



**Report Reference Number:** 2021/0871/OUT

**To:** Planning Committee  
**Date:** 6 April 2022  
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**Lead Officer:** Hannah Blackburn (Planning Development Manager)

APPLICATION NUMBER:	2021/0871/OUT	PARISH:	Bolton Percy Parish Council
APPLICANT:	Mr & Mrs Musgrave & Woffinden	VALID DATE: EXPIRY DATE:	13 July 2021 7 September 2021 EOT 8 April 2022
PROPOSAL:	Outline application (with all matters reserved) for the erection of detached dormer bungalow with double garage and associated driveway		
LOCATION:	Field House, School Lane, Bolton Percy, Tadcaster, North Yorkshire YO23 7BF		
RECOMMENDATION:	APPROVE		

This application has been brought before Planning Committee as one of the Applicants (Mr R Musgrave) is a Ward Councillor for Selby District Council and the Councils scheme of delegation requires for the application to be determined by the Planning Committee.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site lies off School Lane on the edge of the settlement of Bolton Percy. The red line includes the proposed access from School Lane and the plot proposed for the dwelling and has a site area of 0.0717 hectares.

- 1.2 The site is accessed from School Lane via a single width access that currently serves three existing dwellings, namely Field House, Mote Hill House and Oak View.
- 1.3 The site is currently used as partly garden area associated with Mote Hill House and Oak View. as well as including the driveway that also serves Field House and these two dwellings.
- 1.4 There are also existing established boundaries to the southern and western boundaries formed largely by hedges with fencing behind.
- 1.5 To the west of the application site lies another residential dwelling known as "Byways" and to the southeast is a further dwelling known as Field House.

### **The Proposal**

- 1.6 The application is an outline application for erection of a detached dormer bungalow with double garage and associated driveway with all matters reserved. The application was initially validated as including access and scale and all other matters reserved but this was revised in the life of the application.
- 1.7 The red line for the application includes the current access road to School Lane, this has been done as the red line needs to be include land up to the adopted highway and the access road width is 4m. This equates to a site area of 0.0717 hectares.
- 1.8 In terms of the types of dwelling proposed for the site then the description of development states that proposed dwelling is to be a "detached dormer bungalow with a double garage, with associated driveway".
- 1.9 An indicative layout (5351-SK-200 Rev A) has been provided showing a footprint and ground floor layout, with parking shown to the front of the dwelling, although it has not been demonstrated that this is sufficient to allow for turning of a vehicle within the site to allow egress in a forward gear from the site nor any details being provided of the upper floor accommodation or any elevational details. The proposed indicative layout would rearrange the access arrangements to the existing dwellings to the north / northeast and remove the current bin storage area that is in situ for these dwellings to create the plot.
- 1.10 Surface water from the development is proposed to be dealt with via soakaway and foul water will be connected to main services.

### **Relevant Planning History**

- 1.11 The following historical application is considered to be relevant to the determination of this application.
- 1.12 The site lies within the red line under Application 2015/0163/OUT (AltRef: 8/78/46F/PA) which was for outline consent with all matters reserved for the erection of two dwellings including the demolition of the existing building, which was granted on the 22 October 2015. A subsequent Reserved Matters submission was considered under 2016/1196/REM (AltRef: 8/78/46J/PA) which was consented on the 12 January 2017.

- 1.13 A further full application 2017/0090/FUL (AltRef: 8/78/46L/PA) for the erection of two detached dwellings with garages and associated access road following demolition of existing buildings, was consented on the 29 March 2017. There were subsequent non-material amendments to the scheme for the site under 2017/0594/MAN (AltRef: 8/78/46N/PA) to the garage for Plot 2 garage, removal of windows to the east and additional windows to the west elevation of approved application 2017/0090/FUL. In addition, two submissions have been considered and consented for the discharge of conditions on remediation (under 2018/0573/DOC) and for materials, piling, drainage and contamination (under 2018/0433/DOC).
- 1.14 As part of this consent the current application site was shown as providing the access to the garages for the two new dwellings and front garden area to the eastern of the two dwellings. In addition, the approved landscaping scheme showed the garden area to the eastern part of the plot as being defined by hedging and a 1100mm black painted parkland railing. The access was also shown on the landscaping schemes are being laid to 20mm gravel and provision of a bin store for the two dwellings on the edge of the access road in the southern part of the site, alongside revised landscaping to the garden of the eastern dwelling and a new defined landscaped boundary to the new dwelling.

