



Report Reference Number: 2021/0268/FUL

To: Planning Committee
Date: 1 June 2022
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APPLICATION NUMBER:	2021/0268/FUL	PARISH:	Whitley Parish Council
APPLICANT:	Mr & Mrs Philip Johnson	VALID DATE: EXPIRY DATE: EoT AGREED:	4th March 2021 29th April 2021 6 th July 2022
PROPOSAL:	Erection of 6 dwellings and garages (Amended Proposal)		
LOCATION:	Land Off Larth Close Whitley Selby North Yorkshire		
RECOMMENDATION:	GRANT subject to a S106 Agreement for Recreational Open Space and Waste/ Recycling Contributions		

This application has been brought before Planning Committee as more than 10 letters of representation have been received which raise material planning considerations and where Officers are recommending determination of the application contrary to these representations.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is a Greenfield site surrounded by built form on four sides. Access is via the A19 and an unadopted residential road known as Larth Close. The north, west and east of the site is enclosed by existing residential development. A stable building and storage barn is adjacent to the southern boundary of the site.
- 1.2 The appeal site lies outside the defined development limits of Whitley, which follows the north, west and east boundaries of the site and is designated as being within

the Green Belt. The village of Whitley is a predominantly linear settlement, with built form along either side of the A19 and more recent development to the rear of frontage plots to the west of the A19 such as Larth Close and larger estates including Lee View and Blackthorn Close to the east of the A19.

The Proposal

- 1.3 This proposal seeks full planning permission for six dwellings and garages. The submitted scheme was originally submitted for eight dwellings but has been reduced to six dwellings. The reduction from eight dwellings to six has reduced the reduced the built form on the site and allowed more space between the dwellings.

Relevant Planning History

- 1.4 The following historical application is considered to be relevant to the determination of this application:
- 2014/1135/OUT - Outline planning permission for residential development of up to 10 dwellings including means of access. Refused: 12-MAR-15. Dismissed at appeal: 24-Sep-15;
 - 2016/1094/OUT - Outline application for erection of 4 detached bungalows (re submission of 2014/1135/OUT dismissed on Appeal 24th Sept 2015). Granted 12-JAN-17;
 - 2019/0815/OUT - Outline planning permission for the erection of 4 detached bungalows including means of access (all other matters reserved). Granted 24-DEC-19.
- 1.5 The 2015 appeal against refusal of outline planning permission 2014/1135/OUT, showed 10 houses on an indicative site plan. One of the key considerations of the appeal was whether the development is inappropriate development in the Green Belt or whether it was considered as an exception to development in the Green Belt, particularly 'limited infilling in villages'. The appeal Planning Inspector considered the site to be an infill development but did not consider 10 houses to be 'limited'. As such, a development of 10 houses was regarded to be inappropriate development and the appeal was dismissed.
- 1.6 The 2017 and 2019 outline planning applications for 4 dwellings were granted by the LPA for four dwellings. Indicative plans submitted with the applications show a row of four dwellings and an access road along the north boundary of the site. The 2019 permission can be implemented up to 24.12.2022, subject to satisfying conditions of approval.

2. CONSULTATION AND PUBLICITY

2.1 Whitley Parish Council

The applicant has submitted revised plans that reduce the number of houses to be built on the development from 8 to 6. Notwithstanding this change, the Parish Council maintain their objection on the grounds that the development continues to be in breach with Green Belt policy and is not 'limited infill'.

The site has planning consent for four bungalows. This new application by the developers, however increases the scale of the development again.

Selby District Council is in the progress of development of its New Local Plan. The Preferred Options (2021) Consultation is now complete and published. The preferred allocations document provides a more than adequate supply of sustainable, affordable development resource within the village of Eggborough and Whitley. There is no further requirement for additional housing.

2.2 NYCC Highways

The applicant would like the site to be adopted. However, Larth Close is not adopted. Larth Close would have to be adopted before the Highway Authority would consider adopting the proposed site. With this in mind the developer would have to then evidence that the existing access on Larth Close has been constructed to an adoptable standard. It maybe that substantial work could be required to bring the existing section of Larth Close up to an adoptable standard. Therefore, it is recommended that the site access is developed up to adoptable standards to allow a potential future adoption. However, it cannot be guaranteed that the access can be adopted and therefore this development has to be treated as having a private access.

