



Report Reference Number: 2021/1478/OUT

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

APPLICATION NUMBER:	2021/1478/OUT	PARISH:	Hirst Courtney Parish Council
APPLICANT:	Mr T Devanny	VALID DATE: EXPIRY DATE:	25th January 2022 22nd March 2022 EOT 15.4.2022
PROPOSAL:	Outline application for erection of 9 dwellings following demolition of existing public house (all matters reserved)		
LOCATION:	Royal Oak Inn Main Road Hirst Courtney Selby North Yorkshire YO8 8QT		
RECOMMENDATION:	REFUSAL		

This application has been brought before Planning Committee at the request of the Ward Councillor on the grounds that the proposed development would provide housing in the village and contribute towards Selby DC's Local Plan, that the site is a brownfield site and is considered to be 'infill' within the village.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site comprises of the Royal Oak Inn on Main Street in the village of Hirst Courtney; the large car park to the rear of the site and an area of the field to the rear of the existing car park which previously was part of a campsite. The public house has been closed since 2015 according to the documentation submitted by the applicant.

- 1.2 The frontage of the site including the public house itself is within the defined development limits of Hirst Courtney however the car park, and the field beyond are outside these limits.
- 1.3 Hirst Courtney is designated as a Secondary Village with defined development limits within the Development Plan.
- 1.4 The site has been put forward by the landowner as part of the Local Plan Review but has not been allocated as a residential site as Hirst Courtney is not considered an appropriate location for residential growth in line with the Council's housing strategy.

The Proposal

- 1.5 The application seeks outline consent for the erection of up to 9 dwellings with all matters reserved. An indicative layout plan has been provided but this does not form part of the application matters to be considered.

Relevant Planning History

- 1.5 There have been numerous applications for extensions and alterations to the public house from 1980 until 1998. The following historical applications are considered to be relevant to the determination of this application:

CO/1999/0856 - Erection of building to allow the relocation of existing milk store/ milk distribution business on land to the rear. Decision: PER, Date: 23-DEC-99

CO/2003/1315 - Outline application for the erection of a residential development comprising of 12 terraced and 2 semi-detached properties including shop to the ground floor of Unit 2 (following demolition of existing public house). Decision: WDN Date: 12-JAN-04

CO/2004/1091 - Outline application for the erection of a detached dwelling on land to the side. Decision: WDN, Date: 01-NOV-04; 2010/1236/COU - Change of use of land to caravan and camping site with associated amenity block on land to the rear. Decision: REF, Date: 16-MAR-11^[HB1] Allowed on appeal APP/N2739/A/11/2150203 6th October 2011.

2012/0142/DPC - Discharge of conditions 4 (materials), 5 (landscaping scheme), 6 (visibility lines) and 7 (Signage on site) of approval 2010/1236/COU for the change of use of land to caravan and camping site with associated amenity block on land to the rear. Decision: COND Date: 30-APR-12

2016/1390/FUL - Proposed erection of two detached dormer bungalows, incorporating the conversion of the existing milk store. Decision: REF, Date: 25-APR-17

2017/1022/COU - Section 73 to vary condition 03 (occupation) of approval APP/N2739/A/11/2150203 for change of use of land to caravan and camping site with associated amenity block on land to the rear. Decision: PER, Date: 08-NOV-17

2018/0297/FUL - Proposed extension to existing milk store to be used for residential in conjunction with existing planning permission to be used as a dwelling, Decision: REF, Date: 12-JUN-18