## **2. CONSULTATION AND PUBLICITY**

### **2.1 Bolton Percy Parish Council** – initial comments (dated 10 September 2021) stated an object to the application on the following basis

#### 1. Development Limits

The proposed outline planning is outside the defined Development Limit for Bolton Percy and is thus in clear conflict of the Development Plan.

#### 2. Flood Risk

The proposed outline planning would increase flood risk to a village that already has a recent history of flooding. Specifically on page 8 of the Planning Statement under "surface water" states - "surface water will discharge via means of an appropriate soakaway system. This is against the findings of the Geoenvironmental Appraisal (August 2016) also lodged with this application that states "Due to very slow infiltration rates, soakways will not provide a suitable drainage solution for surface water run off at the site. Consequently, it will be necessary to consider alternative sustainable drainage systems (SUDS) and there may be a need for surface water balancing.

#### 3. Sewerage Overflow

The proposed outline planning would add to the current issues around sewerage overflow in the village that have been present and under discussion with Yorkshire Water for a number of years.

As a result of re-consultation following the change in the description of development the Parish Council made no further comments as of the 8 November 2021. Should

further comments be received before Committee then Members will be updated accordingly.

**2.2 NYCC Highways** – Initial comments (dated 2 August 2021) on the application noted that the existing access will need widening to allow tow way traffic to avoid conflict when entering/exiting the site, as such recommend that a condition is attached to any permission relating to the access and requiring that this is

- a) The access must be formed to give a minimum carriageway width of 4.1 metres, and that part of the access road extending 6 metres into the site must be constructed in accordance with Standard Detail number E50 and the following requirements.
- b) Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway and must be maintained thereafter to prevent such discharges.
- c) Measures to enable vehicles to enter and leave the site in a forward gear; and
- d) that all works must accord with the approved details.

This has been requested in order to ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users and there is also an associated Informative noted referencing the standards and where information can be found on these requirements.

As a result of re-consultation following the change in the description of development the NYCC Highways made no further comments as of the 8 November 2021. Should further comments be received before Committee then Members will be updated accordingly.

**2.3 Conservation Officer** - no response received in the statutory consultation period, should comments be received before Committee then Members will be updated accordingly.

**2.4 Natural England** - Natural England has no comments to make on this application. Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which it is used to assess impacts on protected species or seek advice from the Council's ecology services.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision-making process.

Advice LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

Recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at <https://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice>

As a result of re-consultation following the change in the description of development the Natural England re-confirmed this position.

- 2.5 County Ecologist** -. Having reviewed the Ecological Appraisal undertaken by Wold Ecology, May 2021. There are no statutory or non-statutory designated sites within the vicinity that will be impacted by the development. The site lies outside of the Impact Risk Zone for Bolton Percy Ings SSSI for this type of development. The Ecological report did not identify the presence of any protected or notable species that would be negatively impacted by the development proposals. Where necessary the report includes precautionary recommendations e.g., 8.2.3 for bats, 8.4.5 for birds and 8.7.4 for hedgehogs. Therefore, confirmed support for these recommendations and would suggest that they are secured by condition.

As a result of re-consultation following the change in the description of development the County Ecologist confirmed that they have no further comments as a result.

- 2.6 North Yorkshire Bat Group** – no response received in the statutory consultation period should comments be received before Committee then Members will be updated accordingly.

- 2.7 Yorkshire Wildlife Trust** – no response received in the statutory consultation period should comments be received before Committee then Members will be updated accordingly.

- 2.8 Contaminated Land Consultant** – Advised that the submitted Report and the Site Investigation Works are acceptable and if contamination is found, please note that appropriate investigation and potentially remedial action will be required to make the site safe and suitable for its proposed use. Recommends that a condition is used relating to Unexpected Contamination reporting on any permission.

- 2.9 Yorkshire Water Services Ltd** - no response received in the statutory consultation period, should comments be received before Committee then Members will be updated accordingly.

- 2.10 Ainsty Internal Drainage Board** – Advised that the application site sits close to the Drainage Board's district and that the Board has assets in the wider area in the form of Town Field Dyke which is known to be subject to high flows during storm events. Advised the following:

- Under the Land Drainage Act 1991 and the Boards' byelaws, the Board's prior written consent (outside of the planning process) is needed for:
  - a) Any connection into a Board maintained watercourse, or any ordinary watercourse in the Board's district.
  - b) Any discharge, or change in the rate of discharge, into a Board maintained watercourse, or any ordinary watercourse in the Board's district. This applies

whether the discharge enters the watercourse either directly or indirectly (i.e., via a third-party asset such as a mains sewer)

- c) Works within or over a Board maintained watercourse, or any ordinary watercourse in the Board's district - for example, land drainage, an outfall structure, bridges, culverting etc.