The scheme has been subject to amended plans, which have included amendments to the layout of the access track. Tracking has been carried out to show that a bin wagon can turn and exit in a forward gear.

Following, the applicant's agreement to keep the road private but built to adoptable standards and considering the layout, which includes provision for the turning of a bin wagon, no objections are raised subject to conditions.

2.3 County Ecologist

The content of the report is sufficient for this application to be determined in relation to ecology. There are no major ecological constraints to the proposed development, however the report does make recommendations in various paragraphs in relation to protection of certain features on site, timing of works to avoid sensitive periods, requirements for sensitive lighting and enhancement measures. There is a need to ensure that these recommendations are secured as part of the proposals and as such condition to secure a Biodiversity Enhancement and Mitigation Plan (BEMP) will need to be submitted in advance of works commencing on site and should include details of how the recommendations set out in the PEA will be delivered. If recommendations cannot be included within the development, then reasons why should be clearly set out and alternative measures for mitigation and/or compensation will need to be proposed.

2.4 Contaminated Land Consultant

The report shows that the site is currently undeveloped and has not previously been developed. The Phase 1 report provides a good overview of the site's history, its setting and its potential to be affected by contamination. The report and the proposed site investigation works are acceptable. No further observations, subject to conditions.

2.5 **Yorkshire Water**

No objections subject to a condition, which requires the development to be carried out in accordance with the drainage layout.

2.6 **Natural England**

No comments.

2.7 **HER Officer**

No objections as the site is unlikely to have any archaeological interest.

2.8 **Waste and Recycling Officer**

Recommended that the development is designed to enable the collection vehicle to continue in a forward direction wherever possible. A private access can be accepted providing access is available and the owner acknowledges that any damage or wear and tear of the private road by the bin wagon would be up to the owners to maintain rather than the County Council.

Care should also be taken to ensure that internal storage facilities are included for residents to store bins and recycling boxes.

2.9 **Environmental Health**

No objections subject to conditions for a construction management plan, control of working hours and no piling foundations unless a schedule of works is agreed beforehand.

2.10 **Publicity**

The initial scheme for eight dwellings generated a total of nine objections from local residents. In summary, the objectors raised concerns regarding the land being Green Belt, an unsustainable form of development in a village lacking facilities, traffic, overlooking/ loss of privacy, loss of biodiversity, loss of view, impact on animals in the adjacent stable block during development from noise, dust and vibration.

The revised scheme for six dwellings was re-advertised and a further two objections were received. In summary, the two objections raised concerns regarding loss of privacy to an annexe in a neighbouring garden, the earlier approval of four dwellings was accepted as the LPA at the time did not have a five year housing land supply and the previous approval was bungalows, which is what should be built and would be a more feasible scheme.

In total, 11 representations have been received that raise material planning considerations.

3. **SITE CONSTRAINTS**

3.1 The site lies outside the defined development limits of the Designated Service Village of Eggborough/Whitley as defined in the Development Plan and is designated as Green Belt. It lies in flood zone 1.

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
 - SP3 – Green Belt
 - SP8 – Housing Mix
 - SP9 – Affordable Housing
 - SP15 – Sustainable Development and Climate Change
 - SP18 – Protecting and Enhancing the Environment
 - SP19 – Design Quality

Selby District Local Plan

4.7 The relevant Selby District Local Plan Policies are:

ENV1 – Control of Development
ENV2 – Environmental Pollution and Contaminated Land
T1 – Development in Relation to the Highway Network
T2 – Access to Roads
VP1 - Vehicle Parking Standards

Supporting Policy Documents

4.8 NYCC Interim Parking Standards

National Planning Policy Framework

4.9 The relevant chapters are relevant:

2 – Achieving sustainable development
4 – Decision- making
5 – Delivering a sufficient supply of homes
9 – Promoting sustainable transport
11 – Making effective use of land
12 – Achieving well-designed places
13 – Protecting Green Belt land
14 – Meeting the challenge of climate changes, flooding and coastal change
15 – Conserving and enhancing the natural environment

