015/0520/OUT: Outline application for residential development (9 units) on land to the north east of Kapuni

2.5 Whilst all three of the applications were outside Development Limits and therefore Departure(s), the Council's 2013-14 Five Year Housing Land Supply report at that time, established that the authority had less than a 5 year supply of deliverable housing land being a 4.3 (approximately) year supply of housing. This meant that in accordance with paragraph 49 of the NPPF (at that time and now paragraph 73 in the updated NPPF) the Council's policies designed to constrain housing supply could not therefore be considered up to date. Approval of the three sites would assist the Council in restoring its 5 year supply of housing. On this basis, all three applications were approved at Planning Committee by members.

Design & Scale of Previously Approved Scheme

2.6 The agent has submitted information which relates to both the approved Reserved Matters (2016/1265/REM) proposal and the current scheme and draws comparisons as follows:

2.7 The approved Reserved Matters scheme proposed six dwellings which were all semi-detached and comprised of three and four bedrooms:

Plot 1 – 3 bed - 80.8sqm
Plot 2 – 3 bed - 80.8sqm
Plot 3 – 3 bed - 80.8sqm
Plot 4 – 3 bed - 80.8sqm
Plot 5 – 4 bed - 109.16sqm
Plot 6 - 4 bed - 109.16sqm

= total of 541.6sqm

- 2.8 The current proposal now provides detached dwellings, reduced in sqm and with less bedrooms than those originally approved above.

Plot 1 – 2 bed bungalow - 62.9sqm

Plot 2 – 3 bed - 92.9sqm

Plot 3 – 3 bed - 97.9sqm

Plot 4 – 3 bed - 92.9sqm

Plot 5 - 3 bed - 97.9sqm

= total of 444.8sqm

- 2.9 The submitted information states that the proposed dwellings would still provide family accommodation as required by the local community. The document adds that the 2019 Strategic Housing Market Assessment (SHMA) identifies (para.6.19 – Figure 11) the open market requirements to have higher levels of 3 bedroom properties (49%) as per the revised scheme. The SHMA is referenced further whereby it sets out that the Council should consider the potential role of bungalows as part of the future mix of housing; being a particular requirement and attractive to older owner-occupiers and assisting in encouraging households to downsize. Bungalows are often the first choice for older people seeking suitable accommodation in later life and there is generally a high demand for such accommodation when it becomes available (para. 6.32 of SHMA). The SHMA adds that the building of bungalows “*is often not supported by either house builders or planners (due to the potential plot sizes).*” The substitution of the 4 bedroom dwelling for a 2 bedroom bungalow is therefore considered to be in accordance with the latest SHMA.
- 2.10 It is considered that the current layout makes better use of the constraints within the site by increasing private amenity space for future occupants and improved positions for private parking, being alongside and/or closer to the proposed dwellings, whilst taking account of the flood zone buffer. The frontages of the dwelling have been widened slightly and reduced in depth and thereby providing a more pronounced and enclosed edge to this part of the village.

Recreational Open Space – Allotments

- 2.11 Under the approved outline consent (2015/0219/OUT) it was agreed that the land forming part of the application to the south west of the site would be transferred to the Parish Council in order to provide new allotments and equating to 360sqm of the policy requirement. The allotments have now been provided with a new access and parking as applied for and approved (2017/1061/FUL) under a separate application.
- 2.12 It was noted at the time that strictly speaking this was a minor departure from Policy RT2 as the Recreational Open Space (ROS) would not be provided through a commuted sum but it was considered that the outcome would be equal as 60sqm of ROS would be provided per dwelling.
- 2.13 Given that this requirement was tied to the original outline permission, the applicant has now provided the above in good faith. The allotments also include a water supply with the land now transferred to the Parish Council and hence why it is excluded from the red line plan under the current proposal. The applicant considers that this should be raised as a material consideration based on the benefit to the local community. Furthermore, the submitted information adds that the current application proposes improvements to the overall design and layout, with a smaller bed mix and does not remove the fact that the benefit (allotments) has already been provided.

Footpath Provision

- 2.14 As highlighted by the agent, the development of the site would result in significant benefits to the community through the provision of a footpath to the opposite side of Green Lane and without the approval of the current proposal, the footpath would not be provided.

