

**Report Reference Number:** 2021/1087/FULM

**To:** Planning Committee  
**Date:** 12 January 2022  
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**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2021/1087/FULM	PARISH:	Selby Town Council
APPLICANT:	Parkside Corporation Investment Opportunities Ltd	VALID DATE: EXPIRY DATE:	31st August 2021 30th November 2021
PROPOSAL:	Development of one ground floor commercial unit [class uses E[a] and E[b] and 13 no. residential apartments to include landscaped gardens; cycle storage and refuse storage provision; access and flood barrier walls		
LOCATION:	Toll Bridge Filling Station (Derelict) Ousegate Selby North Yorkshire		
RECOMMENDATION:	<b>APPROVE</b> subject to a Unilateral Undertaking		

This application has been brought before Planning Committee due to the level of affordable housing being proposed.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site is located within the defined Development Limits of Selby, which is a Principal Town in the Selby District Core Strategy settlement hierarchy and the primary focus for new development, including housing, in the district.
- 1.2 The proposal site comprises a former filling station (now demolished) and at approximately 0.75ha is therefore classed as Previously Developed Land (Brownfield). The site also includes a small area of open space to the east side and adjoining existing residential development, which is owned by Selby District Council and defined on the Local Plan Selby inset map as a Local Amenity Area (Policy

ENV29). Immediately east of the site is a former wharf, which is now occupied by several townhouses. To the south side of Ousegate are a number of mostly older two and three storey buildings, which are in commercial use, several of which are Grade II Listed Buildings. The site is within the Selby Town Conservation Area. There is also a relatively modern building situated to the northern corner to the Ousegate junction with The Crescent, which comprises flats. West of the site and beyond the Ousegate Bridge is an area of public realm comprising seating areas with low level tree planting and shrubs; south of which are a varied range of commercial buildings with flats above.

- 1.3 The site is situated in a prominent waterfront position to the corner of Ousegate, immediately northeast of the entrance to Selby town centre and New Street, which merges into Barlby Road (A19) and the former toll bridge which crosses the River Ouse.
- 1.4 The application site is also included within the Selby Gateway Scheme, which is funded by the Transforming Cities Fund. This is an important programme of investment which aims to enhance the existing public realm, walking and cycling routes, with improved visual amenity and an improved gateway experience at the Selby Rail Station. In addition to the station, the site also encompasses five other key areas (Cowie Drive and proposed car park, Crescent /Park Street junction, Olympia Bridge and Shipyard Road), which includes the Ousegate Riverside.
- 1.5 The application site has an extant permission under application ref: 2010/0044/FUL for the: Erection of a building for A1, A2, A3, A4, A5, B1(a) & (b) and D1 use at ground floor and 10 No. dwellings on the upper floors, with ancillary bin and bicycle storage and landscaping of public open space. The approval was subject to a Unilateral Undertaking to secure the Public Open Space, in addition to a number of conditions.

### **The Proposal**

- 1.6 The proposal would provide 13 dwellings, (comprising of 1 no. - 1 bedroom; 10 no. - 2 bedroom and 2 no. - 3 bedroom), the majority of which would be to the upper floors; in addition to one commercial unit [class uses E[a] (display and retail sale of goods, other than hot food) and E[b] (sale of food and drink for consumption (mostly) on the premises) and one residential unit situated to the ground floor.
- 1.7 There would be three distinct blocks to the north side of Ousegate, set back from the Ousegate frontage with a defensible barrier in the form of a low wall with railings above. The boundary wall would also enclose a small open area fronting the ground floor apartment with additional grassed and paved areas fronting the communal access and entry doors to the cycle storage and refuse areas; in addition to two internal stairwells. There would be a public area comprising landscaping with seating areas to the west side and adjoining the commercial unit, with a flood barrier wall located to the rear (north) of the development.

### **Relevant Planning History**

- 1.8 The following historical applications are considered to be relevant to the determination of this application:
  - CO/1994/0449, Alt Ref: 8/19/1200/PA: Conservation Area Consent for the proposed demolition of former Fish & Chip Shop, Ousegate, Selby

Decision: Permitted: 23-FEB-95

- CO/1994/0433, Alt Ref: 8/19/1187/PA: Proposed erection of five flagpoles and flags for Selby Waterfront Project on land at The Nook, Ousegate, Riverbank Ousegate, junction of New Millgate, Holmes Lane, Selby,  
Decision: Permitted: 01-AUG-94
- CO/2003/06848, Alt Ref: 8/19/1463/PA: Proposed construction of and improvement to flood defences: Both sides of River Ouse between River View, Barlby and east Common Lane, Selby  
Decision: Permitted: 08-DEC-03
- 2005/0753/FUL - Erection of building to provide ground floor retail unit with 8 No. apartments above and associated works at Toll Bridge Filling Station, Ousegate, Selby  
Decision: Permitted: 21/09/2005
- 2010/0044/FUL, Alt Ref: 8/19/173F/PA: Erection of a building for A1, A2, A3, A4, A5, B1(a) & (b) and D1 use at ground floor and 10No. dwellings on the upper floors with ancillary bin and bicycle storage and landscaping of public open space: Toll Bridge Filling Station (Derelict), Ousegate, Selby  
Decision: Permitted: 15-MAR-10 This permission is still extant due to a technical commencement having been made.
- 2010/1290/DPC, Alt Ref: 8/19/173H/PA: Application to discharge condition 8 (Landscaping) and part discharge condition 21 (Flood defences and flood gates) of approval 2010/0044/FUL (8/19/173F/PA) for the erection of a building and public open space: Toll Bridge Filling Station (Derelict), Ousegate, Selby  
Decision: Permitted: 19-JAN-11
- 2010/0294/DPC, Alt Ref: 8/19/173G/PA: Application to discharge condition 5 (contaminated land) of approval 2010/0044/FUL (8/19/173F/PA) for erection of a building for A1, A2, A3, A4, A5, B1(a) & (b) and D1 use at ground floor and 10No. dwellings on the upper floors with ancillary bin and bicycle storage  
Decision: Permitted: 23-MAR-10
- 2018/0393/DOC, Alt Ref: Discharge of conditions 12 (drainage), 13 (foul and surface water drainage) and 14 (surface water) of approval 2010/0044/FUL for erection of a building for A1, A2, A3, A4, A5, B1(a) and (b) and D1 use at ground floor and 10No. dwellings on the upper floors with ancillary bin and bicycle storage and landscaping of public open space: Toll Bridge Filling Station (Derelict), Ousegate, Selby  
Decision: Withdrawn: 26-MAR-19
- 2018/0454/DOC: Discharge of condition 19 (energy) of approval 2010/0044/FUL Erection of a building for A1, A2, A3, A4, A5, B1 (a) & (b) and D1 use at ground floor and 10No. dwellings on the upper floors with ancillary bin and bicycle storage and landscaping of public open space: Toll Bridge Filling Station (Derelict), Ousegate, Selby  
Decision: Withdrawn: 26-MAR-19

- 2018/0706/DOC: Discharge of condition 05 (site investigation) of approval 2010/0044/FUL for erection of a building for A1, A2, A3, A4, A5, B1(a) and (b) and D1 use at ground floor and 10No. dwellings on the upper floors with ancillary bin and bicycle storage and landscaping of public open space: Toll Bridge Filling Station (Derelict), Ousegate, Selby  
Decision: Withdrawn: 26-MAR-19
- 2018/0211/DOC: Discharge of conditions 02 (materials), 03 (doors, window frames, glazing bars, rainwater goods, roof vents and ridge tiles), 04 (doors, window frames and glazing bars), 06 (archaeology), 07 (ground preparation), 09 (surface treatment), 10 (lighting), 11 (excavation), 13 (foul and surface water), 16 (noise), 18 (drawings), 20 (display panels) and 21 (flood defences and flood gates) of approval 2010/0044/FUL for erection of a building for A1, A2, A3, A4, A5, B1(a) and (b) and D1 use at ground floor and 10 No dwellings on the upper floors with ancillary bin and bicycle storage and landscaping of public open space: Toll Bridge Filling Station (Derelict), Ousegate, Selby  
Decision: Withdrawn: 26-MAR-19
- 2018/0453/FUL: Section 73 application to vary condition 23 (list of approved plans) of approval 2010/0044/FUL to permit amendments to the elevations to include Velux automatic opening vents [smoke and fire safety], solar photovoltaic panels to roof planes and omission of chimneys: Toll Bridge Filling Station (Derelict), Ousegate, Selby  
Decision: Withdrawn: 26-MAR-19
- 2020/0587/S73: Section 73 application to vary/remove 1-23 conditions of planning permission reference 2010/0044/FUL Erection of a building for A1, A2, A3, A4, A5, B1(a) & (b) and D1 use at ground floor and 10No. dwellings on the upper floors with ancillary bin and bicycle storage and landscaping of public open space: Toll Bridge Filling Station (Derelict), Ousegate, Selby,  
Decision: Withdrawn: 15.10.2021
- 2021/0472/SCN: EIA Screening opinion request for the Selby Gateway scheme. The Proposed Scheme will comprise an enhanced public realm, walking and cycling routes, improved visual amenity and an improved gateway experience at the Selby Rail Station. The scope covers six key elements: Selby Station Gateway, Cowie Drive and proposed car park, Crescent / Park Street junction, Ousegate Riverside, Olympia Bridge and Shipyard Road: Selby Station, Station Road, Selby  
Decision: EIAREQ: 11.05.2021
- 2021/0692/SCP, Alt Ref: EIA Scoping Request for an enhanced public realm, walking and cycling routes, improved visual amenity and an improved gateway experience at the Selby Train Station. The scope covers six key elements: Selby Park and Station Gateway, Cowie Drive and Proposed Car Park, Crescent / Park Street junction, Ousegate Riverside, Olympia Bridge and Shipyard Road: Selby Station, Station Road, Selby  
Decision: Scoping Opinion issued: 29.07.2021

