



Report Reference Number: 2020/1042/FULM

To: Planning Committee
Date: 1 June 2022
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APPLICATION NUMBER:	2020/1042/FULM	PARISH:	Selby Town Council
APPLICANT:	Aldi Stores Ltd	VALID DATE: EXPIRY DATE:	19th October 2020 20th June 2022
PROPOSAL:	Demolition and construction of a Class E food store, together with car parking, landscaping and associated works		
LOCATION:	Police Station Brownfield Site Portholme Road Selby		
RECOMMENDATION:	Grant subject to the signing of a legal agreement		

This application has been brought before Planning Committee as part of the site i.e., the north-eastern corner (0.04 ha) is still owned by Selby District Council and includes some existing trees and redundant gas governor. The sale was agreed to Aldi in June 2021; however, its completion is subject to planning permission being obtained. Hence, the Council are still landowners. This therefore does not comply with Council's constitution (3.8.9 b (ix)), which doesn't allow applications on Council owned land to be determined under delegated powers unless they are minor applications and no objections have been received. The application has received objections and is not minor in nature.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site consists of the currently vacant former Selby Police Station that fronts Portholme Road on the fringe of the town centre. The total development site extends to 6,069 sq. m (1.50 acres).
- 1.2 The northern boundary is immediately bound by Portholme Road adjacent to which are 2 churches. Further north is Portholme Crescent short stay parking, with the Morrisons and Selby town centre slightly further north.

- 1.3 The eastern boundary is bound by a small to mid-sized existing residential development accessed from Bainbridge Drive. To the south is the same residential development accessed from Bainbridge Drive, with the residential dwellings mainly facing north-south, meaning the rear gardens directly face the application site. There is a small cul-de-sac known as Ashlea Close, which borders the eastern boundary and has a pedestrian link through to Portholme Road.
- 1.4 The western boundary is bound by a cluster of trees and access to the former Portholme Road long stay parking facility that occupied the former council building. This is now under construction for a high-density residential scheme known as the L&G development. Further west is the Tesco Superstore with residential beyond this.
- 1.5 The current site has a central access from Portholme Road, then a grassed frontage leading to parking. The main building is 2-storey in height and sits centrally within the site. This then extends with a series of high flat roof single storey structures to the southern boundary. The residential dwellings to the south are on slightly elevated land as shown by the sectional drawings and topographical survey.

The Proposal

- 1.6 The proposal is for the demolition of the former police station and the construction of a Class E foodstore (GEA of 1,880sqm (1,315sqm sales)) together with a 102-space car park and landscaping to the frontage.
- 1.7 The applicant describes the application as 'the relocation of the existing, out-dated store at Three Lakes Retail Store (GEA c.1,300sqm (940sqm sales) to a modern fit for purpose retail unit closer to the town centre. The application site represents a significant regeneration opportunity of vacant brownfield land in a highly accessible and sustainable edge of centre location.'
- 1.8 The proposal has been the result of preapplication discussions (PREAPP/2020/0044) and has been amended on several occasions during the processing of the application to address some inaccuracies within the original submission, address issues raised by consultees with the most significant changes being to the design of the building and landscaping.

Relevant Planning History

- 1.9 The following historical application is considered to be relevant to the determination of this application. The history mainly relates to the former police station, the key permissions are:
 - CO/1980/32831 - Outline App for The Erection Of A Police Station. Granted 16-DEC-80.
 - CO/1984/0015 - Approval of reserved matters for the erection of a sub-divisional Police Station. Granted 01-MAY-84.
- 1.10 Two recent applications for the residential development to the southwest include:

- 2019/0941/FULM - Proposed redevelopment of site to provide 154 residential units (Use Class C3), construction of new vehicular access onto Portholme Road and laying out of open space, Granted 16th July 2020.
- 2020/0776/FULM - Redevelopment of the Site to provide 102 residential units (Use Class C3), along with associated parking provision, construction of the vehicular access onto Portholme Road and laying out of open space. Pending consideration.

2. CONSULTATION AND PUBLICITY

2.1 Selby Town Council

1st response - objects to the planning application on the basis that the Design & Access document is inaccurate in parts. The food store will encourage more traffic onto Portholme Road, already heavily used by public and delivery lorries for the two existing supermarkets. There appears to be no consideration for the extra traffic generated by the adjacent development of 154 residential units (2019/0941/FULM). Both the junctions from Portholme Road onto Park Street at one end and Brook Street at the other, are not suitable for the wide delivery lorries which cause traffic to come to a standstill whilst they manoeuvre. Finally, adverse effect on the residential amenity of the neighbouring properties due to noise from deliveries and traffic.

2nd response to the revised plans: Selby Town Council object to the revised plans, and comments made on 1/12/20 still stand. The revised plans still do not address the problems with additional HGV's accessing Portholme Road from either Bawtry Road/Park Street and Brook Street/Union Lane junctions. The amended access road (staggered junction with Portholme Crescent) adds to the problems of traffic flow along Portholme Road. The Town Council would also like to be reassured that a suitable sustainable drainage system is in place if the development is to be built at the same level as the adjacent housing development.

2.2 Selby Civic Society – Objects to the application.

Selby has its shopping area focussed on the east end of Gowthorpe and around the marketplace. New developments at Abbey Walk to the north, and Market Cross to the south of Gowthorpe, extend the pedestrian shopping routes to incorporate Sainsbury's and Morrisons supermarkets respectively. The proposed food store on the opposite side of Portholme Road is further disconnected from the town centre and its primary shopping destinations, thereby relying on shoppers arriving by car. We object on the grounds that the food store will encourage more traffic onto Portholme Road above the additional traffic levels already expected from the adjacent development of 154 residential units (2019/0941/FULM). Both ends of Portholme Road currently cause severe traffic bottlenecks, especially during HGV movements, and there appears to be no traffic flow modelling or mitigations present in this application. We are also concerned that the noise will further impact on those that live nearby.

2.3 NYCC Highways

Initially issued a holding objection (22.12.2020)

HGV tracking needs to be shown along with Forward Visibility Splays and Visibility Splays at the Portholme Road junction. The parking provision needs to be in

accordance with the latest LHA Guidance, an increase in both car and cycle spaces is required. In addition, the LHA requests the details of the proposed engineering alterations to Portholme Road to enable the proposed junction be constructed, to include but not limited to: vertical & horizontal alignments, drainage and street lighting. Documents not submitted that are required:

- Transport Assessment
- Travel Plan
- Demolition Management Plan
- Construction Management Plan

2nd response provided (2.2.2021) - holding objection further detail required.

Transport Assessment - The Committed development element needs discussing further. The A1041 / Park Street mini roundabout proposals needs discussing / engineering information submitting. The A19 / Union Lane mini roundabout capacity needs discussing further.

Interim Travel Plan – Further detail required in respect of sustainable travel, including walking and cycling.

Final response (11.5.22): No objection.

The LHA has assessed the amended documents, with the aim of trying to ensure there is not an unacceptable detrimental impact on the Highway network in the vicinity of the site.

The LHA have extensively scrutinised the Transport Assessment, discussing numerous issues. The proposal to alter the existing layout at the A1041 Bawtry Road / Station Road / Park Street junction for a mini roundabout layout was considered in depth. The LHA concluded that the proposals could not be accepted as the design was outside numerous standards as detailed in the Design Manual for Roads and Bridges.

