



Report Reference Number 2022/0918/OUT

To: Planning Committee
Date: 8th February 2023
Author: Emma Howson (Planning Officer)
Lead Officer: Hannah Blackburn (Planning Development Manager)

APPLICATION NUMBER:	2022/0918/OUT	PARISH:	Sherburn In Elmet Town Council
APPLICANT:	Taylor Property Developments (Yorkshire) Ltd	VALID DATE: EXPIRY DATE:	9th August 2022 15 th March 2023
PROPOSAL:	Outline application for development of 5 new detached houses including access, appearance, layout and scale (all other matters reserved) (amended plans) on land to the rear of		
LOCATION:	7 Low Street Sherburn In Elmet Leeds North Yorkshire LS25 6BG		
RECOMMENDATION:	GRANT subject to a S106 Agreement to ensure the access is kept clear for the lifetime of the development; for the maintenance of the railings and area of open land and for Recreational Open Space and Waste/ Recycling Contributions		

This application was brought before Planning Committee on 7th December, due to the fact that 3.8.9(b)(vi) was triggered as there has been more than 10 letters of representation received that raise material planning considerations and where officers would otherwise determine the application contrary to these representations.

The application was deferred for a site visit and for a Traffic Management Plan to be submitted.

A Car Park Management Plan has been submitted and the drawings amended to remove the bollards which were wrongly shown on the highway.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site relates to an area of land to the rear of No. 7 Low Street, Sherburn in Elmet. No. 7 (previously Jacksons the Butchers) is a commercial property with a number of outbuildings, located within the commercial centre of Sherburn and fronting Low Street. The site comprises a narrow strip of land that includes No.7 at its western end and extends to the east, which is sandwiched between the rear boundaries of existing residential development. The north of the site is bounded by the rear gardens of domestic properties on Moor Lane. An existing access sits to the west between no. 7 and no. 9 Low Street (Spar). To the south the site bounds the rear gardens of the residential properties on Wolsey Croft. Residential properties on Appletree lie to the east of the site.
- 1.2 The site is within the defined development limits of Sherburn in Elmet.

The Proposal

- 1.3 The application seeks outline consent for the erection of 5 no houses on the site and includes the matters of access, appearance, scale and layout (landscaping is a reserved matter). The application has been amended during the determination process as the original application did not include appearance as a matter for consideration.

Relevant Planning History

- 1.4 The following historical applications are considered to be relevant to the determination of this application:
- Application Number: 2020/0665/OUT
Description: Outline application for development of 6 new detached houses including access, layout and scale (all other matters reserved) on land attached to the rear of 7 Low Street, Sherburn In Elmet
Decision: WDN, Date: 09-OCT-20
 - Application Number: 2020/1140/OUT
Description: Outline application for development of 5 new detached houses including access, layout and scale (all other matters reserved) on land to the rear of 7 Low Street, Sherburn In Elmet,
Decision: REF, Date: 24-FEB-22

2. CONSULTATION AND PUBLICITY

- 2.1 **HER Officer** - recommends an archaeological mitigation recording.
- 2.2 **Sherburn in Elmet Parish Council** – Object to the proposal on the following grounds:
- Highway Safety
 - Adverse effect on the character and appearance of the site.
 - Detrimental impact on residential amenity.
 - Loss of car parking to frontage and inaccessible parking to rear of site No clear efforts to achieve net gain in biodiversity.
 - Original plan for Wolsey Croft development at the time of planning consent was for the land in question to be maintained as a dividing strip.
- 2.3 **NYCC Highways** - The Highway Authority has no objections to the proposed development as the site is not to be adopted and recommend conditions. The

Highways Officer has reviewed the Car Park Management Plan and has agreed that this is acceptable.

