



**Report Reference Number 2022/0852/OUT**

**To: Planning Committee**  
**Date: 9th November 2022**  
**Author: Emma Howson (Planning Officer)**  
**Lead Officer: Hannah Blackburn (Planning Development Manager)**

APPLICATION NUMBER:	2022/0852/OUT	PARISH:	Hirst Courtney Parish Council
APPLICANT:	Mr T Devanny	VALID DATE:	26th July 2022
		EXPIRY DATE:	20th September 2022
PROPOSAL:	Outline application with all matters reserved for erection of up to 7 dwellings		
LOCATION:	Royal Oak Inn Main Road Hirst Courtney Selby North Yorkshire YO8 8QT		
RECOMMENDATION:	REFUSAL		

This application was brought before Planning Committee on 5<sup>th</sup> October at the request of the Ward Councillor, on the following grounds: That the site of the former public house has been disused for a lot of years and is an eyesore for the village, which needs addressing; and, that there is a public house close by and this application will much improve the character and appearance of the village.

The application was deferred for a site visit, which was undertaken on the 31<sup>st</sup> October. Further to this, the application is now being brought back before Planning Committee.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site comprises of the Royal Oak Inn on Main Street, in the village of Hirst Courtney and the large car park to the rear of the site. The public house has been closed since 2015 according to the documentation submitted by the applicant.
- 1.2 The frontage of the site including the public house itself is within the defined development limits of Hirst Courtney, however the rear car park, and the field beyond are outside the development limit.

- 1.3 Hirst Courtney is designated as a Secondary Village, with defined development limits within the Development Plan.
- 1.4 The site has been put forward by the landowner as part of the Local Plan Review, but has not been allocated as a residential site, as Hirst Courtney is not considered an appropriate location for residential growth in line with the Council's housing strategy.
- 1.5 This is a revised submission following the refusal of a previous application 2021/1478/OUT for outline consent for up to 9 dwellings on a slightly larger site, which also encompassed an area of the campsite to the rear of the car park. This was refused by Planning Committee on the 6<sup>th</sup> April 2022 for the following reasons:
- 1. The application site sits partly within the Development Limit of the Secondary Village of Hirst Courtney as defined in the development plan, though largely outside of it. Whilst part of the site may be considered as 'previously developed' the proposal would exceed the limited scale of development considered acceptable in open countryside and as such would undermine the Spatial Development Strategy that aims to deliver sustainable development with the District. This would be contrary to Policies SP1, SP2 and SP4 of the Selby District Core Strategy Local Plan and advice in the NPPF.*
  - 2. The proposal would lead to the loss of a community facility. It is not considered that it has been demonstrated that a suitable alternative facility has been identified or that a suitable marketing exercise has been undertaken or that it has been marketed on reasonable terms. The proposed development is therefore considered to be contrary to paragraph 84(d) of the NPPF and Saved Policy S3B of the Selby District Local Plan.*
  - 3. Hirst Courtney is predominately a linear settlement. The proposed development pattern would be inconsistent with local character and the surrounding pattern of development. The proposal would be seen as a form of development that would substantially extend built development into the countryside and would be poorly related to the existing built-up limits of the village. As a result, it would represent an undue visual intrusion into the open countryside, that would harm the open character of the application site. The proposal is therefore considered to be in conflict with Saved Policies ENV1 (1) and (4) of the Selby District Local Plan and Policies SP18 and SP19 of the Selby District Core Strategy Local Plan and advice contained in Section 12 of the NPPF.*
  - 4. The development includes the demolition of the public house and an associated outbuilding. No bat surveys have been undertaken, and it is not therefore possible for the LPA to determine whether mitigation may be required, and if so, what level of mitigation would be appropriate and whether this can be readily incorporated into the scheme. It is considered that permitting the proposed development without the above information would have the potential to cause considerable harm to a protected species. This would be contrary to both national legislation and Selby District Core Strategy Local Plan Policy SP18(1) and (3) and Saved Selby District Local Plan Policy ENV1(5).*

## **The Proposal**

- 1.6 The application is submitted in Outline with all matters reserved for erection of up to 7 dwellings, following demolition of the existing public house. An indicative layout has been provided showing 3 frontage dwellings, an access located on the western

side of the site and 4 rear dwellings, but this does not form part of the application matters to be considered.