They also advised that the Board does not, generally, own any watercourses and the requirement the Board's consent is required in addition to consent being obtained from any landowner or other authority to carry out the relevant work.

In commenting on surface water – they noted that the:

“Planning Statement that surface water will be discharged via means of an appropriate soakaway system. This is contradictory to the Application Form which states that surface water will be disposed of via the main sewer.”

The Board would therefore ask the applicant to clarify the proposed means of surface water disposal for the new development, garage and driveway.

In commenting on the application, the IDB have also outlined their general requirements for surface water disposal in terms of the percolation testing, soakaway design, discharge to the watercourse, flow to watercourse, discharge rates, flow control devices, surface water storage, and outfall structures.

In terms of foul sewerage then they have noted that the applicant is proposing to use the mains sewer for the disposal of foul sewage, however the nearest foul water sewer appear some distance from the proposed site. The Board would ask the applicant to clarify where the existing connections run from Mote Hill House and Oak View, then if Yorkshire Water is content with the proposed arrangement and is satisfied that the asset has the capacity to accommodate the flow, then the Board would have no objection to the new proposed arrangement.

In this context the IDB have concluded that the Board recommends that any approval granted to the proposed development should include a condition requiring drainage works to be agreed.

As a result of re-consultation following the change in the description of development which also included clarification on the drainage approach the IDB confirmed that conditions should be utilised to secure a drainage scheme.

**2.11 Leeds East Airport** – no response received in the statutory consultation period should comments be received before Committee then Members will be updated accordingly.

**2.12 Publicity** – the application was advertised by way of site and press notice, as a result submission were received from two parties, which in summary raised the following points:

- The site is outside the village development limits in an up-to-date local plan and should be considered accordingly and approval of the scheme will set a precedent

- There is nothing within the NPPF that makes this scheme acceptable or justifies overriding the Local Plan
- The proposal is not infill development as it is a residential garden, and it is not previously developed land as the Applicants seek to argue in their submission.
- The drainage for the site is adequate and there should be more information on flood risk and drainage impacts as part of the application
- The application is not accompanied by a fit or proper suite of supporting information as it has not been justified against the latest version of the NPPF and therefore the supporting statement is not robust or reliable.
- The application drawings show details which should be considered indicative, and this is not made clear in the submissions
- Policies referenced in the Support Statement are incorrect and / or out of date
- The applicants Agent has not considered if any of the policies in the Development Plan are out of date against the NPPF or considered what weight should be attached to any policies as such there is no reasonable case provided by the applicant's agent that the policies of the development plan are out of date and should be set aside for the purposes of the determination of this application.
- The site is outside the development limits of the settlement and should be assessed accordingly and the presumption should be that the scheme is unacceptable given its open countryside location.
- The proposal is not for the replacement or extension of existing buildings, is not for the reuse of buildings and is not a well-designed building of an appropriate scale. There is no evidence to demonstrate that the proposal would contribute toward the local economy and enhance the vitality and viability of the rural community in accord with policy SP13. Similarly, there is no indication that the proposal meets a rural affordable housing need in accord with policy SP10, or that any other 'special circumstances' apply. Consequently, the application proposal fails to meet the requirements of policy SP1 of the Core Strategy Local Plan.
- The applicant's agent references to policy DL1 of the Local Plan within this section however this policy was not saved by the Direction of the Secretary of State in 2008 and was replaced by the policies of the Core Strategy upon its adoption in 2013. Notwithstanding the erroneous position of the applicant's agent, the policy is irrelevant due the decision not to 'save' it and its replacement with policy SP2, neither of which have anything to do with the passage of time.
- the application site cannot be considered to be Previously Developed Land. For good order, the most up to date NPPF provides for exactly the same exclusions from the definition. Of course, greenfield development is defined within the glossary to the Core Strategy as land which is not previously developed.
- The applicant's agent has sought to argue that the development limits should be adjusted to include the application site. The adopted development limits set out within the development plan can be reviewed only through the promotion and consideration of an amendment to the existing plan or the preparation of a replacement plan. Whilst the Council have considered several nearby sites in the currently emerging development plan (SDC references: BPER- A-D), all have been rejected by the Council on the basic ground of the sustainability of the location and its inability to support further

housing. In summary, whilst it is theoretically possible to review the development boundaries to include this site, this has not been proposed or considered by the Council. Whilst several nearby sites have been proposed these have all been rejected at the first stage of the Local Plan preparation process. There is no indication that an amendment to the development boundary in this location is justified or has been proposed at the time of writing this letter of objection.