The LHA have agreed with the Developer that a payment of £125,000 by the Developer, equal to an estimate of the initial proposed Highway alterations, be payable to contribute to the Selby Place & Movement Study, including the Portholme Road corridor

The LHA do not consider the impact of the traffic generated by the development will result in an unacceptable impact on highway safety or that the residual cumulative impact on the road network will be severe. Conditions covering the following were recommended:

- Control over the new access, Closure of the existing access, Visibility Splays, Provision of Approved Access, Turning and Parking Areas, Travel Plans, Construction Management Plan, Verge crossing.

2.4 Yorkshire Water

No objections subject to the development being carried out in accordance with the Flood Risk Assessment & Drainage Statement prepared by 3E Consulting Engineers (Report dated June 2020). The report states that foul water will discharge to public foul sewer network and surface water will discharge to the culverted

watercourse crossing the site at a restricted rate of 32 litres/second. Run off from car parking, access roads and loading areas will pass through a suitably designed petrol interceptor.

2.5 **Selby Area Internal Drainage Board**

No objection subject to the appropriate treatment of the surface water.

2.6 **SuDS and Development Control Officer**

No response received.

2.7 **Environmental Health**

No objections subject to conditions requiring control over the noise omitted from external plant and equipment. Store opening hours and delivery times were also suggested to be controlled to:

The store opening hours shall be limited to 08:00 to 22:00 Monday to Saturday and 10:00 to 18:00 on Sundays. The delivery period shall be limited to 07:00 to 23:00 Monday to Saturday and 08:00 to 20:00 on Sundays.

The proposed development is likely to entail an extended construction phase inclusive of demolition. This phase of development may negatively impact upon nearby residential amenity due to the potential for generation of dust, noise & vibration. This could be controlled through the submission of a Construction Environmental Management Plan (CEMP).

In terms of Air Quality, the accompany report acknowledges the potential for increased traffic movements through a designated Air Quality Management Area (AQMA) as a result of the proposals, quantified as a 1% increase in NO₂ emissions based on traffic data provided by the applicant's transport consultants. There is no direct reference to how the applicant intends to offset the impact; however, it is noted the intention to provide two electric vehicle charging points which is considered sufficient. It is recommended that the provision of electric vehicle charging points is secured by condition

No objection to the proposed plant subject to condition. The officer took the view that irrespective of fixed plant selection, the applicant is subject to compliance with acceptable noise criteria. Notes that the noise levels provided within the plans are meaningless without an understanding of whether the levels are sound power levels (L_w) or sound pressure levels (L_p), and the latter necessitates a distance at which it applies (e.g. 38dBA at x metres).

2.8 **Conservation Officer**

No objections. Given the building height, no significant direct heritage impact which is the way we have considered the adjoining site also (Old Civic Centre).

2.9 **Natural England**

No comments to make on this application.

2.10 **North Yorkshire Bat Group**

No response received.

2.11 **Yorkshire Wildlife Trust**

No response received.

2.12 **County Ecologist**

No objections subject to conditions.

5.11.2020. The application includes a PEA by Brooks Ecological and a bat survey by Naturally Wild. In relation to bats it is noted that the survey recorded that bats were absent from the buildings on site and as such no further survey or mitigation is proposed.

The PEA calculated the baseline biodiversity units on site using the Defra Metric and provides recommendations for avoiding adverse effects and ideas for enhancement (net gain). However, despite providing a site layout plan and a landscape scheme there is currently no post development biodiversity unit score which makes it very difficult to determine if the development can achieve no net loss or a net gain for biodiversity.

It is requested that a post development biodiversity metric calculation is carried out and submitted. Where possible in line with current policy the post development scheme should be seeking to secure net gains.

The ecologist requested to see the recommendations for biodiversity identified on the landscape scheme. At present much of the landscape planting is non-native and the recommendations in relation INNS and hedgehog do not appear to have been incorporated. A clear plan showing the biodiversity measures would be useful. The timing of tree works in relation to nesting birds can be suitably covered by an informative.

25.1.21 – The biodiversity net gain calculation submitted as an addendum to the PEA would be reasonable in this instance. It doesn't really matter what the report is called, the important thing is that it demonstrates how the recommendations within the PEA have been taken into account and how biodiversity net gain will be achieved. The officer notes that native planting has been included within the landscape plan which is welcomed. Once the BNG report is available the officer would provide more detailed comments.

20.7.2021 – The officer reviewed the layout plan, the landscape plan and the revised BNG calculations. It is disappointing that the applicant has chosen not to provide a net gain for biodiversity as part of this application. The BNG report confirms that there will be a net loss of biodiversity from the site. The NPPF encourages developments to 'secure measurable net gains for biodiversity'. If gains cannot be provided on site opportunities to provide gains within the local area could be explored e.g., working with a Town Council to provide biodiversity enhancements within public open space within Selby. This being said it is a very small loss of biodiversity units of commonplace habitats and currently there is no formal mechanism available to provide these types of minor off site compensation provisions. Due to the minor scale of loss, the officer will not insist on offsite compensation.

The BNG report does suggest that species roosting features could be put in place as an alternative to habitat provision. This is supported and that these details could be secured by condition requiring submission of a Biodiversity Enhancement Plan.

2.13 Designing Out Crime Officer

In general, the overall design & layout of the proposed development is to be commended as it contains many Designing Out Crime principles and reduces the opportunity for crime & disorder. Below is a list of some measures, which if incorporated, would enhance the safety and security of the development.

- Installation of CCTV to cover footpath at rear of building.
- Relocating of motorcycle parking bays.
- Provision of ground anchors and /or metal support stands for motorcycle parking.
- Provision of security lighting to building elevations.

Access & Movement - It is noted that there is a potential pedestrian link to be incorporated into the scheme that will provide access into the site from the new neighbouring residential development to the west that was subject of Planning Application 2019/0941/FULM. As this link will have an impact on the permeability of the adjacent residential scheme referred to above, it is requested that this should be formalised link, rather than a “desire line1”, which may be created, provided it is of a suitable width and is appropriately illuminated. In terms of the impact the proposed link may have on the site for the new retail store, no concerns were raised.

Landscaping - It is also noted that as part of the amended scheme that there are to be several additional trees planted within the car parking area. It is important to maintain the canopy of these trees so that the lowest branch is a minimum of 2.5m from ground level to ensure that surveillance across the car_park is not impeded.

2.14 North Yorkshire Fire & Rescue Service

No objection.

2.15 Public Rights of Way Officer

No response received.

2.16 HER Officer

The site has a low archaeological potential, largely as a result of 19th and 20th century development. No objections.

2.17 Environment Agency (Liaison Officer)

No objection provided the proposed development is built in accordance with the submitted FRA.

2.18 Waste and Recycling Officer

No response received.

2.19 Contaminated Land Consultant

8.11.2020 - The report (phase 2 Geo-Environmental Assessment) shows that the site has previously been used as a police station, including a small fuel pump and underground fuel (diesel) storage tank. Prior to this, the land has accommodated railway lines, a culvert, and a car and lorry park. These past activities could have given rise to land contamination from fuel spillages, asbestos and heavy metals. 10 soil samples were collected and tested for metals, boron, chromium, organic carbon, water soluble sulphate, polyaromatic hydrocarbons, petroleum hydrocarbons and asbestos. No contaminants were detected within these samples above the relevant adopted assessment criteria for a commercial end use, and so there is considered to be negligible risk to human health from soil contamination. 2 rounds of gas monitoring had been carried out at the time of writing the report, detecting slightly elevated levels of carbon dioxide and methane, however the full monitoring program is not complete. The report recommends that a remediation strategy is prepared for the removal of the underground storage tank.

The Phase 1 report (ref: P19-299/DS Issue 1) will need to be provided so that the appropriateness of the site investigation strategy can be assessed in relation to the location of historical potentially contaminative activities on site. Additionally, the completed gas monitoring and gas risk assessment will need to be provided.

