



**Report Reference Number:** 2021/0913/S73

**To:** Planning Committee  
**Date:** 8 December 2021  
**Author:** Gareth Stent (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2021/0913/S73	PARISH:	North Duffield Parish Council
APPLICANT:	Yorvik Homes Ltd	VALID DATE:	23rd July 2021
		EXPIRY DATE:	17th September 2021
PROPOSAL:	Section 73 application to remove condition 07 (Highway Improvement Works) of approval 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) granted on 13 March 2018		
LOCATION:	Green Lane North Duffield Selby North Yorkshire		
RECOMMENDATION:	APPROVE		

This application has been brought before Planning Committee at the request of Cllr Karl Arthur. Also, 14 letters of representation have been received, which raise material planning considerations in objection to the scheme and Officers would otherwise determine the application contrary to these representations.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site consists of a 9-dwelling residential development to the west of North Duffield. The residential permission is developed out by virtue of the 2015 outline consent and 2018 reserved matters permission by Yorvik Homes. The dwellings are large, detached family homes that front Green Lane, with gardens extending west. The new houses are accessed from Green Lane via 2 private drives known as Walbut Close and Derwent Close.

- 1.2 Opposite the site is an established part of North Duffield, with dwellings fronting Green Lane and a small cul-de-sac known as Maple Drive. The site frontage spans from No.21 – No.37 Green Lane. Green Lane is an adopted highway with only partial footpaths on its southern side.

### **The Proposal**

- 1.3 This 'section 73' application is to remove condition 07 of the reserved matters application 2018/0273/REM, which relates to off-site 'highway improvement works' i.e., the need to create a new footpath to serve the residential development.
- 1.4 The extent of the highway improvement works have previously been agreed and the condition discharged through application 2019/0658/DOC. This showed a new footpath on the south side of Green Lane, opposite the site in question and within the highway verge. This improvement work stretched from No 29 - No.21 and would involve some cutting back of the hedges of the residential dwellings on the south side of Green Lane that overhang the highway verge.
- 1.5 Following discussions between the applicants, NYCC Highways officers and residents on the south side of Green Lane, the applicants now do not wish to undertake the construction of a new footpath outside the site and are applying for the condition, which requires them to undertake these works to be removed.
- 1.6 The justification behind this is that the residents of the south side of Green Lane do not want any disruption to the hedgerow that exists along Green Lane and the NYCC highway officer does now not consider the footpath necessary, as it doesn't fully link to the east and no crossing is provided to the new residential development.

### **Relevant Planning History**

- 1.7 The following historical application is considered to be relevant to the determination of this application.
- CO/1988/0377 - Outline application for residential development on 0.2ha of land at, Field 209, Frontage to Green Lane, North Duffield, Decision: Refused: 28-APR-88.
  - 2015/0520/OUT, Outline application (with all matters reserved) for residential development (9 dwellings) on land to the north-east of Kapuni Green Lane, North Duffield, (Permitted 08-OCT-15).
  - 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 North-east Of Kapuni, Green Lane, North Duffield, Selby, North Yorkshire. Decision: (Permitted 17-MAY-18).
  - 2019/0658/DOC: Discharge of conditions 3 (Drainage), 4 (Archaeology), 6 (Drainage), 9 (Contamination), 10 (Contamination) and 11 (Contamination) of approval 2015/0520/OUT and conditions 2 (Materials), 3 (Floor Levels), 5 (Highways) and 7 (highways) of approval 2018/0273/REM. Land To North-east Of Kapuni, Green Lane, North Duffield, Selby, North Yorkshire, (Permitted Decision:16-DEC-19).

## 2. CONSULTATION AND PUBLICITY

- 2.1 North Duffield Parish Council – strongly object to the removal of the condition to install a footpath on part of Green Lane. No objections were received by any member of the public on the application made on 2018/0273/REM, which included the proposed new footpath as part of the consultation process for that application. The footpath was therefore a condition of the original plan and should be installed as soon as possible. At the very least it should be installed on the side where the new houses have been built if only to tidy up that side of the road. However, the Parish Council preference strongly remains for it to be built on the opposite side to join up existing footpaths.

The Chair and Vice Chair of North Duffield Parish Council met with a NYCC Highways Officer in 2020 and restated their desire as a Parish Council that North Duffield needed a footpath. The Officer even agreed that a 1.1-metre-wide path was a suitable option, if not ideal. The ‘agreed’ footpath is a necessity due to the increased traffic and proximity to the local primary school. It is essential to have a continuation of the footpath along the length of Green Lane and should not be removed as a condition of this application.