As a result of re-advertisement of the application following the change in the description of development **one letter** providing further comments was received that in summary noted:-

- [YN1]Consider the change to “Outline with All Matters Reserved” is an attempt to avoid the comments of the Highways Officer to the initial submission as the red line fails to include any additional land around the access point with which to facilitate such a requirement – so it is not possible to resolve this matter within the confines of the outline site boundary to which any reserved matters submission would have to relate.
- Notwithstanding the position with the consent at Park Farm Skipwith (2020/0343/FUL) which the applicants have referenced extensively, the Council is in no way bound to follow the reasoning or conclusions in determining this application on an unrelated site
- The Applicants Supplementary Submission makes no point other than to highlight purported similarities between the two proposals and press for the same decision to be made in the determination this application. There is no additional material provided in this further submission which addresses the fundamental points of principle set in previous comments by objectors
- The site is not Previously Developed Land even if in the past it was considered to be so.
- There is a clear and compelling case that the principle of the application proposal fails to meet the requirements of adopted development plan policy. Whilst the applicant’s agent has provided a case that this policy is out of date, should be set aside or that the proposals map setting out the development boundary of the settlement should be amended, none of these positions are tenable when subjected to proper scrutiny.
- The application remains unsupported by a reasonable or compelling case regarding material considerations that could be held to out-weigh the primacy of these adopted development plan considerations.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The site lies outside the development limits of Bolton Percy as defined by the Selby District Local Plan and therefore in the open countryside. The proposal is therefore considered as a Departure from the development plan.
- 3.2 The site is in Flood Zone 1 and there are no trees subject of tree protection orders within the site, nor is the site within the Conservation Area (or its buffer) or within close proximity to any listed buildings. There are TPO trees on School Lane and within the garden areas of properties to the south of the application site, but these



would not be affected by the proposed development, nor are there any trees within the application site.

- 3.3 The site is also considered to be greenfield land against the definition in Annex 2 of the NPPF (2021) given it is currently garden land associated with the dwellings to the east as consented under 2017/0090/FUL (AltRef: 8/78/46L/PA) for the erection of two detached dwellings with garages and associated access road following demolition of existing buildings, was consented on the 29 March 2017.

#### **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
- SP15 - Sustainable Development and Climate Change
- SP16 - Improving Resource Efficiency
- SP17 – Low Carbon & 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

### **Other Policies/Guidance**

4.8 The other relevant documents are noted as follows:

- Five Year Supply Guidance Note for Applicants January 2017
- Affordable Housing Supplementary Planning Document, 2013
- Developer Contributions Supplementary Planning Document March 2007

## **5 APPRAISAL**

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

- Principle of the Development
- Design and Impact on Character of the Area
- Residential Amenity
- Highway Safety
- Flood Risk, Drainage and Climate Change
- Heritage Assets
- Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing
- Housing Mix
- Waste and Recycling
- Other Matters arising from Consultations

### **Principle of Development**

5.2 The application site was part of land consented for residential development under 2015//0163/OUT. This consent was issued at a time when the Council did not have a 5-year housing land supply, and as such weight was afforded to Paragraph 47 of the NPPF and Policies SP2 and SP5 were at that stage considered to be out of date. In this context Officers in assessing 2015/0163/OUT having applied the tests under Paragraph 14 of the NPPF concluded that benefits of the proposal in

economic, social and environmental terms gave significant weight in favour of the proposal and the principle of development was supported. In terms of the later consent 2017/0090/FUL again this was considered by the Council in the context of there being no 5-year housing land supply.

- 5.3 As a result of the development of the site under the 2017/0090/FUL then the Land subject of this latest application is surrounded by development on three sides but is still outside the development limits as defined by the Local Plan.
- 5.4 At the time of writing this report, the Council can confirm that they have a five-year (7.7 years) housing land supply. The fact of having a five-year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five-year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.
- 5.5 The NPPF is a material consideration and states that sustainable development is about positive growth and that the Planning System should contribute to the achievement of sustainable development. The NPPF, taken as a whole, constitutes the Government's view of what sustainable development in England means in practice for the planning system.
- 5.6 Policy SP1 of the Selby District Core Strategy Local Plan (2013) (CS) outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken.
- 5.7 Policy SP2 of the CS sets out the long-term spatial direction for the District and provides guidance for the proposed general distribution of future development across the District. The settlement hierarchy is ranked on the Principal Town of Selby, Local Service Centres, Designated Service Villages and smaller villages. The CS identifies Bolton Percy as a 'secondary village'. Policy SP2 sets out that a limited amount of residential development may be absorbed inside Development Limits of secondary villages where it would enhance or maintain the vitality of rural communities, and which confirm to Policy SP4 of the Core Strategy.
- 5.8 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. The site lies outside the development limits of Bolton Percy village. The proposal does not constitute any of the forms of development set out under SP2A(c). In light of the above policy context the proposals for residential development are contrary to Policy SP2 of the Core Strategy and should be refused unless material considerations indicate otherwise.
- 5.9 The submissions made in support of the application reference a recent decision by Planning Committee on Application 2020/0343/FUL for a single dwelling at Skipwith Park Farm Skipwith, and the arguments made in terms of the principle of development case for the scheme can be summarised as follows:

- The application sites are similar in area, both are both for single dwellings but the dwelling at Field House would be of a smaller scale.
- Both are vacant land, outside but adjoining the development limit of a secondary village, surrounded on three sides by built development.
- Both proposals can be seen as part of to an adjacent residential development.
- Both make use of an existing access.
- The sites share identical locations in relation to the respective development limits.
- The sites both have the same planning policy context, and both are on the edge of a secondary village.
- The principle of development for the site in Bolton Percy should be the same as that set out in assessing the site in Skipwith.
- There is a range of services within a 5-minute car drive of Bolton Percy which against Para 79 of the NPPF should be taken into account given that the relationship of Bolton Percy and Appleton Roebuck is very similar to that of Skipwith and North Duffield.
- A single dwelling is an appropriate scale for the village setting.
- The development limits of the Bolton Percy have not been altered for many decades and if they had been reviewed as per the commitment made in the 2013 Core Strategy then this site would have been an obvious candidate for inclusion in the village with re-drawn limits.
- The Skipwith site is described as an infill site which is surrounded to three sides by existing development and permissions and that it would be a rational approach to afford substantial weight to the identified locational characteristics of the site as the proposal accords with the general position of Policy SP4a and the aim of the NPPF. Exactly the same characteristics apply to the current application site.
- This scheme is also a Self-Build scheme and approval of the scheme would help the Council to meet the requirements of the Self Build and Custom House Building Act 2015 which requires LPAs to grant permission to enough suitable serviced plots to meet demand for self-build and custom build in their area.
- We agree with the Officer's conclusion that whilst the proposals in Skipwith do not strictly accord with the Development Plan, it was considered that the proposal offered an acceptable form of development and that, given all the circumstances, the site was suitable for development. We believe that the same conclusion should be drawn in the case of our application.
- In both cases, existing development in the respective villages exhibits a wide variety and scale of development plots and dwelling sizes with no particular grain and with a large proportion of properties being detached. The scale and design of the proposed dwelling will be resolved at the reserved matters stage. Impact on the countryside in both cases is limited, a function of the siting of the dwellings and the immediately surrounding residential development.
- Bolton Percy and Skipwith, as secondary villages, can clearly sustain some level of development and by no stretch of the imagination could either site be described as "isolated". In both cases the sites relate to the built form of the village rather than the surrounding countryside.

5.10 The applicants have also referred in submissions to the Council at Eggborough (2021/0956/OUT) also for a single dwelling outside development limits, as a "well-designed new building of an appropriate scale". They have noted they agree with this decision and that they consider this "aligns with the Government's objective to

significantly boost the supply of homes and because it is recognised that even small sized sites are considered to make an important contribution to meeting the housing requirement". It is also important to remember that the NPPF does not – anywhere – refer to development limits: merely that schemes should be determined according to sustainability and that isolated homes in the countryside should generally be resisted.

- 5.11 Objectors to the application, including from the Parish Council, have stated that they consider the scheme to be contrary to the development plan being outside the development limits of the village, and the assumption should be that the scheme is unacceptable given its open countryside location. They have also commented on the approach of the Applicants to referencing other decisions made by the Council and indicated that they consider that the scheme should be assessed in its own right, and other decisions should not bind the Council to supporting this application.
- 5.12 In some circumstances permission has been granted for small sale development outside of development limits, including pockets of greenfield land which project beyond the development limits. However, these have generally 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. In terms of the emerging local plan and the commitment to review development limits 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 as such the scheme is not acceptable.
- 5.13 In terms of the Development Limits, it is acknowledged that these were defined a number of years ago and whilst as part of the review of updating the existing Core Strategy then Development Limits will be reviewed, there is currently no indication of how. 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.
- 5.14 Although Officers need to be minded of other recommendations and decisions, every case is assessed on its merits and against the Development Plan and taking full account of its context and characteristics and the associated material considerations. The Skipwith case is noted, though it is not considered that the scheme for Field House should be simply supported off the back of another decision even if some characteristics of the site are similar. In addition, Appeal Decisions for dwellings outside the development limits of Secondary Villages have

been dismissed on the basis of sustainability and accessibility to services, facilities and employment.