A remediation strategy will need to be produced for the removal of the fuel storage tank and any ground gas protection measures found to be necessary upon completion of the gas risk assessment, which will also require verification.

The applicant submitted a Phase 1 report and gas monitoring details.

22.11.2020 - The provision of the completed gas risk assessment and the Phase 1 report are sufficient for "condition 1: investigation of land contamination" to be left off. The gas monitoring identified elevated concentrations of both carbon dioxide and methane, necessitating the provision of gas protection. The remaining conditions (below) will therefore still be required.

Condition 2: Submission of a Remediation Scheme Prior to development,
Condition 3: Verification of Remedial Works Prior to first occupation or use.
Condition 4: Reporting of Unexpected Contamination

17.1.2021 - The report and the proposed remedial works are acceptable, and condition 2 will not be required. Condition 3 will still be required to ensure the remediation is carried out and verified, and condition 4 will still be required in case any further contamination is encountered during development works.

2.20 Urban Designer

No objection following the submission of amended plans.

Initially objected (27.1.2020) - Clear pre application guidance was given in June 2020 regarding expectations for the character and quality of new development on Portholme Road, in particular the use of contextual materials. Unfortunately, the design narrative bears little relationship to the proposed designs, and contains numerous inaccuracies, which ultimately arrive at generic design that is unjustified. The design does not respond to the local context, or to national and local policies

regarding quality design. Further work on the design and contextual relationship is required.

Urban Design 2nd response: 16th June 2021 – The revised design and attention to the Design and Access Statement is welcomed. The scheme is close to an acceptable form (from a Design perspective), subject to further details being changed in respect of boundary treatments particularly on the site frontage. Also, the orientation of the building needs further justification as spatially, the front is fronting the main car park, and Portholme Road. Architecturally, the front is down the side of the building. The pedestrian links to the west are welcomed. Further detail is also needed in respect of surface materials and all materials should be conditioned.

Urban Design 3rd response: 5th July 2021 – The scheme is close to being acceptable. The officer still raised concerns over the close boarded fence to the west. Still maintained concern of the siting of the building i.e. recessed from the road. The use of tarmac for the surface materials needs attention to ensure a higher quality hard landscape.

2.21 **Planning Policy comments**

In the absence of any sequentially preferable sites, the principle of retail development in this location is acceptable and complies with policy.

2.22 **Landscape officer**

No objection following the submission of amended plans.

24.2.21 – Initial holding objection.

The officer initially objected to the scheme over the likely to adversely affect the residential amenity of adjoining residential properties due to layout, proximity and conflicts of use. The site was said to be over-developed. There is insufficient stand-off at the boundaries to allow retention of existing trees and sufficient landscape boundary screening. Additionally, there is potential for night-time impacts due to lighting. Also, inaccuracies existed in the Design and Access Statement and the Arboricultural Impact Assessment.

Further detail was requested in respect of proposed boundary treatments, the protection and retention of existing boundary trees, particularly to the NW side, more substantial landscape boundary screening and stand-off along site boundaries, particularly to the west and east sides, additional tree and shrub planting within internal car park areas and further details and cross sections of boundary treatment, retaining structures and foundations, fencing and planting is required.

2.6.21 – Broadly supportive of the revised layout but would like to see more emphasis on tree establishment to ensure future amenity benefit of the trees, particularly since a number of existing good mature trees are to be removed to allow the current layout. The officer requested further detail on the tree pits. The officer was not supportive of the central 3 trees planted within hard paved areas as they will remain dependent on watering and aftercare.

30.6.21 – The officer could see no reason why the central hard linear island within the car park cannot be grass and to provide additional soil and growing space for the trees (layout could be the same). The landscape officer requested further reassurance on establishment of these central trees because trees planted within hard surfacing will always struggle and never do well. The tree planting details previously submitted have constrained root zones and potential for poor drainage.

1.7.21 – If the applicant is not able to make further changes and improvements for proposed replacement trees, and increase planting areas generally to accommodate this, then it is requested to see a commitment to longer-term maintenance and management for all the proposed landscape areas. This is over and above a 5-year replacement defects period which would typically be imposed.

7.7.21 – The officer was satisfied providing the following conditions were added:

- 10-year planting defects replacement period
- Maintenance aftercare plan together with a schedule; initial establishment period (10 years); and long-term maintenance thereafter.

Neighbour and 3rd Party representations

2.23 The proposal was publicised by a site notice and direct neighbour notification of residents. 2 neutral letters were received, one concerning the need for a changing places facility for disabled and a one in response to concerns raised in the local press concerning HGV movements. The application received 72 letters of support, (many generic letters indicating general support), 1 from signed by 4 persons. The comments in support were detailed as follows:

- The new store will create new jobs for Selby people hopefully.
- The addition of Aldi to Selby Town shopping as opposed to the out-of-town position it holds now is a benefit to all, enabling shopping without using the private car.
- The town centre store will be accessible for the elderly to travel on foot.
- Planning needs to make special note of the road situation re Portholme as this road has junction adjacent to this site and a hazard needs to be avoided.
- The larger store will provide affordable shopping to the people of Selby who have no means of transport or way of accessing out of town shopping. A new store in an easily accessible place will give this choice to many more people as public transport is now on such a decline locally. It is important that local choice is there creating more competition between different stores.
- It will give more choice for customers.
- Its refusal would show poor judgement, presenting an image of a town that's opposed to investment from a world-player, and leaving Selby with an eyesore derelict building.
- Accept that there may be increased traffic if the supermarket is built and that councillors might be concerned by this, but surely a junction, built to jointly acceptable standards to minimise congestion into and out of the site can be part of the discussions between Aldi and the Council.
- Not overly concerned as far as increased traffic along Union Lane goes. The road is already busy at peak times, quieter at non-peak. If anything, it is the modular homes site that'll make the road busier than an extra supermarket, we're used to having two of the town's biggest as neighbours.

- Also, Aldi setting up there will CUT congestion elsewhere, as fewer people will be driving out to the Three Lakes, and those that do, who live in the town centre, will have the option to walk.
- The company is already established in Selby so will have no adverse effect on retailers. Town centre store more accessible to older residents.
- Asset to Selby, excellent use of a brownfield site in the heart of our town.
- Better than site being derelict.

2.24 5 letters of objection, the comments were as follows:

- The traffic on Portholme Road is currently very busy. Firstly, the added amount of traffic this would create, to the already very busy Portholme Road and Park Street, both from customers and deliveries to store. The residents of the Bainbridge estate would have a significant impact crossing the road, with traffic coming out of three major supermarkets. This store will cause an increase in traffic.
- There is building happening in that area for a large housing complex.
- Deliveries to the existing supermarkets currently causes more problems, one more supermarket will make it a whole lot worse.
- Residents on Union Lane, Massey Street, New Church Terrace, parts of Portholme Drive and Portholme Road will be badly affected.
- The only access to the area by large goods vehicles is either Union Lane/Massey Street/Portholme Road or Park Street/Portholme Road.
- The only sensible solution is to either refuse the application, or mandate that deliveries are between 11pm and 5am. That said, residents in that area will be troubled by noise for most of the night.
- The construction of another food store within the town centre is unnecessary and it should be built further out of town. Selby Town Centre is already well served with supermarkets.
- Further traffic into the town centre should not be encouraged encourage into the town centre especially in this area of Portholme Road which gets congested already.
- Maybe there could be something built here to encourage people to walk more like an outside space to exercise in or relax in, a community space. Aldi's current location is appealing as it's out of town, but it will lose custom to Lidl if it relocates to the town centre.
- The anticipated increase in traffic and consequent enhanced danger at the existing junction of Portholme Road and Portholme Crescent convince us that these applications cannot be considered separately, but the total impact of increased traffic in Portholme Road should be taken into account. If the application is to proceed, surely the access can be taken off a traffic island at the existing Portholme Road/Crescent junction as previously suggested, preferably with the original proposal for the Crescent to be joined to Park Street to also proceed.
- This road has woeful crossing points.
- Where is the infrastructure improvements to accommodate this development?
- Where are all the controlled crossings going to be to make this a safe thoroughfare for pedestrians, especially mobility challenged? Why haven't any groups representing disabled residents been consulted? Where is the impact on pedestrian through traffic consultation? This is a pedestrian route for my wife who is blind to avoid the pitfalls of going through town to access Bawtry road.