## 2. CONSULTATION AND PUBLICITY

- 2.1 NYCC Highways Canal Road - The Local Highway Authority recommends that conditions are attached to any permission granted and comprising: Detailed plans of road and footway layout; Construction of adoptable roads and footways; Delivery of off-site highway works and a Construction Management Plan. In addition to the inclusion of informatives.
- 2.2 Environmental Health (Initial Response) - Given the proximity of this proposed site to nearby residential properties, there is the potential for construction work to have a detrimental impact on local residents. A condition is recommended for a construction management plan, details of foundation piling and for the hours of construction to be limited. Additional comments relate to the application site being located directly adjacent from the Air Quality Management Area (AQMA) designated by Selby District Council in 2018 on New Street. The reason that the extent of the AQMA has not needed to be extended is due to the open aspect of the area around the traffic lights at the bridge foot. Concerned that a multi-storey building on this site will give rise to another street canyon and further air quality issues. Request an Air Quality Assessment (AQA) is provided to assess the impact on air quality during the construction phases and once the dwellings are in situ.
- 2.3 Environmental Health (2<sup>nd</sup> response) – In respect of Noise, the submitted Assessment shows that enhanced glazing would reduce noise levels to a satisfactory level.
- 2.4 Conservation Officer – General comments in respect of location being a key gateway site into Selby. Refers to site within Conservation Area and proximity to several Grade II Listed Buildings. Various aspects of design details still unacceptable and will not preserve the character or appearance of the Conservation Area.
- Sensitive location therefore use of natural and traditional materials to ensure high quality of development.
  - Natural and traditional materials should be used- Use of concrete and reconstituted products and UPVC windows would be harmful with adverse impact on historic environment.
  - Upvc windows with thick stick-on glazing bars are not advised. Should be timber sash and have integral slender glazing bars.
  - Notwithstanding application details- Require sample panel of brick and stone on site showing pointing and finish.
  - Advises alternative roof pantiles to avoid poor seam to edge.
  - Full details of grey slate sample and its origin are required to ensure appropriate for this location.
  - Gutters and rainwater pipes should be black painted metal and not plastic as shown.
  - Requests that fascia boards or dry verges are not used for gables.
  - Principle of using dormers acceptable but those shown are wider than the windows below and appear top heavy.
  - Windows to ground floor also overly wide.
  - Further details required in respect of door details which should be timber.
  - Natural stone should be used for block paving not concrete and paving setts should be coursed and not in a herringbone pattern.

- Too many Rooflights to front roof slope and should be conservation style being top hung, with lead glazing bar in black painted metal with lead flashings not velux as indicated.
- Insufficient details for boundary treatments - require details of wall, coping, railings and gates and ratio should be more railing and less wall.

## 2.5 Urban Designer - Current proposals not dramatically different from what was submitted previously.

- Suggest small modification to three windows to rear of central block shifting windows to the right.
- Dormers could be smaller.
- Quality of the finished scheme in this gateway location, particularly materials and details, will be critical.
- Materials - Key use of similar brick coursing (Flemish bond) proposed to match other properties along Ousegate acceptable.
- Juliet balconies – Unclear as to whether glass barriers as these are visually jarring elements on the rear elevations.
- UPVC window and door frames - Windows should have sashes that are easily removed and therefore providing 'ease of access' concerns and glazing bars integral to construction. If UPVC is deemed acceptable with slim profile. Suggest reduction in the number of panes on the Georgian property. Sample photo submitted reveals a further difficulty in constructing the building to match the drawings. Windows which have three rows of panes, no break shown to allow to work as sliding sash windows, yet retain the vertical proportions of the panes, as drawn. timber-framed windows could be only option for the Georgian-styled property if this concern cannot be met with UPVC options.
- Landscape- Proposed Communal Garden - Transforming Cities Fund (TCF) regeneration project has direct implications for the proposed character of this space.
- Footpaths should be widened as much as possible, TCF programme is working to improve pedestrian and cycle movement along Ousegate as a whole.
- Security / Privacy - Defensible space should be provided outside ground floor windows (to rear) such as a line of railings would prevent potential security or antisocial behaviour issues.
- Lack of detail for bin storage.
- Details - support the use of chimneys, good proportions to buildings, general approach to fenestration and openings, and attention to detail.- Ensure that openings and blind windows are also recessed to the same extent as windows (minimum 50mm).
- Railings - less height to the walls, and taller railings used to achieve the same boundary heights overall. Side elevations show railings to the ground, rather than seated atop dwarf walls, and should be amended to reflect front elevation drawings.
- Detail and profiles of stone coping used for boundaries required.
- Construction details should be requested at a scale of 1:20.- and should ensure that dry eaves are not used.
- Quality Assurance - If possible, the continued involvement of the architect should be encouraged or enforced, to oversee delivery of high quality detailing, rather than potentially leaving this to a design and build process, or interpretation by a builder. Failing this, other mechanisms for ensuring quality

should be considered, such as staged inspections used in Listed Building works.

- 2.6 County Ecologist – Observations: Clearance of vegetation to be undertaken outside the bird breeding season (March to August inclusive for most species). If this is not possible, a competent person must first check to ensure that no nesting birds are present; any active nests need to be left undisturbed until the young have fledged.
- Applicant will need to show how the proposed development would achieve net gains for biodiversity in line with Para 174d of the NPPF.
  - Do not require a Preliminary Ecological Appraisal but the applicant may wish to discuss with an ecologist how they could incorporate ecological enhancements into the development and compensate for any loss of natural vegetation from the site.
- 2.7 Designing Out Crime Officer - In relation to designing out crime, it is pleasing to note that each apartment is provided with its own secure cycle storage and defensive space created to the front elevation by the wall and railings. No further comments to make regarding the proposal.
- 2.8 North Yorkshire Fire & Rescue Service - Will make further comment in relation to the suitability of proposed fire safety measures at the time when the building control body submit a statutory Building Regulations consultation to the Fire Authority.
- 2.9 Public Rights of Way Officer - No public right of way crosses or abuts the area of indicated in the application. This will be why we have not responded previously.
- 2.10 Canal and River Trust - Site is adjacent to the River Ouse, where the Trust is Navigation Authority. Impact of the Works upon the Stability of the Riverbank
- Essential that works do not impose excessive loading onto the riverbank, and lead to collapse of land into the waterway. Request inclusion of an appropriately worded condition to demonstrate that the development will not result in an increased risk of land instability.
  - Rear elevation of proposed buildings would be highly visible when viewed from the River Ouse and the approach from the road swing bridge.
  - Large box dormer to rear, with greater overall massing viewed from river. Pushing perception of height to potentially uncomfortable level and could over dominate rear of properties, detracting from the character and appearance of the local area and the associated Conservation Area.
  - Lighting - can impact on river navigation - particularly important since the site is close to the toll and railway bridges.
  - Request specific informative is appended to the decision notice: in relation to Trust's 'Code of Practice for Works affecting the Canal & River Trust'
- 2.11 NYCC Archaeology - The site is within the historic core of the medieval town of Selby and occupies a site on the river front. This would have been a vibrant area of the medieval town with varied commerce and industry. Having looked at the case history for the plot it is noted that archaeological works in the form of observation during remedial works has previously taken place. This suggested a high level of disturbance to deposits across the site as a result of later 20th century activity and therefore a relatively low archaeological potential. No objection to the proposal and have no further comments make.