- 5.15 As noted above and as a result of the development of the scheme approved under 2017/0090/FUL, the application site was to be access for the two new dwellings (as well as Field House) but was also shown to be garden to the eastern part of the plot with defined hedging and a 1100mm black painted parkland railing. The application site is being used as access for Field House, Mote Hill House and Oak View, and is site is currently used a partly garden area associated with Mote Hill House and Oak View.
- 5.17 Having considered the arguments made by the Applicants, it is the view of Officers that, although contrary to the development plan, there are material considerations to deviate from this position. In this case it is considered that development on the site can be supported as although the site outside the Development Limits of Bolton Percy is surrounded by other dwellings and would not extend development beyond that which has already been accepted under 2017/0090/FUL. As such the erection of a dwelling on the site would not encroach into open countryside and its development, although contrary to SP2, would not be so detrimental to warrant refusal and it does represent an acceptable form of development given the site context which is a significant material consideration.

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

- 5.18 Significant weight should be attached to saved Local Plan Policies ENV1 and ENV15 as they are broadly consistent with the aims of the NPPF. Relevant policies within the NPPF which relate to design are set out in section 12 and include paragraphs 126 to 135.
- 5.19 The applicants have not provided any details of the design of the proposed dwelling, and all matters are reserved at this stage.
- 5.20 The application site comprises garden area to the dwelling to the east and is currently residential curtilage with adjacent residential units being a mix of design and height but largely detached in form.
- 5.21 The application seeks outline planning permission (all matters reserved) for a residential development. Notwithstanding this, an indicative proposed site layout plan (drawing no 5351-SK 200 Revision A) has been submitted with the application to demonstrate how the site could be laid out to accommodate a “3 / 4-bedroom dormer bungalow”. In addition, the description of development noted on the Amended Application Form also states that the unit would be a “dormer bungalow”.
- 5.22 It is noted that development within the surrounding area is varied in terms of the type, size and design of the properties and the size, shape and location of the plots, with both linear and back land development evident. There are some concerns, without full details being provided, that the layout shown on the indicative layout plan could result in a cramped form of development at the site. However, it is noted that the indicative layout plan is for illustrative purposes only and full details of the layout, appearance, scale, access and landscaping of the proposed dwellings would need to be submitted at the reserved matters stage for consideration. Should the details not be acceptable at that stage, they would need to be amended or the reserved matters application refused to ensure no adverse impact on the character

and appearance of the area. This may mean the number of dwellings proposed at the site needs to be re-considered.

- 5.23 Having regard to the above, it is considered that a scheme could be designed with an appropriate layout, appearance, scale, access and landscaping at the reserved matters stage to ensure that the proposed development would not have a significant adverse impact on the character and appearance of the area in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policies SP4 (c) and SP19 of Core Strategy and national policy contained within the NPPF.

### **Residential Amenity**

- 5.24 As set out earlier in this report, the application site is adjacent to other residential development, however the application seeks outline planning permission (all matters reserved) and only an indicative scheme has been provided. Careful consideration would be needed at the reserved matters stage regarding the layout of the development, and should the details not be acceptable at that stage, they would need to be amended or the reserved matters application refused to ensure no adverse impact on the character and appearance of the area. However, it is considered that a scheme could be designed with an appropriate layout, appearance, scale, access and landscaping at the reserved matters stage to ensure that the proposed development would not have a significant adverse impact on the residential amenities of the existing and proposed dwellings in accordance with Policy ENV1 (1) of the Selby District Local Plan and national policy contained within the NPPF.

### **Highway Safety**

- 5.25 Access is a reserved matter on the application, albeit initially access was set out as a matter to be agreed, revisions to the submission during its lifetime removed this element from considerations. An indicative proposed site layout plan (drawing no 5351-SK 200 Revision A) has been submitted with the application to demonstrate how the site could be laid out to a dwelling with access serving the new dwelling and the existing dwellings from School Lane.
- 5.26 NYCC Highways were consulted on the initial submission and advised that the “existing access will need widening to allow tow way traffic to avoid conflict when entering/exiting the site” and as they recommend a condition be attached to any permission relating to the access and requiring that this cover
- a) The access must be formed to give a minimum carriageway width of 4.1 metres, and that part of the access road extending 6 metres into the site must be constructed in accordance with Standard Detail number E50 and the following requirements.
  - b) Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway and must be maintained thereafter to prevent such discharges.
  - c) Measures to enable vehicles to enter and leave the site in a forward gear; and
  - d) that all works must accord with the approved details.