- When are you going to reinstate the footpath at the base of the bridge so she doesn't have to use the dangerous steps, because that's the only way to access Bawtry road from this end of town.

3 SITE CONSTRAINTS

Constraints

- 3.1 The application site is located within the development limits for Selby. The site is brownfield and lies on the southern fringe of the town centre outside the Shopping and Commercial Centre and outside the Conservation Area. The site is within Flood Zones 2 and 3 (benefitting from flood defences) the latter of which has a high probability of flooding. The site does not contain any protected trees and there are no statutory or local landscape or heritage designations.

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
SP13 - Scale and Distribution of Economic Growth
SP14 - Town Centre and Local Services
SP15 - Sustainable Development and Climate Change
SP16 - Improving Resource Efficiency
SP18 - Protecting and Enhancing the Environment
SP19 - Design Quality

Selby District Local Plan

4.7 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
ENV2 - Environmental Pollution and Contaminated Land
ENV28 - Other Archaeological Remains
EMP2 - Location of Economic Development
EMP6 - Employment Development within Development Limits
T1 - Development in Relation to Highway
T2 - Access to Roads
S3 - Local Shops

National Planning Policy Framework

4.8 Relevant sections include:

2 – Achieving sustainable development
4 – Decision-making
7 – Ensuring the vitality of town centres
9 – Promoting sustainable transport
11 – Making effective use of land
12 – Achieving well-designed places
14 – Meeting the challenge of climate change, flooding and coastal change
15 – Conserving and enhancing the natural environment
16 – Conserving and enhancing the historic environment

5 APPRAISAL

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

- Principle of development - sequential test and retail impact
- Design and Impact on the Character of the Area
- Trees and Landscaping
- Impact on Highway Safety Highway Matters
- Impact on Residential Amenity
- Noise Environment
- Flood Risk and Drainage
- Nature Conservation and Protected Species

- Heritage Assets
- Land Contamination
- Other Matters

The principle of development including sequential test and retail impact

- 5.2 Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development and that development proposals which accord with an up-to-date development plan should be approved.
- 5.3 Paragraph 12 of the NPPF re-emphasises that the development plan is the starting point for decision making, adding that where a planning application conflicts with an up-to-date Development Plan permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. Para. 47 reiterates that planning law requires that applications for planning permission be determined in accordance with the development plan.
- 5.4 The Core Strategy (CS) was adopted in October 2013, however Planning Practice Guidance states that a plan does not become out-of-date automatically after 5 years. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Due weight should be given to relevant policies in existing plans according to their consistency with the NPPF. It will be up to the decision maker to decide the weight to give to the policies. The policies in the SDLP (saved) and adopted CS are consistent with the NPPF.
- 5.5 CS Policy SP2 sets out the spatial strategy for the district and states that Selby, as the Principal Town will be the focus for new development, including retail.
- 5.6 CS Policy SP14 states that town centre uses should be focussed on the town centres of Selby, Tadcaster and Sherburn in Elmet. Proposals are required to comply with national planning policy which states that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. The site is located approximately 300 metres from the Primary Shopping Area and is therefore regarded as edge of centre in planning policy terms.

The sequential test

- 5.7 It is noted that a sequential test assessment has been submitted in support of the application, which finds that there are no sequentially preferable sites which are available, suitable or viable. At the time of the submission the Council had recently undertaken a Call for Sites exercise as part of the emerging new Local Plan and the policy team confirm that no sequentially preferable sites have been identified through this process.
- 5.8 The former police station site is considered to be a well-connected, brownfield, accessible edge of centre site which could potentially benefit the town centre through facilitating linked trips. The relocation of Aldi from an out-of-centre retail park to this edge of centre location is broadly supported for this reason.

Retail impact

- 5.9 When assessing applications for retail developments outside town centres, which are not in accordance with an up-to-date plan, an impact assessment is also required. Given the absence of a locally set threshold in the Development Plan, the default threshold set out in the NPPF is 2,500 sq. m.
- 5.10 The Council have published a Retail, Town Centre and Leisure Study (November 2020) which concludes that there is very limited capacity for additional convenience retail floorspace in Selby Town in the period to 2030 (603 sq m net). Whilst retail need is no longer one of the retail tests, a lack of surplus expenditure indicates that the impact on existing stores will be greater and significant diversion of trade from in-centre stores (Sainsburys and Morrisons) could have an impact on the vitality and viability of Selby town centre. The 2020 Retail Study finds that Morrisons is overtrading (by £1.92m) when compared to company benchmark turnovers and the Sainsburys store is under-trading (by £3.62m). In the circumstances where in-centre stores are under-trading, further diversion of expenditure may have a more significant impact on the vitality and viability of the town centre. However, the study finds that the existing out-of-centre Aldi foodstore is found to be massively over-trading by £11.4m and it is considered that the relocation of the store will help to relieve this over-trading and absorb some of this surplus expenditure.
- 5.11 The submission of an impact assessment by the applicant is welcomed, as despite the modest size of the proposal (1,315 sq m net sales area) the deep discounters can have a significant impact on existing trading patterns. The submitted Retail Impact Assessment appears robust. It is based on the Council's previous Retail Study which was published in 2015 (as the 2020 update was not available at the point of submission) and the assumptions it uses for catchment area / trade draw and benchmark turnovers are considered to be realistic.
- 5.12 The Retail Assessment has provided an assessment of different scenarios, including a cumulative impact assessment of the proposal, alongside the Lidl proposal at Staynor Hall and the existing Aldi unit being retained as a foodstore which is welcomed. The assessment demonstrates that overall, there would be no significant impacts on town centre facilities.
- 5.13 The proposal is considered to be acceptable on the basis that:
- It represents a relocation of an existing store and proposes a modest uplift in sales area (+375 sq m net).
 - The Council's 2020 found that the existing Aldi store at Three Lakes Retail Park is significantly overtrading, and the store's relocation will relieve this overtrading and absorb some of this surplus expenditure.
 - The store will be relocated from an out-of-centre location to an edge-of-centre which may bring related benefits to Selby town centre through linked trips.
 - The application site represents a significant regeneration opportunity of vacant brownfield land in a highly accessible and sustainable edge of centre location.

Design and Impact on the Appearance of the Area

- 5.14 SDLP Policy ENV1 requires the effect of new development on the character of the area and the standard of design in relation to the site and its surroundings to be taken into account when considering proposals for new development. Similarly, CS Policy SP19 expects new development to have regard to the local character,

identity and context of its surroundings. Paragraph 130 of the NPPF states that planning decisions should ensure that developments; are visually attractive as a result of layout and landscaping; sympathetic to local character, while not preventing change, and; establish a sense of place.