5. APPRAISAL

5.1 The main planning considerations are:

- 1) Principle of the development
- 2) Green Belt Considerations
- 3) Sustainability
- 4) Impact upon the character and appearance of the area
- 5) Residential Amenity
- 6) Highway Impact
- 7) Waste and Recycling
- 8) Housing Mix
- 9) Affordable Housing
- 10) Biodiversity
- 11) Recreational Open Space Contributions
- 12) Flood Risk and Drainage

Principle of the Development

5.2 Policy SP1 of the Core Strategy seeks a positive approach to the consideration of development proposals that reflects the presumption in favour of sustainable development established in Paragraph 11 of the NPPF and secures development that improves the economic, social and environmental conditions in the area.

- 5.3 Policy SP2 of the Core Strategy seeks to guide development in this regard by adopting a hierarchical spatial development strategy, which directs most development to towns and more sustainable villages. SP2A(d) states that development in the Green Belt must conform Policy SP3 and national Green Belt policies.
- 5.4 Core Strategy Policy SP3B states that within the Green Belt and in accordance with the NPPF, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted.
- 5.5 As the site lies outside the defined development limits of Whitley and within open countryside designated as Green Belt, in accordance with the hierarchical approach in Policy SP2, the more restrictive policies in the NPPF need to be applied. Only if the proposed development accords with Green Belt policy will the presumption in favour of development in Paragraph 11 be engaged.

Green Belt Considerations

- 5.6 The decision-making process when considering proposals for development in the Green Belt is in three stages, and is as follows:
- a) Whether or not the proposal would be inappropriate development in the Green Belt having regard to relevant development plan and national planning policies;
 - b) If the development is appropriate, the application should be determined on its own merits;
 - c) If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are other circumstances that amount to 'very special circumstances' which clearly outweigh the presumption against it.
- 5.7 Paragraph 137 of the National Planning Policy Framework establishes that "The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
- 5.8 Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 5.9 Paragraph 149 goes on to state that new buildings are inappropriate unless they meet one of the listed exceptions. Exception e) is 'limited infilling in villages'.
- 5.10 The site is immediately adjacent to the existing built-up area of Whitley and is enclosed by residential development on three sides, with the residential development on Larth Close located to the east between the site and Selby Road. Whitley is defined as a Designated Service Village in the Core Strategy. There is no definition of 'infilling' in the NPPF, or the Core Strategy and infilling would not necessarily be restricted to linear or frontage development. Developing this site would infill an open site forming a gap between existing built form and would reflect the form of more recent development in depth in Whitley. This was also the view taken by the Inspector within the 2015 appeal decision. As such, the proposal can be considered as infilling in a village.