- 2.4 **Yorkshire Water Services Ltd** – Recommend conditions.
- 2.5 **Selby Area Internal Drainage Board** - As this proposal is located slightly outside the Board's district, Selby Area IDB have no comment.
- 2.6 **Contaminated Land Consultant** - The report does not include a summary of the site history or historical maps of the site. No site walkover survey was conducted and no preliminary human health risk assessment or conceptual site model is provided. Historical tanks are noted bordering the site, and other potential contamination sources are recorded within 250 m of the site. The Landmark report does not constitute a Phase 1 preliminary contaminated land risk assessment report. Potential contamination sources, namely historic tanks, are identified within a potentially influential distance of the site, however no risk assessment has been carried out nor conceptual site model produced. Other valuable sources of information, such as the site walkover and historical map review, are not included. As a minimum, a Phase 1 Preliminary Contaminated Land Risk Assessment report will need to be submitted. Conditions recommended.
- 2.7 **County Ecologist** – From the location and examined maps and aerial photography, the likelihood of protected/important species or significant habitats being present is very low. There would be no impact on protected wildlife sites. On this basis, an ecological assessment is not warranted. However, the applicant does need to demonstrate that they could deliver net gains for biodiversity in line with the requirements of the NPPF. This might include, for example, native-species tree planting and using native-species hedgerows as garden boundaries. The DEFRA Small Sites Metric (The Small Sites Metric - JP040 (naturalengland.org.uk) is useful for sites like this, though the applicant may benefit from professional advice in using this tool. Biodiversity Net Gain is not always easy to deliver in urban locations where most of the developed site would be within domestic curtilage. It may therefore be useful if the applicant can show, in outline, that they have considered this.
- 2.8 **Waste and Recycling** –Collection vehicles will not normally access private drives or use them for turning but in this case as a presentation point at the junction of the main road is not possible, the location of this area is suitable provided that the Council are not held liable for any ongoing repairs of maintenance to the access road. As there are more than 4 properties, the developer will be required to pay for the waste and recycling containers.
- 2.9 **Parish Council** - Remain concerned with regards to the unadopted road proposal, and the sizing used for the bin lorries and car parking, which would make the turning circle unworkable and passing of vehicles unworkable. The proposal will lead to a loss of 3 car parking spaces to the front of the development reducing the overall level of car parking in the town centre. Also raise concerns that the houses are not bungalows.
- 2.10 **Publicity** – The application has been advertised and readvertised following changes to the application by site notices.

There have been 101 representations received raising objections to the application on the following grounds:

- Loss of parking
- Overdevelopment

- Damage to trade
- Lack of accessibility
- Poor access
- Residential Amenity – Overlooking, overshadowing, parking, loss of privacy, outlook, noise and disturbance
- Impact on village
- Highway Safety
- Wrong location for housing
- Drainage
- Materials
- Ecology
- House Values (not a material planning consideration)
- Lack of notification as residents did not receive letters
- Lack of infrastructure
- Original refusal reasons still stand
- Noise from pub
- Not the required housing type

One letter of support has been submitted on the following grounds:

- Good use of derelict land
- Still provides parking
- Limited impact

3. SITE CONSTRAINTS

Constraints

- 3.1 The site is located within the defined development limits of Sherburn in Elmet and within Flood Zone 1, an area with the lowest probability of flooding.

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".
- 4.2 This is recognised in the National Planning Policy, at paragraph 11 of the NPPF, with paragraph 12 stating that the presumption in favour of sustainable development contained in paragraph 11 does not change the statutory status of the development plan as the starting point for decision making. It goes to state at paragraph 12 that where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations in a particular case indicate otherwise. This application has been considered against the 2021 NPPF and, in particular, the sections listed below.
- 4.3 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).”

- 4.4 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 neither of which relate to the site.
- 4.5 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 2024. Consultation on issues and options took place early in 2020 and further consultation took place on preferred options and additional sites in 2021. The Pre-submission Publication Local Plan was subject to formal consultation that ended on 28th October 2022. The responses are currently being considered. Providing no modifications are proposed, the next stage involves the submission to the Secretary of State for Examination.
- 4.6 Paragraph 48 of the NPPF states that weight may be given to relevant policies in emerging plans according to: a) the stage of preparation; b) the extent to which there are unresolved objections to the policies; and, c) the degree of consistency of the policies to the Framework. Given the stage of the emerging Local Plan, the policies contained within it are attributed limited weight and as such are not listed in this report.

Selby District Core Strategy Local Plan

- 4.7 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 – Scale and Distribution of Housing
SP6 – Managing Housing Land Supply
SP8 – Housing Mix
SP9 – Affordable Housing
SP12 – Access to Services, Community Facilities and Infrastructure.
SP15 – Sustainable Development and Climate Change
SP18 – Protecting and Enhancing the Environment
SP19 – Design Quality

Selby District Local Plan

- 4.8 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
VP1 Vehicle Parking Standards

Minerals and Waste Joint Plan (Adopted by NYCC February 2022)

4.9 The relevant Minerals and Waste Local Plan Policies are:

S01 – Safeguarded Surface Mineral Resources

S02 – Developments proposed within Safeguarded Surface Mineral Resource areas

S07 – Consideration of applications in Consultation Areas

D13 – Consideration of applications in Development High Risk Areas

National Planning Policy Framework

4.10 The relevant sections of the NPPF are:

2 Achieving sustainable development

4 Decision-making

5 Delivering a sufficient supply of homes

7 Ensuring the vitality of town centres

8 Promoting healthy and safe communities

9 Promoting sustainable transport

11 Making effective use of land

12 Achieving well-designed places

14 Meeting the challenge of climate change, flooding and coastal change

15 Conserving and enhancing the natural environment

17 Facilitating the sustainable use of minerals

Other Policies/Guidance

4.11 The other relevant documents are noted as follows:-

- Affordable Housing Supplementary Planning Document, 2013
- Developer Contributions Supplementary Planning Document March 2007
- Sherburn in Elmet Village Design Statement (2009)

