

**Officer Update Note  
Planning Committee – Wednesday 6 April 2022**

**Item 5.1 page 15**

APPLICATION NUMBER:	2021/0871/OUT	PARISH:	Bolton Percy Parish Council
APPLICANT:	Mr & Mrs Musgrave & Woffinden	VALID DATE: EXPIRY DATE: EOT:	13th July 2021 7th September 2021 8th 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		

**Yorkshire Water**

Have advised Officers that on basis of it being one dwelling with any foul water to public foul sewer network and surface water was stated as drainage to soakaway, therefore no observation comments have been provided.

They have also advised that in terms of concerns raised about operational issues in the settlement that exist already, then they have advised that this is not something that they consider in responding on Planning Applications, and those raising concerns should be reporting any sewer related problems.

**Conditions**

Condition 2 needs adding to the end of the reason the text shown in bold below

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 Compensation Act 2004.

**Other Responses**

Members are advised that since the publication of the Officers Report further comments have been received from Bolton Percy Parish Council, and two third parties.

In summary the Parish Council have:

1. Noted that they remain “completely opposed” to the scheme
2. Remind Committee that the Development Limits have not been changed for the settlement and the current limits should be abided by and this site is outside these limits – the Committee should not be ignoring this and making piecemeal ad-hoc judgements on individual applications.
3. There is a cumulative impact on the village residents from development in terms of sewerage pumps breaking with rainfall. Noting that they are pursuing this with Yorkshire Water (via Zoe Burns-Shore - Chief Customer Officer) but any increase to the footprint of Bolton Percy is now a material consideration to the environmental welfare of the village.
4. There is a cumulative increased risk of surface water flooding of Bolton Percy by further developing this site alongside the other 5 houses consented in the village since 2016. Surface water runoff is leading to flood, and this should be a material consideration on this application supporting refusal.
5. Note that “we appreciate future planning applications cannot be predicted but if the past planning applications are an indication of the development strategy around Field House, then further multiple applications of this land are to be expected. We urge the Planning Committee to take a wider view of this ongoing development and refuse this application to save the village of Bolton Percy from further development outside the current Development Limits that directly leads to the increased environmental impact of raw sewage overflow together with the abject misery of flooding for its inhabitants.”

Third Party comments from an objector who previously hasn't commented on the application (Ms K Rhodes) in summary the comments note:

1. Applications refused by the Planning Committee in January and February this year had similarity to this one - i.e. outside the village development limit: 2019/0031/FUL (Marsh Lane Bolton Percy) and 2019/0522/FUL (Low Farm Bolton Percy).
2. A material consideration should include the potential to increase flooding risk which is a risk to residents in the centre of the village is huge and frequent, to such an extent that the pump acquired by the Parish Council some years ago is now inadequate and up to 3 more pumps are regularly required in order to save these properties.
3. Every additional new build inevitably adds to this together with our serious sewerage problems and the ditch running the length of The Field House frontage is now frequently up to 4 feet deep.
4. A material consideration should include consistency – Bolton Percy is a small village and its boundaries matter. Two recent applications as above were refused, in particular because of the effect on development limits, yet this one is recommended for approval. If permitted this proposed development will create a clutter of 4 substantial houses all astonishingly, outside village development limits in the open countryside.
5. The site address is incorrect. The Field House and the proposed site are definitely not on School Lane. The official Royal Mail address of the existing 3 houses contains the name and Bolton Percy, further demonstrating the whole site is actually in the open countryside. (The Field House, Bolton Percy, York YO23 7BF)

6. The more one reads the Officer's Report the more you are left wondering how with so many negatives and compelling legal guidelines (these are expertly outlined by the agent for Samuel Smith's Brewery) the decision for Approval could ever be given.

Further comments have also been received from Sam Smiths Brewery via their Agent (Veritas Planning), in summary the comments, which relate to the Officers Report, note:

1. Notes that Officers agree the site is outside the Development Limits of the settlement and greenfield.
2. Raises concerns that there is no detail in the Officers Report to the Emerging Local Plan and that the fact that there has been a conscious decision by the Council not to amend the Development Limits in this location is material to this decision.
3. The Report should be balanced against the fact that the proposal and opportunity to introduce an amendment to the Limits has been considered and declined by Officers and development limits have been considered to be "robust, appropriate and suitable for the life of the emerging Local Plan (2020 to 2040). This is an important issue related to the consideration of whether the current settlement boundary should be set aside in this decision or not.
4. The Officer has not provided any "advice" in relation to the sustainability of the development – only a superficial view has been given – and it is the view of the objector that the development is unsustainable and appropriate advice has not been given to Members on this point.
5. The Council should be consistent, and the site does encroach into open countryside which is harmful as a result of a degree of physical, visual and spatial encroachment.
6. The report concludes that the scheme "represents an appropriate form of development" however there is no explanation as to why this is the case within the Officers Report.
7. There are only two issues that are offered as material considerations capable of outweighing the policies in the adopted development plan, both appear to be as a result of incorrect analysis and do not provide sufficient grounds to outweigh the development plan in this case.
8. Further advice should be provided to Committee on the width of the access road into the site – there is a 0.1m shortfall in width to the 4m NYCC Highways require – the application site does not include sufficient land to meet this requirement.
9. The scheme fails to meet the requirements of the adopted Development Plan, and there are insufficient material considerations to justify any other decision than to accord with these policies.