## Relevant Planning History

- 1.7 There have been numerous applications for extensions and alterations to the public house from 1980 until 1998. The following historical applications are considered to be relevant to the determination of this application:
- CO/1999/0856 - Erection of building to allow the relocation of existing milk store/ milk distribution business on land to the rear. Decision: PER, Date: 23-DEC-99.
  - CO/2003/1315 - Outline application for the erection of a residential development comprising of 12 terraced and 2 semi-detached properties including shop to the ground floor of Unit 2 (following demolition of existing public house). Decision: WDN Date: 12-JAN-04.
  - CO/2004/1091 - Outline application for the erection of a detached dwelling on land to the side. Decision: WDN, Date: 01-NOV-04  
2010/1236/COU - Change of use of land to caravan and camping site with associated amenity block on land to the rear. Decision: REF, Date: 16-MAR-11 Allowed on appeal APP/N2739/A/11/2150203 6th October 2011.
  - 2012/0142/DPC - Discharge of conditions 4 (materials), 5 (landscaping scheme), 6 (visibility lines) and 7 (Signage on site) of approval 2010/1236/COU for the change of use of land to caravan and camping site with associated amenity block on land to the rear. Decision: COND Date: 30-APR-12.
  - 2015/1281/CTD - Notification for prior approval for a change of use from storage or distribution buildings (Class B8) and any land within its curtilage to dwellinghouses (Class C3) to the milk store at the rear of The Royal Oak PH, Decision: PANR Date: 6-JAN-2016.
  - 2016/1390/FUL - Proposed erection of two detached dormer bungalows, incorporating the conversion of the existing milk store to rear of The Royal Oak PH, Decision: REF, Date: 25-APR-17

### Reasons:

01. *The application site is located outside the defined development limits of Hirst Courtney which is a Secondary Village, thus being outside one of the smallest, least sustainable settlements within the District. The modest economic and social benefits of the provision of two additional dwellings are not considered to demonstrably outweigh the adverse environmental implications of two dwellings in this location. Therefore notwithstanding the acknowledged shortfall in the housing supply the construction of two dwellings within the open countryside, remote from facilities and services, would not satisfy the Framework's definition of sustainable development and would be contrary to Policies SP1 and SP15 of the Core Strategy and the NPPF.*

02. *The application site is located within Flood Zone 2. The NPPF states that all proposals located in Flood Zone 2 and 3a require a Sequential Test to determine whether there are any reasonably available sites at less risk of flooding that could accommodate the development. For development located within the open countryside, the Sequential Test should be undertaken at a District wide level. The*

*applicant has failed to submit information at a District wide level to demonstrate that the Sequential test can be met. The proposed residential development for two dwellings is therefore considered to be unacceptable and contrary to the NPPF.*

*03. The proposed scheme introduces an alien backland form of residential development, which does not follow the existing built form along the north side of Main Street and projects out into the open countryside, which is out of keeping with the character and form of the area. The proposed scheme is therefore considered to have a detrimental impact on the character and form of the area and the open countryside location contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.*

*04. The proposed development would be located within the car park of an existing public house and adjacent to an existing caravan park. Given the relationship of the proposed dwellings to the existing public house and existing caravan site, the future occupants of the proposed dwellings would be subject to significant detrimental noise and disturbance resulting from the operation of surrounding land uses, which would result in a poor level of amenity for the future occupants of the proposed dwellings. The proposed development is therefore unacceptable in terms of residential amenity contrary to Policies ENV1 (1) and ENV2 (A) of the Selby District Local Plan and the advice contained within the NPPF.*

- 2017/1022/COU - Section 73 to vary condition 03 (occupation) of approval APP/N2739/A/11/2150203 for change of use of land to caravan and camping site with associated amenity block on land to the rear. Decision: PER, Date: 08-NOV-17.
- 2018/0297/FUL - Proposed extension to existing milk store to be used for residential in conjunction with existing planning permission to be used as a dwelling, Decision: REF, Date: 12-JUN -2018. Dismissed at Appeal – APP/N2739/W/18/3208290.