- 2.12 Waste and Recycling Officer – (Initial Response) - Requires further information on the dimensions of the bins storage area to assess whether it is suitable for the number of bins that will be required for these properties.
- 2.13 Waste & Recycling Officer (Second Response) – Having calculated the number and size of bins required for the properties and layouts to show how the bins could be accommodated gives recommendations with regard to door widths (at least 1.58m) for accessibility, floor surfaces should be smooth for accessibility, levels and lighting.
- 2.14 Waste & Recycling Officer (Final Response) – Confirmation that change to ground floor internal layout is suitable.
- 2.15 Education Directorate North Yorkshire County Council - Developer contributions would not be sought for education facilities Should the density of the site change this would be recalculated and may show an increase in the amount of contribution sought.
- 2.16 Landscape Consultant - Site is in a very prominent location. Quality of materials and detailing important and long-term commitment for maintenance and management of the external garden areas.
- Further hard and soft landscape information required which explains quality of external hard landscape, planting, trees, garden areas for: perimeter paths and boundary treatments (to the west / north / south and east sides), garden areas to the south side of the building (there is currently no information or explanation on the plans)' refuse storage areas, litter, external lighting garden areas.
  - Prefer higher proportion of natural surface materials such as clay / stone paving rather than all concrete paving as currently proposed.
  - Clearer information for the perimeter gates, walls, railings and copings; to demonstrate a commitment to detail and sympathetic use of materials.
- 2.17 If scheme is approved, recommend the following should be secured by condition or legal agreement:
- Detailed hard and soft landscaping scheme (including external lighting to garden areas).
  - Long term maintenance and management plan; secured by legal agreement, for the life of the scheme.
  - Planting to be implemented in the first available planting season; initial five year defects replacement during the establishment period.
- 2.18 Natural England - No comments to make on this application.
- 2.19 Housing Strategy/Rural Enabler (Initial Response) – Scheme proposes a total of 13 apartments, but with no affordable housing units and no evidence provided, therefore not policy compliant.
- 2.20 Housing Strategy/Rural Enabler (Final Response) - After seeing the Viability Assessment from the DV, nothing further to add in regard to affordable housing on this site. Any financial sum received in lieu would of course be beneficial but



understand this may not be requested by the Council given the tight margins and the sum likely to be received.

- 2.21 Lead Local Flood Authority (Initial Response) – Applicant has provided information to satisfy concerns and the LLFA's objections are removed. A condition is recommended.
- 2.22 Yorkshire Water Services Ltd - Waste Water If planning permission is to be granted, the following conditions requiring separate systems for foul and surface water drainage and no piped discharge of surface water drainage until details have been submitted to the LPA. In addition, the developer is required to provide evidence to demonstrate that surface water disposal via infiltration or watercourse is not reasonably practical before considering disposal to public sewer.
- 2.23 The Environment Agency (Liaison Officer) - No objections to the proposal, subject to condition to cover mitigation measures detailed in the FRA. Informatives also given.
- 2.24 Selby Area Internal Drainage Board – No objections but general advice in respect of means of discharge of surface water and advice regarding standard consents required from IDB.
- 2.25 Selby Town Council – Objects to this planning application on the following grounds:
- Lack of quality development for an entrance to the Town.
  - No parking provision (Could be off site).
  - Inadequate provision for bins.
  - Lost opportunity to improve bridge foot junction.
  - There is no indication of who will maintain the garden area.
- 2.26 Selby Civic Society – Objection to the application:
- Site is located in Selby Town Conservation Area in a prime gateway location, opposite a number of Grade II listed buildings and alongside recently built residential developments. Ousegate is probably the most historically significant street in the town and the first building visitors will pass, once they have crossed the Grade II listed road bridge adjacent to the site, bringing them into Selby.
  - Mixed-use scheme is encouraged and good quality, well designed residential and commercial spaces,
  - Use of uPVC windows and doors is opposed. All the heritage buildings in this area have traditional timber doors and windows, and all the new buildings surrounding this site have timber windows; for example, Bridge Wharf's discharge of conditions (windows) specifies frames section and material in Sapele Hardwood.
  - More detail in the heritage statement and design statement, specifying the designs and materials to be used, so that the design and massing of the building does not detract from neighbouring designated heritage assets or harm the character of the conservation area.
  - Concerns about future maintenance for the gardens and would encourage legal conditions to ensure its indefinite upkeep.
- 2.27 Economic Development Team – No response received.

- 2.28 SDC Strategic Asset Management Officer - No response received.
- 2.29 North Yorkshire Bat Group – No response received.
- 2.30 Yorkshire Wildlife Trust – No response received.
- 2.31 Vale Of York CCG – No response received.

## **PUBLICITY**

- 2.32 The application was advertised by way of site notice and in the Selby Times. No representations have been received as a result of publicity.

## **3 SITE CONSTRAINTS**

- 3.1 The application site is located within the Selby Conservation Area, adjacent to several Listed Buildings and within the Archaeology Consultation Zone. With regard to Flood Zones the site is situated within Flood Zones 2 and 3a. It is also within the British Waterways Buffer area. The Selby District Local Plan Proposals Map also indicates that the site is part of the Trans -Pennine Trail. The eastern portion of the site (approximately one third) is designated Local Amenity Space. The site is also within the Selby Special Policy Area.

## **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  
SP4 - Management of Residential Development in Settlements  
SP5 - The Scale and Distribution of Housing  
SP7 - Managing Housing Land Supply  
SP8 - Housing Mix  
SP9 - Affordable Housing  
SP14 - Town Centres and Local Services  
SP15 - Sustainable Development and Climate Change  
SP16 - Improving Resource Efficiency  
SP17 - Low-Carbon and Renewable Energy  
SP18 - Protecting and Enhancing the Environment  
SP19 - Design Quality

### **Selby District Local Plan**

#### **4.7 The relevant Selby District Local Plan Policies are:**

ENV1 - Control of Development  
ENV2 - Environmental Pollution and Contaminated Land  
ENV3 - Light Pollution  
ENV4 - Hazardous Substances  
ENV25 - Development in Conservation Areas  
ENV28 – Archaeological Remains  
ENV29 – Local Amenity Space  
T1 – Development in relation to Highway  
T2 – Access to Roads  
RT2 - Open Space Requirements for New Residential Development  
RT7 - Riverside Recreational Facilities in Selby/ Barlby Bridge  
RT8 - Trans-Pennine Trail  
SEL/6 - Ousegate/New Street/Station Road Special Policy Area

#### **4.8 Other Policies/ Guidance:**

- National Planning Policy Framework (July 2021)
- Affordable Housing Supplementary Planning Document, 2013
- Developer Contributions Supplementary Planning Document March 20
- Selby Town Design Statement

## **5 APPRAISAL**

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

- Principle of Development
- Impact on Heritage Assets & Character of the Area
- Residential Amenity
- Flood Risk & Drainage
- Highways/Access
- Landscaping/Amenity Areas
- Contamination/Ground Conditions
- Ecology
- Archaeology
- Affordable Housing
- Community Infrastructure Charge (CIL)
- Public Open Space
- Education, Waste & Recycling

### **Principle of Development**

5.2 The application site is situated within the defined development limits of Selby, which is a Principal Town as identified in the Selby District Core Strategy (CS).

5.3 Paragraph 11 of the NPPF establishes that decisions should apply a presumption in favour of sustainable development and states that development proposals that accord with an up-to-date Development Plan should be approved. This accords with the principles of the CS Policy SP1 which states 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.

5.4 The previous permission which was granted in 2010 is still extant, due to a technical commencement and was for 10 apartments with four commercial units to the ground floor. This was granted prior to the Selby District Core Strategy adopted in 2013 and the National Planning Policy Framework (updated in July 2021). The site is currently undeveloped land within the town and comprises the former filling station, now demolished, on the bridge corner and an area of local amenity space, comprising approximately one third of the site which is protected by Policy ENV29 of the Local Plan. This is currently overgrown and disused due to the development of the site not proceeding since the 2010 permission. The uses in the surrounding area and adjacent buildings comprise a mix of residential and commercial shop units. The fact that the extant permission on the site has commenced and could be completed is a material consideration.

5.5 This revised scheme results in changes to the design, an increase in the number of flats and a reduction in the number of commercial units at ground floor. As a new full planning application, it must be assessed in relation to the current development plan. The presumption in favour of sustainable development does not change the status of the development plan as the starting point for decision making.

5.6 Core Strategy (CS) Policy SP2A(a) states:

*"The majority of new development will be directed to the towns and more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints".*

Furthermore, the policy states:

*"Selby as the Principal Town will be the focus for new housing, employment, retail, commercial and leisure facilities."*

- 5.7 Selby being the Principal Town is the most sustainable settlement within the District. Selby is well served by local services which includes shops, schools, recreational open space, with a choice of modes of transport including rail and bus, all of which are within walking distance of the application site. Such facilities weigh in favour of the site's sustainable location.
- 5.8 CS Policy SP4 states that the "...redevelopment of previously developed land..." is acceptable in principle subject to proposals protecting local amenity, preserving and enhancing the character of the local area and complying with normal planning considerations. It adds that appropriate scale will be assessed in relation to density, character and form of the local area and should be appropriate to the role and function of the settlement.
- 5.9 Policy SEL/6 is specific to the principal town of Selby and relates to the Ousegate/New Street/Station Road Special Policy Area and allows for uses such as B1 offices, studios, light industry, retail and associated uses (Use Classes A1, A2 and A3), tourism, leisure and residential; (Classifications relate to the Old Use Classes Order and now superseded). The preamble to policy SEL/6 refers to the application site and advises that there is considerable scope for redevelopment (along with many other Brownfield sites within this area). Whilst the commercial units have now been reduced to one to the ground floor and the residential units increased to 13, the proposal would still comply with this policy in this regard.
- 5.10 Policy SEL/6 also refers to properties on the Ousegate frontage as a key area being within the Conservation Area and partly within the commercial centre of Selby. It is highly visible from the road, rail bridges and the River Ouse, with several historic mercantile Grade II Listed Buildings, with a requirement that new development is sympathetic to its surroundings and protects and enhances the special character and appearance of the area.
- 5.11 The proposal would provide a net increase of 13 residential units, which would contribute to the overall housing land supply in the district and provide associated wider public, social and economic benefits and would effectively restore this brownfield site. The proposal is therefore acceptable in principle, subject to all other impacts of the scheme being acceptable and policy compliant. The development of the site for flats and a commercial unit is consistent with the aims of Policy SP2 and SP4 of the Core Strategy.
- 5.12 Policy ENV29 of the Local Plan sets out that proposals for the development of local amenity space as defined on the proposals map, will not be permitted. The 2010 permission provided for a replacement new amenity space on the western end adjacent to the bridge and this scheme would provide a similar arrangement. This is discussed in more detail in the subsequent section of this report. However, subject to the provision of this area the scheme is acceptable in principle.