- 5.11 The second consideration is whether six dwellings is 'limited'. There is no definition of 'limited' in planning policy nor is there a threshold for the number of dwellings that could be defined as limited. The 2015 appeal concluded that whilst this is an infill site, 10 dwellings would not be 'limited'. When reaching her decision, the Inspector concluded that the reference to 'limited' in the fifth bullet of paragraph 89 of the NPPF (now paragraph 149e) requires a consideration of scale as well as the form of development and has to be interpreted in the context of the overall aim of Green Belt policy, which is to preserve the openness of the Green Belt. This in the Inspectors view implies minimising the loss of significant open gaps between buildings. Her report concluded "Irrespective of whether the form of development would be 'infilling' or not, the development of 0.3 hectares with up to 10 dwellings would result in the loss of a substantial area of open land and would exceed what could reasonably be defined as 'limited'."
- 5.12 The proposal now under consideration is for six dwellings with garages with a central access road. The dwellings are set in a cul-de-sac type arrangement and the dwellings are spread across the site with several large open gaps. Having a central access road, would maintain an open gap when looking at the site from Larth Close and the site would have open gaps when viewing the site from the north and south. The site is approximately 3,000sqm and the footprint of the dwellings and garages are 540sqm, which results in about 18% of the site being developed and is considered to be 'limited built form' on the site. When also considering the built form around the site and the wider context, it would represent a limited number of buildings in comparison to size and scale of the village. On this basis, the proposal at six dwellings is considered to meet the test of 'limited infilling in villages'.
- 5.13 Further, Selby District Council granted an outline planning consent for four detached bungalows in December 2019. The indicative site plan showed the dwellings to be positioned in a row, across the whole length of the site with an access road along the north boundary. The four dwellings on the site plan, whilst indicative, had a footprint of approximately 430sqm. Permitted development rights were not removed either, which could therefore result in further built form such as garages, extensions and outbuildings. This permission could, subject to reserved matters approval, still be implemented and as such represents a fall-back position.
- 5.14 The footprint of the proposed housing (but excluding garages) is 449sqm, which is only marginally greater than the footprint of the four detached bungalows on the previously approved indicative plan. Therefore, whilst there are now more houses proposed, they are modest sized dwellings and have a footprint similar to four rather sizeable bungalows. The proposed dwellings are two storeys and there are two storey housing surrounding the site, therefore, the scale and height of the dwellings would be sensitive to the surroundings. Whilst the previous permission granted bungalows, even dormer bungalows could result in significant massing at two storey height. Therefore, this scheme would not be significantly dissimilar to the fall-back position of building four large bungalows.
- 5.15 Finally, as the dwellings would have desirable sized gardens and large curtilages, the open gaps could be significantly eroded by large outbuildings and extensions. As such, it is considered that permitted development rights for outbuildings and extensions should be removed if planning consent is granted. The LPA would then be able to assess whether any extension or outbuilding is reasonable in its size and siting for this Green Belt site.

- 5.16 On balance, and taking the above into account, the proposal for six dwellings is considered to be limited in-filling in a village in the Green Belt. Therefore, the proposal is appropriate development in the Green Belt and meets exception e) of paragraph 149 of the NPPF. As the proposal is considered to adhere to Green Belt policy, the proposal would also be in accordance with Core Strategy Policies SP2 and SP3.

Sustainability

- 5.17 Objectors consider that the site is an unsustainable form of development on the grounds that Whitley has no services, and the development is unnecessary as Selby has a five-year supply of housing land. The Council are meeting their housing land supply targets but meeting those targets should not prevent further growth. Whitley is defined as a Designated Service Village, a third-tier settlement in the Core Strategy and is recognised as closely linked and sharing facilities with Eggborough. The proposal will adhere to paragraph 79 of the NPPF as it will enhance the vitality of rural communities and support local services including in nearby villages.

Impact Upon the Character and Appearance of the Area

- 5.18 Relevant policy in respect of character and design is set out in the NPPF, Core Strategy Policies SP18 and SP19 and Local Plan Policies ENV1.
- 5.19 The NPPF, particularly paragraph 130, states that amongst other criteria, developments should add to the overall quality of an area, be visually attractive, sympathetic to local character and history, including the surrounding built environment and landscape setting whilst not preventing or discouraging innovation or change.
- 5.20 At a local level, Policy ENV1 (particularly parts 1 and 4) of the Local Plan and Policies SP18 and SP19 of the Core Strategy seek to ensure developments safeguard and, where possible, enhance the historic and natural environment including the landscape character and setting of areas of acknowledged importance. Developments should have a layout and a high-quality design that has regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside.
- 5.21 The proposal seeks the development of six dwellings with garages and associated works. The dwellings would be sited either side of a central access road. Orientation of dwellings is mixed with some side facing dwellings and forward-facing dwellings onto the access. All dwellings are two storeys in height and fairly similar in design and scale.
- 5.22 The scheme would offer a small cul de sac type development of family housing, with a low density feel as an extension to Larth Close that is of similar form. When viewing the site from surrounding roads and dwellings, the scheme would appear as two storey dwellings in close proximity to other two storey housing. Therefore, the scale would fit in with the existing built form that surrounds it. There is no uniformity to housing in the area so these simply designed two storey housing would be complementary to the existing built form.

5.23 In conclusion, the siting and design of the properties would fit in with the local character. Therefore, the proposal is in accordance with the national and local design policies listed above.