In response Officers would advise Members as follows:

- The Report accepts that the site is outside the Development Limits of Bolton Percy, a secondary village and therefore the principle of development can only be considered acceptable if material considerations exist.
- There are no objections to the application from Yorkshire Water or the Internal Drainage Board.

- Applications have to be considered on their own merits and as such possible further applications for adjacent sites / in the vicinity of the application site cannot be considered in the determination of this application.
- The decisions relating to 2019/0031/FUL (Marsh Lane Bolton Percy) and 2019/0522/FUL (Low Farm Bolton Percy) as taken by Committee were on the basis of an assessment of those sites taking account of the scheme, their context and the character of the area alongside the Development Limits of the settlement. This same assessment has been undertaken on this latest application and just because the earlier applications were not supported does not mean that the principle of development at Field House cannot be supported.
- The address used to advertise the application is as per the application form submitted by the Applicants and also matches the mapping in place for the Council.
- The Emerging Local Plan is not part of the Development Plan and has not progressed to a stage that it carries any weight in terms of the determination of applications.
- The Development Limits have not been reviewed and cannot be changed via any other process than the Local Plan process it is not for individual cases to seek to amend these, and the Officers Report appropriately assess the scheme as being outside the Development Limits as set by the Selby District Local Plan 2005.
- The settlement is not highly sustainable and it is accepted that there are limited services within the settlement hence it is a Secondary Village in the Selby District Core Strategy Local Plan. Taking account of the NPPF, paragraph 38 (July 2021) states that: "Decision-makers at every level should seek to approve applications for sustainable development where possible." Paragraph 60 (July 2021) advises that to support the Government's objective of significantly boosting the supply of housing, it is important that a sufficient amount and variety of land can come forward where it is needed. The Framework goes on to state (in para 69 (July 2022) that small and medium sized sites can make an important contribution to meeting the housing requirements of an area. And at paragraph 79 (July 2021) it includes that to promote sustainable development in rural area, housing should be located where it will enhance or maintain the vitality of rural communities, and further that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.
- Given the site context and relationship to existing built form it is not considered that the scheme is harmful in terms of impacts on the open countryside and does not extend the built form beyond that already in existence.
- The access is already in place and serves 3 dwellings, although as noted in the report this is not 4m this is not considered unacceptable and an additional dwelling being served off this access would be acceptable.

**Item 5.2 page 37**

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		

**For clarity**

1. This application has been brought before Planning Committee at the request of the Ward Councillor (Cllr Jordan) 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 and also as there is significant support (17 letters) against the officer recommendation.
2. The public house has not been registered as an Asset of Community Value.

**Additional Information paragraph 5.24 page 49.**

The Selby Landscape Character Assessment identifies Hirst Courtney as within Character Area 7 Aire Valley. The linear character follows the course of the River Aire. The character area is bound to the north and south by farmland. The majority of the landscape is within the Humberhead Levels National Character Area (NCA) profile which is flat low lying and large-scale agricultural landscape. The key characteristics of the character area is flat low-lying floodplains to the north and south, patchwork of fields use primarily for arable farming and wetlands which offer high nature conservation value.

The area is defined as low lying and predominantly flat with little topographic variation. The riverside settlements, which include Hirst Courtney are sited on subtly higher ground within the flood plain. The flat landscape with limited tree cover creates a sense of exposure with open views across the landscape.

In addition to the impact on the character of the settlement pattern as outlined in paragraph 5.24, officers are of the view that the encroachment of this proposal into the countryside would have both a spatial and visual impact on the landscape character

particularly from the north and west due to the flat nature of the landscape, when viewed from the long straight roads to the west and the network of public rights of way. The Landscape Character Assessment makes it clear that the area has a largely rural feel and is quiet and tranquil in most places and therefore sensitive to new development in the area. The largely open nature creates a sense of exposure, which means that the landscape is sensitive to change and new development would be likely to be highly visible.

Due to the sensitive nature of the Aire Valley Character Area the assessment suggests that housing development should be focused within Carlton and Brotherton and new development should not be sited as a result to further elongate the villages.

In the opinion of officers, the proposal, whilst making use of previously developed land, in the form of hard standing within the curtilage of the public house to the rear of the site, would have greater impact on the landscape character for which significant weight has been attached in reaching the recommendation to Members.

### **Additional Information**

On the 4 April 2022 the applicant's agent has submitted the following further information with regards reasons for refusal 2 and 4:

1. *Reasons for refusal 2 - Marketing of the property*
  - a. The officer report fails to acknowledge the history behind the marketing of the property that was stated in the planning statement.
  - b. Property went up for sale on 20/8/18 for £695,000 with Sanderson Wetheralls estate agents, specialists in caravan parks and pubs, sold as a pub and grounds.
  - c. After approximately a year (summer 2019), the asking price was reduced to £645,000.
  - d. After another year after that (summer 2020), it was reduced to £595,000.
  - e. For marketing purposes, online advertising with Businesses for Sale, Rightmove Commercial, and Sanderson Wetheralls own website were used.
  - f. The applicant got a quote from a builder for circa £350,000, to improve the caravan park and pub to a suitable standard.