2. CONSULTATION AND PUBLICITY

- 2.1 **Contaminated Land Consultant** - No objections but recommend pre-commencement conditions in relation to potential land contamination as report does not cover the whole site.
- 2.2 **Yorkshire Water Services Ltd** – No objections but recommend conditions in relation to foul and surface water drainage.
- 2.3 **Selby Area Internal Drainage Board** – No objections but recommend conditions with regards to surface water drainage.
- 2.4 **Natural England** – No comments to make
- 2.5 **Yorkshire Wildlife Trust** – No comments received
- 2.6 **County Ecologist** – The pub and any outbuildings proposed for demolition would need to be assessed for their potential to support roosting bats. Surveys must be completed before a planning application can be determined, so that Selby District Council can make an informed decision as to the impact of the proposed development and the scope for mitigation, if needed.
- 2.7 **Waste And Recycling Officer** – Request further information as it is recommended that developments are designed to enable the collection vehicle to continue in a forward direction wherever possible. As there are 4 properties here the developer will be required to pay for the bins.
- 2.8 **NYCC Highways Canal Rd** – No objections but recommend conditions
- 2.9 **Parish Council** - Hirst Courtney and West Bank Parish Council is in favour of this application for the following material reasons:
- The proposal will improve the amenity of the village because the dwellings will replace a redundant public house that is becoming increasingly dilapidated in appearance. The condition of the building has been an issue within the parish for some time.
 - The proposal will utilise a brownfield site.
 - The proposal will improve highway safety as the dwellings are set back from the road which improves visibility.
 - The proposal will enhance the village as it will bring new residents into the community.
 - The proposal will significantly help to sustain the community as an additional nine dwellings would increase the number of Band D equivalents in the parishes of Hirst Courtney and West Bank by approximately 8%. This would help to maintain services provided by the Parish Council such as street lighting, playground maintenance and grass verge cutting.
- 2.10 **Publicity** - The application was advertised by site notice and press advertisement. In total 17 letters of support have been received on the grounds of:
- The existing property is an eyesore
 - The proposal would provide needed housing

- It is unlikely that the public house would ever reopen
- It would revitalise the local community

3 SITE CONSTRAINTS

Constraints

- 3.1 The frontage of the site, including the main public house building lies within the defined development limits of Hirst Courtney. A larger proportion of the site located to the rear of the public house, which includes the car parking area and an area of land beyond the car park that is currently part of the caravan site but within the red line application boundary, lies outside the development limits and therefore is located within open countryside.

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 Housing Exception Sites^[HB2]^[EH3]
- SP15 Sustainable Development and Climate Change
- 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
- H2 Location of New Housing Development
- H2B Housing Density
- T1 Development in Relation to the Highway Network
- T2 Access to Roads
- S3 Local Shops

5 APPRAISAL

5.1 The main issues to be considered when assessing this application are:

- Principle of Development
- Loss of Community Facility
- Character and Appearance of Area
- Ecology
- Highways
- Flood Risk and Drainage
- Land Contamination
- Housing Mix^[HB4]^[EH5]
- Affordable Housing
- Other Issues

Principle of Development

- 5.2 This outline application would provide 9 no. houses, which would contribute towards the delivery of housing in the District and to the provision of housing in the rural area.
- 5.3 Policy SP1 of the Core Strategy 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 14 of the NPPF.
- 5.4 Core Strategy Policy SP2A adopts a hierarchical Spatial Development Strategy that focuses new development within existing settlements best placed to provide services to support new residents and achieve sustainable patterns of development. This

policy is therefore consistent with the guidance in the NPPF especially at Paragraph 79, which covers sustainable development in rural areas.

- 5.5 At SP2A(b) it states that “Limited amounts of residential development may be absorbed inside Development Limits of Secondary Villages where it will enhance or maintain the vitality of rural communities and which conform to the provisions of Policy SP4 and Policy SP10.” Policy SP10 relates to the provision of Rural Housing Exception Sites, which the application is not proposing.
- 5.6 SP2A(c) continues, “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”. Policy SP13 ‘Scale and Distribution of Economic Growth’ relates to the delivery of employment sites and therefore the focus for development within open countryside is either such sites that contribute towards the local economy or propose the provision of rural affordable housing under Policy SP10.
- 5.7 Policy SP4 allows for development of non-allocated sites in Secondary Villages providing they are for the following types of development: conversions, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built-up residential frontages, and conversion/redevelopment of farmsteads. Policy SP4(c) and (d) also apply and require more detailed consideration of scale, form, density and design.
- 5.8 The application site relates to an existing public house, its curtilage/car park and an area of land beyond the car park, which lies partly within the Development Limit of the Secondary Village of Hirst Courtney with the larger proportion of the site falling outside this limit and, therefore, considered to be open countryside in planning policy terms.
- 5.9 Whilst policies SP2 and SP4 do allow for a limited amount of housing growth within Secondary Villages, the largest proportion of the site would be outside the defined Development Limits in open countryside, where only limited forms of development are supported in line with the Spatial Development Strategy as set out above.
- 5.10 Even if the whole site was located within the defined Development Limits of Hirst Courtney, it would not fall entirely within any of the forms of development which are considered to be acceptable in principle within the defined Development Limits of Secondary Villages as set out in Policy SP4 as referenced in Policy SP2A(b). These are as listed above. The proposal does not involve conversion, replacement of existing dwellings and is not formally a farmstead. Turning to the remaining categories:
- 5.11 The NPPF provides a definition of previously developed land that considers it to be ‘land which is or was occupied by a permanent structure, including the curtilage...although it should not be assumed that the whole of the curtilage should be developed’. Paragraph 120 c) gives substantial weight to the use of brown field land within settlements for homes and d) supports the development of under-utilised land and buildings especially where land supply is constrained. The car parking area and the public house could be considered as ‘previously developed land’ as set out

