

**Report Reference Number:** 2019/0522/FUL

**To:** Planning Committee  
**Date:** 9 February 2022  
**Author:** Mandy Cooper (Senior Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0522/FUL	PARISH:	Bolton Percy Parish Council
APPLICANT:	Mr Robert Penty	VALID DATE:	4th June 2019
		EXPIRY DATE:	30th July 2019
PROPOSAL:	Proposed erection of a three-bedroom dwelling and garage following demolition of existing buildings		
LOCATION:	Low Farm Low Farm Road Bolton Percy York YO23 7AH		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee at the request of the Head of Planning Services.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site lies outside the development limits of Bolton Percy; a Secondary Village as identified in the settlement hierarchy of the Core Strategy and is therefore located in the open countryside.
- 1.2 The site, has its frontage to Old Road, is part of the curtilage of the original farm complex known as Low Farm on the northeast side of the village. It is bounded to the northwest by Old Road, to the south by an unadopted track and to the north and northeast by open fields.
- 1.3 The village development limits run through the centre of the farm site with this application sitting just outside but adjoining the boundary. It is within the Bolton Percy Conservation Area and lies within Flood Zone 1.

## **Background**

- 1.4 The proposal is a re-submission of a previously refused application (2018/0260/FUL) for an identical form of development. The submitted Planning Statement advises that it is clear that the sole reason for refusal is the sites location which is outside the Development Limits of Bolton Percy. The statement also refers to the Local Planning Authority's (LPA) requirement to review development limits as part of the Allocations Plan.
- 1.5 In 2010 the application site along with the adjacent farmyard was granted permission for the change of use to garden land (linked to the converted barns to the south as approved under: 2010/0828/FUL), with the barns on this application site remaining in situ under application ref: 2012/0553/COU. The barns have since been used for the storage of farm vehicles, with some outdoor storage of bales immediately west of the barns and one of the extended curtilages of the barns abuts part of the proposed rear garden of the application site.
- 1.6 There have been two previous applications on this site (2017/0118/FUL and 2018/0260/FUL) for the erection of a four-bedroom dwelling and three-bedroom dwelling respectively, both of which were refused.

## **The Proposal**

- 1.7 Proposed erection of a three-bedroom dwelling and garage following demolition of existing buildings. The property would be detached and of a medium scale, set in a moderately sized plot with the principal elevation fronting Old Road. The dwelling has been designed and has the appearance of historical smaller additions which is reflective of the traditional properties within the settlement and has been designed also to appear as part of the traditional farm complex to which it adjoins.

## **Relevant Planning History**

- 1.8 The following historical applications are relevant to the determination of this application.
  - 2008/0400/FUL, Alt Ref: 8/78/100/PA: Proposed conversion of agricultural buildings to create 4 No self-contained dwellings: Low Farm, Low Farm Road, Bolton Percy, YO23 7AH  
Decision: REF: 03-FEB-10
  - 2010/0828/FUL, Alt Ref: 8/78/100B/PA: Conversion of redundant agricultural buildings to 2 No. dwellings including the addition of a two storey and a single storey extension: Low Farm, Low Farm Road, Bolton Percy, YO23 7AH  
Decision: PER: 18-NOV-10
  - 2012/0553/COU, Alt Ref: 8/78/100C/PA: Change of use of part of former farmyard to garden land: Low Farm, Low Farm Road, Bolton Percy, YO23 7AH  
Decision: PER: 12-FEB-13
  - 2013/1046/DPC, Alt Ref: 8/78/100F/PA: Discharge of conditions 7 (contamination) and 8 (remediation) of approval 2010/0828/FUL (8/78/100B/PA) for conversion of redundant agricultural buildings to 2 No

dwelling including the addition of a two storey and a single storey extension:  
Low Farm, Low Farm Road, Bolton Percy, YO23 7AH  
Decision: COND Decision: 22-OCT-13