To ensure that a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users which would have an associated Informative noted referencing the standards and where information can be found on these requirements.

- 5.27 Since these comments the application has been amended to make access a reserved matter, and Objectors have queried the change to the application, to remove “access” and to make all matters reserved, stating that they consider this has been done to “an attempt to avoid the comments of the Highways Officer to the initial submission as the red line fails to include any additional land around the access point with which to facilitate such a requirement – so it is not possible to resolve this matter within the confines of the outline site boundary to which any reserved matters submission would have to relate”.
- 5.28 In terms of the access route from Oak Avenue into the application site, then the submitted indicative layout plan shows that the access is 4m in width, so 0.1m below that stated as being required by Highways Officers in their response when access was being considered. Although the comments of the objector are noted it is considered that the discrepancy of 0.1m is di-minims and as such not so significant to warrant refusal of the scheme, as it is still considered an appropriate access could be created.
- 5.29 In terms of the indicative layout then this is just that and any scheme that was to come forward at a reserved matters stage would need to demonstrate that a satisfactory access can be provided, and that the layout will enable vehicles to enter and leave the site in a forward gear. Although this has not been wholly demonstrated on the indicative layout Officers do consider that a scheme could be facilitated which allowed these requirements to be met.
- 5.30 Whilst a condition could be added to any outline consent to require “Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway and must be maintained thereafter to prevent such discharges” it is not considered that the other conditions suggested by NYCC Highways would be appropriate to attach at this stage, given they relate to matters which are reserved for subsequent consideration at the reserved matters stage and could be assessed and conditioned at that point in the process if necessary. In addition, it would be for the Reserved Matters submission to show that the scheme can provide an appropriate access within the red line as defined on any Outline consent.
- 5.31 Having regard to the above, it is considered that a scheme could be designed with an appropriate layout, appearance, scale, access and landscaping at the reserved matters stage to ensure that the proposed development would not have a significant adverse impact on highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and national policy contained within the NPPF.

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

- 5.32 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 located 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 for surface water to be disposed of via soakaways. Foul water would be disposed of via the existing main sewer.



- 5.33 The concerns of the Parish Council 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 should this become necessary.
- 5.34 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.
- 5.35 In respect of energy efficiency, no information is included in this application it is presumed that renewable materials would be utilised as far as possible. Therefore, having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.
- 5.36 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.

### **Heritage Assets**

- 5.37 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. However as noted above the site is not within the Bolton Percy Conservation Area, and no objections / comments have been received from the Conservation Officer on the submission. Given the scheme is in outline with all matters reserved then detailed design comments can be attained at the Reserved Matters stage on the scheme.

### **Nature Conservation and Protected Species**

- 5.38 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. 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.
- 5.39 NYCC Ecology Officers have confirmed that there are no statutory or non-statutory designated sites within the vicinity that will be impacted by the development. The site lies outside of the Impact Risk Zone for Bolton Percy Ings SSSI for this type of development. In addition, the application is accompanied by an Ecological Appraisal undertaken by Wold Ecology dated May 2021 and has been subject of consultations as noted above, resulting in no objections subject to a condition relating to precautionary recommendations e.g., 8.2.3 for bats, 8.4.5 for birds and 8.7.4 for hedgehogs.

- 5.40 In light of the circumstances of the site and comments from the NYCC Ecology Officer, it is considered that the proposal is therefore in accordance with Policy ENV1 (5) and the advice contained within the NPPF with respect to nature conservation.

### **Land Contamination**

- 5.41 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.
- 5.42 A Geo-Environmental Appraisal has been submitted with the application, dated August 2016, and this has been considered by the Council's Contamination Consultant as noted above, who has confirmed that "The report provides a good overview of the site's history, its setting and its potential to be affected by contamination" and confirms that "the report and the site investigation works are acceptable. If contamination is found, please note that appropriate investigation and potentially remedial action will be required to make the site safe and suitable for its proposed use". As such a condition relating to the reporting of unexpected contamination is proposed.
- 5.43 As such the proposals, subject the condition, are therefore 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**

- 5.44 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Housing Document (SPD) sets out the affordable housing policy context for the District.
- 5.45 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.
- 5.46 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"
- 5.47 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**

- 5.48 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.
- 5.49 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.