- 5.13 Overall, the development of the site for flats and a commercial unit with an area of public amenity space is consistent with the aims of Policy SP2 and SP4 of the Core Strategy and with ENV29 of the Local Plan.

### **Design and Impact on Heritage Assets and Character of the Area**

- 5.14 A detailed scheme was agreed under the original approval and was the subject of detailed design consideration and was granted with many conditions relating to the architectural details and materials being agreed. This current proposal needs to be reassessed with regard to the impact on the conservation area, adjacent listed buildings and general character of the area in the light of the current development plan policies and the NPPF.
- 5.15 The application site occupies a frontage position on Ousegate, within the Conservation Area and is situated to the east of the Toll Bridge. Properties on the Ousegate frontage are visible from the road and rail bridges, which cross the river and contribute to the initial impression seen by visitors when entering Selby. These views include a number of historic mercantile buildings which are Grade II listed.
- 5.16 Relevant policies in respect of the effect of development on heritage assets and the setting of heritage assets include Policies SP18 and SP19 of the Core Strategy and saved Policy ENV25 of the Selby District Local Plan.
- 5.17 Relevant paragraphs within the NPPF which relate to the effect of development on heritage assets and their setting include paragraphs 194 to 205. The NPPF states in paragraph 194, that in determining applications Local Planning Authorities should require an applicant to describe the significance of any heritage asset affected. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, LPA's should require developers to submit an appropriate desk based assessment. Paragraph 195 of the NPPF states that the LPA should identify and assess the particular significance of the heritage asset that may be affected by the proposal. Paragraph 200 (NPPF) adds (amongst other things) that:

*"Any harm to, or loss of, the significance of a designated heritage asset (...or from development within its setting) should require clear and convincing justification."*

- 5.18 Whilst considering proposals for development which affect a Listed Building or its setting, regard is to be made to Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 which 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."*

When assessing proposals for development which affect a Conservation area regard needs to be made to Section 72 of the Planning (Listed Buildings and Conservation Areas Act) 1990. This requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

- 5.19 CS Policy SP4 (c) states:

*"...in all cases proposals will be expected to protect local amenity, to preserve and enhance the character of the local area, and to comply with normal planning considerations."*

- 5.20 Other relevant policies in respect to design and impact on the character and appearance of the area include Local Plan Policy ENV1 (1) and (4) and CS Policies SP18 and SP19 of the Core Strategy and Paragraphs 124 to 132 (NPPF) relate to design.
- 5.21 CS Policy SP18 requires, amongst other things, the high quality and local distinctiveness of the natural and man-made environment be sustained by; safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledge importance; and conserving those historic assets which contribute most to the distinct character of the District. Policy SP19 requires, amongst other things, that proposals positively contribute to an area's identity and heritage in terms of scale, density and layout.
- 5.22 Paragraph 197 (NPPF) relates to proposals affecting Heritage Assets and states (amongst other things) that when determining applications, local planning authorities should take account of *"...the desirability of new development making a positive contribution to local character and distinctiveness."*
- 5.23 Paragraph 126 (NPPF) relates to the aim of achieving well designed places and sets out that, the creation of high quality, beautiful and sustainable places is fundamental to what the planning and development process should achieve and that *"...good design is a key aspect of sustainable development."*
- 5.24 The overall form, height, massing and scale of the proposed development is not dissimilar to that approved, having three linked buildings. However, the most westerly element has been reduced in width and the easterly element increased. The half-hipped roof which would face west toward the toll bridge has been replaced with a standard pitch roof and flat side gable and thus providing a more simplified elevation.
- 5.25 The three blocks have varying ridge heights, the tallest proposed would be situated to the east side of the site with a height of 13.9m (excluding chimneys). The central block would have a maximum height of 12.2m and the block to the west would have a maximum height of 12.5m. Whilst comments from consultee respondents are acknowledged in regard to the proposed height, it is worth noting that the extant application allowed for development at a height ranging from 11.5m and up to 13.5m, resulting in the difference in height being minimal.
- 5.26 The staggered ridge height of the blocks reflects that of other properties along Ousegate both recent and historical development, in terms of the overall form. In addition, the extant permission has a front and rear dormer to the east block, which resulted in a fourth floor and therefore not unlike the current scheme. The proposal also maintains (as previously) several windows (including bedroom windows) to the end/side elevations which adds architectural interest whilst promoting surveillance of the immediate surroundings.
- 5.27 All but one of the commercial units have been removed from the scheme with only a proposed café/restaurant remaining, which would increase footfall to this area. Views over the river would be provided from an attractive landscaped section, which would occupy the extent of the open area adjoining the west elevation of the

buildings at ground floor level. The removal of all but one of the commercial units has impacted on the design of the ground floor windows and doors, which now comprise of mostly residential scale windows and entry doors to the flats, to the front, side and rear elevations. This results in a more uniform appearance, with larger arched windows proposed to the extent of the commercial unit only.

- 5.28 The hipped roof approved to the west elevation is now a standard pitch roof which is more in keeping with existing development and this would add an attractive edge and focal point when entering Selby from Barlby Road to the north.
- 5.29 The central unit of the development would retain its 'Georgian' style with a white rendered exterior; grey slate tiles for the roof and windows (multiple panes) and doors would reflect this period with additional windows to the principal (south) elevation. The majority of the openings to the two proposed buildings either side of the central unit would have a simplified appearance, with windows having a sliding sash appearance.
- 5.30 The Conservation Officer (CO), Urban Design Officer, Canal and Rivers Trust, Town Council and the Civic Society have all raised a number of concerns with regard to the details of the design and appearance of the proposal, namely the proportions of the dormers and some of the ground floor windows; in addition to materials, particularly the use of UPVC windows. Some of the concerns raised by the CO are reiterated in the Urban Designer's response, who has made extensive comments with regard to various details of the scheme. The applicant has provided information of possible types of proposed windows, which would not be standard UPVC but would comprise of slimline heritage style windows with a woodgrain effect and would not be finished in a stark white but an off-white colour. In addition, a sample window was viewed by the case officer. Notwithstanding this, it would be advisable to have a condition requiring the window details for each unit to be agreed to ensure the details are acceptable for the location.
- 5.31 Windows to the commercial unit are larger in proportion but it is considered that this assists in distinguishing it from the residential units and therefore drawing the public to use the unit. However, suitable conditions in respect of advertisements and any other commercial detailing for this unit should be included in any permission.
- 5.32 The applicant has revised the scheme in response to comments regarding the positioning of windows being 'pinched' to the left-hand side of the rear elevation of the central block. These have now been pulled in from its edge, which results in a more symmetrical elevation with the proposed dormers appearing far more balanced and proportionate to the Juliet balconies included on the adjoining block. In addition, the amended drawings indicate the use of wet pointed verges and conservation style roof lights have now replaced the standard roof lights as originally proposed as part of this scheme.
- 5.33 Additional drawings have been supplied in respect of the boundary wall and fencing, which show the red brick string course to the lower part of the wall. Included is a sectional drawing of the stone coping and high quality, decorative railings. The drawings also show a larger ratio of railing in comparison to the wall (0.77m to 0.52m respectively).
- 5.34 Other observations and concerns can be addressed by way of conditions in respect of the detailing. It is also important to make comparisons between the current proposal and the extant permission. The applicants have strived to produce a much



higher quality scheme than the existing permission, through the use of high-quality materials and fine detailing such as the string coursing, reconstituted stone cills and coping and finer scale windows. Of further consideration is that the scheme also improves upon more recent surrounding residential properties, some of which lack sensitivity to their historic surroundings, through the use of lower quality materials and detailing, notably the development to the south on the corner of Ousegate and The Crescent (A19).