The Inspector commented:

*'The pattern of built development in the village is of a distinct linear arrangement along Main Road. Land to the rear remains largely free of separate development, in particular on the north side where the site is found.*

*With its location to the rear of existing development and its proximity to fields, the site's character is significantly informed by the open countryside in what is a rural landscape.*

*The existing building does not unduly detract from its surroundings as it is a modest structure. The proposed extension would, though, serve to appreciably increase the development to the rear of the public house when the overall scale of the extended building is also considered. Moreover, with its siting well back from the road, it would represent an incursion into land that is appreciably less developed, and so its built form would disrupt from the associated character of the open countryside and the rural landscape qualities. It would also not accord with the pattern of development in the settlement.*

*Due to the open nature of the countryside around the settlement, the proposed extension would be visible from adjoining land and this would further demonstrate that it would appear uncomfortable in this landscape. Although it would be more effectively screened from the road, this would not satisfactorily address the concerns that arise from its size compared to the existing building or that it would be extending development back from the settlement towards the open countryside'.*

- 2021/1111/CAR – Community Right to Bid Application. Withdrawn.
- 2021/1478/OUT - Outline application for erection of up to 9 dwellings following demolition of existing public house (all matters reserved), Decision: REF, Date: 08-APR-22.

Reasons:

01. *The application site sits partly within the Development Limit of the Secondary Village of Hirst Courtney as defined in the development plan, though largely outside of it. Whilst part of the site may be considered as 'previously developed' the proposal would exceed the limited scale of development considered acceptable in open countryside and as such would undermine the Spatial Development Strategy that aims to deliver sustainable development with the District. This would be contrary to Policies SP1, SP2 and SP4 of the Selby District Core Strategy Local Plan and advice in the NPPF.*
02. *The proposal would lead to the loss of a community facility. It is not considered that it has been demonstrated that a suitable alternative facility has been identified or that a suitable marketing exercise has been undertaken or that it has been marketed on reasonable terms. The proposed development is therefore considered to be contrary to paragraph 84(d) of the NPPF and Saved Policy S3B of the Selby District Local Plan.*
03. *Hirst Courtney is predominately a linear settlement. The proposed development pattern would be inconsistent with local character and the surrounding pattern of development. The proposal would be seen as a form of development that would substantially extend built development into the countryside and would be poorly related to the existing built-up limits of the village. As a result, it would represent an undue visual intrusion into the open countryside, that would harm the open character of the application site. The proposal is therefore considered to be in conflict with Saved Policies ENV1 (1) and (4) of the Selby District Local Plan and Policies SP18 and SP19 of the Selby District Core Strategy Local Plan and advice contained in Section 12 of the NPPF.*
04. *The development includes the demolition of the public house and an associated outbuilding. No bat surveys have been undertaken, and it is not therefore possible for the LPA to determine whether mitigation may be required, and if so, what level of mitigation would be appropriate and whether this can be readily incorporated into the scheme. It is considered that permitting the proposed development without the above information would have the potential to cause considerable harm to a protected species. This would be contrary to both national legislation and Selby District Core Strategy Local Plan Policy SP18(1) and (3) and Saved Selby District Local Plan Policy ENV1(5).*

## **2. CONSULTATION AND PUBLICITY**

### **2.1 Hirst Courtney and West Bank Parish Council – Supports application for the following material reasons:**

- The proposal will improve the amenity of the village because the dwellings will replace a redundant public house that is becoming increasingly dilapidated in appearance. The condition of the building has been an issue within the Parish for some time.
- The proposal will utilise a brownfield site.
- The proposal will improve highway safety as the dwellings are set back from the road which improves visibility.

- The proposal will enhance the village as it will bring new residents into the community.
- The proposal will significantly help to sustain the community as an additional seven dwellings would increase the number of Band D equivalents in the parishes of Hirst Courtney and West Bank. This would help to maintain services provided by the Parish Council such as street lighting, playground maintenance and grass verge cutting.

## 2.2 **NYCC Highways** – No objections.

The design standard for the site is Manual for Streets and the required visibility splay is 2.4 metres by 45 metres. The available visibility is 2.4 metres by 45 metres. Whilst it is noted that the outline application has all matters reserved the applicant will need to ensure that any reserved matters application accounts for NYCC residential design guide and therefore the layout will need to provide either a shared surface with a 4.5m core, a 2.0m service margin and a 0.5m hard margin, or a traditional construction of a 5.5m carriageway and a 2.0m footway. Onsite turning will need to accommodate all service vehicles. Consequently, the Local Highway Authority recommends conditions.

## 2.3 **Yorkshire Water**- If planning permission is to be granted, conditions should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure.