5. APPRAISAL

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

- Principle of Development
- Housing Mix
- Design and Impact on Character and Appearance of the Area
- Residential Amenity
- Access and Highway Safety
- Impact on Biodiversity
- Minerals and Waste
- Flood Risk, Drainage, Climate Change and Energy Efficiency
- Contaminated Land
- Impact on Heritage Assets
- Affordable Housing
- Open Space
- Other Issues

Principle of Development

- 5.2 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.
- 5.3 Policy SP2A(a) of the Core Strategy states "The majority of new development will be directed to the towns and more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints." Sherburn in Elmet is a designated Local Service Centre where further housing, employment, retail, commercial and leisure growth will take place appropriate to the size and role of each settlement. Proposals on non-allocated sites such as this must meet the requirements of Policy SP4 of the Core Strategy.
- 5.4 Policy SP4 a) of the Core Strategy states that "in order to ensure that development on non-allocated sites contributes to sustainable development and the continued evolution of viable communities, the following types of residential development will be acceptable in principle within Development Limits." For Sherburn In Elmet, SP4 a) sets out that the redevelopment of greenfield land (amongst other things is acceptable in principle.
- 5.5 The application site is a greenfield site in line with the NPPF definition as it an area of open space within a built-up area. The site sits within the settlement limits of Sherburn in Elmet and is therefore acceptable in principle given that the Councils spatial strategy allows for growth within the settlement of an appropriate scale.
- 5.6 Core Strategy Policy SP4 (c) states "in all cases proposals will be expected to protect local amenity, to preserve and enhance the character of the local area, and to comply with normal planning considerations."
- 5.7 To conclude, whilst the development of the site is acceptable in principle, it will be subject to the considerations of the area character in addition to impacts on residential amenity, biodiversity, drainage, and on the public highway as detailed below.

Housing Mix

- 5.8 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. Policy H4A of the local plan states that, subject to respecting the character of the area and site suitability, new housing development will be required to provide an appropriate mix of dwelling types and sizes in order to: 1) avoid the creation of large areas of housing of similar characteristics, 2) help create mixed and inclusive communities, and 3) assist in redressing shortages of particular types of dwelling as may be indicated by housing needs assessment and annual monitoring of housing provision.
- 5.9 The Housing and Economic Development Needs Assessment (HEDNA) October 2020 is the most up to date assessment. Chapter 10 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.

- 5.10 The HEDNA does not specify smaller sub-areas, i.e. per village. The need for 2-3 bed homes is across the Selby District North and East area and whilst there is some difference between areas it is not substantial enough to suggest a mix of housing as being needed in different areas. There is also a need for bungalow type of accommodation, however there is no quantitative data as to the extent of need in the District.
- 5.11 The properties proposed are modest sized bungalows with rooms in the roofspace (no dormers) and are shown on the layout as 3 bedrooms. As such, it is considered that the proposed development would be appropriate in terms of housing mix.

Design and Impact on Character and Appearance of the Area

- 5.12 Relevant policies in respect to design and impact on the character and appearance of the area include saved 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 which relate to design include Section 12 which seeks to achieve well-designed places.
- 5.13 Sherburn in Elmet has a mixture of housing styles in the area with a mixture of traditional architecture and post war developments. The Village Design Statement for the area sets out a summary of design characteristics which define the village and are expected to be utilised in future development within the area to improve the character and appearance of the area.
- 5.14 The properties to the north of the site on Moor Lane are a mixture to the detached and semi-detached post war properties with generous gardens. To the south are smaller plots including brick build bungalows. To the east is the commercial area of Sherburn with a mixture of shops and a public house with parking on the front courtyard area. The access to the site is situated between no. 7 and no. 9 Low Street.
- 5.15 The site is a linear piece of land to the rear of the gardens of the properties on Moor Lane to the north and the access from Low Street to the south. The design of the properties has been amended during the application process to remove the proposed dormer windows and replace with velux windows.
- 5.16 The revised layout infills the gap between Moor Lane and Wolsey Croft and it is considered that the overall layout of the site would not harm the character of the area. The proposed materials are render with ashlar cast stone quoins and black slate roof tiles. There is a mixture of different materials in the area including those stated within the application and it is considered that the proposed materials would be acceptable.
- 5.17 The proposal would lead to the loss of an area of car parking to the shop frontages. The level of car parking in this area does not add to the overall appearance of the streetscene and replacing the car parking with car parking within the site would lead to an overall visual improvement to the main shopping frontage, and the streetscene.