- 2013/1083/DPC, Alt Ref: 8/78/100G/PA: Discharge of condition 9 (Remediation Scheme) of approval 2010/0828/FUL conversion of redundant agricultural buildings to 2 No. dwellings including the addition of a two storey and a single storey extension: Low Farm, Low Farm Road, Bolton Percy, YO23 7AH  
Decision: COND Decision: 12-NOV-13
- 2015/0683/FUL, Alt Ref: 8/78/100H/PA: Retention of an existing dwelling, the alteration of an existing agricultural building with previous planning permission for conversion to 2 No. dwellings with garden land and the erection of 2 No. dwellings: Low Farm, Low Farm Road, Bolton Percy, YO23 7AH  
Decision: PER: 07-SEP-16
- 2017/0118/FUL, Alt Ref: 8/78/100J/PA: Erection of a four-bedroom dwelling and garage: Low Farm, Low Farm Road, Bolton Percy, YO23 7AH  
Decision: REF: 31-JAN-18
- 2017/0978/DOC, Alt Ref: 8/78/100K/PA: Discharge of conditions 02 (Materials), 03 (Ecology), 05 (Landscaping), 07 (Site Enclosure), 08 (works around trees), 09 (Ground Works - Surface Water), 10 (Ground Works - Highways), 11 (Construction Method Statement) of approval 2015/0683/FUL for retention of an existing dwelling, the alteration of an existing agricultural building with previous planning permission for conversion to 2No. dwellings with garden land and the erection of 2No. dwellings: Low Farm, Low Farm Road, Bolton Percy, YO23 7AH  
Decision: COND Decision: 11-MAY-18
- 2018/0260/FUL, Alt Ref: Proposed erection of a four-bedroom dwelling and garage: Low Farm, Low Farm Road, Bolton Percy, YO23 7AH  
Decision: REF: 06-SEP-18

## 2. CONSULTATION AND PUBLICITY

- 2.1 **NYCC Highways Canal Rd** – The Local Highway Authority recommends Conditions relating to Private Access/Verge Crossings; provision of a 2m wide footway to east side of Old Road and a Construction Method Statement.
- 2.2 **Yorkshire Water Services Ltd** – No response received.
- 2.3 **Ainsty (2008) Internal Drainage Board** – Application sits close to the Drainage Board's district. Proposal appears to enlarge the impermeable area on site and has the potential to increase the rate of surface water run-off from the site if this is not effectively constrained. The Board notes that they have reviewed this development site previously and most recently in Planning application 2018/0260/FUL, which has in any event now been refused and is therefore reviewing the matter in fresh for this new planning application.

- Standard comments about requirement for consent in regard to surface water discharge
- Requirement for use of soakaways subject to testing in accordance with BRE Digest 365
- Condition requiring all drainage works to be agreed including discharge of foul drainage (following treatment) with recommendations in respect to climate change and flows

2.4 **Environmental Health** – The proposed development is adjacent to an agricultural dwelling and associated site and the Planning Statement submitted with application does not specify whether this is to be operational or not. This may have impact on the residential amenity of the proposed dwelling if the agricultural site is currently operational or may return to use in the future. The proposed dwelling will be in very close proximity to farm buildings potentially used for agricultural purposes including for the housing of livestock. This gives rise to the potential for an adverse impact on residential amenity due to noise, dust, and odour to the development from nearby farming operations.

Concerns that the introduction of an independent dwelling so close to farming operations without any proposed remedial control measures has the potential to give rise to unacceptable levels of pollution affecting the development.

2.5 **Natural England** – Natural England has no comments to make on this application.

2.6 **North Yorkshire Bat Group** – No response received.

2.7 **Yorkshire Wildlife Trust** – No response received.

2.8 **Contaminated Land Consultant (Final Response)** – Conditions updated since the 2018 application so new ones attached which require the same level of Investigation/remediation and verification works.

2.9 **County Ecologist (Initial Response)** – It is understood that this application is a resubmission of a previous identical application (2018/0260/FUL) - as such the comments provided below are similar to those provided in March 2018. The application is accompanied by an Ecological Impact Assessment (MAB - March 2018). It is considered that this ecology report is still valid for the current application, The CE adds that if there is a delay in determining the application then updated surveys may be required.

Agree with the assessment made of no likely significant effects upon the nearby SSSI & SINCs due to the size of the development and the distance from the sites.

*Bats:*

Satisfied with the assessment of the building as having low/negligible potential to support bats and agree that no further survey work is required, and no specific mitigation is proposed. However, it is acknowledged that works to an adjacent building will provide roost features in the new building, which will have beneficial effects for bats within the local area. There is a recommendation (section 9.1 of the report) that no new lighting from this proposal should illuminate either the foraging or roosting habitat - this will need to be secured as part of the current permission as increased light levels have the potential to impact the likelihood of bats using the new roosts.