## 2.4 **Selby Area Internal Drainage Board** – No objection. Conditions recommended.

## 2.5 **Environmental Health** - Although only 7 dwellings are proposed, this application site is closely bordered on the eastern, western and southern sides by existing dwellings. The demolition of the existing disused Public House on the application site and the construction of 7 new dwellings will have the potential to adversely impact upon the existing residents that surround the site by way of noise, vibration, dust and dirt. It is therefore recommended that conditions are attached relating to the provision of a construction management plan; restrictions on the hours of work and mitigation measures if the use of piled foundations is to be applied.

## 2.6 **County Ecologist** - When the bat survey was undertaken, no roosts were detected, but there were indications of previous, probably transient activity in the roof void of one building. While the conclusions of the survey are considered reasonable and proportionate, it is recommended that surveys are updated if the existing buildings remain standing 12 months after the survey report was completed (i.e. July 2023). NB this does not apply to the flat-roofed buildings referred to as Buildings 4 & 5 in the bat survey report; these would not need re-surveying if they remain in present condition.

Should Selby District Council be minded to approve this application, it is recommended that a Condition be attached to adhere to the recommendations on Mitigation and Enhancement set out in sections 1, 9 & 10 of the bat survey report (Bat, breeding bird and Barn Owl survey - Royal Oak Inn, Selby by MAB Environment & Ecology Ltd, dated July 2022). This includes supervised demolition of the roof space which produced signs of transient bat activity and installation of 4 integral bat roost features (bricks/boxes) in the new development.

When a detailed planning application is submitted, the applicant will need to demonstrate that they can deliver net gains for biodiversity in line with the

requirements of the NPPF. There should be little difficulty in doing so as the site is almost all buildings or hard surfaces at present, so simple measures like planting native-species hedges as garden boundaries would represent welcome net gains for nature. However, the applicant will need to consider this and may find it useful to look at the government's Small Sites Metric, which provides a simple tool for quantifying losses and gains for biodiversity on this type of site (The Small Sites Metric - JP040 (naturalengland.org.uk

2.7 **Contaminated Land Consultant** - The Phase 1 report only relates to part of the site and therefore does not provide a complete picture and may miss potential contamination sources. A contamination assessment which relates to the whole site and considers all possibly contamination sources will need to be provided. It is therefore recommended that planning conditions relating to land contamination are attached to any approval.

2.8 **Publicity** – The application was advertised by site notice and press notice.

In total 8 letters of support have been received on the grounds of:

- The proposal would provide needed housing
- Improve the character and appearance of the area
- The existing business is unviable and will not reopen

One letter of objection has been received. This objects on the grounds of noise and the loss of a view over the open fields.

### 3. **SITE CONSTRAINTS**

3.1 The frontage of the site, including the main public house building lies within the defined development limits of Hirst Courtney. A larger proportion of the site located to the rear of the public house, which includes the car parking area, lies outside the development limits and therefore is located within open countryside. The site is located within 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 various documents including the Selby District Core Strategy Local Plan (adopted 22nd October 2013), 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, the Minerals and Waste Joint Plan (adopted 16 February 2022), and the adopted neighbourhood plans none of which relate to the site.

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 and additional sites took place in early 2021. The Pre-submission Publication Local Plan is currently subject to a period of formal

consultation prior to submission to the Secretary of State for Examination. Given the stage of the emerging Local Plan, the policies contained within it are attributed no weight and as such are not listed in this report.

4.4 The National Planning Policy Framework (July 2021) (NPPF) replaced previous iterations of the NPPF. The NPPF does not change the status of an up-to-date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2021 NPPF.

4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

*“219. ....existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”*

### **Selby District Core Strategy Local Plan**

4.6 The relevant Core Strategy Policies are:

SP1 Presumption in Favour of Sustainable Development  
SP2 Spatial Development Strategy  
SP4 Management of Residential Development in Settlements  
SP5 The Scale and Distribution of Housing  
SP8 Housing Mix  
SP9 Affordable Housing  
SP10 Rural Housing Exception Sites  
SP15 Sustainable Development and Climate Change  
SP18 Protecting and Enhancing the Environment  
SP19 Design Quality

### **Selby District Local Plan**

4.7 The relevant Selby District Local Plan Policies are:

ENV1 Control of Development  
ENV2 Environmental Pollution and Contaminated Land  
H2 Location of New Housing Development  
H2B Housing Density  
T1 Development in Relation to the Highway Network  
T2 Access to Roads  
S3 Local Shops