- 5.15 The design of the building has been perhaps the major area of concern from the initial submission. The urban design officers' comments above adequately detail this and explain how the original scheme was considered bland, not responsive to its overall context. This has been gradually improved through looking at other example stores, moving away from the modern grey cladded frontage and introducing more traditional materials such as red brick with full height piers, with cladding at higher level only. The roof design has also changed from a mono pitch design to a lower flat roof design. This palette of colours is now far more in-keeping with the built form in the area, including the houses on Portholme Road and the Morrison's. It is also consistent with the neighbouring housing site, whose materials have recently been signed off for use of red/brown brick and dark grey tiles and sheet roofing (2020/0957/DOC). In other words, it is far more contextually responsive with the existing and committed surrounding developments.
- 5.16 Other more subtle design changes were made to the pavement treatments, the landscaping, the entrance detailing and the choice of boundary materials to help anchor the development with street scene. Whilst the main glazed aspect does face east, the frontage once the landscaping becomes established will enhance the street scene. Limited opportunity also existed to enhance the planting areas, due to the store size requirement and resultant number of parking spaces. The pedestrian access to the west through the L&G Housing development was also later omitted due to the land level differences and an unwillingness of the residential developer to facilitate this.
- 5.17 Therefore on balance, the proposal has been significantly enhanced from its initial submission and is regarded to be visually acceptable and would not detract from the character of the surrounding area. The proposed development is therefore considered to be in accordance with SDLP Policies ENV1, CS Policy SP19 and national policy contained in the NPPF.

Trees and Landscaping

- 5.18 Selby District Local Plan Policy ENV1(4) requires development to consider approaches on landscaping within the site and taking account of its surroundings. Policy SP19(e) requires that proposals look to incorporate new landscaping as an integral part of the scheme.
- 5.19 The impact on the landscape is particularly important in this proposal as the proposed development will inevitably change the character and form of buildings on the site. The current building on site only occupies roughly half of the site, with the remainder of the site being grassed. A group of trees (mainly birch) exists on the north-western corner of the site, and these extend down the western boundary, and provide some greenery within this street frontage. The trees within the western boundary are outside the site and are to be removed as part of the current L&G development.
- 5.20 The tree survey submitted with the application regarded the north-western grouping to be of moderate and low quality, but within reasonable to good physiological and structural condition. Both the landscape officer and urban design officer considered

that these should be retained, however the application site was enlarged during the processing of the application and subsumed these trees within a proposed parking and landscaping area.

- 5.21 The extent of the development, tree loss and the amount of landscaping was discussed at length during the processing of the application, with the applicants wishing to maximise the use of the site, leaving very little area for landscaping and the site feeling intensively developed. These discussions are fully detailed in the landscape officers' consultations responses above.
- 5.22 The landscaping was gradually enhanced by a series of amendments and additional information being submitted. The frontage was shown to be fully landscaped, along with the site boundaries and the south-eastern corner of the site. Trees were also shown in the central parking area, made possible via tree pits. A landscape plan was also submitted showing a total of 17 new trees, all of which were of heavy standard and extra heavy standard to give some immediate tree cover to the site and compensate for the trees being removed. This was all supplemented by shrub planting in the car park areas and boundaries.
- 5.23 The landscape officer was broadly supportive of the changes made and sought a commitment to longer-term maintenance and management for all the proposed landscaping. The need for a maintenance management plan is secured by condition as is the need to replacement defects period being 10 years as opposed to the normal 5 years. The applicants have agreed to this condition.
- 5.24 In terms of boundary treatment, again this was discussed and amended during the application. The site frontage is enclosed by a 600mm wall with copings to give the development some enclosure within the street scene, with planting behind. This sweeps around the site entrance and north-western corner of the site. The current permeable paladin fencing on the eastern boundary is being replaced by a low post and rail fence where it adjoins the heavily trafficked footpath. This will give the footpath an open feel and provide a safe route to the town centre. Beyond this on the south-eastern and southern boundaries is a 1.8m close boarded fence where the site bounds residential dwellings.
- 5.25 Finally, the western boundary is shown as a 1.8 m close boarded fence. The urban design officer wanted something more substantial along this boundary where it meets the new L&G housing estate. The applicants were reluctant to change this, and it was later established that the site to the west is elevated for flooding purposes and there is to be a 500mm retaining wall on the western boundary which is then landscaped. Therefore only 1.3m of fencing will be visible from the neighbouring residential side of the development. On balance, this was deemed to be acceptable.
- 5.26 The proposal has been significantly improved from its first submission and whilst more landscaping would have been welcomed, a balance has been reached. Given its semi urban fringe location this was deemed to be satisfactory and is therefore acceptable in accordance with Selby District Local Plan Policies ENV1(4), and Core Strategy Policy SP18.

Impact on Highway Safety

- 5.27 SDLP Policy T1 requires new development to be well related to the existing highway network and Policy T2 states that development resulting in the

intensification of the use of an existing access will be supported provided there would be no detriment to highway safety. The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 5.28 The application was accompanied by a Transport Assessment which recognised that traffic associated with the proposed development would be higher than for the former Police Station use. When taking into account other committed development in the area i.e., the L&G site to the west, this meant that some 'off site' highway upgrading works could be necessary. These involved the potential for signalisation of junction at A1041 / Park Street or mini roundabout. The modelling also showed increased flow west to the A19 / Union Lane mini roundabout.
- 5.29 A Highways Technical Note was prepared by Andrew Moseley Associates in response to a number of discussions and various comments received from North Yorkshire County Council (NYCC) Highways on the Transport Assessment (TA). The Highways Technical Note which had several revisions, concluded that mitigation is not required at the Union Street / A19 Brook Street mini roundabout as a result of the development proposals.
- 5.30 In terms of the Bawtry Road / Station Road / Park Street Priority Crossroads Junction, further information was provided, and intervention was deemed necessary due to queuing on Park Street during busy periods.
- 5.31 The applicant had originally proposed changes to the layout of the Bawtry Road / Station Road / Park Street Priority Crossroads junction to a mini roundabout arrangement, seeking to readdress priorities at the junction and provide improvements to capacity. However, NYCC did not consider this to be an arrangement that could be supported based on their required design parameters and road safety concerns.
- 5.32 On this basis it was agreed that the mini-roundabout design would be removed from the proposals, as a future scheme at this junction would deliver a more comprehensive mitigation scheme and any interim solution would not be beneficial in highways terms. It is recognised and accepted by the applicant that over the last few years piecemeal development has occurred in the vicinity of the site and therefore there is a cumulative impact of additional highways / traffic movements that could be addressed strategically both in and around the town centre. This includes the Portholme Road corridor in relation to traffic management and the encouragement of movement by more sustainable modes in line with SDC and NYCC policies which seek active modal shift to walking, cycling and public transport.
- 5.33 To this end, NYCC Highways in association with SDC are currently preparing the initial stages of the 'Selby Places and Movement Study' which seeks to identify a package of town wide public realm, highways and transport measures and improvements which could include the Portholme Road corridor.
- 5.34 Any measures identified would seek to mitigate the impacts of the Aldi proposal and other existing traffic generating land uses in the future. The original mini-roundabout mitigation proposed by the applicant had a cost estimate of £125,000. On this basis it was agreed that the developer contributes this value to the Council, secured through a Unilateral Undertaking between Aldi and NYCC / SDC towards the 'Selby

Places and Movement Study' and the schemes to be delivered by it. This satisfied NYCC Highways officers and was deemed proportionate and would offset any temporary highway nuisance with a view to any future concerns being resolved through movement study. In terms of the site access arrangements and road safety audit, the technical note provided the necessary detail, along with swept path analysis details.