*Breeding birds:*

Potential for presence of nesting birds within the hedge adjacent to the road and within the barn itself, an informative is recommended to ensure that removal of the hedge and demolition of the barn are undertaken outside of the bird breeding season, generally taken to be 1st March to 31st August inclusive.

*Barn Owl:*

It is understood that there is no recent records/evidence of barn owls using the barn, however a pre commencement check of the barn for barn owls is recommended

- 2.10 **County Ecologist (Final Response)** - As a starting point would expect the consultants to cross check the information provided in 2018 to the current situation now. Would not expect there to be any changes to the assessment on the SINC/SSSI, the key species to consider any changes are bats and barn owl. A single visit may be sufficient for the consultants to confirm the same status as previous. If the building has become more suitable for bats or barn owl then further detailed work may be required.
- 2.11 **Parish Council** - The councillors of the above Parish Council have no further suggestions to make except what they reported on the previous three planning applications which were refused. The proposed site is still outside the village envelope and this application should not be able to be re-submitted again.
- 2.12 **Conservation Officer** – Proposal is the same as application 2018/0260/FUL which was refused on the principle of development. There were no objections raised from a conservation perspective following amendments to design of dwelling.

Design complements character and appearance of the conservation area by reflecting regular proportions with use of local materials. There are single and two storey elements which break up the massing of the structure.

Complies with Core Strategy Policy SP18 and Local Plan Policy ENV25 as enhances and preserves the character and appearance of the conservation area by replicating traditional design details and materials.

Submitted Heritage Statement does not fully meet requirements of NPPF paragraph 194 as little assessment of significance and identification of character and local distinctiveness of the area and requires more detail in terms of the significance of surroundings. Also impact and mitigation assessments demonstrating how development would contribute to character of the village.

**Recommendation**

Development has the potential to enhance character and appearance of this part of the conservation area. No objections from a conservation perspective regarding design but a more thorough Heritage Statement required to meet requirements of paragraph 194 of NPPF. Conditions are recommended in relation to the detailing of the dwelling.

**Publicity**

- 2.13 The proposal was advertised by way of direct neighbour notification, site notice and in the Yorkshire Evening Press. A total of 4 letters have been received (including

two letters on behalf of John Smith's Brewery) in response to publicity which object to the proposal for the following reasons:

### General

- Supporting letter only addresses reasons for refusal on previous application (2018/0260/FUL) which is incorrect as does not represent a definite starting point in regard to determination of a further proposal
- Existing timber barn appears incapable of conversion to residential use
- No change to previously refused application other than inclusion of a number of appeal decisions which bear no relation to this location
- Storage of plastic covered bales demonstrates that site is still required for agricultural purposes
- Additional development is not sustainable – local school at Appleton Roebuck is oversubscribed with no plans to increase places, despite considerable development within Appleton Roebuck
- Serious risk of loss of countryside gaps and independent village character

### Policy

- Site cannot be considered as Previously Developed Land (PDL) as occupied by an agricultural building
- Site lies in open countryside therefore Policy SP2 should be used to determine application
- Proposal does not meet criteria of Policy SP10 and would create activity levels and associated domestic paraphernalia: lighting, garden, car movements, washing lines etc beyond the settlement and into the open countryside
- No reference to positive contribution to the rural economy or rural communities
- Fails to accord with Policies SP2 and SP10 with no material considerations demonstrated which would outweigh the conflict
- Proposal is unsustainable and would not enhance the vitality of the village
- Outside development limits in open countryside and if permitted would set a precedent for more sprawling development
- Not environmentally responsible to encourage large growth of housing in such a small village
- Overdevelopment of a secondary village – existing significant development taking place within the village through infill and conversions on existing farmsteads therefore no evidence that the village is underdeveloped

### Ecology

- Impacts on nature conservation addressed via a submitted Walkover Ecological Assessment (dated March 2018) and no detailed analysis of impacts on Great Crested Newts. Applicant should be required to update the report to include or explain why not included in the survey
- Applicant needs to consider the worst-case scenario in respect of the impact of proposal on protected species and other nature conservation interests
- Cannot be conditioned as part of a decision and should be included prior to determination of application
- Previous Ecological Assessment states the habitat is suitable for Great Crested Newts and other amphibians therefore reasonable likelihood that

important nature conservation interests would be affected by the development

- Full survey with approved methodologies and standards is necessary

#### Affordable Housing/Community Benefit

- No provision for affordable housing or a commuted sum when Policy SP9 requires a commuted sum equal to 10% provision and therefore of no benefit to village community and therefore contrary to Policy SP9
- If owner of land had considered provision of community space (with this and other recent developments) which would benefit community, there would be more acceptance