It was a Highway Authority requirement at the outline planning stage for the footpath to be on the opposite side of Green Lane to the development site to link up with existing lengths of footpath to the north east and south west.

Some but not all of the hedgerows in front of the houses opposite the development site are remnants of old field boundaries but these are only short lengths of older hedge which are low level and manicured. They are not continuous and interspersed with urban planting and driveways. In contrast, the hedge along the development site which is also an old field boundary hedge is largely intact, much more substantial and therefore of greater value for wildlife.

The hedges opposite the development site encroach on the highway verge and need to be cut back in any case. The Highway Authority has agreed to do this which will increase the width of the potential footpath.

It is understood that the Highway Authority considers the footpath cannot be justified and the planning condition requiring it can therefore be set-aside. The PC totally rejects this and can think of no reasons why there should not be a useable convenient footpath along Green Lane which is already a narrow road and there are no opportunities to widen it. It is already used by pedestrians from Maple Drive including school children accessing the school and pedestrians accessing the allotments. A footpath that is as near continuous as possible is essential. It makes no sense to make people cross Green Lane twice to move from footpaths on one side of the lane to the other and then back again. It would be easier to walk in the road as many people do at present which is unacceptable. If the requirement for a footpath is not honoured by the developer, then people will still need to walk in the road until a pathway is ultimately created - probably by Highways themselves - and then subject to further delays. It would seem that this merely delays the solution rather than prevents a path being created for the benefit of the Village.

- 2.2 NYCC Highways – (3.8.21) The Highway Authority has assessed the application and note the proposed footway does not link to the approved site, no crossing of

Green Lane has been agreed or approved and the footway provision does not fully extend between the existing footways along Green Lane, so the County Council supports the discharge the Section 73 application to remove condition 07 (Highway Improvement Works) of approval 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 (9dwellings).

## **Publicity**

- 2.3 The application has been publicised by means of a press notice (12.8.21) and a site notice.
- 2.4 The application was called to committee by Cllr K Arthur for the following reason: *“Footpath required on Green Lane as part of planning condition for housing development in this area to help improve residential amenity. Parish Council concerned that this will not be included.”*
- 2.5 14 letters of objection have been received. The concerns were as follows:
- Sold the land to Yorvik homes in 2018 after they acquired planning permission and this included the requirement to construct the footpath in the price.
  - The amount of traffic and pedestrians using the lane has increased and a footpath link to the village has been needed for some time.
  - The existing rough grass verge is causing injury to pedestrians as pedestrians use the verge to get out of the way of cars.
  - The application has been prompted by complaints from householders on the opposite side of Green Lane, saying the footpath would mean their frontage hedges would have to be cut back and these are ancient hedges. The fact that these hedges have encroached onto the highway means they should be cut back. The hedge on the Yorvik homes site is actually an ancient field boundary which is still largely intact and provides a wildlife habitat.
  - There is no reason why the footpath should not be constructed as it's a much-needed facility for the village particularly with regards to the safety of Green Lane. It would join up the existing footpath eradicating the missing elements to create a complete path along Green Lane.
  - As the installation of a continuous footpath along Green Lane was a condition of the original application, fail to understand how it can now be deemed as not necessary.
  - Following completion of the new development along Green Lane, the completion and usage of the allotments, as well as the further development now taking place along York Road there is an increased volume of traffic, both vehicular and pedestrian in Green Lane so surely for the safety of all the installation of a continuous footpath is more essential.
  - It will enhance pedestrian safety and makes sense to have it on the south side where the existing path joins.

- Families with children have to use this piece of road to get to school, the shop and the playing field, and many village residents regularly walk around the village, along here. The condition to put in a footpath was there for a purpose, and lives are surely more important than hedges.
- Often find driving down the road and having to avoid pedestrians. It's an accident waiting to happen.
- On the original application no objections were made or received to this footpath. Aware that there are some new residents who may be affected who are now complaining, however due diligence at the time of purchasing their properties would have highlighted the fact that this footpath was due to be installed.
- A 1.1m footway is better than no footway at all.
- Unfortunately, when the plans for the Maple Drive development at the top of Green Lane were granted, the footpath should have been included as a condition.
- As the developers were required to provide a footpath for this section of Green Lane - then this should be completed. This could be achieved by the developers adding a path to the frontage of their development which has been decimated and has not been protected as it should have been during the development.