- 5.35 In conclusion, the proposed development would be of a classical but modern and sustainable design, with the use of high-grade materials. Subject to the inclusion and implementation of relevant conditions in respect of additional detailing. The design of the proposal would result in a significant visual improvement to this disused site at the gateway to the town through the introduction of a scheme of high quality which would be of benefit to this currently unused corner of Selby town, the adjacent heritage assets and the wider locality as a whole and on this basis accords with CS Policies SP4 (c), SP18 and SP19 and saved Policies ENV1 (1) and (4), ENV25 and SEL/6 of the Selby District Local Plan; in addition to the guidance within the NPPF.

### **Residential Amenity**

- 5.36 Policy in respect to securing a good standard of residential amenity are provided by Local Plan Policies ENV1 (1) and Paragraph 130(f) of the NPPF which encourages the creation of places which are safe, inclusive and accessible, promoting wellbeing *“...with a high standard of amenity for existing and future users.”*
- 5.37 The surrounding area has a mix of uses including retail, restaurants, cafes, hot food takeaways, assembly and leisure and residential properties, some of which are to the upper floors of the commercial premises and in close proximity to the development site.
- 5.38 In terms of separation, distances from properties to the south side of Ousegate are a minimum of 14m and approximately 70m from properties situated on the north bank, as is the case with the existing residential properties immediately east of the site.
- 5.39 The majority of future occupants of the proposed development would not benefit from any private external amenity space. This is typical of the type of development of flats proposed and given its location within Selby Town Centre, occupants would have access to parks and public open spaces within close proximity and future residents would therefore have good access to outdoor amenity space.
- 5.40 Given the nature of the development and its relationship to neighbouring residential properties, the proposal would not have a significant adverse impact in terms of overshadowing, enclosure or have an overbearing impact on the relationship between the occupiers or users respectively of adjacent residential dwellings and an acceptable relationship could be achieved between the existing and proposed development.
- 5.41 On the basis of the above assessment, it is therefore considered that the proposal accords with Local Plan Policy ENV1 (1) and Paragraph 130(f).

## **Noise and Air Quality**

- 5.42 Policy ENV2 A) (SDLP) states development which would give rise to or would be affected by unacceptable levels of (amongst other things) noise nuisance will not be permitted without satisfactory remediation or measures which prevent noise nuisance to be incorporated as part of any scheme. Policy SP19 (k) of the Core Strategy states that development should not contribute or be put at unacceptable risk from (amongst other things) noise and air quality. Paragraph 185 a) (NPPF) advises that new development should mitigate and reduce any potential adverse impacts from existing noise sources. NPPF Paragraph 186 adds that decisions should take account of national objectives for pollutants including Air Quality Management Areas and Clean Air Zones and opportunities to improve air quality or mitigate impacts should be identified.
- 5.43 Given the sites location close to the town centre, the occupants of the development would be subject to noise and pollution from road traffic and nearby commercial premises and on this basis a Noise Impact Assessment has been submitted. The Environmental Health Officer's (EHO) response has raised concerns in respect of the potential of the scheme to have a detrimental impact on nearby residents and during construction. In addition, the EHO points out that the site is directly adjacent to the Air Quality Management Area (AQMA) designated by Selby District Council in 2018 on New Street and therefore has concerns that the proposal would give rise to another "...*street canyon*..." and additional air quality issues. On this basis the EHO requests a number of conditions relating to Piling of foundations; hours of work; a Construction Environmental Management Plan (CEMP) and the submission of an Air Quality Assessment (AQA) to assess the impact on air quality both during the construction phases in addition to following completion of construction of the dwellings.
- 5.44 The EHO has referred to the submitted Noise Assessment and it is proposed to use enhanced glazing to bedroom windows within the development and advises that this would reduce any potential noise to below the WHO guidance threshold of 30dB LAeq, which fulfils the criteria and therefore negates the requirement for further conditions in this regard.
- 5.45 Taking into account the above comments it is considered that subject to the inclusion and compliance with specific conditions required by the EHO that a satisfactory level of residential amenity can be achieved in terms of air quality and noise during construction and in respect of future occupants living conditions, in accordance with CS policy SP19 (k) Local Plan Policy ENV2 A) and the provisions of the NPPF.

## **Flood Risk / Drainage, Climate Change and Energy Efficiency**

- 5.46 Core Strategy Policies SP15, SP16 and SP19 require proposals to take account of flood risk, drainage, climate change and energy efficiency. Criterion d) of Policy SP15 (SDCS) applies in respect of ensuring development is located which avoids flood risk areas. Flood Risk is covered in paragraphs 159 to 169 of the NPPF. Paragraph 167 states that flood risk should not be increased elsewhere, and paragraph 169 advises that major development require sustainable drainage systems unless evidence that it would be inappropriate and point a) adds that advice should be taken from the lead local flood authority (LLFA).

### *Flood Risk*

- 5.47 The application site is situated in both flood zones 2 and 3 whereby Flood Zone 2 comprises land assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5%- 0.1%) in any year. Flood Zone 3a comprises land assessed as having a 1 in 100 or greater annual probability of river flooding (>1%), or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any year.
- 5.48 The extant permission under planning ref: 2010/0044/FUL included 10 residential units to the upper floors with the full extent of the ground floor taken up by commercial units. One habitable unit is now proposed to the ground floor including the bedrooms, where previously commercial uses only were proposed. The residential unit would however have access to safe refuge above potential flood levels at first floor and above. The extant permission also negates the need for a sequential test given the level of development is similar.
- 5.49 The submitted Flood Risk Assessment (FRA) also refers to the use of floodproofing at ground floor and a flood evacuation plan would be implemented, in addition to registration with the Environment Agency Flood Line Warnings Direct service.
- 5.50 This change to the arrangement of the units was subject to extensive pre-application discussions with the Environment Agency and also includes the incorporation of a separate flood defence wall beyond the rear of the proposal and would be the same height as defences to either side of the development at 7mAOD. The Environment Agency in their response have advised that there are no objections to the proposal subject to the imposition of a condition ensuring that the development is carried out in accordance with the submitted Flood Risk Assessment.

### *Surface Water Disposal*

- 5.51 The NPPF at paragraph 169 states that:
- “Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*
- a) take account of advice from the lead local flood authority;*
  - b) have appropriate proposed minimum operational standards;*
  - c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
  - d) where possible, provide multifunctional benefits.”*
- 5.52 The submitted information indicates that the developer is proposing to discharge surface water to the existing public sewer. Yorkshire Water Services have advised in their response that evidence should be provided in terms of the drainage hierarchy with sufficient justification as to why other methods for surface water disposal (such as disposal via infiltration or watercourse) are not reasonably practical and have been disregarded in favour of the public sewer, given that this should be the last resort with other means eliminated first. They add however, that conditions can be included which would require this information from the applicant.

- 5.53 The Ouse & Derwent Internal Drainage Board (IDB) have responded advising that they have no comments given that the site is outside their control and the Selby Internal Drainage Board have responded with recommendations, which are to be included as informatives, in addition to a condition relating to SuDS.
- 5.54 The Local Lead Flood Risk Authority (LLFA) advised in their initial response that in respect of the discharge of surface water to the River Ouse confirmation is required that the discharge outfall is set above the 'Mean High Water' level to ensure a free outfall. The LLFA also highlight the fact that the Highway Authority would not normally allow private surface water discharge into highway gullies and refer to the fact that a Maintenance Programme and ongoing maintenance responsibilities for all drainage assets should be submitted.
- 5.55 Final comments from the LLFA refer to amended details which confirms that the outfall to the River Ouse would be above the 'Mean High Water' levels measured at Selby Westmill with the range being between 0.63m and 5m and has been between those levels for 90% of the time while the outfall is set at 5.3m. The Drainage plan has also been revised to show that no surface water will discharge from the development to the highway. In addition, the applicant has confirmed that a management company will take on the maintenance and management of the drainage infrastructure including the silt traps and non-return valves and the LLFA have included a condition which requires full details of the maintenance and management of these features.

#### *Foul Drainage*

- 5.56 Foul drainage is proposed to discharge into the main sewer. Yorkshire Water Services in their response however, have advised that a condition be included requiring separate systems for foul water.

#### *Climate Change & Energy Efficiency*

- 5.57 With respect to energy efficiency, there is no supporting Energy Statement provided. However, in order to comply with the specific requirements of Policies SP15 and SP16 of the Core Strategy which require that 10% of total predicted energy should be from renewal, low carbon or decentralised energy sources or improved energy efficiency through design of building, a condition should be imposed in order to ensure compliance with CS Policies SP15, SP16 and SP17; Criterion 7 of Local Plan Policy ENV1 and the relevant advice in the NPPF.

#### *Conclusion*

- 5.58 On the basis of the above comments, assessment and that the means of both foul and surface water drainage are provided in accordance with the conditions required by the Environment Agency; Yorkshire Water Services and the LLFA, it is considered that the development is capable of a satisfactory provision for both foul and surface water and therefore accords with CS Policies SP15, SP16 and SP17 and the relevant advice within the NPPF.

#### **Highways/Access**

- 5.59 Policy in respect to highway safety and capacity is provided by SDLP Policies ENV1 (2), T1 and T2 and criterion f) of Core Strategy Policy SP15. The aim of these

policies accord with paragraph 110 (b) of the NPPF which states that development should ensure that safe and suitable access can be achieved for all users to a site.