#### Residential Amenity

- Reduce amenity for existing households
- Occupant of an adjacent dwelling advises that the large window currently flooding house with light would block existing views of adjacent farmland and reduce light levels
- Loss of residential amenity due to increase in traffic movements and noise
- Significant impact on adjacent dwellings (to south) also recently built by this landowner

#### Drainage

- Drainage ditches to either side of road are liable to flood in heavy rain
- Village is at considerable risk of flooding as witnessed during winter of 2015
- Issues with inadequate drainage which is an ongoing concern for residents

#### Highway Safety

- Insufficient off-street parking indicated with only one space provided
- Highway Officer comments do not give a clear view but merely offers conditions should the proposal be permitted
- Traffic problems due to extreme difficulties passing on the narrow lane with highway already overloaded due to recent development near site
- Limited availability of public transport meaning residents must use cars to travel outside the village
- No provision for off road deliveries

#### Design, Scale, Character & Impact on Heritage Assets

- Unsympathetic design and position on road frontage would create a heightened effect of enclosure in this area of the settlement
- Inappropriate scale relative to density, character and form of surrounding area as Bolton Percy is rural, dispersed and an agriculturally based settlement with little high density urban development
- Adverse impact on Conservation Area therefore provides additional weight as a sensitive area
- Currently relatively open and accessible agricultural yard area and development would alter this aspect of the village by replacing with an enclosed residential frontage and garden area and associated vehicles, play equipment, sheds and glass houses

- Would be a marked change due to above from within the settlement and conservation area due to size and appearance and potentially brightly coloured and obviously no longer agriculture in nature and would be viewed from public roads and public rights of way from the north
- Scale and design of proposal indicates a large, private residence rather than a smaller, typical rural workers dwelling which are apparent in the surrounding area
- Would impact on unique character and appearance of Bolton Percy

### **3 SITE CONSTRAINTS**

- 3.1 The site is located outside the Development Limits but within the Conservation Area; within a coalfield area; Airfield Air Protection Zone and potentially Contaminated Land. It is adjacent to the settlement limits of Bolton Percy which is a secondary village in the Core Strategy.

### **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  
SP8 – Housing Mix  
SP9 - Affordable Housing  
SP10 – Rural Economy  
SP15 - Sustainable Development and Climate Change  
SP16 - Improving Resource Efficiency  
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  
ENV25 – Development in Conservation Areas  
T1 - Development in Relation to Highway  
T2 - Access to Roads

## **5 APPRAISAL**

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

- Principle of Development
- Impact on the Character and form of the village and the locality
- Heritage Assets
- Highway Safety / Access
- Residential Amenity
- Flood Risk, Drainage and Climate Change
- Ecology
- Land Contamination
- Affordable Housing
- Waste & Recycling

### **Principle of Development**

5.2 Paragraph 12 of the NPPF re-emphasises the above as the starting point for decision-making, adding that where a planning application conflicts with an up-to-date Development Plan it should not usually be granted, unless there are material considerations which outweigh policy (para. 47). Local planning authorities may however take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