## **5 APPRAISAL**

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

- Principle of Development
- Loss of Community Facility
- Character and Appearance of Area



- Ecology
- Highways
- Flood Risk and Drainage
- Land Contamination
- Housing Mix
- Affordable Housing
- Other Issues

### **Principle of Development**

- 5.2 This outline application would provide 7 no. houses, which would contribute towards the delivery of housing in the district and to the provision of housing in the rural area.
- 5.3 Policy SP1 of the Core Strategy outlines that "when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF.
- 5.4 Core Strategy Policy SP2A adopts a hierarchical Spatial Development Strategy that focuses new development within existing settlements best placed to provide services to support new residents and achieve sustainable patterns of development. This policy is therefore consistent with the guidance in the NPPF especially at Paragraph 79, which covers sustainable development in rural areas.
- 5.5 At SP2A(b) it states that "Limited amounts of residential development may be absorbed inside Development Limits of Secondary Villages where it will enhance or maintain the vitality of rural communities and which conform to the provisions of Policy SP4 and Policy SP10." Policy SP10 relates to the provision of Rural Housing Exception Sites, which the application is not proposing.
- 5.6 SP2A(c) continues, "Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances". Policy SP13 'Scale and Distribution of Economic Growth' relates to the delivery of employment sites and therefore the focus for development within open countryside is either such sites that contribute towards the local economy or propose the provision of rural affordable housing under Policy SP10.
- 5.7 Policy SP4 allows for development of non-allocated sites in Secondary Villages, providing they are for the following types of development: conversions, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built-up residential frontages, and conversion/redevelopment of farmsteads. Policy SP4(c) and (d) also apply and require more detailed consideration of scale, form, density and design.
- 5.8 The application site relates to an existing public house and its car park and curtilage area. The public house and land to the front of the site lies within the Development Limit of the Secondary Village of Hirst Courtney, but the larger proportion of the site,

encompassing the rear car parking area, falls outside the development limit and is therefore considered to be open countryside.

- 5.9 Whilst policies SP2 and SP4 do allow for a limited amount of housing growth within Secondary Villages, the largest proportion of the site would be outside the defined development limits in open countryside, where only limited forms of development are supported in line with the Spatial Development Strategy as set out above.
- 5.10 Even if the whole site was located within the defined Development Limits of Hirst Courtney, it would not fall entirely within any of the forms of development which are considered to be acceptable in principle within the defined Development Limits of Secondary Villages, as set out in Policy SP4 as referenced in Policy SP2A(b), as the proposal does not involve conversion, replacement of existing dwellings and is not formally a farmstead. Turning to the remaining categories:
- 5.11 The NPPF provides a definition of previously developed land that considers it to be 'land which is or was occupied by a permanent structure, including the curtilage...although it should not be assumed that the whole of the curtilage should be developed'. Paragraph 120 c) gives substantial weight to the use of brownfield land within settlements for homes and d) supports the development of under-utilised land and buildings especially where land supply is constrained. The car parking area and the public house could be considered as 'previously developed land' as set out in the NPPF.
- 5.12 As the proposal requires the demolition of the existing public house to allow for the erection of the proposed houses, it could not be properly described as 'the filling of a small linear gap in an otherwise built-up residential frontage'; the demolition of an existing building that is not insignificant in size is required to 'create' a gap and this demolition is an activity that requires planning permission as a building operation under Section 55 of the Town and Country Planning Act 1990 as amended.
- 5.13 The application is in outline with all matters reserved, but the indicative site layout shows the development of seven houses across the full length and width of the site. Whilst it is noted that the layout is indicative, it would be difficult to accommodate 7 no. dwellings along the frontage of the site and would therefore require development within the car park to the rear, which is outside development limits. The development of the land outside the development limits would extend the existing built form on the site in a northerly direction and beyond the existing linear form created by the single depth buildings on the north side of the village's Main Road. Whilst the land is partly covered in hardstanding that would fall within the curtilage of the public house, as the definition of previously developed land makes clear, it should not be assumed that the whole of the curtilage should be developed. The erection of houses would increase the density and massing of development on the site from the replacement of the public house with 7 no. houses. It would not be characteristic with the adjacent linear built form along the northern side of the main road within the settlement and would be harmful to the open character of the site, the wider area and that of the land beyond the development limit.
- 5.14 It is noted that the planning statement within the application states that the revised proposal of 7 no. houses sits within development limits, this is not however the development limits of the settlement, but the end of the hardstanding area within the site. The site does fall within the area that could be considered to be 'previously developed land' as the site has been reduced in scale so that it no longer contains any land within the field to the north.