#### 2.6 5 letters of Support (2 from same household affected by the works)

- The pavement should be on the Yorvik Homes side of the road where the pavement can be made wider to enable people to pass safely. If it's put on the south side, it will not be suitable or safe for the residents to use. It also wouldn't be disturbing anyone's driveways as there are currently only grass edges there at present.
- All the hedges will die, causing destruction for the local wildlife. Also, the proposed width is not wide enough for 2 people which would mean the risk of potential trip hazard with the elderly having to go up and down the kerb. Also, not wide enough for electric wheelchairs.
- Fully support that the proposed footpath application is being removed as the damage to the residents' hedges would be irreparable, also the fact that there is not enough room on that side of the verge for a decent size footpath is ridiculous, especially when there is plenty of room on the other side of the road for a decent sized footpath without damaging anyone's property.
- The footpath would not join together and also wouldn't allow an adult and child to walk side by side as it isn't wide enough) the housing developer has already destroyed sections of hedge opposite. Removing or damaging the hedges would go against the VDS for North Duffield, it's called Green Lane for a reason.

2.7 A further letter was received objecting to the way in which land to the rear of the Yorvik homes development was being used. This doesn't relate to this application and therefore carries no weight.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The application site is now a developed out residential site within the open countryside, having previously been supported for residential development in 2015. There are no statutory national or local landscape or wildlife designations covering the site and there is no Conservation Area or nearby listed buildings that are affected. The majority of the site is located within Flood Zone 1, however parts of the rear of the dwellings are within Flood Zone 2, and therefore have a medium risk of flooding. The position of the footpath in question is within the development limits and within Flood Zone 1.

### **4 POLICY CONSIDERATIONS**

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State, and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options 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 (July 2021) (NPPF) replaced the February 2019 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 2021 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

*"219. ....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  
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  
T1 - Development in Relation to Highway  
T2 - Access to Roads

4.8 North Duffield Village Design Statement Feb 2012.

#### Highway and parking advice

“B13 Safety is paramount, but modern standardised road designs do not always sit comfortably within historic areas. When designing road layouts, it is important that a balance is achieved to allow safe access without detriment to the local character. This means that a bespoke design will be needed.”

“B15 New accesses should be designed to minimise the loss of boundary vegetation and achieve an appropriate balance between highway safety and amenity.”

#### The natural environment

“B19 Hedges and trees within the village are an essential part of the character. These should be conserved and reinforced through new planting in any new development whether small or large”

## **5 APPRAISAL**

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

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Highways safety
- Conditions

#### Principle of Development

5.2 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."

5.3 This particular section 73 application is for the removal of condition 7, which was attached to the reserved matters consent requiring the developer to undertake highway improvement works, which meant the provision of a footway outside the site on the southern part of Green Lane.

5.4 Condition 7 reads:

*Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the approved development until a detailed specification for the highway improvement works shown on approved drawing number 1449.01 has been submitted to, and approved in writing by, the local planning authority. The specification shall include a programme for the completion of the works. Thereafter, the works shall be completed in accordance with the agreed specification.*

*Reason: In accordance with policy ENV1 of the Selby District Local Plan and to ensure that the details are satisfactory in the interests of the safety and convenience of highway users.*

5.5 Therefore whilst the issuing of a section 73 forms a new permission, this doesn't not revisit the principle of allowing dwellings within the countryside, as this has already been established within the outline and the dwellings have been built out. The application therefore only considers if the condition is still reasonable and necessary to make the development acceptable in planning terms and assesses the impact of not providing the footpath.

5.6 It is clear that footpath improvement works were a condition suggested by NYCC Highways team at the reserved matter stage and this was in response to a drawing provided by Paragon Highways consultants drawing number 1449.01. This clearly showed the improvement works to be undertaken on the south side of Green Lane i.e., opposite the application site and stretched approximately 74m. The works included 4 sections of footpath to be created starting outside No.29 Green Lane and linking with the existing footpath to the west that serves Maple Drive. The last section of improvement terminated outside No.21 opposite where the site finishes.

5.7 Having assessed the reserved matters application, this does not discuss this footway within the delegation report, however, simply adds the condition suggested by the highway officer. The condition at the time, was considered to meet the six tests in that the proposal was increasing the number of dwellings using the lane, and therefore enhancement was required. There were no third-party representations made in respect of this on the reserved matters submission, however it may have been that the residents opposite hadn't appreciated that the new footway was to go on the south side of Green Lane.