- 5.3 Core Strategy Policy SP1 outlines that *"when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework"* and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF and should be afforded significant weight.
- 5.4 Core Strategy Policies SP2 and SP4 direct the majority of development to Selby as the district's Principal Town; then the Market Towns of Sherburn in Elmet and Tadcaster and Designated Service Villages (DSVs) and restrict development in the open countryside. Policy SP2A(c) states that development in the countryside (outside Development Limits) *"will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale,"* which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.
- 5.5 Policy SP2 also identifies Bolton Percy as being a Secondary Village and states that limited amounts of residential development may be absorbed *inside* its development limits where it will enhance or maintain the vitality of rural communities. However, the full extent of the application site lies outside the defined development limits of Bolton Percy. The proposed development does not fall within any of the exceptions set out in SP2 c) and would therefore conflict with the aims of this policy
- 5.6 The consistent approach of this authority has been to refuse proposals outside of the development limits. The applicant's agent refers to some circumstances where permission has been granted for small scale development outside of development limits, However, the limited number of cases have been in more sustainable locations such as Designated Service Villages where a number of other site specific or historic factors in addition to the sustainability of the location or the physical characteristics have additionally contributed towards the justification. However, in all cases the overriding consideration and starting point for determination is the development plan policy which comprises the saved policies of the Local Plan and the Core Strategy. The applicant's agent refers to the emerging local plan and the commitment to review development limits. However, at the present time this is at an early stage and little weight can be afforded to any progressing policy approach. The saved policies of the Local Plan and the Core Strategy remain the adopted development plan for the area for the purposes of Section 38(6) of the Town and Country Planning Act. This site lies outside the development limits of a secondary village. Bolton Percy is one of the smallest and least sustainable settlements within the district and the proposed development would project beyond the development limits.
- 5.7 It is noted that the agent has referred to two other applications which have been approved outside Development Limits within the district, one within the settlement of Skipwith (2020/0343/FUL) and the other in Eggborough (2021/0965/OUT). Eggborough is a Designated Service Village within the Core Strategy and the Selby District Local Plan and is considered to be a sustainable location where there is some scope for additional small scale residential development to support its sustainability. The application in Skipwith was approved on the basis that it immediately adjoined the Development Limits, was surrounded to three sides by existing and approved development, with substantial weight given to the locational characteristics including the boundary which did not project beyond the edge of the development limits to the east and west and was a natural continuation. The site essentially had the characteristics of an infill plot due to existing surrounding development and was not

highly visible. The Bolton Percy site is different as it is surrounded by open countryside on two sides and lies at the outer edge of the settlement and would therefore be highly visible from the northern approach to the settlement.

- 5.8 The agent has also submitted supporting information advising that the Development Limits were defined several years ago and that the settlement has outgrown the defined settlement limit and provides several examples of allowed Appeals from various parts of the country, where development sites have been approved outside of Development Limits. Whilst it is acknowledged that Selby District are in the process of updating the existing Core Strategy and Development Limits will be *reviewed*, there is currently no indication of how or where or how much would be appropriate. Moreover, changes to the plan are not yet completed and it is still in the early stages with any changes being finalised in 2023 and therefore do not carry weight at this time. In addition, there is nothing within the NPPF which suggests that the definition of settlement boundaries is no longer a suitable policy response and that such policies are out of date. Whilst there are recent developments which have gone beyond the defined settlement boundaries, each case has been determined on its individual merits including the two referred to, where circumstances are materially different to this application. These do not bind the Council to approve this application.
- 5.9 Furthermore, the submission by the agent of several appeal cases from around the country are noted but again are considered to carry no weight, given that the circumstances of each site are unrelated to the Selby District and comprise of large sites for development, whilst this application relates to a small site for a single dwelling.
- 5.10 In consideration of the above policy context the proposals to develop this land for residential purposes are contrary to policy SP2A(c) of the Core Strategy. The proposal should therefore be refused unless material circumstances exist that would indicate otherwise.

### **Impact on the Character & Form of the Village & the Locality**

- 5.11 Relevant policies in respect of the effect upon the setting of heritage assets include Local Plan Policy ENV1 and Core Strategy Policy SP19. Policy SP19 states that development should achieve high quality design regarding the existing local character, identity and context of its surroundings. In addition, the relevant guidance within the NPPF which relates to design includes paragraphs 126 to 135.
- 5.12 The Bolton Percy Conservation Area largely retains its character with green spaces, mature trees, historic buildings. Modern development in the 20<sup>th</sup> century has resulted in a mix of architectural styles and dwelling sizes with modern and traditional development to the south of the application site.
- 5.13 The existing farm buildings on this site are a common characteristic of villages, often located to the outer edges of settlements. Although the proposed dwelling has been sympathetically designed to appear as if it were originally associated with the adjacent brick barn complex, the development would still introduce a new urban dwelling as the main prominent feature on this edge of settlement site. New tree and hedgerow planting has already taken place beyond the site to the north. Notwithstanding this, the planting would take a significant amount of time to mature sufficiently to screen and soften views and the proposal would extend the built form beyond the village limit to this side of the street which currently is a transition from field to farm building to dwelling. The site is quite separate from the conversion

complex to the south and highly visible from the northern approach. As such the approach to the village would be dominated by a new modern detached dwelling rather than the existing transition from fields to farmyard and then dwellings. This would result in a harsh urban edge, particularly when viewed from the north approach and would cause harm to the character and appearance of the area.