Residential Amenity

5.24 Policy ENV1(1) advises proposals should take account of the effect upon the amenity of adjoining occupiers

5.25 The site is surrounded by housing on three sides. Several residents who share a boundary with the site have objected to the development on loss of privacy, overlooking and loss of view.

5.26 Whilst the introduction of new housing behind residential properties would change views and aspect and increase overlooking, the LPA are required to measure whether these changes are significant and would cause demonstrable harmful to residential amenity.

5.27 The original scheme of eight dwellings was considered to have a negative impact on residential amenity, as some of the separation distances were low and the dwellings were positioned close to garden boundaries. The earlier scheme would have created an overbearing impact and a loss of privacy. The amended scheme of six dwellings has altered the layout, changed the orientation of the houses and shifted them away from the north boundary. The separation distances are at least 10m between principal elevations and garden boundaries and 21m between principal elevations of new and existing housing. The built form has also reduced. The scheme will inevitably change the living environment for neighbours who adjoin the site. However, the separation distances would now be sufficient to provide adequate levels of privacy and overshadowing or issues with being overbearing will be prevented.

5.28 One neighbouring resident has objected to the development on the grounds that the development would cause a loss of privacy to an annexe/studio they have permission for in their garden at No.9 Cathcart Close. The outbuilding is a one and a half log cabin style building with balcony looking onto the application site. Plot 4 would be the nearest property to the outbuilding and whilst it would be in close proximity, it is not considered to result in a loss of privacy to the annexe/studio. This is because an outbuilding is not primary living accommodation. In addition, the permitted annexe/studio did not contain detailed floor plans on the submission so it is not known how the space will be used nor frequently it will be used. The greater matter is that the balcony on the outbuilding will overlook to a certain degree the garden of Plot 4. However, it would be at the buyer's discretion whether they choose to accept this arrangement. Any buyer would also have the option of planting a hedgerow or trees to obscure the view of the balcony, which will protect each other's privacy.

5.29 In conclusion, the scheme has taken into account the impact on existing properties. Therefore, part 1 of the ENV1 is satisfied.

Highway Impact

5.30 Policy in respect to highway safety and capacity is provided by SDLP Policies ENV1 (2), T1 and T2 and criterion f) of Core Strategy Policy SP15. The aims of these policies accord with paragraph 110 of the NPPF which states that development

should ensure that safe and suitable access can be achieved for all users to a site. In addition, paragraph 111 of the NPPF advises that development should only be refused (on highway grounds) where it would result in an unacceptable impact on highway safety.

- 5.31 Parking standards are stated in Appendix 4 of the Selby Local Plan and the Interim Parking Standards from NYCC dated 2015. Both the Local Plan and NYCC standards state that in rural areas schemes should achieve 3 parking spaces for a 4-bed house and 2 spaces for a 3-bed house.
- 5.32 The site will be served off an existing access onto the A19. Highways have not raised any objections to the intensification of this access.
- 5.33 The new access road to the site has been designed to adoptable standards and includes space for a bin wagon to turn within the site and exit in a forward gear. The applicant would prefer to have the road adopted. However, the first section of Larth Close would have to be adopted first. The Local Highway Authority has therefore suggested to the applicant that the road is retained as a private road, but built to adoptable standards, which may allow for its adoption in the future. The plans show a road that is laid out to adopted standards.
- 5.34 The Waste and Recycling Team is accepting of a private road, however, have questioned whether the bin wagon would be allowed access. If access was restricted, it would result in a significant number of bins on the kerbside of the A19 on collection days. The Waste and Recycling Team have also noted that if bin wagons were to cause any damage or wear and tear to the private road, it would be the responsibility of the owners to maintain the access. The applicant has confirmed that bin wagons will be permitted to enter the site and they are responsible for the wear and tear or repairing any damage to the access track. In consideration of the above, it is considered that a condition should be applied to require the access track and the turning head to be clear from obstruction at all times.
- 5.35 Each property has space for two off street parking spaces plus a garage space. The parking standards as set out above are therefore complied with. No visitor parking has been made available but given the size of the development and noting its low density, it is considered that parking of visitor's vehicles on the access road for temporary periods is unlikely to cause an obstruction or lead to on street parking elsewhere. The Highway Authority has recommended that a condition is imposed to prevent the garages being converted into other uses, in the interests of retaining adequate parking. This is deemed a reasonable condition for five of the six plots given that only minimum parking standards have been achieved.
- 5.36 Therefore, the proposal is not expected to cause any highway safety issues and the above highway policies are satisfied.