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

- 5.8 The installation of the footpath (1.1m) on the south side of Green Lane, will create a more engineered surface than currently exists. The current section where the improvement works are suggested are grass verges leading onto the metalled part of the highway and hedges, which partially overhang the verge. Green Lane is characterised for its hedges and the rural lane feel, therefore the introduction of a footpath will undoubtedly cause some harm to this character.
- 5.9 It is unclear if the improvement works would lead to the total loss of some of the boundary hedging, as it may be that the root systems would be disturbed/cut and compacted to provide the engineered surface. Some hedging would however have to be cut back to facilitate this and each species may react differently. Therefore, it is envisaged that there would be some harm to the character and appearance of the area to facilitate the construction of the footpath. The issues concerning hedge removal have been commented on by those residents directly affected, who do not wish to see the footpath installed. These residents however did not object to the reserved matters approval, however it is unclear if the residents were actually aware of the footpath being proposed on the south section of Green Lane, as this wasn't shown on the original plans.
- 5.10 The recent development to the east of the proposed footway of the dwelling known as Emmaus (2018/1428/FUL) involved the demolition of a bungalow and the erection of 3 dwellings. This had a similar hedge on the frontage and the developer removed this, created the footpath and replanted a laurel hedge stepped back from the highway to recreate the green frontage. This demonstrates that the green feel of the lane could perhaps be recreated. Finally, as denoted in the representations, many comments feel that the hedge on the northern side of Green Lane is of more historical value and therefore this is the one that should be retained.

## Impact on Highways

- 5.11 The condition was imposed on the reserved matters scheme "*in the interests of the safety and convenience of highway users*". The additional 9 dwellings will inevitably mean more vehicle and pedestrian movements on the lane and any pedestrians heading into the centre of the village would have to walk on the road for short distance until they can join the footpath outside No.1 Green Lane.
- 5.12 Therefore the provision of a new footpath would stretch the length of the site frontage (74m) and link with the footpath outside No.29 and extend east. The works terminate outside No.21. This previously did not link directly with the footpath to the east as this formally terminated outside No.1, however the recent building of 3 dwellings under 2018/1428/FUL, means that this area of the highway now has a footpath and terminates at the telegraph pole adjacent to No.19. This means that there would be a short 5-6m gap of no footpath outside the frontage of No.19 that doesn't provide the linkage.
- 5.13 The Highway Authority has assessed the application and noted that the proposed footway does not link to the approved site, as no crossing of Green Lane has been agreed or approved and the footway provision does not fully extend between the existing footways along Green Lane, so the County Council supports the condition removal.

- 5.14 The comments from the Highway Officer are noted, however Officers feel the lack of a crossing shouldn't be a determining factor as to remove the condition, as the south side of Green Lane has many dropped kerbs where accesses to drives exist and crossing can be achieved, albeit this are not up to modern day standard. Also, it was within the gift of NYCC Highways to include a crossing point had they so wished when they agreed the extent of the works and when the condition was discharged.
- 5.15 There is no direct highway safety implication, as the dwellings are built and the current situation exists, however a footpath would provide a safer environment for the small stretch of the lane. Members will have to consider if the footpath is absolutely necessary, or whether the development would have been permitted without any highway improvement works. Officers consider that had the condition not been imposed, it's unlikely that refusal could have been substantiated, as paragraph 11 of the NPPF states:
- “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*
- 5.16 As such it is considered that the proposal to remove the need to create the footway would not lead to adverse highway conditions in this locality and the proposal is considered to accord with Policies ENV1 (2), T1 and T2 of the Local Plan and Paragraphs 110 -112 of the NPPF.

#### Conditions

- 5.17 When considering section 73 applications it is necessary to assess what conditions have been discharged and those that need to be reimposed. In this case the outline and reserved matters provide the framework for the decision. Discharge of Condition application 2019/0658/DOC dealt with the following:

#### Outline

Conditions 3 (Drainage), 4 (Archaeology), 6 (Drainage), 9 (Contamination), 10 (Contamination) and 11 (Contamination) of approval 2015/0520/OUT.

#### Reserved Matters

Conditions 2 (Materials), 3 (Floor Levels), 5 (Highways) and 7 (highways) of approval 2018/0273/REM.

Condition 1 - relates to the list of approved plans. Reference to Plan 1449.01, Section 287 Footway Design; and 1449.02 Green Lane, North Duffield, Footway Plan needs to be omitted.

Condition 2 - relates to materials and has been discharged and the scheme built out so is no longer necessary.

Condition 3 - relates to floor levels and has been discharged and the scheme built out so is no longer necessary.