- 5.18 Railings are proposed to the street frontage, it is considered expedient to require details of the proposed railings as part of the reserved matters information in relation to landscaping, to ensure that these are in keeping with the locality and offer a visual improvement to the streetscene, and that the ongoing maintenance of the railings is provided for by entering into a S106 legal agreement.
- 5.18 In light of the above, the proposal is considered to be acceptable in terms of its design and impact on character and appearance of the area and therefore accord with the aims of Policy ENV1 of the Local Plan and SP19 of the Core Strategy.

Residential Amenity

- 5.19 Relevant policies in respect of the effect upon the amenity of adjoining occupiers include Policy ENV1 1) and 4) of the Selby District Local Plan. Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved.
- 5.20 The key considerations in respect of residential amenity are the potential of the proposal to result in overlooking, overshadowing of neighbouring properties and whether dominance and enclosure would result from the size, scale and massing of the dwelling proposed.
- 5.21 The proposed dwellings are shown on plans to be positioned in closer proximity to the rear (northern) boundary with a separation distance of at least 18m to the residential properties on Moor Lane. The properties are 7.3m in height and have velux windows in the northern elevation. These are however shown to be set at 1.9m above the floor and thus would be for light and ventilation only as an average person would be unable to look out of the windows at this height. The remaining windows to the rear elevation are at ground floor level and would not overlook the properties to the north due to the existing boundary treatments. Further, the proposed properties are shown to be off set from the properties on Moor Lane to avoid any direct views between the properties. Given the above, the separation distance between the properties and those on Moor Lane is considered to be acceptable to avoid any undue loss of privacy to the existing dwellings.
- 5.22 As the properties are situated to the south of the properties on Moor Lane, there is the potential for overshadowing, however this is limited by the height of the proposed properties and the offset arrangement.
- 5.23 The proposed dwellings are situated a minimum of 20m from the properties on Wolsey Croft, which is considered to be an acceptable separation distance, and again the buildings are off-set from the existing dwellings. The proposed dormer window to the front elevation has been omitted from the design of the dwellings and replaced with a velux window which is again positioned at 1.9m above floor level and therefore would not create an issue with overlooking or loss of privacy.
- 5.24 The proposed layout, which lays out the properties in a position offset from the existing dwellings, would allow outlook to be retained for the existing dwellings as well as those proposed. Whilst this may be reduced by the physical built form, there are sufficient gaps between the properties to allow views through the site from both Moor Lane and Wolsey Croft.

- 5.25 The access arrangement follows the rear boundaries of Wolsey Croft and replacement parking is proposed to the rear of the commercial property. The proposal provides 5 no. car parking spaces to replace those lost on the site frontage and 2 further car parking spaces per dwelling. There is an element of disturbance at the western end of the site associated with the commercial vehicle movements associated with the business use of the site. However, as there would be the potential for additional disturbance to the properties on Wolsey Court from the new access road it is considered expedient that any planning approval should require the installation of acoustic fencing to the rear of the property boundaries on Wolsey Court to minimise the level of disturbance that could be caused by vehicle movements to the rear of their gardens.
- 5.26 The application does not include landscaping as a matter for consideration and thus the reserved matters application for landscaping details would be required by condition to include these details. It is considered that suitable landscaping could be accommodated in the scheme, particularly at the site's eastern end where a planted area is proposed.
- 5.27 A turning head has been provided at the end of the site, however the plots have sufficient parking and turning adjacent to the properties that this would only be required to be used by larger vehicles such as the waste and recycling lorry and thus any disturbance would be limited.
- 5.28 The proposed properties are approximately 21m apart and have 1.8m high boundary fencing shown on the layout plan, which would provide a suitable level of amenity from each other. The gable end windows only serve bathrooms and thus would not create issues of overlooking between the properties. It is however considered expedient to condition these windows to be obscure glazed and be retained as such. It is also considered expedient to impose a condition to ensure no additional windows are inserted in future which could give rise to new overlooking.
- 5.29 The properties meet the required minimum separation distances and thus, due to the constrained nature of the site, it would also be considered appropriate to condition the removal of permitted development rights to the properties for extensions, additional windows, dormer windows or outbuildings which could compromise the residential amenity of the neighbouring properties if not controlled.
- 5.30 Due to the proximity of the neighbouring properties, it is considered expedient to restrict the times of the development works to ensure that residential amenity is not unduly compromised.
- 5.31 It is therefore considered that the proposed layout, scale and appearance would not have a significant adverse impact on the residential amenity of both existing and future occupiers subject to conditions and would therefore accord with Policy ENV1 of the Local Plan; Policy SP18 of the Core Strategy and paragraph 130 of the NPPF.