- 5.60 There would be no vehicular access or car parking provided, but there would be improvements to the existing pedestrian footway both to the frontage and rear of the site. Given the sites sustainable location within the town centre residents would have access to various modes of transport within walking distance, including the bus and railway stations.
- 5.61 The Highway Officer has not raised any objections to the scheme but states the requirement for pre-commencement conditions which includes the submission of plans for the road and footway layout; Construction of adoptable roads and footways; Delivery of off-site highway works and a Construction Management Plan.
- 5.62. The site is located on the route of the Trans-Pennine Trail which is a project to create a multiuser route for walkers, cyclists, riders and disabled linking Liverpool to Hull. The trail generally follows disused railways, canals, riverside paths and existing rights of way etc. Policy RT8 of the Local Plan seeks to support the development of the trail and enhance access along it. The current trail route is indicated to be along both sides of the river at this point and there is nothing to suggest this development would compromise this route.
- 5.63 In conclusion and subject to the submission, approval and implementation of the conditions as specified, the proposal is acceptable in terms of highway safety in accordance with Policies ENV1 (2), RT8 and T1 of the Local Plan and the policies contained within the NPPF.

### **Landscaping/Amenity Areas**

- 5.64 CS Policy SP18 requires that high quality and local distinctiveness of the natural environment will be sustained by “...safeguarding, and where possible, enhancing the natural environment, including the landscape character and setting of areas of acknowledged importance.”
- 5.65 The undeveloped site contains an area of local amenity space, comprising approximately one third of the site, which is protected by Policy ENV29 of the Local Plan. This is currently overgrown and disused due to the development of the site not proceeding since the 2010 permission. The loss of this space and development of the site without its replacement would be contrary to Policy ENV29 of the Local Plan. However, the scheme proposes a replacement area of public open space on the western side of the site adjacent to the bridge. This would be of approximately equal size and would be positioned in a more appropriate location, with greater public benefit and would assist in opening up the riverside and enhancing the appearance of the area. This was provided within the 2010 permission and is repeated on the plans for this scheme.
- 5.66 The 2010 permission was subject to a Unilateral Undertaking (UU) to the Council not to bring the dwellings into use until the public access areas were completed, made available and permanently maintained and retained for public access. This included the new small garden area and provided for public access along the river front to the rear of the buildings linking back round to Ousegate at the eastern end of the development. It is recommended that this application be subject to a similar form of Unilateral Agreement by the applicants. The previous UU would need to be

updated and the existing plan for the Public Open Space substituted with the latest layout plan in order to highlight the areas the public would have access to.

- 5.67 The submitted plan shows that the area would comprise a central circular area with a tree and semi-circular bench and the immediate walkway would be paved in non-slip, pale grey, block setts. The area to the southeast would incorporate larger (non-slip) paving with a small bench, table, vegetation and two trees, with a similar arrangement to the northeast. Additional raised bed planting would be provided to the north, west and northwest edge and corners and enclosed within a low (0.6m) boundary wall. Refuse bins would also be incorporated within this area.
- 5.68 The Urban Designer (UD) has also made reference to the proposed garden stating that the Transforming Cities Fund (TCF) regeneration project has direct implications for the character of the space in terms of the paving materials, where it is favoured that paving is in accordance with that currently used. The UD has included a link for the applicant's information who may be able to access some funding in this regard.
- 5.69 Notwithstanding the submitted plans, a more detailed scheme for this area with appropriate planting for a public area can be required by a suitably worded planning condition.
- 5.70 The Landscape Architect (LA) in his response has stated that the submitted plans give no explanation of detailing for the amenity area including planting, trees, materials, refuse storage areas and advises that a higher proportion of natural surfaces such as clay and stone paving rather than the concrete pavers proposed. He adds there should be clearer information in respect of the perimeter gates, walls, fencing and coping stones to indicate the sympathetic use of materials.
- 5.71 Given the ownership of this portion of land and as with the extant permission, the proposal would need to be secured through a Unilateral Undertaking which would ensure that the land remains open and accessible and is maintained for the lifetime of the development by the owner or any future owner(s) of the development (in the event that it is ever sold). With regard to the LA's comments about more detailing, this can be secured by condition, requiring the details he refers to.

### **Contamination /Ground Conditions**

- 5.72 Local Plan Policy ENV2 and criterion k) of Core Strategy Policy SP19 require development which would give rise to or would be affected by unacceptable levels of (amongst other things) contamination or other environmental pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated within new development. Paragraph 183 (a) of the NPPF states that development sites should be suitable for the proposed use taking account of ground conditions and risks arising from unstable land and contamination. Paragraph 184 adds that the responsibility for a secure development in respect of ground contamination and land stability lies with the developer/and or landowner.
- 5.73 Details referring to a Phase 1 Desk Top Study and Phase 2 Intrusive Ground Investigation Works accompanies the application, which includes gas screening values and volatile organic compounds and concludes that the risk is low.
- 5.74 The Contamination Consultant (CC) has advised that the submitted report makes reference to the sites former use as a petrol filling station and that investigative works were carried out which included collecting of nine soil samples. These were

analysed for various contaminants were detected above the assessment criteria for a commercial end use therefore no remediation in relation to soil contamination is proposed. Elevated levels of methane were detected which requires provision of gas protection measures. In addition, three groundwater samples were collected and analysed and whilst there were some exceedances, further assessment indicated to be of negligible risk to the River Ouse due to dilution. However, the CC concludes that given the end use would be residential, the risk assessment will need to be updated to account for this – being a more sensitive receptor to contamination and remediation will be required in the form of provision of gas protection measures and includes standard conditions to cover the works required. With regard to stability, the Canal & Rivers Trust (CRT) have advised (in addition to other comments) that land stability is a material planning consideration. Adding that supporting information should be provided prior to commencement through the submission of cross sections of foundations relating to the riverbank with details of the means of construction. They conclude that this could be through the inclusion of a suitable condition.

- 5.75 In conclusion and subject to the implementation of the conditions recommended by the CC and CRT, there are no concerns with regard to contamination and land stability and the development is considered to accord with Local Plan Policy ENV2 and criterion k) of Core Strategy Policy SP19, in addition to the relevant paragraphs within the NPPF.

### **Ecology**

- 5.76 Protected Species include those protected under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration. Relevant policies relating to nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 of the Core Strategy.
- 5.77 The application site is not a protected site for nature conservation and is not known to be the habitat of, or to be inhabited by, any protected flora or fauna.
- 5.78 The County Ecologist (CE) in response has advised that a Preliminary Ecological Assessment (PEA) is not required. He has however, made recommendations including that clearance of vegetation on site should be undertaken outside the bird breeding season but if not possible then an inspection by a competent person be made to ensure there are no active nests or nesting birds present. In addition, the CE has stated that the applicant might wish to speak to an Ecologist with regard to how ecological enhancements could be incorporated to compensate for the loss of natural vegetation. It is considered that this matter can be addressed through the condition requiring detailed landscaping plans.
- 5.79 On this basis, it is considered that the proposal would not harm any known nature conservation interests or protected species and would therefore meet the relevant requirements of Policy SP18 of the Core Strategy, Policy ENV1 of the Local Plan and the NPPF in this regard.

### **Archaeology**

- 5.80 Local Plan Policy ENV28 and Core Strategy Policy SP18 (amongst other things) are concerned with the protection of archaeological remains and that the NPPF (para. 194) affords protection for such remains.

- 5.81 The NYCC Archaeology Officer (AO) has responded to the proposal, advising that the required archaeological observation works were undertaken during demolition of the former filling station, which suggested a high level of disturbance to deposits across the site as a result of later 20th century activity and therefore a relatively low archaeological potential. On this basis the AO advises that there is no objection with no further comments.
- 5.82 Having regard to the above and given the fact that requisite works have taken place, it is considered that the proposal accords with Policy ENV28 of the Selby District Local Plan and the advice contained within the NPPF.

### **Affordable Housing**

- 5.83 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) sets 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.
- 5.84 At the time of approving the extant permission, Affordable Housing was only applicable to developments of 15 or more dwellings and the scheme was for 10 dwellings. The applicant's still have this as a fall back position, which is considered to be a material consideration with regard to the current application.
- 5.85 However, this revised new application increases the number of units to 13 and therefore CS SP9 is applicable and 40% on site provision of AH should be secured for schemes above the threshold of 10 dwellings. The actual amount of affordable housing is a matter for negotiation at the time of the application having regard to any abnormal costs, economic viability and any other requirements associated with the development.
- 5.86 Whilst the proposal is for 13 apartments, the applicants do not propose to sell but plan to rent them out and would not therefore benefit from any immediate profit. A Viability Assessment accompanies the application, which refers to the additional costs of the development which the applicants consider to be over and above standard costings.
- 5.87 The Viability Assessment has been reviewed by an independent consultant who has concluded that the viability pressure is high for the site and would result in a negligible margin of profit due in part to the abnormal costs on this site and at best, the maximum contribution that could be made is £13,308. In light of the independent advice sought Officers consider that the scheme does not therefore justify the provision of affordable housing and is therefore considered acceptable without any affordable housing contributions in line with Policy SP9 of the Core Strategy.