in the NPPF. However, the land beyond the car park, which is within the application site, is not considered to meet this definition and therefore would represent 'greenfield' development in an area of 'open countryside'.

- 5.12 As the proposal requires the demolition of the existing public house to allow for the erection of the proposed houses, it could not be properly described as 'the filling of a small linear gap in an otherwise built-up residential frontage'; the demolition of an existing building is required to 'create' a gap and this demolition is an activity that requires planning permission as a building operation under Section 55 of the Town and Country Planning Act 1990 as amended.
- 5.13 The application is in outline with all matters reserved, but the indicative site layout shows the development of nine houses across the full length and width of the site. The development of the land outside the Development Limits would extend the existing built form on the site in a northerly direction beyond the existing linear form created by the single depth buildings on the north side of the village's Main Road. Whilst the land is partly covered in hardstanding that would fall within the curtilage of the public house, as the definition of previously developed land makes clear, it should not be assumed that the whole of the curtilage should be developed. The erection of houses would increase the density of development on the site from the replacement of the public house with 9 no. houses that, whilst not uncharacteristic with the linear built form within the Development Limit of the settlement, would be harmful to the open character of the site, the wider area and that of the land beyond the Development Limit.
- 5.14 In summary, the proposal seeks to provide 9 no. dwellings, which would contribute towards the District's housing supply, though it is noted that the Council has a healthy housing land supply. Whilst the development of the front section of the site within Development Limits for housing would potentially be acceptable in principle as it would replace existing buildings with linear development that would be similar in density and form to the properties either side of the application site, overall the larger part of the site that falls outside Development Limits would exceed the limited scale of development considered acceptable in open countryside.
- 5.15 Therefore, the proposed development would not meet the criteria in Core Strategy Policies SP2 and SP4 and would therefore undermine the Spatial Development Strategy in the development plan that aims to deliver sustainable development, would be detrimental to the overall character of the area and would not contribute and improve the local economy. The application should therefore be refused unless material considerations indicate otherwise.

Loss of Community Facility

- 5.16 NPPF para 84(d) sets out a requirement to retain community facilities including public houses. Saved Policy S3B of the Local Plan states:

'Outside Selby, Tadcaster and Sherburn in Elmet, proposals involving a loss of retailing (Class A1) use, or loss of a public house (Class A3*), will not be permitted unless:*

1) It can be demonstrated that there is alternative provision for a similar type of use within reasonable walking distance; or

2) It can be shown that the business is no longer viable for retail purposes within its existing use class, and that it has remained unsold or unlet for a substantial period of time, despite genuine and sustained attempts to market it on reasonable terms.

- 5.17 The applicant's statement sets out that the public house has been empty for approximately 6 years. The nearest alternative facility appears to be the Sloop Inn at Temple Hirst, which is approximately 8 minutes walk from the Royal Oak along an unlit pathway which connects the two villages. It is not considered that this meets the requirement of point 1 of Policy S3B.
- 5.18 The planning statement states that a 3-year marketing campaign has been undertaken. Only a marketing brochure has however been provided, with no details of where the property has been advertised, or for how long, or any details of any offers or interest has been included.
- 5.19 It is expected that before a community facility is lost that a suitable level of marketing has been completed and all offers considered, and also that it is marketed to provide for any other form of community facility i.e., shop, community hall etc. No evidence has been provided that meets this requirement.
- 5.20 In addition the asking price of £600k seems a high value for a site which is not operating and requires investment. Especially when you consider other sites which are presently available in the local area:
- The Ship (near Goole) trading with large car park freehold £275k
 - Pub with Guest Rooms and large car park – Cambleforth leasehold £50k
 - Dog and Gun (Thirsk) with camp site - £395k freehold
 - Dog and Fun (YO7) with 4 bed managers accommodation - £595k freehold
 - Black Bull (Escrick) 8 guest rooms but presently closed £399k