Access and Highway Safety

- 5.32 Policy in respect to highway safety and capacity is provided by SDLP Policies ENV1 (2), T1 and T2 and Core Strategy Policy SP15. The aims of these policies accord with paragraph 110 (b) of the NPPF states that development should ensure that safe and suitable access can be achieved for all users to a site. In addition, paragraph 111 advises that development should only be refused (on highway grounds) where it would result in an unacceptable impact on highway safety. Within this context,

paragraph 112(c) requires development to create places that are safe and minimise conflict between pedestrians, cyclists and vehicles.

- 5.33 Two previous applications 2020/0665/OUT and 2020/1140/OUT relating to the site have been withdrawn and refused respectively due to concerns over highway safety. To address these issues, a full highway survey has been submitted with the application. The parking area to the frontage of the site is removed and replaced with 5 no. car parking spaces to the rear of the commercial premises.
- 5.34 A Car Parking Management Plan has been submitted which demonstrates the accessibility of the spaces for parking and turning in line with NYCC standards and also to set out a management plan for the operation of the car parking arrangements to ensure that the access is kept clear. The details have been considered by the Highways Authority and are acceptable. It is considered that as the management plan will need to be in operation for the lifetime of the development, this should be included within the S106 legal agreement required for the site.
- 5.35 Concerns have been raised by the members of the public over the safety of the proposal, however by removing the parking to the frontage of the commercial properties and the provision of railings to the area, this would reduce the number of vehicle/vehicle conflicts and vehicle/pedestrian conflicts associated with the area. The proposal restricts pedestrian access to a particular crossing point which is in full visibility of drivers accessing and egressing the site.
- 5.36 A large number of objections to the application relate to the loss of the car parking to the frontage of the development. However, planning permission is not required by the landowner to remove this parking and this could be removed at any time.
- 5.37 Whilst the access into the site and the car parking area is restricted at this point, this serves to reduce traffic speeds as only one vehicle can use this access point at one time. The parking area provides a suitable turning area for vehicles so that the vehicles are able to remain forward facing when accessing and egressing the site.
- 5.38 The plans have been considered by NYCC Highways who raise no highway safety concerns to the proposal subject to conditions including one of the provision of signage giving priority to those accessing the site over those egressing the site to reduce any likelihood of vehicles backing up on to the highways.
- 5.39 It is considered expedient that any planning approval requires the installation of the railings prior to the commencement of any development on the site, to ensure pedestrian safety.
- 5.40 The proposal is therefore considered to accord with Policies ENV1(2), T1 and T2 of the Local Plan, Core Strategy Policy SP15 and paragraphs 110(b), 111 and 112(c) of the NPPF.

Impact on Biodiversity

- 5.41 NYCC Ecology Officer has considered the information provided and examined maps and aerial photography, the likelihood of protected/important species or significant habitats being present is very low. There would be no impact on protected wildlife sites. On this basis, an ecological assessment is not warranted.

- 5.42 In line with the NPPF, it is important to demonstrate that the proposal could deliver net gains for biodiversity. The landscaping scheme for the site is a reserved matter and is not included within this application for consideration. It is possible for a net gain in terms of biodiversity could be provided by a suitable scheme which might include, for example, native-species tree planting and using native-species hedgerows as garden boundaries.
- 5.43 The application site also includes an area of 'open space' to the western edge of the site, which the applicant has confirmed would be managed by a landscape management company. A condition would be required to provide a detailed plan for the management of this area. The landscaping scheme would include this area which provides an area where biodiversity net gain can be maximised. To ensure that the land is maintained the management of this land should also be included within a S106 legal agreement for the site.
- 5.44 It is therefore considered that subject to a suitable landscaping scheme being provided, that the site is capable of providing a biodiversity net gain in line with the NPPF.