Affordable Housing

- 2.15 The link between this and the two other sites removed the requirement for an individual calculation for each site, in respect of affordable housing provision and was considered across the three outline applications at that time.
- 2.16 The current application falls below the threshold in terms of affordable housing provision and the agent has stated that it is their understanding that Members are not contesting this but the affordability of the proposed dwellings due to them being detached and therefore 'executive.'

Landscaping

- 2.17 The applicant has acknowledged the comments raised by Members in respect of the proposed landscaping of the site. Whilst it was considered that this matter was addressed by the case officer in the January Planning Committee meeting, the applicant has revised the landscaping scheme to include a species rich, wetland meadow to the north west boundary (drainage easement area) of the site and some additional tree and frontage landscape planting.

Conclusion:

- 3.0 Members have asked Officers to look at alternative and more affordable proposals that the community would be more likely to support. The applicant has not submitted the application as an affordable housing scheme so it cannot be assessed as such. However the applicant has submitted additional information that highlights that the proposals would provide family accommodation as required by the local community and the scheme would provide 4 three bedroom detached houses and a two bed bungalow. The Strategic Housing Market Assessment (SHMA) identifies the need for three bedroom properties and recognises the potential role of bungalows and the role they play in providing suitable accommodation for older people. Officers consider that the provision of three bedroom properties and bungalows to be a material consideration in the determination of this application.
- 3.1 As the previous Officer's report confirmed the proposed scheme is for 5 dwellings and located on land outside the development limits of North Duffield which is a Designated Service Village. The proposal is contrary to Core Strategy Policy SP2A(c) and so is not in accordance with the Development Plan and should be refused unless material considerations indicate otherwise.
- 3.2 Officers consider that one such material consideration is the NPPF which states that proposals for housing should be considered in the context of the presumption in favour of sustainable development and which seeks to boost the supply of housing. In applying the principles of the proposal against the NPPF, the development would bring economic benefits as it would generate employment opportunities in both the construction and other sectors linked to the construction sector. The proposal would also bring additional residents to the area who in turn would contribute to the local economy through supporting existing local businesses and facilities.

- 3.3 The development takes into account environmental issues such as ecology, flooding and impacts on climate change and the benefit of the existing local services within North Duffield and access to public transport, means the need to travel by car can be reduced. The proposals are also considered to be acceptable in respect of the access, layout, impact upon residential amenity, drainage and contamination in accordance with adopted Local Plan policy. It is, therefore, considered that the development would bring significant economic, social and environmental benefits to the village of North Duffield and that there would be no harm to matters of acknowledged importance.
- 3.4 Whilst recognising the conflict with the adopted and up-to-date settlement boundary, it is not considered that approving the application would cause serious harm to the Council's strategy for the provision of housing. Designated Service Villages such as North Duffield have been identified in the Core Strategy as having some capacity for additional residential development and the application land has been assessed as being an appropriate location for housing and has previously been included in the Council's 5 year housing land supply figure. Other land between the western edge of the defined Development Limits and Moses Drain has also been granted planning permission. It has been suggested that North Duffield has seen a relatively small amount of new development in recent years, particularly when compared to other DSVs, and that the village would benefit from a small number of appropriately sited additional houses such as is now proposed.
- 3.5 In recommending that the Committee approve this application, Members are requested to recognise that the application is not in accordance with the Development Plan but that the nature and extent of the material considerations justify a decision that is contrary to the provisions of the Plan. Therefore, subject to the recommended conditions and the material considerations as set out in this report outweigh the conflict with the Development Plan to the extent that planning permission should be granted.

4. RECOMMENDATION

This application is recommended to be GRANTED subject to the following conditions and completion of Section 106 in relation to Recreational Open Space:

01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

02. The development hereby permitted shall be carried out in accordance with the plans, drawings and documents listed below:

- P16 5022 11- Proposed Floor Plans & Elevations - 3 bed - Fishergate
- P16 5022 12 - Proposed Floor Plans & Elevations - 3 bed - Fishergate
- P16 5022 13 - Proposed Floor Plans & Elevations - 3 bed - Swale (AS)
- P16 5022 14 - Proposed Floor Plans & Elevations - 2 bed bungalow - BU4 (AS)
- P16 5022-120 Rev E – Site Layout showing Landscape Proposals
- P16 5022-111 Rev E – Site Layout
- P16 5022- 112 – Garage Details
- P16 5022-113 - Boundary Treatments
- P16 5022–114 – Location Plan
- 12370-5002-01 Rev 5 - Site Layout
- 12370-5002-02 Rev 6 – Kerbing Plan
- 12370-5002-03 Rev 6 – Section 278