It is not considered that the submission provides the relevant level of information or a suitable level of marketing to state that a community use would not be viable. It is noted that the public house requires investment and has been closed for a length of time, however a comparable appeal for a closed pub which was in a considerable state due to a lack of attention was dismissed at appeal as the Inspector did not agree that even in this state it was agreeable that a suitable level of marketing had occurred to rule out a community use. (Appeal reference APP/E2734/W/17/3184236)

- 5.21 The proposal is not therefore considered to accord with paragraph 84(d) of the NPPF or Saved Policy S3B of the Local Plan.

Impact on the Character and Appearance of the Local Area

- 5.22 Relevant policies in respect to design and impact on the character and appearance of the area include Local Plan Policy ENV1 (1) and (4) and Core Strategy Policy SP19. Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF. Relevant guidance within the NPPF that relates to design is included in Section 12 which seeks to achieve well-designed places.
- 5.23 The application site comprises of a large detached public house which has been extended on several occasions. The property sits on the road frontage with a large car park to the rear. The car parking area is covered in a hard standing but, with the exception of a small number of lights and an outbuilding beyond the car park, the site is open in nature.

- 5.24 Hirst Courtney is predominately a linear settlement with very little in the way in backland development. The application is in outline, but the indicative site plan shows development extending across the length and width of the site, which it would need to do in order to accommodate nine houses. The properties generally front on to the highway. In contrast to the existing character of the area, the proposal would introduce residential development onto land beyond and to the rear of the public house. Such a development pattern would be inconsistent with local character and the surrounding pattern of development. Furthermore, due to the location of the proposal, it would be seen as a form of development that would substantially extend built development into the countryside and would be poorly related to the existing built-up limits of the village. As a result, it would represent an undue visual intrusion into the open countryside, that would harm the open character of the application site.
- 5.25 The proposal is therefore considered to be in conflict with Saved Policies ENV1 (1) and (4) and Core Strategy Policy SP18.

Ecology

- 5.26 Core Strategy Policy SP18 (1) and (3) seeks to protect and enhance biodiversity within the District whilst Saved Policy ENV1(5) seeks to protect wildlife habitats.
- 5.27 Paragraph 180 of the NPPF states 'When determining planning applications, local planning authorities should apply the following principles:
a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 5.28 Bats and Great Crested Newts are European Protected Species, the potential presence of which must be taken into account by the Local Planning Authority, in accordance with their duties to safeguard protected species. Their potential presence is a material consideration which must be taken into consideration in the determination of a planning application.
- 5.29 The application is supported by a Great Crested Newt Survey which sets down recommendations and mitigation measures to be undertaken as part of the development process. It is recommended that any approval includes a condition requiring these measures to be followed.
- 5.30 The application includes the demolition of both the public house and the outbuilding. In an area where there is the possibility of bats roosting within the building. No bat surveys have been undertaken, it is not therefore possible for the LPA to determine whether mitigation may be required, and if so, what level of mitigation would be appropriate and whether this can be readily incorporated into the scheme. There is, therefore, currently insufficient information on the potential presence of protected species in order for the local planning authority to determine the application.
- 5.31 It is considered therefore that permitting the proposed development without the above information would have the potential to cause considerable harm to a protected species. This would be contrary to both national legislation and Core Strategy Policy SP18(1) and (3) and Saved Local Plan Policy ENV1(5) and is considered to be sufficient justification for the refusal of the application.