Waste and Recycling

- 5.37 For developments of 4 or more dwellings, developers must provide waste and recycling provision at their own cost. The waste and recycling contribution would be paid under the Section 106 Agreement/Unilateral Undertaking in accordance with Developer Contributions.

Housing Mix

- 5.38 Policy SP8 of the Core Strategy states that all proposals for housing must contribute to the creation of mixed communities by ensuring the types and sizes of dwellings provided reflect the demand and profile of the households evidenced from the most recent strategic housing market assessment and robust housing needs assessment whilst having regard to the existing mix of housing in the locality. This is reinforced by the NPPF, which seeks to provide a range of housing for communities.
- 5.39 The site is outside of the defined development limits though adjacent to the village of Whitley, which is a closely linked with Eggborough. The Housing and Economic Development Needs Assessment (HEDNA) October 2020 is the most up to date assessment. In the HEDNA the map shows the site is located within the Selby District South and West sub area and accounts for about 28% of the district.
- 5.40 Paragraph 10.6 of the HEDNA states that continued demand is expected for 3+ bedroom properties; although, given the affordable housing need profile, and the projected growth in smaller family households, a greater balance of homes of medium-sized properties should also be factored into any recommendations. Paragraph 10.7 states the delivery of family-sized housing remains a requirement in both urban and rural locations of the District.
- 5.41 The proposal is for 5x 4-bed houses and 1x 3-bed house. The scheme would help to meet the demand for family sized accommodation. An online marketing search also reveals that housing options in Whitley and Eggborough is mixed and there is availability of 2-, 3-, 4- and 5-bedroom properties.
- 5.42 In conclusion, the type of housing would meet a housing demand and the settlements of Whitley and Eggborough would continue to offer a range of housing mix. Therefore, the scheme is in accordance with Core Strategy Policy SP8.

Affordable Housing

- 5.43 Policy SP9 of the Core Strategy and the accompanying Affordable Housing Supplementary Planning Document set out the affordable housing policy context for the District. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District. The Policy notes that the target contribution will be equivalent to the provision of up to 10% affordable units. The calculation of the extent of this contribution is set out within the Affordable Housing Supplementary Planning Document which was adopted on 25 February 2014.
- 5.44 However, the NPPF is also a material consideration in the determination of planning decisions and postdates the Core Strategy. At paragraph 64 it states that *'Provision of affordable housing should be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer'*.
- 5.45 Major development are defined in the NPPF as, for housing, developments of 10 or more homes or the site has an area of 0.5 hectares or more. As the application proposes the erection of six dwellings on a site that is 0.3ha, it is not considered to be major development. Having had regard to Policy SP9 and the material considerations of the Affordable Housing SPD and the NPPF, it is

considered that the application is acceptable without an affordable housing contribution and the LPA has no policies to set a lower threshold in rural areas.

Biodiversity

- 5.46 The NPPF makes it clear that planning decisions should protect our natural environment, and this is one of three main objectives of the NPPF. Paragraph 174 of the NPPF states “Planning policies and decisions should contribute to and enhance the natural and local environment by a number of measures including d) minimising impacts on and providing net gains for biodiversity”. The need to protect biodiversity and wildlife habitats is also relayed in local policies ENV1 and SP18.
- 5.47 The site is currently vacant and overgrown. It has semi-improved grassland interspersed with several scattered trees located in an area of sub-urban housing. A phase 1 ecology survey was submitted, and this identified no protected species to be affected but it is a good habitat for nesting birds. The survey concluded that an Ecological Construction Method Statement and an Ecological Enhancement Management Plan is produced in order to protect, maintain and enhance the sites ecological value. Ecological value could be maintained by the retention of hedgerows and trees and the introduction of bat and bird boxes.
- 5.48 The County Ecologist considers the Phase 1 Ecology Report to be satisfactory and agrees with the recommendations of the report to produce a construction method statement and management plan.
- 5.49 In summary, the application has addressed the impact upon wildlife, habitat and protected species and a biodiversity enhancement plan shall be a condition of any approval, in order to ensure an overall net gain of biodiversity is provided on site. On this basis, the proposal complies with the relevant planning policy as set out above.