Condition 4 - relates to landscaping and convers 5 year tree loss so is therefore retained.

Condition 5 - concerns the vehicular accesses to the site and is now complete and has been discharged. It is however retained due to its wording.

Condition 6 - relates to visibility splay and again is retained due to its wording.

Condition 7 - is the condition in question so is deleted within the recommendation.

Condition 8 - relates to parking and manoeuvring areas to be constructed. This can be deleted as the site is developed out.

## **6 CONCLUSION**

- 6.1 The application seeks to remove the need to install a footpath on a recently completed 9 dwelling residential scheme granted in 2018.
- 6.2 The wider application site lies within open countryside; however, the scheme is now fully developed out. The off-site highways works were imposed at the request of the Highways Officer, however, have not been completed. This is because residents on the south side of Green Lane are concerned about their frontage hedges which would have to be cut back to facilitate the development. This is likely to have some visual impact on Green Lane, however the advantages to the scheme are that 70m of pathway would be created and link from the west, however it would not link to the east due to a small section which isn't included.
- 6.3 The application has received significant representations in objection to the loss of the potential footway, however the need for it is no longer supported by NYCC Highways Officer due to the path not fully linking with the current footpath and the lack of suitable crossing to the new development.
- 6.4 Whilst Officers appreciate the advantages the footway would bring to parts of Green Lane, its lack of provision is not considered to significant harm highway safety and given the comments from the highway officer a refusal could not be substantiated. Therefore, the removal of the need to provide a footway is recommended to be removed.

## **7 RECOMMENDATION**

This application is recommended to be Granted subject to the following conditions:

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

- 2286\_PL\_002A, Application Site Plan and Location Plan (9 units)
- P18:5157:01, Planning layout;
- P18:5157:11, FISHERGATE - AS PROPOSED PLANS AND ELEVATIONS
- P18:5157:12, FISHERGATE - OP PROPOSED PLANS AND ELEVATIONS
- P18:5157:13, CHURCHILL - AS PROPOSED PLANS
- P18:5157:14, CHURCHILL - AS PROPOSED ELEVATIONS
- P18:5157:15, SPURRIERGATE - AS PROPOSED PLANS AND ELEVATIONS
- P18:5157:16, SPURRIERGATE - OP PROPOSED PLANS AND ELEVATIONS
- P18:5157:17, TYPE G - AS, PROPOSED PLANS
- P18:5157:18, TYPE G - AS PROPOSED ELEVATIONS
- P18:5157:19, CHURCHILL - OP PROPOSED PLANS

- P18:5157:20, CHURCHILL - OP PROPOSED ELEVATIONS
- P18:5157:21, BOUNDARY TREATMENTS 1800mm HIGH BRICK WALL
- P18:5157:22, BOUNDARY TREATMENTS 1800mm HIGH TIMBER FENCE
- P18:5157:23, BOUNDARY TREATMENTS 900mm HIGH METAL RAILINGS
- P18:5157:24, PROPOSED GARAGE DETAILS
- P18 5157 100, LANDSCAPE PROPOSALS

Reason:

To ensure that no departure is made from the details approved and that the whole of the development is carried out, in order to ensure the development accords with Selby District Local Plan Policy ENV1

02. All planting, seeding or turfing comprised in the details of landscaping shown on approved drawing P18 5157 100 shall be carried out in the first planting and seeding seasons following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner. Any trees which die, are removed or become seriously damaged or diseased within the first five years shall be replaced in the next planting season with others of similar size and species.

Reason:

To ensure that the proposed landscaping is implemented and becomes established in order to comply with Policy ENV1 of the Selby District Local Plan.

03. No other development shall take place until the vehicular accesses to the site have been set out and constructed in accordance with a specification that shall first have been submitted to, and approved in writing by, the local planning authority. The specification shall include the following:

- 6 metre radius kerbs,
- a minimum carriageway width of 4.5m;
- provision to ensure that any gates or barriers shall not be able to swing over the existing or proposed highway; and
- measures to prevent surface water from the site/plot discharging onto the existing or proposed highway.

Once created, the vehicular access shall be maintained clear of any obstruction to its proper use and retained for its intended purpose at all times.

Reason:

In accordance with policy 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.

04. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site accesses) until splays to the proposed vehicular accesses have been provided giving clear visibility of 45m measured along both channel lines of the major road (Green Lane) from a point measured 2m down the centre line of the access road. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with policy 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.

## **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 2021/0913/S73 and associated documents.

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**Appendices:** None