- 5.14 In consideration of the above elements of the scheme it is considered that there would be a materially harmful impact on the character and form of the locality due to the introduction of a dwelling into this semi-rural edge of village location outside of the development limits. The development does not accord with Local Plan Policies ENV1 (1) and (4) and ENV15 and Core Strategy Policies SP18 and SP19 and the NPPF in this regard.

### **Heritage Assets**

- 5.15 Local Plan Policies ENV1 and ENV25, Core Strategy Policies SP18 and SP19 and the NPPF require proposals to take account of their impacts on heritage assets. The Local Plan Policies should be afforded significant weight.
- 5.16 In accordance with paragraph 194 of the NPPF, Local Planning Authorities require the applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The Planning (Listed Building and Conservation Areas) Act 1990 requires, with respect to any buildings or land in a Conservation Area, that special attention be paid to the desirability of preserving and enhancing the character or appearance of the area.
- 5.17 The site lies within the Bolton Percy Conservation area which extends to include the whole of the Low Farm site. The applicants Heritage Statement indicates that the plot currently includes a large timber framed barn which will be removed to leave a flat, level and largely open plot with a perimeter defined by a timber post and rail fence. Boundaries would be reinforced and enhanced with new perimeter hedges of native species including hawthorn, blackthorn, holly and hazel to provide privacy when mature.
- 5.18 The village of Bolton Percy includes dwellings of various styles, from different periods and at various scales and as such the existing character and appearance of the conservation area in the village is quite indistinct, especially with the larger more modern dwellings recently built such as the adjacent dwellings to the west side of Low Farm Road.
- 5.19 The proposed dwelling reflects some of the detailing found on the older more traditional village properties. The additions shown to the three subsidiary elevations appear as if added over time, as cottages were often extended. The dwelling has a simple design appropriate to its location with the form and composition of a familiar, domestic dwelling.
- 5.20 The Conservation Officer's (CO) comments advise that the proposal due to its scale, form and arrangement would be well related to the local vernacular and conservation area. The CO adds that the submitted Heritage Assessment is however lacking and does not comply with the requirements of the NPPF – specifically paragraph 194 whereby an applicant is required to “*describe the significance of any heritage assets affected, including any contribution made by their setting*” and advises that it is lacking with regard to how the proposal would be of benefit to the local character. However, the CO concludes that subject to conditions relating to all materials,

windows and doors, the proposed development has the potential to enhance the character of this part of the Conservation Area.

- 5.21 Having had regard to the above comments and considering Paragraph 135 of the NPPF, the proposals are acceptable with respect to the impact on designated and non-designated heritage assets in accordance with Local Plan Policies ENV1 and ENV25, Core Strategy Policies SP18 and SP19 and the NPPF.

### **Highway Safety / Access**

- 5.22 The proposed dwelling would have an access directly onto Low Farm Road, with parking for one car plus a garage and a 2m footpath would be provided across the frontage of the site.
- 5.23 The concerns of local residents in relation to parking, service vehicles and deliveries, footways and road safety are noted. However, the Local Highway Authority have not raised objections to the scheme but have included a suite of conditions in response,
- 5.24 The scheme would provide a safe means of access to the dwelling and would include adequate parking. It is therefore considered to be acceptable and in accordance with policies ENV1(2), T1 and T2 of the Local Plan, Policy SP19 of the Core Strategy and Paragraph 110 b) of the NPPF with respect to the impacts on the local highway network.

### **Residential Amenity**

- 5.25 Criterion 1) of Local Plan Policy ENV1 relates to the impact of development on adjacent properties.
- 5.26 The nearest dwellings are the existing Farmhouse immediately south of the application site, together with the new house on the adjoining plot and the converted farm buildings. There are two relatively modern semi-detached dwellings which front the unadopted side lane opposite the site to the south. In addition, there are two recently built dwellings on the opposite side of the main road to the west.
- 5.27 The Environmental Health Officer (EHO) has raised concerns in respect of the continued operation of the adjacent farm and use of the associated outbuildings and the impact on the proposed residential dwelling from noise, odour and dust. All the relevant farm buildings have been converted to dwellings and the development of the site would include removal of the remaining barns, including a smaller barn immediately adjoining the application site to the east. Therefore, none of the above concerns raised by the EHO have any bearing on the proposal.
- 5.28 The occupant of the adjacent dwelling located immediately south of the application site (Fossgarth) has raised concerns in respect of the impact of the dwelling on existing windows to their property. Whilst there are windows facing the development site, these are either secondary windows or do not serve habitable rooms, including the large window serving the stairwell (and hall in part). Moreover, the dwelling would face the side elevation of this property and not the rear or principal elevation.
- 5.29 The design of the scheme ensures that no significant detriment would be caused through overlooking, overshadowing, or creating an oppressive outlook on either the future residents of the proposed dwellings or the occupiers of adjacent properties. Adequate distances exist between the buildings, together with the existing and