- 5.35 The application was also accompanied by an interim travel plan, which states makes it clear that its key objectives are to reduce non sustainable travel to and from the new store for both staff and customers. Primarily focussing on reducing vehicle usage and single occupancy vehicle usage. The plan also highlights the advantages of car sharing and electric cars and makes provision in the layout for these. Full details of the final travel plan are requested by condition.
- 5.36 In terms of parking provision, the layout shows 102 car parking spaces which include, disabled, family, x2 EV charging points with potential for a further 6 and 2 motorcycle spaces. The level of parking generally accords with the North Yorkshire County Council's parking standards for retail development over 1000sqm in market towns, being 1 space for every 18m². This gives a requirement of 104 spaces and 102 are being proposed.
- 5.37 As a result of all the discussions and changes the NYCC Highway Authority raised no further objection to the proposal subject to conditions. The application therefore is not considered to harm highway safety and is acceptable and in accordance with SDLP policies T1, T2 and also national policy contained in the NPPF.

Residential Amenity

- 5.38 Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1 (1) of the Selby District Local Plan. This is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved, in particular the new supermarkets impact on outlook, light and privacy.
- 5.39 The proposed development is effectively surrounded by residential dwellings. To the south are the residents of 64-54 & 28 Bainbridge Drive which have rear gardens facing the application site. To the east are the dwellings of 5,7,9,11,12 Ashlea Close and 64 Portholme Road who's side gardens adjoin the application site.
- 5.40 Consent has also been permitted for a large residential scheme to the west (L&G) and the relationship of these dwellings has been shown on the planning layout as development is under construction. Having considered the layout, the properties to the west, it is not considered the proposed store will compromise the outlook of these dwellings. These mainly look northeast to southwest and are on elevated land and would look over the parking areas and landscaped area.
- 5.41 Having considered the proposed layout plan the building is positioned at the southern end of the site, with the access road and parking running parallel to the eastern boundary. In terms of the impact on the residents to the east, the access will come closer to these dwellings than the former use, however this would run alongside the gables of the dwellings adjacent to the footpath and these all have existing boundary treatments. The opening hours of the store will also be regulated meaning vehicles are only likely to park in the car park when the store is open.

- 5.42 In the south-eastern corner of the site are 4 dwellings (11-5 Ashlea Court). The rear most maisonettes i.e., 9 & 5 have their rear aspect facing west. The proposed building is set in from the boundary meaning a 15m gap exists between the new buildings and the rear aspect of these dwellings. This is considered satisfactory in terms of outlook and dominance particularly as the proposed food store is a relatively low flat roofed building being 5.5m in height. No windows exist above ground floor on this elevation to cause any privacy concerns. The landscaping scheme also shows 2 trees to be planted in this south-eastern corner to break up any views into the site. The proposal will therefore bring the massing closer to the eastern boundary than the previous building did, however this is not to a degree that would cause loss of outlook significant overshadowing or privacy concerns.
- 5.43 The southern boundary is almost entirely developed by the proposed building. This has the potential to cause concerns over loss of outlook and dominance to the dwellings to the south that face the application site. The existing building on the site does however have a very similar relationship to the building proposed. The proposed building is slightly higher at 5.5m compared with 4.7m of the current building but further set in from the boundary more by an extra 1m being 4m. This gives greater separation between the rear of the residential dwellings facing north and the rear elevation of the proposed building.
- 5.44 The relationship between the existing residents and new building is shown on the site section, and there are no plans to raise the levels of the site on the southern boundary. The building proposed floor level is only 300mm to 180mm higher than the existing levels on the boundary.
- 5.45 No third-party objections have been received from any of the immediate neighbours. Therefore, whilst the proposed building does dominate the southern boundary it retains a very similar scale and massing to the building it replaces. The proposal is therefore in compliance with SDLP Policy ENV1 and national policy contained in the NPPF.

Noise Environment

- 5.46 SDLP Policy ENV2 requires noise or other pollution to be mediated or prevented. The most relevant consideration in terms of likely impacts on residential amenity is that of noise associated with the various elements of the scheme and their operation.
- 5.47 The main areas to generate noise are the car parking to the front of the site, the service point on the southwestern elevation and external plant positioned on the southern boundary. An Environmental Noise Impact Assessment accompanied the application.
- 5.48 With respect to impacts arising from the development during construction i.e., potential noise, dust and vibration, the Environmental Health officer suggested a condition requiring the need to submit a scheme to minimise the impact of noise, vibration, dust and dirt on residential properties within close proximity to the site prior to development commencing. This is added as a planning condition.
- 5.49 The rear of the building is where the plant and equipment are located. This is free standing, low output spec (38bd @ 10m) and enclosed by a 3m acoustic fence. As no specific manufactures details were given, the Environmental Health officer considered necessary to impose a condition which, control the cumulative noise

level of the equipment to not exceed 39dB and 30dB for daytime and night-time hours respectively at noise-sensitive receptors set out with the supporting Environmental Noise Impact Assessment dated 12th August 2020 (ref: ADT 3040/ENIA). This will ensure all plant and equipment to ensure they do not cause nuisance to nearby residents.

- 5.50 Finally, the delivery hours cause often cause nuisance. The applicants proposed the following:

Opening hours Monday to Saturday	08:00 - 22:00
Opening hours Sunday	10:00 - 16:00
Delivery hours Monday to Saturday	06:00 - 23:00

- 5.51 The Environmental Health officer regarded the proposed delivery hours would encroach into night-time hours as defined by the World Health Organisation. The noise assessment identifies up to +27dB noise impact at nearby sensitive receptors from deliveries over a 15-minute period. As such, it is not considered appropriate to permit deliveries during night-time hours. The noise impact associated with the car park equates to 'no observed adverse effect' based on proposed opening hours of 08.00 to 22.00 Monday to Saturday and 10.00 to 16:00 on Sundays. In view of this the store opening hours are agreed however delivery hours should not commence until 07:00 as opposed to 06:00 proposed. The following condition is therefore recommended:

'The store opening hours shall be limited to 08:00 to 22:00 Monday to Saturday and 10:00 to 18:00 on Sundays. The delivery period shall be limited to 07:00 to 23:00 Monday to Saturday and 08:00 to 20:00 on Sundays.'

- 5.52 As such having taken into account the above it is considered that the proposal would not cause a significant detrimental impact on the residential amenities of nearby residents providing the suggested conditions are adhered in accordance with policy ENV1(1) of the Local Plan and the NPPF.

Flood Risk and Drainage

- 5.53 SDLP Policy ENV1 requires account to be taken of the capacity of local services and infrastructure and CS Policy SP19 seeks to prevent development from contributing to or being put at risk from water pollution.
- 5.54 The Environment Agency flood map for planning shows that the site is primarily located within flood zone 2, with the eastern edge within zone 3 therefore having a medium - high risk of flooding from rivers. The flood zone 3 does benefit from flood defenses, given its town centre location. The application was accompanied by a Flood Risk Assessment which concluded that the proposal should not be precluded on the grounds of flood risk.
- 5.55 Paragraph 162 of the NPPF states that "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Paragraph 163 of the NPPF states that "If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development

proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance”.