### **Community Infrastructure Charge (CIL)**

- 5.88 The Community Infrastructure Levy (CIL) is a planning charge, introduced by the Planning Act 2008, as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area and changes were made in September 2019. New developments that create net additional 'gross



internal area' of 100 square metres or more, or create new dwellings, are potentially liable for the levy.

- 5.89 The CIL Officer (CO) has confirmed that the apartments would be CIL liable and therefore chargeable but that this would be at a £0.00 rate in accordance with the current local charging schedule. If however, the proposal was amended to market housing then the zero rate would change.

### **Public Open Space**

- 5.90 Local Plan Policy RT2, Core Strategy Policies SP12 and SP19, in addition to the Developer Contributions Supplementary Planning Document relate to the provision of recreational open space. There is a requirement to provide 60sqm per dwelling which, in this case, would equate to 300sqm. The submitted layout plan does not incorporate any on-site recreational open space as part of the development.
- 5.91 The Supplementary Planning Document for Developer Contributions and Policy RT2 states a requirement for schemes of more than 4 dwellings and up to and including 10 dwellings would require a commuted sum to provide new or upgrade existing facilities in the locality. Policy RT2 b) advises that the following options would be available, subject to negotiation and levels of existing provision:
- provide open space within the site;
  - provide open space within the locality;
  - provide open space elsewhere;
  - where it is not practical or not deemed desirable for developers to make provision within the site the district council may accept a financial contribution to enable provision to be made elsewhere.
- 5.92 Normally, where open space is provided on-site, or off-site by means of contribution of land, the developer will pay for maintenance for a period of ten years. This works by developers paying a one off 'commuted sum' payment for maintenance. The Council will calculate the amount payable by working out the cost of maintaining the particular piece of open space for one year. From this figure an amount is calculated for a period of ten years taking into account inflation as well as other factors including interest from the money.
- 5.93 In this instance however, the Viability Assessment indicates that due to the high costs of developing this site, that a contribution would not be required. Of further note is that the applicants are providing an area of public open space within the site which would be accessible to the residents, in addition to upgrading the existing pedestrian walkway leading to the river. The provision and maintenance of this area would be secured through a Unilateral Undertaking.

### **Education, Waste and Recycling**

- 5.94 The response on behalf of the Education Directorate advises that based on the number of dwellings proposed that developer contributions would not be sought for education facilities in this instance. The officer adds however, that should the density change, they would need to be reconsulted.
- 5.95 For developments of 4 or more dwellings developers must provide waste and recycling provision at their own cost and as such should the application be

approved a condition could be imposed to secure a scheme for the provision of waste and recycling equipment.

- 5.96 The waste bins were originally proposed to be located to the ground floor in the cycling storage area with appropriate ventilation provided to avoid odour. Initially there was no clear indication of the actual areas allocated for refuse. The WRO has advised that given the type of accommodation proposed large communal bins would be acceptable and includes an extract from the Developer Guidance document.
- 5.97 Following requests from the Waste and Recycling Officer (WRO) the agent has submitted amended information. The submitted changes include an amended internal layout for the ground floor with the two areas proposed for both cycle storage and waste and originally combined now shown as separate storage areas. The cycle storage area would be housed in the west block and the communal bins would be housed in the east block. In addition, a double width false, timber door is proposed to be a working door, which allow for adequate door width when moving the communal bins. The WRO adds that the retail unit also requires waste storage areas although they may use a private contractor so this won't necessarily be a service provided by Selby District Council and the extent would depend on the type of business.
- 5.98 In conclusion and based on the amended plans and comments from the WRO, it is considered that an acceptable method of storage can be achieved.

## **6 CONCLUSION**

- 6.1 The site has an extant permission and comprises a Brownfield site no longer in use which is currently derelict and overgrown due to the previously approved scheme not being implemented and is located within the Development Limits of Selby being the Principal Town of the District. The scheme proposes a high-quality development and provides an opportunity which would result in wider public benefits in terms of providing an attractive gateway and landmark when entering the town, the provision of a replacement public amenity area together with river front public access to the rear of the building and having a positive impact on the character and appearance of the Conservation Area.
- 6.2 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 is acceptable in respect of its impact on heritage assets, the character and appearance of the area, residential amenity, highway safety, flood risk and drainage, nature conservation and protected species, land contamination, affordable housing and waste and recycling. The proposal is therefore considered to be in accordance with Core Strategy Policies SP1, SP2, SP4, SP5, SP7, SP8, SP9, SP14, SP15, SP16, SP17, SP18 and SP19, saved Local Plan Policies ENV1, ENV2, ENV3, ENV4, ENV25, ENV28, ENV29, RT2, RT7, RT8, SEL/6, T1 and T2 of the Selby District Local Plan, national planning policy contained within the NPPF and Section 70 of the Planning (Listed Buildings and Conservation Areas Act) 1990.

## **7 RECOMMENDATION**

This application is recommended to be **GRANTED** subject to completion of a Unilateral Undertaking to secure the provision, maintenance and future

management of the public amenity garden and public access around the building along the waterfront and subject to the following conditions:

#### TIME LIMIT

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.

#### PLANS

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

LOC-01- Location Plan  
505-P-001A - Landscape Plan  
505-P-01 Rev D – Site Plan  
505-P-02 Rev C – Ground Floor Plan  
505-P-03 Rev B - First Floor Plan  
505-P-04 Rev B - Second Floor Plan  
505-P-05A - Third Floor Plan  
505-P-06 Rev B – Roof Plan  
505-P-07 Rev C – Elevations  
M&E1-505-P-08 Rev A – Ground & First Floor Mechanical and Electrical Plans  
505-D-09 – Front Boundary Wall  
P2503-SK2 – Ground Beam  
P2503-GB1 – Ground Beam Design & Loadings  
P2503-GB2 – Ground Beam Design & Loadings  
P2503-GB3 – Ground Beam Design & Loadings

Reason: For the avoidance of doubt

#### MATERIALS

03. Notwithstanding the submitted details, no development shall take place above slab level until sample panels of roof materials, brickwork and/or masonry for the string courses, heads and cills demonstrating the colour, texture, bond, mortar mix specification and pointing technique have been provided on site, and the details submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In accordance with Policies ENV1 and ENV25 of the Selby District Local Plan and Core Strategy Policy SP19 and in order to ensure that the proposed works are undertaken without detriment to the special architectural and historic interest of the adjacent listed buildings and conservation area.

04. Notwithstanding the submitted details, no development shall take place above slab level until large scale drawings and samples of all proposed external joinery works including doors, windows frames, glazing bars together with, rainwater goods, roof vents, ridge tiles roof lights, railings, gates and boundary walls which shall include full plans and elevations together with vertical and horizontal sections to a scale of at least 1:10 and a typical section of each joinery detail and moulding proposed to

actual scale has been submitted to and approved in writing by the Planning Authority. The details shall include the depth of recess of the window and door frames when measured against the front face of surrounding brickwork/external render/stonework and details of heads, sills and lintels. The development shall then be carried out in accordance with the approved details.

Reason: In accordance with Policies ENV1 and ENV25 of the Selby District Local Plan and Core Strategy Policy SP19 and because it is considered that the use of inappropriate details would be harmful to the special architectural and historic interest of the adjacent listed buildings and conservation area and the Planning Authority therefore needs to retain a measure of control.

05. 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.

#### LIGHTING

06. Notwithstanding the submitted details, no development shall take place on site until full details of all external lighting to the scheme in terms of the following:

- numbers,
- position,
- type,
- design
- and luminance levels.

has been submitted and approved in writing by the Local Planning Authority. Thereafter the approved details only shall be implemented

Reason: In the interests of River navigation, setting of the adjacent listed buildings, the character and appearance of the conservation area and residential amenity.

#### ADVERTS

07. No advertisements or fascia boards for the commercial unit shall be erected until details have been submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of the setting of the adjacent listed buildings, the character and appearance of the conservation area and residential amenity.

#### EH CONSTRUCTION MANAGEMENT

08. No Development shall take place until there has been submitted to and approved in writing by the Local Planning Authority in conjunction with Environmental Health, a Construction Environmental Management Plan. The Plan shall include details of how noise, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. The plan shall also include monitoring, recording and reporting requirements. The construction of the Development shall be completed in accordance with the approved Plan.

Reason: To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

09. No work relating to the development hereby approved, including works of demolition or preparation prior to building operations, shall take place other than between the hours of:

- 08:00 hours and 18:00 hours Mondays to Fridays and
- 08:00 hours to 13:00 hours on Saturdays and at no time on Sundays or Bank or National Holidays.