Officers remain of the view that insufficient attempts have been made to adequately market the site for its current use. There is no evidence as to what interest has been shown and reasons why potential purchasers have not proceeded with interest. Information provided by the applicant states that the property has not been in use as a public house since 2015, when information available on the internet suggests that it

closed in 2017 – this has not been corroborated however, leads to concerns with regards to the accuracy of the information provided.

The accounts submitted to Companies House value the land and property at £261k however it was still advertised for sale at £595k (its lowest value in summer 2020). The marketing information details that the vendor has prepared proposals for a residential development which is subject to permission being granted. In the view of officers this is not a genuine and sustained attempt to dispose of the site for a community use.

In addition, the Council's Licensing team have advised that a licence is still in place for the public house and normally applicants choose not to renew the licence if they are not operating due to a fee being required.

It is appreciated that it has been a difficult few years for the hospitality trade, however, officers are of the view that marketing a hospitality site during the pandemic at more than double its value should not be justification for the loss of the community facility.

Officers also draw Members attention to an application under consideration for a club house and bar at the nearby Apple Blossom Caravan site between Hirst Courtney and Carlton which has received around 37 letters of support from local residents including from Hirst Courtney stating that the proposal is welcomed as there are no such facilities in the locality.

## *2. Reason for refusal 4 - Ecology*

- a. The building has been inspected and with minimal evidence for nesting of birds, bats or owls standard mitigation has been suggested and no further survey work required

A Bat, Breeding Bird and Barn Owl Scoping Survey by MAB Environmental and Ecology Ltd March 2022 has been submitted.

The report advises that buildings 1, 2, 3a, 3b, 3c and 6 have a low potential risk of supporting bats. Potential roost habitat is limited to wall top gaps, internal void crevices and gaps between pantiles and liner. Bat droppings were identified at the site. The report advised that to complete the assessment dusk emergence surveys are required and should be undertaken at the optimal time (May to August). The report states that if bat roosts are identified during the summer emergence surveys additional mitigation may be required and a requirement for a Natural England Protected Species Licence. The report advises that there will be no impact on breeding birds or barn owls.

Section 40 of the Natural Environment and Rural Communities Act 2006 Places duty on public authorities in the exercise of their functions to the purpose of conserving biodiversity. As advised by the report the optimal time for emergence surveys is May to September. Government Guidance states that Local Planning Authorities require ecological assessments in advance of a planning application where protected species may be present or biodiverse habitats may be lost, without a baseline of the habitats on site it is not possible to make an assessment of net gain as required by 174 d of

the NPPF and also places the LPA in position of risk with regards to deferring essential biodiversity and habit assessments to condition.

NYCC Ecologist has been consulted on the additional information provided and has responded with the following advice:

*If a protected species is likely to be affected by a proposed development, relevant surveys need to be completed before the application can be determined. This is to ensure that the planning authority can make an informed decision about the impact of the proposal and the scope for mitigation, should any be required. There are only very limited exceptions, e.g. where we can be completely confident that any impacts on a species will be minor and no complex mitigation will be necessary.*

*Relevant planning guidance includes Paragraph 99 of Circular 06/05 Biodiversity and Geological Conservation and Protected species and development: advice for local planning authorities - GOV.UK ([www.gov.uk](http://www.gov.uk)); the latter stipulates that, "You should...not decide on planning applications until you have received all the necessary surveys".*

*In this instance, there clearly are bats on site, as evidenced by the droppings in the roof void in one of the buildings.*

Officers remain of the view that reason for refusal 4 is still applicable and the LPA have a duty to require all necessary surveys.

### **Conclusion following additional information**

Taking account of the additional information provided, weighed against paragraph 60 of the NPPF where the Government's objective of significantly boosting the supply of homes, along with the efficient use of previously developed land paragraphs 120 c and d of the NPPF, officers remain of the view that the proposal remains to be contrary to the policies of the Selby Development Plan and the recommendation remains as presented in the report for the reasons previously advised.



**Item 5.3 page 55**

APPLICATION NUMBER:	2022/0050/REM	PARISH:	Kelfield Parish Council
APPLICANT:	Mr Richard Atkinson	VALID DATE: EXPIRY DATE: EOT:	17th January 2022 14th March 2022 8th April 2022
PROPOSAL:	Reserved matters application including access, appearance, landscaping, layout and scale for the erection of 6 No dwellings (resubmission of 2021/1295/REM)		
LOCATION:	Yew Tree House Main Street Kelfield Selby North Yorkshire YO19 6RG		
RECOMMENDATION:	GRANT		

**Report Correction**

Paragraph 5.25 should read –

Overall, although this is a in depth development and dwellings are relatively large in size and scale, the careful design, siting, boundary treatments, use of materials and landscaping will ensure the scheme will not have a significant or detrimental impact on the character and appearance of the area. Therefore, having had regard to Policies ENV1 of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy and NPPF the proposal is acceptable.