- 5.56 In accordance with the ‘Technical Guidance to the National Planning Policy Framework’; ‘Table 2: Flood Risk Vulnerability Classifications’, proposed food stores would be classified as ‘Less vulnerable’. Table ‘Flood Risk vulnerability and flood zone compatibility’ indicates supermarkets within flood zone 2 are appropriate.
- 5.57 The Council’s Flood Risk Sequential Test Developer Guidance Note - October 2019 states that, when applying the sequential test, proposals for retail/town centre uses in out-of-town locations should be considered against other available sites within the catchment area for the development. In this case given the town centre location it would be necessary to consider alternative sites within the town centre and its fringe.
- 5.58 The FRA commented that the majority of the land to the east is within flood zone 3 and therefore not sequentially preferable. The land to the south and west is flood zone 2 meaning there are no sequentially preferable sites, particularly given Selby town centre is largely developed. The retail impact assessment also confirmed the lack of available sites. As such, the site is considered to pass the sequential test. Given the site is a less vulnerable use in flood zone 2, an exception test is not required.
- 5.59 The Environment Agency have reviewed the application and have no objection subject to a condition requiring adherence to the submitted flood risk assessment.
- 5.60 It is proposed to drain the surface water to an existing culverted watercourse which currently serves the buildings on site. Flow rates will be restricted as per the drainage assessment. Surface water from car parking, access roads and loading bay will be collected via trapped gullies and linear drainage channels and will pass through an appropriately sized below ground petrol/oil interceptor prior to attenuation. Roof water will not be required to pass through the petrol/oil interceptors. Foul water will be pumped to the public foul network. The Internal Drainage Board raised no concerns and provided a list of standard conditions without assessing the details submitted. No response was received from the LLFA.
- 5.61 It is therefore considered that the proposals adequately address flood risk and that the site can be properly drained in accordance with SDLP Policy ENV1, CS Policy SP19 and national policy contained in the NPPF.

Nature Conservation

- 5.62 SDLP Policy ENV1 states that proposals should not harm acknowledged nature conservation interests and CS Policy SP18 seeks to safeguard the natural environment and increasing biodiversity. These policies are consistent with chapter 15 of the NPPF which seeks to protect and enhance sites of biodiversity value.
- 5.63 The application was accompanied by a bat survey which found no roosting bats within the current buildings. This will therefore not preclude their demolition. Also, a thorough Preliminary Ecological Appraisal (PEA) was submitted, which identified very few ecological constraints on the application site. The PEA assessed the site as having a Biodiversity Score of 0.55 which was later revised to 0.97 (due to the site being enlarged and further tree loss) Habitat Units. The PEA indicated that the LPA may look to seek some net gain.

- 5.64 The County Ecologist was content that bats are absent from the buildings on site and as such no further survey or mitigation is required. The PEA calculated the baseline biodiversity units on site using the Defra Metric and provides recommendations for avoiding adverse effects and ideas for enhancement (net gain). However, despite providing a site layout plan and a landscape scheme, there was no post development biodiversity unit score, which makes it very difficult to determine if the development can achieve no net loss or a net gain for biodiversity.
- 5.65 The development and landscaping plans were finalised and a new Biodiversity Net Gain Assessment ER-4889-02A was submitted. This showed a post development score of 0.23 Habitat units, so an overall Net Loss of 0.63 (64%). The report contends the high percentage reflects the original low baseline. A nett gain couldn't be achieved due to the amount of development on the site and hard surfaces. The loss is described as being small in terms of units and represents the ubiquitous urban habitats.
- 5.66 The County Ecologist was disappointed that the applicant has chosen not to provide a net gain for biodiversity as part of this application. The BNG report confirms that there will be a net loss of biodiversity from the site. The NPPF encourages developments to 'secure measurable net gains for biodiversity'. If gains cannot be provided on site opportunities to provide gains within the local area could be explored e.g. working with a Town Council to provide biodiversity enhancements within public open space within Selby. This being said it is a very small loss of biodiversity units of commonplace habitats and currently there is no formal mechanism available to provide these types of minor off site compensation provisions. Therefore, due to the minor scale of loss the County Ecologist did not insist on offsite compensation.
- 5.67 The BNG report does suggest that species roosting features could be put in place as an alternative to habitat provision. This is welcomed and is controlled by a condition requiring submission of a Biodiversity Enhancement Plan. As such, it is considered that the proposal is acceptable and in accordance with SDLP Policy ENV1, CS Policy SP18 and national policy contained in the NPPF.

6 CONCLUSION

- 6.1 The application seeks full planning permission for demolition of the former police station and the erection of a Class E food store, together with car parking, landscaping and associated works. The land is within the Development Limits for Selby and on the fringe of the town centre. The development of this brownfield site is considered acceptable and has been proven to pass the sequential test and cause no harm to the vitality and viability of the town centre. Its location will be readily accessible to a larger population, accessible on foot and lead to the closure of the existing store operated by the applicants which is located further from the town centre. The proposal is therefore considered to be in accordance with CS policies SP1, SP2, SP13 and SP14.
- 6.2 The design and layout including landscaping has been the result of several amendments and now results in a satisfactory scheme that respects the character of the area and the causes no undue harm to the living conditions of neighbouring occupiers. Other matters of acknowledged importance such as the impact on the highway network, flood risk, drainage and nature conservation are considered to be acceptable and in accordance with the Development Plan and national advice contained within the NPPF.

- 6.3 Finally, the application is accompanied by a unilateral undertaken in order that the traffic impacts of the proposals can be mitigated by a financial contribution (£125,000) towards the 'Selby Places and Movement Study' and the schemes to be delivered by it. This is necessary to make the development acceptable and is directly related to the development and is appropriate in terms of the scale of the contribution. This meets the tests set out in the section 122 of the Community Infrastructure Levy Regulations 2010 (amended 2011 and 2019) and paragraph 57 of the NPPF.

7 RECOMMENDATION

This application is recommended to be GRANTED subject to the completion of a Unilateral Undertaking and subject to the following conditions:

01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

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

Location Plan 16125-500 Rev A

Proposed Site Layout - 16125-100 Rev F

Proposed GA Layout - 16125-101 Rev A

Proposed Elevations - 16125-102 Rev C

Proposed Sections - 16125-103 Rev C

Proposed Roof Plan - 16125-104 Rev A

Landscape Plan – 16125-VL_L01 Rev E

Boundary Treatments – 16125-105 Rev A

Boundary Sections 16125 -106

Tree Planting Detail Hard Landscape areas 16125-VL_D02

Tree Planting Detail Soft 16125-VL_D01

CGI – 02A

Proposed Plant Layout 79-EXXXX-WAVE-XX-00-DR-R-En_60_60_00-0001-A5-P00

Flood Risk Assessment & Drainage Statement prepared by 3E Consulting Engineers (Report dated June 2020) including all flood warning and mitigation measures.

Interim Travel Plan April 2021 Report No 40073-002

Transport Assessment October 2020 Report No 40073-001

AMA/40073/ATR007 -HGV swept path analysis.

AMA/40073/ATR008 -HGV swept path analysis.

AMA/40073/SK004 Rev D - Large Service vehicle swept path analysis

AMA Highways Technical Note dated 6.4.22

Reason:

For the avoidance of doubt.

03. No development on any phase of the development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by Local Planning Authority. The scheme shall include details of any necessary noise, vibration, dust, air pollution and odour mitigation measures. Development shall be carried out in complete accordance with the approved scheme.

Reason:

To protect the residential amenity of the locality and in order to comply with the NPPF and Selby District Council's Policy's SP19 and ENV2.

04. The cumulative level of sound from all plant and equipment associated with the proposed development, when determined externally under free-field conditions, shall not exceed 39dB and 30dB for daytime and night-time hours respectively at noise-sensitive receptors set out with the supporting Environmental Noise Impact Assessment dated 12th August 2020 (ref: ADT 3040/ENIA). All noise measurement/predictions and assessments made to determine compliance shall be made in accordance with British Standard 4142: 2014: Methods for rating and assessing industrial and commercial sound, and/or its subsequent amendments.

Reason:

To protect the residential amenity of the locality and in order to comply with the NPPF and Selby District Council's Policy's SP19 and ENV2.