Reason: To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

#### EH AIR QUALITY

10. No development shall take place until an Air Quality Assessment has been submitted to and approved in writing by the Local Planning Authority. The assessment shall include damage cost calculation undertaken in relation to the operation of the site and detail emission mitigation measures proposed for the site. An estimate shall be made of the impact that any proposed mitigation measures will have on emissions (i.e. mitigated mass of pollutant) and the financial costs of the mitigation measure to the developer. The assessment shall confirm the timeframe and any phasing of the proposed mitigation, and detail of any 'residual' emissions and damage costs likely to remain after all proposed mitigation measures have been applied. The development shall be carried out in accordance with the approved details.

Reason: To assess the impacts on local air quality and to ensure the development does not have an unacceptable impact on the AQMA (Air Quality Management Area).

#### EH NOISE

11. Should any of the proposed foundations be piled, no piling shall commence until a schedule of works to set out mitigation measures to protect residents from noise, dust and vibration has been submitted to and approved in writing by the local planning authority. The proposals shall thereafter be carried out in accordance with the approved schedule.

Reason: To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

#### CANAL AND RIVER TRUST

12. No development shall take place unless full details of the construction of foundations have been submitted to and approved in writing by the Local Planning Authority in conjunction with the Canal and Rivers Trust. Details shall include:

- 1) Sections showing the depth of foundations relative to the river Ouse, and
- 2) Information on the means of construction

The development shall be carried out in accordance with the approved details.

Reason: In the interests of minimising the risk of creating land instability in accordance with the advice and guidance contained in paragraph 183 (part a) of the National Planning Policy Framework. The impact upon the character and appearance of the waterway corridor.

## CONTAMINATION

13. Prior to construction, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
  - (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
  - (ii) an assessment of the potential risks to:
    - o human health,
    - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
    - o adjoining land,
    - o groundwaters and surface waters,
    - o ecological systems,
    - o archaeological sites and ancient monuments;
  - (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

14. Prior to construction, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters,

property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

15. Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

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

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

## HIGHWAYS

17. Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority.

The development must only be carried out in compliance with the approved engineering drawings.

Reason: To secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users.

18. No part of the development to which this permission relates must be brought into use until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation.

The completion of all road works, including any phasing, must be in accordance with a programme submitted to and approved in writing with the Local Planning Authority before any part of the development is brought into use.

Reason: To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all prospective highway users.

19. The following schemes of off-site highway mitigation measures must be completed as indicated below:

- The footway fronting the whole of the site must be built with Chinese Granite Stone as it forms part of the Selby Renaissance Scheme area.
- Creation of Pedestrian Crossing point at New Street junction to include a pedestrian light phase

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.

20. No development for any phase of the development must commence until a Construction Management Plan for that phase 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 Construction Management Plan.

The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

1. details of any temporary construction access to the site including measures for removal following completion of construction works;
2. wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
3. the parking of contractors' site operatives and visitor's vehicles;
4. areas for storage of plant and materials used in constructing the development clear of the highway;
5. measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;



6. details of the routes to be used by HGV construction traffic and highway condition surveys on these routes;
7. protection of carriageway and footway users at all times during demolition and construction;
8. protection of contractors working adjacent to the highway;
9. details of site working hours;
10. erection and maintenance of hoardings including decorative displays, security fencing and scaffolding on/over the footway & carriageway and facilities for public viewing where appropriate;
11. means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development;
12. measures to control and monitor construction noise;
13. an undertaking that there must be no burning of materials on site at any time during construction;
14. removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works;
15. details of the measures to be taken for the protection of trees;
16. details of external lighting equipment;
17. a detailed method statement and programme for the building works; and
18. 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

#### DRAINAGE

21. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.

Reason: In the interest of satisfactory and sustainable drainage

22. Before any work on the drainage systems begins, details for the maintenance and management of the proposed SuDS drainage scheme arrangement shall be submitted for the written approval of the Local Planning Authority. The scheme shall include drawings showing any surface water assets and any other arrangements to secure the operation of the approved drainage scheme/sustainable urban drainage systems throughout the lifetime of the development.

Reason: To prevent the increased risk of flooding and to ensure the future maintenance of the sustainable drainage system.

#### FLOOD RISK

23. The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref 90532-PCTS-TollBrdg V2.0 060721 - as prepared by Unda Consulting Ltd) and the following mitigation measures:
  - Finished floor levels shall be set no lower than 6.2 metres above Ordnance Datum (AOD) All flood proof / resilient construction techniques detailed in Section 6.3 of the submitted Flood Risk Assessment

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

24. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority in conjunction with Yorkshire Water Services. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:

- i) Evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
- ii) The means of discharging to the public sewer network at a rate to not to exceed 3.5 litres per second.

Reason: To ensure that no surface water discharges take place until proper provision has been made for its disposal.

#### LANDSCAPING/AMENITY AREA

25. Notwithstanding the submitted details, no development shall take place on site until full details of both hard and soft landscape works for the whole site together with a programme of implementation have been submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved in the first planting and seeding season following the first occupation of the dwellings or the completion of the development whichever is the sooner. Any trees or plants which, 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.

The scheme shall include the following details:

- Hard and soft landscape information to explain quality of external hard landscape, planting, trees, garden areas for all perimeter paths and boundary treatments (to the west / north / south and east sides).
- Long term maintenance and management plan for planting and trees to all public amenity areas;
- Compensatory ecological enhancements for the loss of natural vegetation

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.

The public amenity area to the west of the building shall be completed in accordance with approved plans and made available for use prior to the occupation of the flats.

## COMMERCIAL UNIT

26. No fixed mechanical ventilation or refrigeration /air conditioning plant shall be installed to the commercial unit until full and precise details have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be constructed, installed and maintained in accordance with the approved scheme.

Reason: In accordance with policy ENV1 of the Selby District Local Plan and in order to safeguard the amenities of the area in which the development is located.

## USE CLASS

27. The commercial unit shall be limited the uses under Class E(a) and Class E(b) and not be used for any other purpose including any other use within Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: In accordance with policy ENV1 of the Selby District Local Plan as the proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use having regard to the circumstances of the case.

## INFORMATIVES

### Canal & River Trust – Consents

The applicant/developer is advised to contact the Canal & River Trust's Works Engineering Team via switchboard on 0303 040 4040 or via email [tpwnorth@canalrivertrust.org.uk](mailto:tpwnorth@canalrivertrust.org.uk) in order to ensure that any necessary consents are obtained and that the works would comply with the Trust's "Code of Practice for Works affecting the Canal & River Trust"

### Highway Consent

Applicants are reminded that in addition to securing planning permission other permissions may be required from North Yorkshire County Council as Local Highway Authority. These additional permissions can include but are not limited to: Agreements under Sections 278, 38, and 184 of the Highways Act 1980; Section 38 of the Commons Act 2006, permissions through New Roads and Streetworks Act 1991 and Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (as amended and including all instruments, orders, plans, regulations and directions). Further information on these matters can be obtained from the Local Highway Authority. Other permissions may also be required from third parties. It is the applicant's responsibility to ensure all necessary permissions are in place.

### Delivery of off-site 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.

### Doors and Windows opening over the Highway

You are advised to ensure that any doors and windows on elevations of the building(s) adjacent to the existing and or proposed highway are constructed and installed such that they do not open over the public highway for a height of 2.4 metres from the level of the adjacent highway. Above 2.4 metres no part of an open door or window must come within 0.5 metres of the carriageway. Any future replacement doors and windows should also comply with these dimensions.

### Projections over Footways

You are advised to ensure that any projection overhanging the footway is securely fixed and no part is less than 2.4 metres above the footway level and no closer than 0.5 metres to the edge of the carriageway.

### Flood Risk – Evacuation Plan

The applicant should agree a suitable warning and evacuation plan with the LPA's Emergency Planning Team. Surface water drainage details are to be agreed with the Lead Local Flood Authority.

### Environmental Permit

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

on or within 8 metres of a main river (16 metres if tidal)  
on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)  
on or within 16 metres of a sea defence  
involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert  
in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

### Discharge of Surface Water

#### *Soakaways*

If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year.

### *Mains Sewer*

If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow.

### *Watercourse*

If the surface water is to be discharged to any ordinary watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission and would be restricted to 1.4 litres per second per hectare or greenfield runoff

### *Obstructions*

No obstructions within 9 metres of the edge of an ordinary watercourse are permitted without Consent from the IDB.

### *Discharge to Main River*

If surface water or works are planned adjacent to a Main River within the Drainage District, then the Environment Agency should be contacted for any relevant Permits.

Any surface water discharge into any watercourses in, on, under or near the site requires CONSENT from the Drainage Board.

For further guidance, pre-application advice & consent form visit: [www.shiregroup-idbs.gov.uk](http://www.shiregroup-idbs.gov.uk) and select 'Selby Area IDB'.

For direct enquiries e-mail: [planning@shiregroup-idbs.gov.uk](mailto:planning@shiregroup-idbs.gov.uk)

## **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 2021/1087/FULM and associated documents.

**Contact Officer:**

Mandy Cooper (Senior Planning Officer)

[mcooper@selby.gov.uk](mailto:mcooper@selby.gov.uk)

**Appendices:** None