Minerals and Waste

- 5.45 The application site is located within an area identified for the safeguarding of mineral resources, specifically Brick Clay and Limestone. Relevant policies in relation to the NYCC Minerals and Waste Plan 2022 are S01, S02 and S07, which reflect advice in the Chapter 17 of the NPPF, and seek to protect future mineral resource extraction by safeguarding land where the resource is found and avoiding such land being sterilised by other development. The plan also identifies the site as falling within a Coal Mining Development Referral Area to which Policy D13 applies.
- 5.46 However, the site relates to a strip of land sitting within an existing built-up settlement that is enclosed by existing housing development. Therefore, whilst the proposal does not fall within any of the exemptions listed in Policy S02, taking into account the location of the site, it is unlikely that this site would be considered as a suitable or appropriate site for mineral resource extraction and therefore needs to be safeguarded for the future. The proposal is not considered to sterilise the mineral or prejudice future extraction.
- 5.47 The NYCC Minerals and Waste Plan identifies the site as within a Coal Mining Development Referral Area to which Policy D13 applies. However, the Coal Authority Interactive Map identifies Sherburn in Elmet as falling within a Coal Mine Reporting Area for property transactions and conveyance, but does not identify the site within a high risk area.
- 5.48 Taking the above into account, it is considered that the proposal would not be contrary to the aims of the Minerals and Waste Joint Plan. An informative is recommended to draw the applicant's attention to the location of the site in a coal mining area.
- 5.49 Turning to local waste management, whilst waste collection vehicles would not normally access private drives or use them for turning, in this case as a presentation point at the junction of the main road is not possible, the location of this area within the site is considered to be suitable provided that the Council are not held liable for any ongoing repairs of maintenance to the access road.

- 5.50 The Council is seeking to ensure that adequate provision is designed into all new dwellings and building conversions to housing units for waste storage, separation of recyclables and access for collection. The Council's SPD on Developer Contributions sets out the requirement for a developer to provide adequate waste bin provision on developments providing 4 or more residential units. As the proposed development will provide 5 no. units the waste and recycling contribution would be paid under the Section 106 Agreement/Unilateral Undertaking in accordance with Developer Contributions.

Flood Risk, Drainage, Climate Change and Energy Efficiency

- 5.51 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.
- 5.52 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 will be disposed of via SUDS and that foul sewerage will be disposed of via Mains Sewerage.
- 5.53 Yorkshire Water have recommended a condition in relation to the provision of a suitable scheme for the discharge of surface water from the site and that development should provide separate systems for foul and surface water drainage.
- 5.54 Given the location of the site within an existing built-up area and the likelihood that a drainage solution for the site can be found, it is considered expedient to add these conditions to any consent to ensure that the site can be adequately drained to meet the aims of saved Policy ENV1(3) of the local plan and Policy SP15 of the Core Strategy.
- 5.55 It is also considered expedient that any approval for residential development should also include a condition for the provision of electric vehicle charging points in line with the NPPF.

Contaminated Land

- 5.56 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.
- 5.57 It is not considered that the application has been submitted with adequate information to enable confidence that the site is not contaminated and thus it is recommended that any approval on the site includes pre-commencement conditions relating to land contamination. Subject to such conditions, the application accords with the aims of national and local planning policy.

Impacts on Heritage

- 5.58 NYCC Archaeology has been consulted on the application and offer the following comments:

The development site is within the historic core of the medieval settlement of Sherburn in Elmet. The development plot itself is a long, narrow strip, typical of a medieval layout. The front of the plot would be occupied by the principal buildings of a small farmstead or business premises with the long plot to the rear being used for outbuildings, light industry, waste disposal, small scale agriculture and stock rearing. Archaeological work in advance of construction of Pasture View and its associated cul-de sacs, a short distance to the south, revealed evidence of well-preserved medieval deposits. These were found to overlay both Iron Age and Neolithic features demonstrating human activity in the area for over 4,000 years.

In terms of significance the types of features expected in this environment would be of local or regional interest and would be very unlikely to preclude development at the site. There is also likely to have been some degree of damage in the 19th and 20th centuries.

- 5.59 It is therefore advised that any approval includes a condition requiring a scheme of archaeological mitigation recording is undertaken in response to the ground disturbing works associated with this development proposal. This should comprise an archaeological strip, map and record to be undertaken in advance of development, including site preparation works, top soil stripping, excavations for new foundations and new drainage or services, to be followed by appropriate analyses, reporting and archive preparation. This is in order to ensure that a detailed record is made of any deposits/remains that will be disturbed.

Affordable Housing

- 5.60 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.
- 5.61 However, the NPPF is 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'.
- 5.62 Major development is defined in the NPPF as, for housing, 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 five dwellings on a site which has an area of less than 0.5 hectares, it is not considered to be major development. Having regard to Policy SP9 and the material considerations of the Affordable Housing SPD and the NPPF, it is considered that, on balance, the application would not require an affordable housing contribution.

Open Space

- 5.63 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.
- 5.64 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.
- 5.65 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.
- 5.66 Sherburn in Elmet Town Council have confirmed that they would prefer a contribution towards existing space in the locality and are willing to provide details of a scheme that the monies can be used towards. 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, Sherburn in Elmet Town 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 parishes 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.