Highway Safety

- 5.32 Policies ENV1(2) and saved policies T1 and T2 of the Local Plan requires development to ensure that there is no detrimental impact on the existing highway network. Paragraph 110 of the NPPF seeks a safe and suitable access and only supports refusal of development on highway grounds if there would be unacceptable impacts on highway safety.
- 5.33 The application is in outline with all matters reserved and thus no details of the access have been provided. The applicant has provided an indicative layout which shows that access can be provided into the site, however this does not form part of the application and is reserved for later consideration.
- 5.34 The Highways Authority have recommended conditions in relation to any future access to the site and it is considered that these would be relevant to the outline consent even though the matters are reserved as these set out the parameters as to what would be required to be fulfilled at the reserved matters stage.

Flood Risk and Drainage

- 5.35 Relevant policies in respect to flood risk, drainage and climate change include Policy ENV1(3) of the Selby District Local Plan and Policies SP15 of the Core Strategy.
- 5.36 The site is situated within Flood Zone 1 which has a low probability of flooding. The use is a more vulnerable flood risk classification, which is appropriate in Flood Zone 1. The application form states that surface water is to be discharged into the mains sewer. No objections have been raised by Yorkshire Water of the Internal Drainage Board, however conditions are recommended. It is considered expedient that any planning approval would include the recommended conditions.

Land Contamination

- 5.37 Saved Local Plan Policy ENV2A states development that would be affected by unacceptable levels of noise, nuisance, contamination or other environmental pollution will be refused unless satisfactorily remediated or prevented. Policies SP18 and SP19 of the Core Strategy seeks to prevent development from contributing to unacceptable levels of, inter alia, soil pollution and in doing so reflects national policy in paragraph 185 of the NPPF.
- 5.38 The application has been submitted with a contaminated land report which does not identify any significant potential contamination sources but also does not cover the whole area of the application site. It is therefore considered that the site requires further investigation and pre-commencement conditions in relation to land contamination are considered appropriate to be attached to any approval. This would accord with Policy ENV2 of the Local Plan and the NPPF.

Housing Mix

- 5.39 Policy SP8 of the Core Strategy states that all proposals for housing must contribute to the creation of mixed communities by ensuring the types and sizes of dwellings provided reflect the demand and profile of the households evidenced from the most recent strategic housing market assessment and robust housing needs assessment whilst having regard to the existing mix of housing in the locality.

- 5.40 Chapter 10 of the HEDNA sets out the need for different sizes of homes. Delivery of family-sized housing remains a requirement in both urban and rural locations of the district. Based on the evidence, it is expected that the focus of new market housing provision will be on 2-and 3-bed properties. Continued demand for family housing can be expected from newly forming households. There may also be some demand for medium-sized properties (2- and 3-beds) from older households downsizing and looking to release equity in existing homes, but still retaining flexibility for friends and family to come and stay.
- 5.41 The HEDNA does not specify smaller sub areas i.e. per village, however it is important that any housing proposal reflects the general approach of the SHLAA and HEDNA in terms of housing mix within the development. This could be secured at the outline planning stage through condition if approved.

Affordable Housing

- 5.42 Policy SP9 of the Core Strategy and the accompanying Affordable Housing Supplementary Planning Document set out the affordable housing policy context for the District. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District. The Policy notes that the target contribution will be equivalent to the provision of up to 10% affordable units. The calculation of the extent of this contribution is set out within the Affordable Housing Supplementary Planning Document which was adopted on 25 February 2014.
- 5.43 The NPPF is however a material consideration in the determination of planning decisions and postdates the Core Strategy. At paragraph 64 it states 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)'.
- 5.44 Major development is defined in the NPPF for housing as development where 10 or more homes are provided or the site has an area of 0.5 hectares or more. As the application proposes the erection of nine dwellings on a site which has an area of less than 0.5 hectares, it is not considered to be major development. Having had regard to Policy SP9 and the material considerations of the Affordable Housing SPD and the NPPF, it is considered that, on balance, the application is acceptable without an affordable housing contribution.

Other Issues

- 5.45 The NPPF sets out the requirements for sustainable development and within paragraph 186 the need to take opportunities to improve air quality and mitigate impacts of travel. It is recommended that to improve the access to sustainable transport and to improve air quality across the District that a condition is attached to any planning approval requiring the provision of electric vehicle charging points for each residential property.
- 5.46 Concerns have been raised with regards to the waste collection from the site, this would be a matter associated with the access arrangements and therefore can be considered at reserved matters stage.