- 12370-5002-04 5 Typical Highway Construction Details (Sheet 1)
- 12370-5002-C-05 Rev 7 - Drainage Layout Plan
- 12370-5002-C-09 Rev 1- Site Layout Tracking
- 12370-5002-06 7 – Surfacing Plan
- 12370-5002-07 – Porous Paving Detail
- 12370-5002- 08 Rev 2 – Private Drive Construction Details & Storm Cell Details
- Sewer Site Plan received on 31.03.2020
- 12370-5002-11 – Vehicle Swept Path

Reason: For the avoidance of doubt

03. A) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation for an Archaeological Strip, Map and Record prepared by MAP Archaeological Practice (Ref: Vers. A031019).B).

B) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Sub Section (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure compliance with Policy ENV28 of the Selby District Local Plan and Section 12 of the NPPF as the site is of archaeological interest.

04. No part of the development shall be brought into use until the access to the site at Green Lane, North Duffield has been set out and constructed in accordance with the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements:

The crossing of the highway verge and/or footway must be constructed in accordance with the approved details and/or Standard Detail number A1 and the following requirements.-

- a. Any gates or barriers must be erected a minimum distance of 6 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway
- b. 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
- c. The final surfacing of any private access within 6 metres of the public highway must not contain any loose material that is capable of being drawn on to the existing or proposed public highway
- d. Measures to enable vehicles to enter and leave the site in a forward gear. All works must accord with the approved details.

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

05. Prior to first occupation of the development hereby approved, the following schemes of off-site highway mitigation measures must be completed as indicated below:

- a) Provision of a 2 metre wide footway on both sides of Green Lane prior to first occupation of dwellings

- b) Increased width of carriageway, including new carriageway, tie in and resurfacing of existing carriageway at Green Lane, North Duffield prior to commencement on site;
- c) Provision of tactile crossing point prior to first occupation.

For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority

An independent Stage 2 Road Safety Audit carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site.

A programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site.

Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

Reason: To ensure that the design is appropriate in the interests of the safety and convenience of highway users.

06. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users at the site on Green Lane, North Duffield have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

07. No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved details. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

1. Wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
2. The parking of contractors' site operatives and visitor's vehicles;
3. Areas for storage of plant and materials used in constructing the development clear of the highway;
4. Details of site working hours to include delivery, loading and unloading of goods and vehicle movements;
5. Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: In the interest of public safety and amenity.

08. The site shall be developed with separate systems of drainage for foul and surface water on and off site. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority. Works shall be carried out in accordance with the approved details and prior to occupation of the site.

Reason: In the interest of satisfactory and sustainable drainage.

09. No development approved by this permission shall be commenced until the Local Planning Authority, in consultation with Ouse & Derwent Internal Drainage Board, has approved a Scheme for the provision of surface water drainage works. Any such Scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

The following criteria should be considered:

- Discharge from “greenfield sites” taken as 1.4 lit/sec/ha (1:1yr storm). The total discharge from the new development site shall therefore not exceed 1 litres per second.
- Storage volume should accommodate a 1:30 year event with no surface flooding and no overland discharge off the site in a 1:100 year event. A 30% allowance for climate change should be included in all calculations. A range of durations should be used to establish the worst-case scenario.

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

10. The development hereby approved shall not be brought into use until the noise mitigation measures within the submitted Addendum Noise Report (dated 5th July 2019) prepared by Environmental Studies - Leeds City Council have been provided on site.

Reason: In accordance with Core Strategy Policy SP19 and in order to ensure that the amenities of the occupants of the dwellings hereby approved are not adversely affected by noise from vehicle movements on Market Weighton Road (A163).

11. No new buildings, structures, walls, fences, trees or other planting or obstruction shall be erected or placed within 9 metres of the bank top of Moses Drain.

Reason: To maintain access to the watercourse for maintenance or improvements.

12. There must be no raising of ground levels in Flood Zone 3 (as per the flood map for planning on the Environment Agency website), and all spoil / arisings are to be removed from the floodplain.

Reason: To ensure that there is no loss of flood storage, and that flood flows are not displaced onto others.