Other Issues

Parish Council Query

- 5.67 The parish council has raised a query with regards to the fact that this strip of land was to be maintained as a dividing strip as part of the Wolsley Court development. The Officer is not aware of this and should this land be restricted for development purposes this would most likely be found as a legal covenant with regards to the land registry. However, any existence of restrictive covenants are not material to determination of a planning application.

Parking area outside the Spar

- 5.68 The area of car parking to the front of the SPAR does not form part of the application site and thus the applicant is not claiming ownership of this land. The proposal includes a set of railings along the boundary with this car parking area, removing access from the application site. There remains access from the highway and the plans have been amended to clarify this.
- 5.69 The applicant has stated that there is no legal right of access to this area from the application site and has provided a copy of the title deeds. No evidence has been

provided which disputes this statement, however this is a legal matter between the relevant parties and not a material planning consideration.

- 5.70 As stated earlier in this report, it is considered expedient that the railings are installed prior to commencement of the development to ensure that the site can be safely accessed and egressed and to reduce vehicle/pedestrian conflicts.

Accessibility

- 5.71 A number of objections have been received objecting to the loss of the car parking area due to difficulties for those with mobility issues. Whilst this is appreciated there are a number of other parking areas in the nearby area and parking is being provided to the rear of the site. The Highways Authority raise no objection to the loss of the parking provision.

6. CONCLUSION

- 6.1 The application seeks outline consent for the erection of 5 no houses on the site and includes the matters of access, appearance, scale and layout (landscaping is a reserved matter).
- 6.2 The site is located within the defined development limits of Sherburn in Elmet and is considered to be acceptable in principle.
- 6.3 The design of the scheme has been amended during the application process to enable a safe form of access can be achieved from the site and that the proposed dwellings meet all the recommended separation distances and window positioning has been amended to protect the amenity of the neighbouring properties.
- 6.4 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.
- 6.5 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.
 - The ongoing management of the car parking area as set out in the car parking management plan.
 - The ongoing maintenance of the access railings
 - The ongoing management and maintenance of the area of open land to the east of the site.

7. RECOMMENDATION

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 and the management and maintenance of the car parking area; access railings and area of open land to the east of the site:

1. Applications for the approval of the reserved matters referred to in No.2 herein shall be made within a period of three years from the grant of this outline permission and the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason:

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

2. Approval of the details of the (b) landscaping, (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason:

This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority, and as required by Section 92 of the Town and Country Planning Act 1990.

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

Location Plan – LOC01 submitted to the LPA 28th July 2022

Elevations and Sections – RAS220707/BR3 submitted to LPA 3rd October 2022

Layout and Floorplan – RAS220707/P2 Rev A submitted to LPA 3rd October 2022

Site Blockplan and Layout – RAS220707/P1 Rev D submitted to LPA 24th January 2023

Site Layout – 1954-102D submitted to LPA 24th January 2023

Visitors Parking – 1954-103A submitted to LPA 24th January 2023

Access Arrangements – 1954-101F submitted to LPA 24th January 2023

Car Parking Management Plan submitted to the LPA on 13th January 2023

Reason:

For the avoidance of doubt

4. No work relating to the development hereby approved, including works of 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 and 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.

5. A) No demolition/development shall commence until a Written Scheme of Archaeological Investigation has been submitted to and approved by the local

planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

1. The programme and methodology of site investigation and recording
2. Community involvement and/or outreach proposals
3. The programme for post investigation assessment
4. Provision to be made for analysis of the site investigation and recording
5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
6. Provision to be made for archive deposition of the analysis and records of the site investigation
7. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).

C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason:

In accordance with Section 16 of the NPPF (paragraph 205) as the site is of archaeological significance.

6. Prior to development (excluding demolition), a site investigation and risk assessment must be undertaken to assess the nature, scale and extent of any land contamination and the potential risks to human health, groundwater, surface water and other receptors. A written report of the findings must be produced and is subject to approval in writing by the Local Planning Authority. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

Reason:

To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination and to accord with Policy ENV2 of the Selby District Local Plan.

7. Where remediation works are shown to be necessary, development (excluding demolition) shall not commence until a detailed remediation strategy has been submitted to and approved by the Local Planning Authority. The remediation strategy must demonstrate how the site will be made suitable for its intended use and must include proposals for the verification of the remediation works. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

Reason:

To ensure that the proposed remediation works are appropriate and will remove unacceptable risks to identified receptors and to accord with Policy ENV2 of the Selby District Local Plan.