## **Housing Mix**

- 5.50 The 2009 SHMA will be used to assist the Council in the determination of planning applications, but it is also recognised that future studies will update this current evidence and thus the Core Strategy Policy SP8 is clear that the appropriate housing mix will be achieved in the light of local evidence.
- 5.51 Policy SP8 of the Core Strategy states that
- “Proposals for housing must contribute to the creation of mixed communities by ensuring that the types and sizes of dwellings provided reflect the demand and profile of households evidenced from the most recent strategic housing market assessment and robust housing needs surveys whilst having regard to the existing mix of housing in the locality”.*
- 5.52 This application is an Outline Application for the erection of a dormer bungalow, as stated in the description of development.
- 5.53 Although the applicants have not provided any evidence on whether the proposals accord with Policy SP8, Officers consider that the development of the site for this type of accommodation would add to the mix within the settlement and thus would provide a unit type that is appropriate for the locality and as such a condition should be utilised to ensure that the site developed for a dormer bungalow and no other type of accommodation. With this approach it is considered that the scheme is in accordance with Policy SP8 of the Core Strategy.

## **Other Matters arising from Consultations**

- 5.54 Objectors have referenced comments pertaining to the land being accepted as previously developed land on previous applications, for the dwellings adjacent to the site. The application site is not considered to be Previously Developed Land in terms of this latest application, as noted in the description of the site.

## **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) and the development of the site would conflict 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). As such development should be refused unless material considerations indicate otherwise.

- 6.2 In this case Officers consider that such material considerations exist and given that the development will not encroach beyond the boundary of the surrounding built form into adjacent countryside and the development of the site represents an appropriate form of development.
- 6.3 The submitted indicative layout demonstrates that the proposals could achieve an appropriate layout and access at reserved matters stage so as to respect the character of the local area and it is considered that a scheme could be brought forward for the development of the site that is appropriate in terms of the residential amenity. The development of the site is also acceptable in terms of the impact on flooding, drainage and climate change, protected species, affordable housing and contamination in accordance with policy.
- 6.4 As such Officers consider that the proposed development is acceptable having regard to the noted Local Plan policies, the Core Strategy and the policies in the NPPF, which makes provision for decisions to depart from an up-to-date development plan where material considerations indicated that the plan should not be followed.

## **7 RECOMMENDATION**

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

01. Approval of the details of the (a) appearance, b) landscaping, c) layout, d) scale and e) access of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason:

This is an outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority.

02. Applications for the approval of the reserved matters referred to in No.1 herein shall be made within a period of three years from the grant of this outline permission and the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason:

In order to comply with the provisions of Section 51 of the Planning and

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

- SK0201– Location Plan

Reason:

For the avoidance of doubt

04. The development hereby permitted shall be carried out in accordance with findings and mitigation measures outlined in the Ecological Appraisal by Wold Ecology dated May 2021

Reason:

In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1(5) of the Local Plan and Policy SP18 of the Selby District Core Strategy Local Plan.

- 05 The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason:

In the interest of satisfactory and sustainable drainage in accordance with Policy SP15 of the Selby District Core Strategy Local Plan.

06. Before the development hereby approved is commenced a scheme for the discharge of surface and foul water shall be submitted to and approved in writing by the Local Planning Authority. The dwellings hereby approved shall not be brought into use until the scheme for the discharge of foul or surface water has been implemented. The implemented scheme shall be retained for the lifetime of the development.

Reason:

In the interest of satisfactory and sustainable drainage in accordance with Policy SP15 of the Core Strategy Local Plan.

07. Before the development hereby approved is commenced a scheme to demonstrate the suitability of new soakaways, as a means of surface water disposal, in accordance with BRE Digest 365 shall be submitted and approved in writing by the Local Planning Authority. If the soakaway is proved to be unsuitable then in agreement with the Drainage Board, as appropriate, peak run-off must be attenuated to 70% of the existing rate (based on 140 l/s/ha of connected impermeable area).

Reason:

To ensure that the installation of soakaways provide an adequate method of surface water disposal and reduce the risk of flooding in accordance with Policy SP15 of the Core Strategy Local Plan.

- 08 In the event that contamination is found at any time when carrying out the approved development that was not previously identified 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, in accordance with Policy SP18 of the Core Strategy Local Plan.

09. The development must not be brought into use until an agreed scheme for the provision to prevent surface water from the site/plot discharging onto the existing or proposed highway has been agreed and implemented, This must be maintained thereafter to prevent such discharges. All works must accord with the approved details.

Reason

To ensure a surface water is managed at the site entrance at the junction to the public highway in the interests of highway safety and the convenience of all highway users.

10. The proposed scheme shall only be a for a dormer bungalow.

Reason:

To ensure that proposals for housing contribute to the creation of mixed communities and having had regard to Policy SP8 of the Core Strategy.

## **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 2021/0871/OUT and associated documents.

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**Appendices:** None