13. The development hereby permitted shall be carried out in accordance with the mitigation measures set out in the following documents:

- Revised Construction Ecological Management Plan (CIEM) & Ecological Enhancement Management Plan (EEMP) prepared by Wold Ecology Ltd and received on the 22.04.2020

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 and in accordance with the requirements of the National Planning Policy Framework (NPPF).

14. The external face of the frames of all windows and doors shall be set in reveals of at least 50mm from the front face of the brickwork.

Reason: In the interests of the character and appearance of the area.

15. All soft landscaping comprised in the approved plans shall be carried out in the first planting and seeding season following the first occupation of the dwellings or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of **five** years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development.

Reason: In accordance with Local Plan Policy ENV1 and because a well-designed landscaping scheme can enhance the living environment of future residents, reduce the impact of the development on the amenities of existing residents and help to integrate the development into the surrounding area.

16. Prior to occupation by the first residents of the dwellings hereby approved, details of electric vehicle recharge points for electric vehicles shall be submitted to and approved in writing by the Local Planning Authority, and thereafter shall be provided in accordance with the approved details and subsequently retained for that purpose.

Reason: To promote and incentivise the use of low emission vehicles on site; to reduce the overall emission impact of development related traffic and in accordance with policy SP15 B. f) of the Core Strategy.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

Reason: In accordance with Local Plan Policy ENV1 and to ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity the development.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A or B and Part 2 of Class A including the erection of buildings or structures, the construction of gates, walls, fences or other means of enclosure, other than those shown on the approved plans shall take place to any elevation of the dwelling houses hereby permitted without the grant of a separate planning permission from the Local Planning Authority.

Reason: in accordance with Local Plan Policy ENV1 and as the Local Planning Authority considers that further development could cause detriment to the amenities of

the occupiers of nearby properties and detriment to the character of the area and for this reason would wish to control any future development.

INFORMATIVES

Highway Works

Notwithstanding any valid planning permission for works to amend the existing highway, there must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and North Yorkshire County Council as the Local Highway Authority. To carry out works within the highway without a formal Agreement in place is an offence.

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

https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%20and%20highways%20and%20pavements/Specification_for_housing_ind_est_roads___street_works_2nd_edi.pdf

Yorkshire Water Services

The developer should also note that the site drainage details submitted have not been approved for the purposes of adoption or diversion. If the developer wishes to have the sewers included in a sewer adoption/diversion agreement with Yorkshire Water (under Sections 104 and 185 of the Water Industry Act 1991), they should contact our Developer Services Team (tel 0345 120 84 82), email: technical.sewerage@yorkshirewater.co.uk at the earliest opportunity. Sewers intended for adoption and diversion should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition, as supplemented by Yorkshire Water's requirements.

Board's Consent

Under the Land Drainage Act 1991 and the Boards' byelaws, the Board's **prior written** consent (outside of the planning process) is needed for:

- a. Any connection into a Board maintained watercourse, or any ordinary watercourse in the Board's district.
- b. Any 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.***
- c. Works including the creation of an outfall structure (including those associated with land drainage), bridges, culverting etc. into a Board maintained watercourse, or any ordinary watercourse in the Board's district.
- d. Any construction, fencing or planting within 9 metres of a Board maintained watercourse (as shown

The Board does not, generally, own any watercourses and the requirement for you to obtain the Board's consent is in addition to you obtaining consent from any land owner or other authority to carry out the relevant works.

Full details of the Consent process can be found on our website:-
<http://www.yorkconsort.gov.uk>

Erections within 9 metres of the Watercourse

The Board's consent is required for any construction, fencing or planting within 9 metres of the top of the embankment of a Board maintained watercourse.

The Board notes that the applicant proposes to erect a fence and wall within 9 metres of the watercourse, as well as a parking area for plot 5.

Consent for this has not been obtained and will need to be discussed, and agreed, with the Board prior to the erection of the same.

The Board can agree, in principle, for the fence, wall and parking area to be erected within the 9 metre easement area but the exact location will need to be agreed with the Board and subject to certain conditions.

Maintenance Responsibility - General

The proposed development is within the Board's area and is adjacent to Moses Drain, which at this location, is maintained by the Board under permissive powers within the Land Drainage Act. 1991. However, the responsibility for maintenance of the watercourse and its banks rests ultimately with the riparian owner.

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 2019/0759/FUL and associated documents.

Contact Officer: Mandy Cooper (Senior Planning Officer)

Appendices:

1.- Report to Planning Committee **(2019/0759/FUL)** 27th January 2021