- 5.15 In summary, the proposal seeks to provide 7 no. dwellings, which would contribute towards the District's housing supply, though it is noted that the Council has a healthy housing land supply. Whilst the development of the front section of the site within Development Limits for housing would potentially be acceptable in principle, as it would replace existing buildings with linear development that would be similar in density and form to the properties either side of the application site, overall the larger part of the site that falls outside development limits and would exceed the limited scale of development considered acceptable in open countryside.
- 5.16 Therefore, the proposed development would not meet the criteria in Core Strategy Policies SP2 and SP4 and would therefore undermine the Spatial Development Strategy in the development plan, that aims to deliver sustainable development, would be detrimental to the overall character of the area and would not contribute and improve the local economy. The application should therefore be refused unless material considerations indicate otherwise.

### **Loss of Community Facility**

- 5.17 NPPF para 84(d) sets out a requirement to retain community facilities including public houses. Saved Policy S3B of the Local Plan states:
- 'Outside Selby, Tadcaster and Sherburn in Elmet, proposals involving a loss of retailing (Class A1\*) use, or loss of a public house (Class A3\*), will not be permitted unless:*
- 1) It can be demonstrated that there is alternative provision for a similar type of use within reasonable walking distance; or*
  - 2) It can be shown that the business is no longer viable for retail purposes within its existing use class, and that it has remained unsold or unlet for a substantial period of time, despite genuine and sustained attempts to market it on reasonable terms.*
- 5.18 The applicant's statement sets out that the public house has been empty for approximately 6 years. The nearest alternative facility appears to be the Sloop Inn at Temple Hirst, which is approximately 8 minutes walk from the Royal Oak along an unlit pathway which connects the two villages. It is not considered that this meets the requirement of point 1 of Policy S3B.
- 5.19 The planning statement states that a 3-year marketing campaign has been undertaken. Only a marketing brochure has however been provided, with no details of where the property has been advertised, or for how long, or any details of any offers or interest has been included.
- 5.20 It is expected that before a community facility is lost that a suitable level of marketing has been completed and all offers considered, and also that it is marketed to provide for any other form of community facility i.e. shop, community hall etc. No evidence has been provided that meets this requirement. In fact, the estate agents brochure suggests that it may be suitable for residential development.
- 5.21 In addition the asking price of £600k seems a high value for a site which is not operating and requires investment. Especially when you consider other sites which are presently available in the local area and the fact that the valuation has not been independently verified:

- The Ship (near Goole) trading with large car park freehold £275k (daveyco.com)
- Fully Refurbished Pub with Guest Rooms and large car park – Cambleforth leasehold £1 (Sidney Phillips Ltd)
- Dog and Gun (YO7) with 4 bed managers accommodation - £599k freehold (Sydney Phillips Ltd)
- Black Bull (Escrick) 8 guest rooms but presently closed £399k (Everard Cole Ltd)
- Hope & Anchor (Goole) detached freehouse and restaurant, large car park and beer garden with 0.5 acres - £325k freehold (Daltons Business)
- The Dotterel Inn – (Reighton) Open pub with letting rooms, camping site providing room for 11 caravans, dining space for 100 people, beer garden, car park and two bedroomed bungalow providing owners accommodation - £700k freehold (Daltons Business).

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

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

### **Impact on the Character and Appearance of the Local Area**

5.24 Relevant policies in respect to design and impact on the character and appearance of the area, include Local Plan Policy ENV1 (1) and (4) and Core Strategy Policy SP19. Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF. Relevant guidance within the NPPF that relates to design is included in Section 12 which seeks to achieve well-designed places.

5.25 The application site comprises of a large detached public house, which has been extended on several occasions. The property sits on the road frontage with a large car park to the rear. The car parking area is covered in a hard standing but, with the exception of a small number of lights and an outbuilding beyond the car park, the site is open in nature.

5.26 Hirst Courtney is predominately a linear settlement with very little in the way in backland development. The application is in outline, but the indicative site plan shows development extending across the length and width of the site, which it would need to do in order to accommodate seven houses. The front properties face on to the highway whilst plots 4-7 face on to a private driveway. In contrast to the existing character of the area, the proposal would introduce residential development onto land beyond and to the rear of the public house. Such a development pattern would be inconsistent with local character and the surrounding pattern of development. Furthermore, due to the location of the proposal, it would be seen as a form of development that would substantially extend built development into the countryside and would be poorly related to the existing built-up limits of the village. As a result, it

would represent an undue visual intrusion into the open countryside, that would harm the open character of the application site.