8. Prior to first occupation or use, remediation works should be carried out in accordance with the approved remediation strategy. On completion of those works, a verification report (which demonstrates the effectiveness of the remediation carried

out) must be submitted to and approved by the Local Planning Authority. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

Reason:

To ensure that the agreed remediation works are fully implemented and to demonstrate that the site is suitable for its proposed use with respect to land contamination and to accord with Policy ENV2 of the Selby District Local Plan. After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990.

9. In the event that unexpected land 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, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

Reason:

To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination and to accord with Policy ENV2 of the Selby District Local Plan.

10. There must be no access or egress by any vehicles between the highway and the application site at 7 Low Street, Sherburn In Elmet, Leeds until splays are provided giving clear visibility of 25 metres measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In the interests of highway safety and to accord with SDLP Policies T1 and T2.

11. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users at 7 Low Street, Sherburn In Elmet, Leeds 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 accord with SDLP Policies T1 and T2.

12. No development must 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. restriction on the use of the access for construction purposes;
2. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
3. the parking of contractors' site operatives and visitor's vehicles;
4. areas for storage of plant and materials used in constructing the development clear of the highway;
5. details of site working hours; 6. 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 and to accord with Saved Policy ENV1 of the Local Plan.

13. No part of the development must be brought into use until signage giving priority to vehicles entering the site, over those existing the site, have been installed on site to advise of priority at the pinch point on the access road.

Reason:

In the interests of safety and the general amenity of the development and to accord with SDLP Policies T1 and T2.

14. Prior to the construction of any external walls, samples of the materials to be used in the construction of the external walls and roof of the dwellings, hereby permitted, shall be provided to the Local Planning Authority for approval. The development shall be undertaken in accordance with the approved details.

Reason:

In the interests of visual amenity and to accord with Policy ENV1 of the Local Plan and Policy SP19 of the Core Strategy.

15. The reserved matters application for landscaping shall include details of biodiversity net gain within the site.

Reason:

In the interests of enhancing biodiversity and to accord with the NPPF and Core Strategy Policy SP18. .

16. The reserved matters application for landscaping shall include details of acoustic fencing to be installed along the boundary with Wolsey Croft and details of the proposed railings to the frontage of the site. The development shall be undertaken in accordance with the approved details.

Reason:

In the interests of residential amenity and to accord with Saved Local Plan Policy ENV1.

17. Prior to the first occupation of the dwellings hereby approved, a scheme for the landscape management of the site shall be submitted to the Local Planning Authority for approval. The scheme shall be implemented and maintained in accordance with the approved details.

Reason:

In the interests of residential amenity and biodiversity and to accord with Core Strategy Policy SP18 and Saved Local Plan Policy ENV1.

18. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason:

In the interest of satisfactory and sustainable drainage and to accord with Core Strategy Policy SP15.

19. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

Reason:

To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network and to accord with Core Strategy Policy SP15.

20. An electric vehicle infrastructure strategy and implementation plan shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling hereby permitted. The plan shall contain details of the number and location of all electric vehicle charging points which shall be of Mode 3 type (specific socket on a dedicated circuit with a minimum current rating of 16 Amp). Buildings and parking spaces that are to be provided with charging points shall not be brought into use until associated charging points are installed in strict accordance with approved details and are operational. The charging point installed shall be retained thereafter.

Reason: In the interests of providing opportunities for sustainable transport and to improve air quality across the District in accordance with Policy SP15 of the Core Strategy and paragraph 186 of the NPPF.

21. Notwithstanding the provisions of Classes A, B, C, E and G of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no extensions, outbuildings, roof windows, chimneys or dormer windows shall be erected or inserted without the prior written consent of the Local Planning Authority.

Reason:

In the interests of preserving the residential amenity of the neighbouring properties and to accord with Saved Local Plan Policy ENV1 and the NPPF.

22. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order), no further openings shall be inserted in the first floor of the dwellings hereby approved, without the prior written approval of the Local Planning Authority.

Reason:

In the interests of visual amenity and the residential amenity of the surrounding properties and to accord with Saved Local Plan Policy ENV1 and Core Strategy SP19.

23. The first-floor gable windows of the dwellings hereby approved shall be obscure glazed to Pilkington Level 3 or above and shall be maintained as such for the lifetime of the development.

Reason:

In the interests of preserving the residential amenity of the neighbouring properties and to accord with Saved Local Plan Policy ENV1.

24. Prior to the commencement of development, the railings along the access to the frontage of the site shall be installed, and shall be retained and maintained as such for the lifetime of the development.

Reason:

In the interests of highway safety and to reduce the level of vehicular and pedestrian conflict, and to accord with SDLP Policies T1 and T2.

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 2022/0918/OUT and associated documents.

Contact Officer: Emma Howson (Planning Officer)

Appendices: None