05. The store opening hours shall be limited to 08:00 to 22:00 Monday to Saturday and 10:00 to 18:00 on Sundays. The delivery period shall be limited to 07:00 to 23:00 Monday to Saturday and 08:00 to 20:00 on Sundays.

Reason:

To protect the residential amenity of the locality and in order to comply with the NPPF and Selby District Council's Policy's SP19 and ENV2.

06. The store hereby permitted shall not open to customers until the 2 electric vehicle charging points detailed on the proposed site layout have been installed and are fully operational. These shall remain operational for the lifetime of the use and be subsequently retained for that purpose.

Reason:

To encourage the use of low emission vehicles, in turn reducing CO2 emissions and energy consumption levels in accordance with Plan Policy SP15.

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

Reason:

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

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

09. Before the development is first brought into use a landscape management plan including long term design objectives management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved in writing by the local planning authority. The management plan shall include measures for 10 years maintenance following the first 5 years from establishment. The landscape management plan shall be carried out as approved.

Reason:

To ensure the scheme is developed and managed for future years in accordance with the approved detail and therefore maintained. This will ensure the development accords with Policies SP18, SP19 of the Core Strategy and Local Plan Policy ENV1.

10. If within a period of 10 years from the date of the planting of any tree/hedge/shrub that tree/hedge/shrub, or any replacement, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree/hedge/shrub of the same species and size as that originally planted shall be planted in the same location as soon as reasonably possible and no later than the first available planting season, unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To ensure maintenance of a healthy landscape scheme, in accordance with Local Plan Policies ENV1 and ENV12 and Core Strategy Policy SP18.

11. All tree planting, and landscaping comprised in the approved Landscape Proposals

Landscape Plan – 16125-VL_LO1 Rev E

Tree Planting Detail Hard Landscape areas 16125-VL_D02

Tree Planting Detail Soft 16125-VL_D01

shall be carried out in the first planting seasons following the substantial completion of the development, whichever is the sooner.

Reason:

In order to ensure for the preservation and planting of trees and landscaping in accordance with s.197 of the Act and in order to comply with saved Policy ENV1 of the Selby District Local Plan.

12. No development shall commence above slab level until details and samples of the materials to be used in the construction of the external surfaces, i.e. external walls, roof, cladding, boundaries, surface treatment of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason:

To ensure the materials are appropriate for the area in accordance with Local Plan Policy ENV1 and Core Strategy Policy SP19.

13. Prior to the first use of the development hereby permitted, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by Local Planning Authority. Once agreed the plan shall be carried out within the agreed time period and the measures shall be retained for the lifetime of the development.

Reason:

To deliver biodiversity net gain as per the NPPF para 174b) and policies ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy.

14. The development must not be brought into use until the access to the site at Portholme Road has been set out and constructed broadly in accordance with the drawing: Proposed Site Access Arrangements, AMA/40073/SK004 Rev D and the 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by the Local Highway Authority and the following requirements:

The crossing of the highway must be constructed in accordance with the Proposed Site Access Arrangements, AMA/40073/SK004 Rev D and the following requirements.

- Any gates or barriers must be erected a minimum distance back from the existing highway so as not to be able to swing over the existing highway.
- Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway must be constructed in accordance with approved details and maintained thereafter to prevent such discharges.
- The final surfacing of any private access within 30 metres of the public highway must not contain any loose material that is capable of being drawn on to the existing or proposed public highway.
- Measures to enable vehicles to enter and leave the site in a forward gear.

All works must accord with the approved details.

Reason:

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.

15. The development must not be brought into use until the existing access onto Portholme Road has been permanently closed off in accordance with the drawing: Proposed Site Layout, 16125 – 100 Rev F which have first been submitted to and approved in writing by the Local Planning Authority.

Reason:

In the interests of highway safety and the amenity of the area.

16. There must be no access or egress by any vehicles between the highway and the application site at Portholme Road until splays giving clear visibility are provided as shown on drawing: Proposed Site Access Arrangements, AMA/40073/SK004 Rev D. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In the interests of highway safety.

17. There must be no access or egress by any vehicles between the highway and the application site at Portholme Road until visibility splays providing clear visibility of 2.0 metres x 2.0 metres measured down each side of the access and the back edge of the footway of the major road have been provided. In measuring the splays the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In the interests of highway safety.

18. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users at the Old Police Station, Portholme Road have been constructed in accordance with the drawings: Proposed Site Access Arrangements, AMA/40073/SK004 Rev D and Proposed Site Layout, 16125 – 100 Rev E as approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

19. Prior to the first occupation of the development, a Travel Plan must be submitted to and approved in writing by the Local Planning Authority. The Travel Plan will include: -

- agreed targets to promote sustainable travel and reduce vehicle trips and emissions within specified timescales and a programme for delivery;
- a programme for the delivery of any proposed physical works;
- effective measures for the on-going monitoring and review of the travel plan;
- a commitment to delivering the Travel Plan objectives for a period of at least five years from first occupation of the development, and;
- effective mechanisms to achieve the objectives of the Travel Plan by both present and future occupiers of the development.

The development must be carried out and operated in accordance with the approved Travel Plan. Those parts of the Approved Travel Plan that are identified therein as being capable of implementation after occupation must be implemented in accordance with the timetable contained therein and must continue to be implemented as long as any part of the development is occupied.

Reason:

To establish measures to encourage more sustainable non-car modes of transport.

20. No development for any phase of the development must commence until a Construction Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved Construction Management Plan.

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

1. restriction on the use of the existing site access junction OR the new proposed site access junction (but not both at the same time) on Portholme Road for construction purposes;
2. wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
3. the parking of contractors' site operatives and visitor's vehicles;
4. areas for storage of plant and materials used in constructing the development clear of the highway;
5. measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;
6. details of the routes to be used by HGV construction traffic and highway condition surveys on these routes;
7. protection of carriageway and footway users at all times during demolition and construction;
8. protection of contractors working adjacent to the highway;
9. details of site working hours;
10. erection and maintenance of hoardings including decorative displays, security fencing and scaffolding on/over the footway & carriageway and facilities for public viewing where appropriate;
11. means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures;
12. an undertaking that there must be no burning of materials on site at any time during construction;

13. removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works;

14. a detailed method statement and programme for the building works; and

15. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason:

In the interest of public safety and amenity.

Informatives:

Timing of tree clearance

Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. In addition, certain species such as the Barn Owl are included in Schedule 1 of the Act and are protected against disturbance while nesting and when they have dependent young. Offences against birds listed in Schedule 1 of the Wildlife and Countryside Act are subject to special penalties. An up-to-date list of the species in Schedule 1 is available from Natural England
<http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/speciallyprotectedbirds.aspx>.

Further information on wildlife legislation relating to birds can be found at www.rspb.org.uk/images/WBATL_tcm9-132998.pdf.

New and altered Private Access or Verge Crossing

Notwithstanding any valid planning permission for works to amend the existing highway, you are advised that a separate licence will be required from North Yorkshire County Council as the Local Highway Authority in order to allow any works in the existing public highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council as the Local Highway Authority, is available to download from the County Council's web site:

https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%2C%20highways%20and%20pavements/Specification_for_housing___ind_est_roads___street_works_2nd_edition.pdf .

MHi-J Travel Plans

Details of issues to be covered in a Travel Plan can be found in Interim Guidance on Transport Issues, including Parking Standards at:

https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%2C%20highways%20and%20pavements/Interim_guidance_on_transport_issues___including_parking_standards.pdf

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 2020/1042/FULM and associated documents

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Appendices: None