



Report Reference Number 2021/1353/FUL

**To: Planning Committee**  
**Date: 8 February 2023**  
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|                     |  |              |                               |
|---------------------|--|--------------|-------------------------------|
| APPLICATION NUMBER: | 2021/1353/FUL  | PARISH:      | North Duffield Parish Council |
| APPLICANT:          | Mr Matthew Gath  | VALID DATE:  | 3rd November 2021             |
|                     |  | EXPIRY DATE: | 28 February 2023              |
| PROPOSAL:           | Erection of 5 dwellings and associated infrastructure                                    |              |                               |
| LOCATION:           | Land Adjacent A163<br>Market Weighton Road<br>North Duffield<br>Selby<br>North Yorkshire |              |                               |
| RECOMMENDATION:     | <b>REFUSE</b>  |              |                               |

This application has been brought before Planning Committee as there are 10 letters of representation which raise material planning considerations and where officers would otherwise determine the application contrary to these representations.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The site lies to the north of the A163 Selby Road, on the western entrance to the village off Green Lane. The land is located to the south of a detached dwelling known as 'Kapuni' and to the west of the main built-up form of the village. To the south is an area of allotments. These were provided as a requirement under a Section 106 Agreement for a separate development further north in the village. Northwest and west of the site are open agricultural fields, Beyond Kapuni to the east is recent development of 2.5 storey terrace properties which was part of the earlier local plan housing allocation. To the southeast are older terraced properties which face the A163.
- 1.2 The site extends to approximately 0.69 hectares and is relatively flat with very few natural features with hedgerows to the southeast and northern boundaries and facing the public highway. The boundary to the northwest has little in the way of

existing screening and joins the Internal Drainage Board maintained Moses Drain. A drainage easement area would be maintained along the western boundary of the site along the ditch. Visually the site forms part of the wider open rural countryside setting at this southwestern edge of the settlement.

## **The Proposal**

- 1.3 This application seeks full planning permission for five dwellings comprising one x 2 bedroom detached bungalow; in addition to four x 2 bedroom, two storey semi-detached dwellings. A single access from Green Lane would lead to the rear to serve all 5 dwellings. A new footway is proposed across the site frontage which would terminate at an entrance into the area of allotments. A landscaping scheme has been submitted with the proposals and provides for replacement native hedge planting at the new site frontage with native shrub mix and trees to the western boundary.

## **Relevant Planning History**

- 1.4 The following historical applications are considered to be relevant to the determination of this application.
- 2015/0519/OUT-Outline application (with access and layout for approval and appearance/landscaping and scale reserved) for residential development (6 units), recreational open space and highway improvements. Granted 8<sup>th</sup> October 2015 (Lapsed)
  - 2016/1265/REM- Reserved matters application (landscaping, appearance and scale) for residential development (6 units), recreational open space and highway improvements: Approved 21 December 2016. (Lapsed)
  - 2017/1061/FUL-Retrospective change of use of land to car park and construction of parking bays. (Allotment site).
  - 2019/0759/FUL- Erection of 5 dwellings. This was similar to the current proposal and was Refused by Planning Committee on 2 August 2021. A subsequent Appeal was Dismissed on 12 July 2022.
- 1.5 The most recent application 2019/0759/FUL was refused for the following reason:

*“NPPF Paragraph 12 states that the Development Plan is the statutory starting point for decision making, adding that where a planning application conflicts with an up-to-date Development Plan permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. Although previous permissions for Outline and Reserved Matters were granted on this site, these have now lapsed and were approved at a time when the Local Planning Authority were unable to demonstrate a deliverable 5 year housing land supply and therefore the relevant Local Plan Policies were given no weight as they were at that time considered to be out of date. The principle of development has been determined with the full range of Local Plan Policies now carrying full weight. The proposed housing development is outside the development limits of North Duffield and therefore in the open countryside, in conflict with Local Plan Policy and there are no material considerations that outweigh the conflict with the*

*Development Plan. The proposal is therefore contrary to Core Strategy Policies SP1, SP2, SP4, and SP5 and the NPPF.”*

1.6 A subsequent Appeal was Dismissed on 12 July 2022.

The Inspector concluded that:

*“The site may constitute a suitable ‘rounding off of the village’ in a sustainable location and would contribute to the supply of housing and delivery, but as there is not a current shortage, there would be no reason to depart from the development plan. Under the same conditions, any site outside development limits could come forward and the cumulative effect of such development could cause significant harm to the Council’s spatial development strategy which has been instrumental in establishing a healthy land supply. I therefore conclude that the appeal site is not an appropriate location for housing having regard to the settlement strategy. The proposed development conflicts with Policies SP1, SP2, SP4 and SP5 of the Local Plan (2013). It conflicts with the development plan as a whole and it conflicts with the Framework in relation to achieving sustainable development.”*

## **2. CONSULTATION AND PUBLICITY**

### **2.1 NYCC Highways Canal Rd**

The applicant has confirmed that the site will remain private and there are a number of alterations to make to the existing highway. There has been ongoing liaison with the agent to gain a design which is acceptable to the Highway Authority. The applicant will need to enter into a section 278 agreement with the Highway Authority to carry out the necessary highway works. Conditions are required in respect of construction of access prior to development; crossing of the highway verge and/or footway; Delivery of off-site highway Works; Provision of Approved Access, Turning and Parking Areas at Green Lane; Construction Phase Management Plan- Small sites and Garage conversion to habitable rooms requiring planning permission.

### **2.2 Environmental Health**

No comments to make.

### **2.3 Yorkshire Water Services**

If planning permission is to be granted, conditions should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure through the use of separate systems for foul and surface water and means of surface water. The developer should also note that the site drainage details submitted have not been approved for the purposes of adoption or diversion.

### **2.4 The Ouse & Derwent Internal Drainage Board**

The Board has assets adjacent to the site in the form of Moses Drain. This watercourse is known to be subject to high flows during storm events. The proposed 9m Buffer/easement indicated is welcomed. Conditions and informatives are recommended.

### **2.5 Landscape Consultant**

Satisfied with the revised scheme submitted which accords with the advice given. Standard condition to secure implementation advised.

- 2.6 **Yorkshire Wildlife Trust**  
Concur that recreational impacts on Skipwith Common and the Lower Derwent Valley should be assessed, including cumulative impacts with other developments.
- 2.7 **County Ecologist**  
Comments on the revised ecology report and Landscape and Ecology Management Plan (LEMP) which have now been submitted. Should Selby District Council be minded to approve this application, it is recommend that a Condition is imposed to adhere to the LEMP. Previous advice is reiterated that Selby District Council should consider a strategic approach to managing recreational pressure arising from new housing development in settlements surrounding the internationally designated wildlife sites of Skipwith Common and the Lower Derwent Valley.
- 2.8 No further comments regarding the revised Landscape Plan. The revised Biodiversity Metric shows only a small net gain in terms of area-based habitats but a much more generous increase in linear habitat provision. As such, this fulfils the NPPF aspiration to ensure that developments deliver net benefits for nature.
- 2.9 **Public Rights Of Way Officer**  
No comments received-
- 2.10 **The Environment Agency**  
Having reviewed the information submitted with the application and as all of the dwellings appear to be located within flood zone 1, there are no objections subject to a condition to ensure ground levels are not altered.
- 2.11 **NYCC Heritage Officer (Archaeology)**  
The developer has provided the results of an archaeological geophysical survey. The survey has identified a number of anomalies that may be of archaeological interest; however the results were unclear due to interference in the data from nearby metal objects (fences etc). Given the known archaeological resource of the surrounding area, consisting of extensive later prehistoric and Roman landscapes and artifact scatters, a programme of archaeological observation and recording is recommended to take place during the development. A condition is recommended.
- 2.12 **Contaminated Land Consultant**  
The report shows that the site is currently vacant, and that no past industrial activities have been located onsite or nearby. The report states that land contamination is unlikely to impact upon the development, and that no further investigation or assessment is considered necessary. Recommend that planning condition for reporting of unexpected contamination is attached to any planning approval.
- 2.13 **Education Directorate North Yorkshire County Council**  
This development falls below the threshold where a requirement for Education contributions in relation to applications for planning permission for residential developments of 10 or more dwellings would be required.
- 2.14 **Waste And Recycling Officer**  
Collection vehicles will not access private drives or use them for turning and a bin presentation point has been identified at the junction with the main road. The presentation point should be large enough to accommodate two bins per property each collection day. External bin store at each new property should be large enough to accommodate 4 x wheeled bins (refuse, green waste and 2 x recycling).

Care should also be taken to ensure that internal storage facilities are included for residents to store materials for recycling separately from their residual / non-recyclable waste prior to disposal. Finally, as there are 4 properties, the developer will be required to pay for the waste and recycling containers.