Recreational Open Space Provision

- 5.50 Local Plan Policy RT2, Core Strategy Policies SP12 and SP19, in addition to the Developer Contributions Supplementary Planning Document relate to the provision of recreational open space.
- 5.51 The Supplementary Planning Document for Developer Contributions and Policy RT2 states a requirement for schemes of more than 4 dwellings and up to and including 10 dwellings would require a commuted sum to provide new or upgrade existing facilities in the locality.
- 5.52 Policy RT2 b) advises that the following options would be available, subject to negotiation and levels of existing provision:
- provide open space within the site;
 - provide open space within the locality;
 - provide open space elsewhere;
 - where it is not practical or not deemed desirable for developers to make provision within the site the district council may accept a financial contribution to enable provision to be made elsewhere.
- 5.53 Whitley has no designated recreational open space areas, and the scheme is unlikely to provide sufficient funds for the provision of new public open space.

Whitley Parish Council have been asked whether they would prefer a contribution towards new or existing space in the locality and to put forward a scheme for the money to be spent on, but no response has been received. The most viable option is likely to be for a commuted sum to upgrade public open space in the linked village of Eggborough. In accordance with the Developer Contributions Supplementary Planning Document, this is a permitted scenario. In line with the SPD, the S106 would set out a criteria-based system for allocating the funds. In the first instance, Whitley Parish Council would be given another opportunity to spend the money in the first three years. If the money remains unspent at the end of year three, then the adjacent Parish of Eggborough would be given an opportunity to put forward a detailed bid. Finally, at the end of year four if the money remains unspent then the District Council can use the money within the District for the improvement of existing or the provision of new leisure/recreation facilities. If the monies deposited in the fund have not been spent within five years, then they will be returned to the developer with interest. The cost per dwelling for upgrading existing open space is £991. Payment would be secured through the applicant entering into a Section 106 Agreement prior to the issuing of any planning permission.

Flood Risk and Drainage

- 5.54 The site lies within flood zone 1 (low probability), within which residential development is considered to be appropriate and no further assessment against flooding policy is required.
- 5.55 In terms of site drainage arrangements, Yorkshire Water have confirmed a mains connection is available and the site plan shows soakaways to be used. Whilst the proposed drainage methods are suitable, the site may not be suitable for soakaways. As such, a condition to agree surface water details is recommended to be imposed, which will include the need to carry out percolation tests.

6. CONCLUSION

- 6.1 The proposed development is considered to be limited infilling in the village of Whitley and is therefore appropriate development in the Green Belt.
- 6.2 The design and layout including 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 The proposal is therefore considered to be acceptable in planning terms and is recommended for approval subject to conditions and a Section 106 Legal Agreement. The Agreement would cover the follow matters and is considered to meet the tests for planning obligations in paragraph 57 of the NPPF:
- Financial contribution of £991.00 per dwelling for upgrading existing open space.
 - Financial contribution of £65 for the waste and recycling provision per dwelling.

7. RECOMMENDATION

7.1 This application is recommended to be GRANTED subject to the following conditions and the applicant enters into a S106 agreement for Recreation Open Space and Waste/ Recycling Contributions:

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 not be carried out otherwise in complete accordance with the approved plans and specifications set out below:

Proposed Site Plan (drawing number 01 rev 06)

Proposed Drainage Plan (drawing number 06 rev 06)

Type A - Proposed Plans Elevations (drawing number 02 rev 01)

Type C - Proposed Plans Elevations (drawing number 07 rev 00)

Type B - Proposed Plans Elevations (drawing number 03 rev 00)

Proposed Garage Details (drawing number 05 rev 00)

Reason:

To ensure that no departure is made from the details approved and that the whole of the development is carried out, in order to ensure the development accords with Policy ENV1.

03. Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority. The development must only be carried out in compliance with the approved engineering drawings.

Reason:

To secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users in accordance with T2 of the Selby Local Plan.

04. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users including bin wagons at Land off Larth Close, Whitley have been constructed in accordance with the details 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 and to ensure suitable access and

turning is retained for bin collection in accordance with Policies T1 and T2 of the Selby Local Plan.

05. No development shall commence until a Construction Management Plan 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 plan. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

1. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
2. the parking of contractors' site operatives and visitor's vehicles;
3. areas for storage of plant and materials used in constructing the development clear of the highway;
4. details of site working hours;
5. 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 in accordance with Policies T2 and ENV1 of the Selby Local Plan.

06. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 or any subsequent Order, the approved garage(s) on plots 1, 2, 3, 4 and 6 shall be retained as such at all times and shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

Reason:

To ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles in the interest of safety and to prevent obstruction in order to comply with Policies VP1, T1 and T2 of the Selby Local Plan.

07. No development or site clearance shall commence until the following have been submitted to and approved in writing by the Local Planning Authority:

- a) An Ecological Construction Method Statement.
- b) A plan showing the trees and hedgerows to be retained/ removed.
- c) A biodiversity enhancement scheme, including a timetable for implementation.

Construction and site clearance shall be carried out in accordance with the Ecological Construction Method Statement. The development shall be carried out and completed in accordance with the approved plan under part b) and the approved bio diversity enhancement scheme.

Reason:

In order to protect and enhance the sites ecological value in accordance with the NPPF, Policy SP18 of the Selby Core Strategy and ENV1 of the Selby Local Plan.

08. Before any works are commenced above ground level, details of the materials to be used in the construction of the exterior walls and roofs of the dwellings hereby approved; shall be submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan

09. Prior to development commencing, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);

(ii) an assessment of the potential risks to:
human health,
property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines
and pipes,
adjoining land,
groundwaters and surface waters,
ecological systems,
archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with the NPPF and Policy CS15 of the Selby Core Strategy.

10. Prior to development commencing, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with the NPPF and Policy CS15 of the Selby Core Strategy.

11. Prior to occupation of any of the properties, 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, in accordance with the NPPF and Policy SP15 of the Selby Core Strategy.

12. 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.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in order to comply with the NPPF and Policy SP15 of the Selby Core Strategy.

13. Prior to the site preparation and construction work commencing, a scheme to minimise the impact of noise, vibration, dust and dirt on residential property in close proximity to the site, shall be submitted to and agreed in writing with the Local Planning Authority.

Reason:

To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

14. No work relating to the development hereby approved, including works of demolition or preparation prior to building operations, shall take place other than between the hours of:

08:00 hours and 18:00 hours Mondays to Fridays and
08:00 hours to 13:00 hours on Saturdays
at no time on Sundays or Bank or National Holidays.

Reason:

To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2

15. There shall be no piling on the site until a schedule of works identifying those plots affected and setting out mitigation measures to protect residents from noise and vibration has been submitted to and approved in writing by the local planning authority. The piling shall thereafter be carried out in accordance with the approved scheme.

Reason:

To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

16. Notwithstanding the provisions of Classes A and E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no extensions or outbuilding shall be erected without the prior written consent of the Local Planning Authority.

Reason:

In order to protect the openness of the Green Belt and the character and appearance of Whitley village by ensuring that open gaps on the site do not become eroded by excessive extensions and to protect residential amenity, in order to comply with the NPPF, Core Strategy Policy SP2 and Policy ENV1 of the Selby Local Plan.

17. Development shall not commence until a scheme for the disposal of surface water has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.

Reason:

To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding in accordance with the NPPF and Core Strategy Policy CS15.

18. Prior to any boundary treatments being installed a scheme detailing all boundary treatments to be used in the final development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved scheme.

Reason:

In the interests of visual and residential amenity and in order to comply with Policy ENV1 of the Selby District Local Plan.

8 Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9 Financial Issues

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

10 Background Documents

Planning Application file reference 2021/0268/FUL and associated documents.

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Appendices: None