6 CONCLUSION

- 6.1 A large part of the application site is situated outside defined Development Limits and, whilst part of the site may be considered as 'previously developed', the proposal is not considered to be sustainable and would undermine the growth strategy within the Local Plan. This would be contrary to Core Strategy Policies SP1, SP2 and SP4 and advice in the NPPF at paragraph 120.
- 6.2 The proposal would lead to the loss of a community facility. It has not been demonstrated that a suitable alternative facility has been identified or that a suitable marketing exercise has been undertaken or that it has been marketed on reasonable terms. The proposed development is therefore considered to be contrary to paragraph 84(d) of the NPPF and Saved Policy S3B of the Local Plan.
- 6.3 Hirst Courtney is predominately a linear settlement. The proposed development pattern would be inconsistent with local character and the surrounding pattern of development. The proposal would be seen as a form of development that would substantially extend built development into the countryside and would be poorly related to the existing built-up limits of the village. As a result, it would represent an undue visual intrusion into the open countryside, that would harm the open character and visual appearance of the application site. The proposal is therefore considered to be in conflict with Saved Policies ENV1 (1) and (4) and Core Strategy Policy SP18.
- 6.4 The development includes the demolition of the public house and an associated outbuilding. No bat surveys have been undertaken, and it is not therefore possible for the LPA to determine whether mitigation may be required, and if so, what level of mitigation would be appropriate and whether this can be readily incorporated into the scheme. It is considered that permitting the proposed development without the above information would have the potential to cause considerable harm to a protected species. This would be contrary to both national legislation and Core Strategy Policy SP18(1) and (3) and Saved Local Plan Policy ENV1(5).
- 6.5 Therefore, whilst the support from the local community for the proposals are acknowledged, it is considered that the proposal cannot be supported in principle due to the location of the site largely outside of Development Limits of the Secondary Village and therefore in open countryside, the loss of a community facility, harm to the character and appearance of the area from the erection of nine houses on a site that extends significantly beyond the Development Limits and existing linear form of the village and due to the lack of information provided about the impact of the development on a protected species. No harm has been identified with regards to highway safety, flood risk, land contamination, housing mix, affordable housing, and other environmental considerations. On balance, the application is recommended for refusal.

7 RECOMMENDATION

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

1. The application site sits partly within the Development Limit of the Secondary Village of Hirst Courtney as defined in the development plan, though largely outside of it. Whilst part of the site may be considered as 'previously developed' the proposal would exceed the limited scale of development considered acceptable in open countryside and as such would undermine the Spatial

Development Strategy that aims to deliver sustainable development with the District. This would be contrary to Policies SP1, SP2 and SP4 of the Selby District Core Strategy Local Plan and advice in the NPPF.

2. The proposal would lead to the loss of a community facility. It is not considered that it has been demonstrated that a suitable alternative facility has been identified or that a suitable marketing exercise has been undertaken or that it has been marketed on reasonable terms. The proposed development is therefore considered to be contrary to paragraph 84(d) of the NPPF and Saved Policy S3B of the Selby District Local Plan.
3. Hirst Courtney is predominately a linear settlement. The proposed development pattern would be inconsistent with local character and the surrounding pattern of development. The proposal would be seen as a form of development that would substantially extend built development into the countryside and would be poorly related to the existing built-up limits of the village. As a result, it would represent an undue visual intrusion into the open countryside, that would harm the open character of the application site. The proposal is therefore considered to be in conflict with Saved Policies ENV1 (1) and (4) of the Selby District Local Plan and Policies SP18 and SP19 of the Selby District Core Strategy Local Plan and advice contained in Section 12 of the NPPF.
4. The development includes the demolition of the public house and an associated outbuilding. No bat surveys have been undertaken, and it is not therefore possible for the LPA to determine whether mitigation may be required, and if so, what level of mitigation would be appropriate and whether this can be readily incorporated into the scheme. It is considered that permitting the proposed development without the above information would have the potential to cause considerable harm to a protected species. This would be contrary to both national legislation and Selby District Core Strategy Local Plan Policy SP18(1) and (3) and Saved Selby District Local Plan Policy ENV1(5).

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 2021/1478/OUT and associated documents.

Contact Officer: Emma Howson (Senior Planning Officer) ehowson@selby.gov.uk

Appendices: None