proposed arrangement of private garden areas to the rear of the scheme is considered acceptable. Therefore, the proposal would not cause a detrimental impact on the residential amenities of the existing dwellings and an adequate standard of amenity can be provided for future occupants in accordance with Policy ENV 1 (1) of the Local Plan and the NPPF.

## **Flood Risk, Drainage & Climate Change**

- 5.30 Relevant policies in respect to drainage, climate change and flood risk include Policy ENV1(3) of the Local Plan and Policies SP15 and SP16 of the Core Strategy. The application site is in Flood Zone 1 (checked on latest maps) (low probability of flooding) and as such it is not at risk from flooding. In respect of surface water, it is proposed to control run-off via an existing watercourse. Foul water would be disposed of via the existing main sewer.
- 5.31 The concerns of the Parish Council and Local Residents in relation to problems with drainage are noted. However, the Internal Drainage Board do not raise any objections, subject to the inclusion of conditions requiring surface water drainage to be agreed prior to the commencement of development and to include evidence of current discharge from the site to the watercourse; soakaway testing, extent of run-off and the requirement to gain consent to discharge to an IDB owned watercourse.
- 5.32 Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate to meet eight criteria set out within the policy. Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree and dependant largely on the nature and scale of the proposed development.
- 5.33 In respect of energy efficiency, no information is included in this application but given that it is the same as the previous refusal it is presumed that renewable materials would (as before) be utilised as far as possible. Therefore, having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.
- 5.34 The proposal would not have a significant impact on flood risk, drainage, and the sewerage system. Having had regard to the above and subject to the inclusion of conditions the proposed scheme is therefore considered acceptable in accordance with Local Plan Policy ENV1(3), Core Strategy Policies SP15 B) and SP16 and the NPPF with respect to flood risk, drainage, and climate change.

## **Ecology**

- 5.35 Protected Species are protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2017. The presence of protected species is a material planning consideration.
- 5.36 Core Strategy Policy SP18 and paragraphs 179 to 182 of the NPPF set out the considerations with regards to the impact of development on habitats and biodiversity.
- 5.37 The Ecological Appraisal submitted confirms that there are no notable or protected habitats on site. There were no signs of use by protected species nor did the site offer suitable habitat for any. The site consists of bare ground, a section of species-

poor hawthorn hedge, a small strip of improved grassland, and an open-sided barn. The barn offers no bat roosting potential, and no further bat survey work is required. A barn owl has previously used the barn as an occasional feeding roost site, but there is no evidence of recent usage. A permanent internal barn owl nest box is being provided within a building adjacent to the site, which is subject to recent planning approval and condition. There would be loss of nesting habitat in the agricultural building and there could be risk of disturbance to nesting birds if hedges or building removal takes place in the nesting season or if active nests are present. However, this can be controlled through a suitable planning condition.

- 5.38 Comments received in respect of Ecology are noted and there are local records for Great Crested Newt (GCN) within Bolton Percy. The NYCC Ecology Consultant (EC) has reviewed the submitted assessment and raises no concerns in this regard and states that due to the fact that the development site is within an active farmyard, and there is the absence of a suitable GCN habitat on site, presence/absence surveys are not required. The EC does add however that whilst the current survey is still valid (March 2018), if there is further delay in determining the application then updated surveys may be. Having contacted the EC again, she has stated that it is unlikely there would be any changes to the assessment on the SINC/SSSI and that key species to consider in respect of changes are bats and barn owl. The EC adds that a single visit may be sufficient for the consultants to confirm no changes in status as previous but if the building has become more suitable for bats or barn owl then further detailed work may be required and the EC consulted again. This would of course only be required, should the application be approved.
- 5.39 In light of the circumstances of the site and comments from the NYCC Ecology Officer, it is considered that subject to an update to the initial assessment as referred to above, the proposal would be in accordance with Policy ENV1 (5) and the advice contained within the NPPF with respect to nature conservation.