- 5.27 This is a substantially greater level of built development than that dismissed at appeal (APP/N2739/W/18/3208290) for an extension to the storage building to the site for residential purposes, and which the Inspector considered '*would represent an incursion into land that is appreciably less developed, and so its built form would disrupt from the associated character of the open countryside and the rural landscape qualities. It would also not accord with the pattern of development in the settlement. Due to the open nature of the countryside around the settlement, the proposed extension would be visible from adjoining land and this would further demonstrate that it would appear uncomfortable in this landscape. Although it would be more effectively screened from the road, this would not satisfactorily address the concerns that arise from its size compared to the existing building or that it would be extending development back from the settlement towards the open countryside*'.
- 5.28 The proposal is therefore considered to be in conflict with Saved Policies ENV1 (1) and (4) and Core Strategy Policy SP18.

### **Ecology**

- 5.29 Core Strategy Policy SP18 (1) and (3) seeks to protect and enhance biodiversity within the District whilst Saved Policy ENV1(5) seeks to protect wildlife habitats.
- 5.30 Paragraph 180 of the NPPF states 'When determining planning applications, local planning authorities should apply the following principles:  
a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 5.31 Bats and Great Crested Newts are European Protected Species, the potential presence of which must be taken into account by the Local Planning Authority, in accordance with their duties to safeguard protected species. Their potential presence is a material consideration which must be taken into consideration in the determination of a planning application.
- 5.32 The application is supported by relevant ecological surveys, which set down recommendations and mitigation measures to be undertaken as part of the development process. It is recommended that any approval includes a condition requiring these measures to be followed. This overcomes reason no.4 of the previous refusal.
- 5.33 Based on the development being undertaken in line with the measures set out in the reports the proposal would be in accordance with both national legislation and Core Strategy Policy SP18(1) and (3) and Saved Local Plan Policy ENV1(5).

### **Highway Safety**

- 5.34 Policies ENV1(2) and saved policies T1 and T2 of the Local Plan requires development to ensure that there is no detrimental impact on the existing highway network. Paragraph 110 of the NPPF seeks a safe and suitable access and only supports refusal of development on highway grounds if there would be unacceptable impacts on highway safety.

- 5.35 The application is in outline with all matters reserved and thus no details of the access have been provided. The applicant has provided an indicative layout, which shows that access can be provided into the site, however this does not form part of the application and is reserved for later consideration.
- 5.36 The Highway Authority have recommended conditions in relation to any future access to the site and it is considered that these would be relevant to the outline consent even though the matters are reserved as these set out the parameters as to what would be required to be fulfilled at the reserved matters stage.

### **Flood Risk and Drainage**

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

### **Land Contamination**

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

### **Housing Mix**

- 5.41 Policy SP8 of the Core Strategy states that all proposals for housing must contribute to the creation of mixed communities by ensuring the types and sizes of dwellings provided reflect the demand and profile of the households evidenced from the most recent strategic housing market assessment and robust housing needs assessment whilst having regard to the existing mix of housing in the locality.
- 5.42 Chapter 10 of the HEDNA sets out the need for different sizes of homes. Delivery of family-sized housing remains a requirement in both urban and rural locations of the district. Based on the evidence, it is expected that the focus of new market housing provision will be on 2-and 3-bed properties. Continued demand for family housing can be expected from newly forming households. There may also be some demand for medium-sized properties (2- and 3-beds) from older households downsizing and

looking to release equity in existing homes, but still retaining flexibility for friends and family to come and stay.

- 5.43 The HEDNA does not specify smaller sub areas i.e. per village, however it is important that any housing proposal reflects the general approach of the SHLAA and HEDNA in terms of housing mix within the development. This could be secured at the outline planning stage through condition if approved.

### **Affordable Housing**

- 5.44 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.
- 5.45 The NPPF is however a material consideration in the determination of planning decisions and postdates the Core Strategy. At paragraph 64 it states that 'Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer)'.
- 5.46 Major development is defined in the NPPF for housing as development where 10 or more homes are provided, or the site has an area of 0.5 hectares or more. As the application proposes the erection of seven dwellings on a site which has an area of less than 0.5 hectares, it is not considered to be major development. Having had regard to Policy SP9 and the material considerations of the Affordable Housing SPD and the NPPF, it is considered that, on balance, the application is acceptable without an affordable housing contribution.