### **Land Contamination**

- 5.40 Local Plan Policy ENV2 and criterion k) of Core Strategy Policy SP19 states that 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.
- 5.41 A Phase 1 Contamination Report was submitted as part of the application and the Contaminated Land Consultant (CLC) has responded advising that they would require standard conditions relating to land contamination which were included in response to application ref: 2018/0260/FUL
- 5.42 As such the proposal is acceptable with respect to contamination in accordance with Local Plan Policy ENV2 k), Core Strategy Policy SP19 and the provisions of the NPPF.

### **Affordable Housing**

- 5.43 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Housing Document (SPD) sets out the affordable housing policy context for the district.

- 5.44 Core Strategy Policy SP9 states 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.
- 5.45 The NPPF is however a material consideration and states at paragraph 64 that *“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”* ‘Major development’ is defined in Annex 2: Glossary as “For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more”
- 5.46 The application proposes one dwelling and as such is not a major development. It is therefore considered that having had regard to Policy SP9 of the Core Strategy, the Affordable Housing SPD and the national policy contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

## **Waste & Recycling**

- 5.47 The Selby District Council Developer Contributions SPD requires that all new residential developments are to be designed to accommodate refuse bins and waste recycling facilities in a way that facilitates the collection of refuse and materials for recycling, without harming residential and visual amenity.
- 5.48 The SPD requires schemes of 4 or more dwellings to contribute financially towards waste and recycling facilities. As the proposal is for a single dwelling, no financial contribution would be required, and the size of the site would be suitable to accommodate the necessary waste and recycling facilities.

## **6. CONCLUSION**

- 6.1 The application site is outside the development limit of a Secondary Village and would not fall within any of the categories of acceptable forms of development set out in Policy SP2 A(c). Whilst there would be some positive impact on the Conservation Area, it is considered that this is insufficient to outweigh the harm to the character and appearance of the area as identified and not considered to outweigh the conflict with the settlement policies. The proposal therefore conflicts with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth. Moreover, the proposed development would not amount to a sustainable form of development and would thus be contrary to Core Strategy Policies SP1 and Policy SP2 A(c). The application should therefore be refused on this basis.
- 6.2 The development would project beyond the existing village settlement limits by extending the built form beyond the village limit. As such the approach to the village would be urbanised and dominated by a new modern detached dwelling rather than the existing transition from fields to farmyard and then dwellings. This would result in a harsh urban edge and a sharp transition from field to a dwelling, particularly when viewed from the north approach and would cause harm to the character and appearance of the area. The scheme would therefore result in a development which would have a significant and demonstrable harmful impact on the character and setting of the village, contrary to the aims of Core Strategy Policies SP1 and SP19, Local Plan Policy ENV 1 and with the aims of the NPPF.



## 7. RECOMMENDATION

This application is recommended to be REFUSED for the following reasons:

1. The site lies outside the Development Limits of a Secondary Village on land within the open countryside which is a less sustainable location and the economic benefits to the local economy arising from a single dwelling would be limited. The expansion of the village beyond the development limits would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. The proposal does not fall within any of the categories of development specified as being acceptable in the open countryside as set out in Policy SP2 (c) and would therefore conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth. The proposed development would not amount to a sustainable form of development and would thus be contrary to SP1 and Policy SP2A(c) of the Core Strategy and paragraph 14 of the NPPF.
2. The development would project beyond the existing village settlement limits by extending the built form beyond the village limit. As such the approach to the village would be dominated by a new modern detached dwelling rather than the existing transition from fields to farmyard and then dwellings. This would result in a harsh urban edge, particularly when viewed from the north approach and would cause harm to the character and appearance of the area. The scheme would therefore result in a development which would have a significant and demonstrable harmful impact on the character and setting of the village, contrary to the aims of Core Strategy Policies SP1 and SP19, Local Plan Policy ENV 1 and with the aims of the NPPF.

## 8 Legal Issues

### 8.1 Planning Acts

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

### 8.2 Human Rights Act 1998

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

### 8.3 Equality Act 2010

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

## 9 Financial Issues

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

## 10 Background Documents

Planning Application file reference 2019/0522/FUL and associated documents.

**Contact Officer:** Mandy Cooper (Senior Planning Officer)

**Appendices:** None