### **Other Issues**

- 5.47 The NPPF sets out the requirements for sustainable development and within paragraph 186 the need to take opportunities to improve air quality and mitigate impacts of travel. It is recommended that a condition is attached to any planning approval requiring the provision of electric vehicle charging points for each residential property. to improve the access to sustainable transport and to improve air quality across the District.
- 5.48 Concerns have been raised with regards to the waste collection from the site, this would be a matter associated with the access arrangements and therefore can be considered at reserved matters stage.
- 5.49 Environmental Protection have raised concerns with regards to the impact of the demolition and construction works on the residential amenity of the neighbouring property and it is recommended that conditions including the requirement for a construction management plan, restricted hours of work and mitigation measures for piling foundations are attached to any planning approval.

## **6. CONCLUSION**

- 6.1 The planning statement submitted as part of this application states that the revised proposal overcomes the four reasons for refusal of the previous application, however a large area of the application site is still situated outside defined Development Limits and, whilst part of the site may be considered as 'previously developed', the proposal is not considered to be sustainable and would undermine the growth strategy within the Local Plan. This would be contrary to Core Strategy Policies SP1, SP2 and SP4 and advice in the NPPF at paragraph 120.
- 6.2 The proposal would lead to the loss of a community facility. It has not been demonstrated that a suitable alternative facility has been identified or that a suitable marketing exercise has been undertaken or that it has been marketed on reasonable terms. The proposed development is therefore considered to be contrary to paragraph 84(d) of the NPPF and Saved Policy S3B of the Local Plan.
- 6.3 Hirst Courtney is predominately a linear settlement. The proposed development pattern would be inconsistent with local character and the surrounding pattern of development. The proposal would be seen as a form of development that would substantially extend built development into the countryside and would be poorly related to the existing built-up limits of the village. As a result, it would represent an undue visual intrusion into the open countryside, that would harm the open character and visual appearance of the application site. The proposal is therefore considered to be in conflict with Saved Policies ENV1 (1) and (4) and Core Strategy Policy SP18.
- 6.5 Therefore, whilst the support from the local community for the proposals is acknowledged, it is considered that the proposal cannot be supported in principle due to the location of the site largely outside of Development Limits of the Secondary Village and therefore in open countryside, the loss of a community facility, and the harm to the character and appearance of the area from the erection of seven houses on a site that extends significantly beyond the Development Limits and existing linear form of the village. No harm has been identified with regards to highway safety, flood risk, land contamination, housing mix, ecology, affordable housing, and other environmental considerations. On balance, the application is recommended for refusal.

## **7. RECOMMENDATION**

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

1. The application site sits partly within the Development Limit of the Secondary Village of Hirst Courtney as defined in the development plan, though largely outside of it. Whilst part of the site may be considered as 'previously developed' the proposal would exceed the limited scale of development considered acceptable in open countryside and as such would undermine the Spatial Development Strategy that aims to deliver sustainable development with the District. This would be contrary to Policies SP1, SP2 and SP4 of the Selby District Core Strategy Local Plan and advice in the NPPF.
2. The proposal would lead to the loss of a community facility. It is not considered that it has been demonstrated that a suitable alternative facility has been identified or that a suitable marketing exercise has been undertaken or that it has been marketed on reasonable terms. The proposed development is therefore considered to be contrary to paragraph 84(d) of the NPPF and Saved Policy S3B of the Selby District Local Plan.



3. Hirst Courtney is predominately a linear settlement. The proposed development pattern would be inconsistent with local character and the surrounding pattern of development. The proposal would be seen as a form of development that would substantially extend built development into the countryside and would be poorly related to the existing built-up limits of the village. As a result, it would represent an undue visual intrusion into the open countryside, that would harm the open character of the application site. The proposal is therefore considered to be in conflict with Saved Policies ENV1 (1) and (4) of the Selby District Local Plan and Policies SP18 and SP19 of the Selby District Core Strategy Local Plan and advice contained in Section 12 of the NPPF.

## **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 2022/0852/OUT and associated documents.**

**Contact Officer: Emma Howson (Planning Officer)**

**Appendices: None**