#### 2.15 **Parish Council**

Supports the Planning Application.

#### 2.16 **Publicity**

The proposal was advertised as a Departure by way of a site and press notice.

1 letter of objections was received and 11 letters of support. The comments made are summarised below:

Grounds of Objection:

- Object to removal of more green fields.
- Cars park on the bend on Green Lane as it leads to A163 causing traffic hazard. The bend in Green lane at this point is very tight and only just passable by 2 cars if navigating slowly. Hazard to road users, pedestrians and dogwalkers
- Further traffic hazards during construction

Grounds of support:

- Support smaller 2 bedroom dwellings, these are desperately needed, the village has seen plenty of larger detached dwellings . These are needed for younger people and will encourage them to stay in the village.
- Site is untidy and this would be an improvement.
- The scheme is a welcome support in the village
- Outside the development limits but only just and adjacent to other housing
- Footpath provision along frontage is to be welcomed.
- The site will become derelict and an eyesore if this is not granted
- Specific conditions should be imposed to ensure the footpath is provided and to ensure the safety of residents
- It is understood the homes are aimed at first time buyers- they should be made available to people from the local villages who seek to get onto the property ladder.
- Support the development by quality Yorvik Homes

### 3. **SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The site is situated within Flood Zone 1, with a narrow strip close to the west boundary located in Flood Zones 2 and 3. It lies adjacent to but outside the Development Limits of the settlement and is therefore in the countryside in policy terms. North Duffield is a Designated Service Village as identified in the Core Strategy. The western boundary of the application site is marked by Moses Dyke with agricultural land beyond. The site does not contain any protected trees and there are no statutory or local landscape designations. There is no Conservation Area designation, local listed buildings or other site features that are affected.

#### 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 (2013)**

- 4.7 The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development  
SP2 - Spatial Development Strategy  
SP5 - The Scale and Distribution of Housing  
SP8 - Housing Mix  
SP9 - Affordable Housing  
SP12 - Access Services, Community Facilities and Infrastructure  
SP15 - Sustainable Development and Climate Change  
SP16 - Improving Resource Efficiency  
SP18 - Protecting and Enhancing the Environment  
SP19 - Design Quality

### **Selby District Local Plan (2005)**

4.8 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development  
ENV2 - Environmental Pollution and Contaminated Land  
ENV28 - Archaeological Remains  
T1 - Development in Relation to Highway  
T2 - Access to Roads  
RT1 - Protection of Existing Recreational Open Space  
RT2 - Open Space Requirements

### **Minerals and Waste Joint Plan (February 2022)**

4.9 The relevant policies are:

S01 - Safeguarding mineral resources  
S02 - Developments proposed within Minerals Safeguarding Areas  
S07 – Consideration of applications in Consultation Areas  
D13 - Consideration of applications in Development High Risk Areas

4.10 **Other material considerations/Guidance Additional Documents**

- Affordable Housing Supplementary Planning Document (2013)
- Developer Contributions Supplementary Planning Document (2007)
- North Duffield Village Design Statement (Feb 2012)
- National Planning Policy Framework (February 2019)

### **National Planning Policy Framework (NPPF, 2021)**

4.11 The relevant sections of the NPPF are:

2 Achieving sustainable development  
4 Decision making  
9 Promoting sustainable transport  
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

## 5. APPRAISAL

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

- Principle of Development
- Design, layout and scale and visual impact
- Highways, Access & Parking
- Residential Amenity
- Flood Risk & Drainage
- Landscaping
- Ecology
- Contamination/Ground Conditions
- Archaeology
- Affordable Housing
- Recreational Open Space
- Other Matters

### **Principle of the Development**

- 5.2 Outline planning permission was granted on the appeal site in 2015 for the erection of 6 dwellings, with reserved matters approval in 2016. At that time, the Council could not demonstrate a 5-year housing land supply and therefore the Council's policies could not be considered up to date. The site consent has now lapsed.
- 5.3 A similar application to the current proposal (2019/0759/FUL) was refused by this planning committee in 2021 and dismissed on appeal (see planning history).
- 5.4 At present, the Council has a confirmed five-year housing land supply figure of 6.1 years (based on assessment date of 31st March 2022). The fact of having a five-year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five-year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.
- 5.5 The NPPF is a material consideration and states that sustainable development is about positive growth and that the Planning System should contribute to the achievement of sustainable development. The NPPF, taken as a whole, constitutes the Government's view of what sustainable development in England means in practice for the planning system.
- 5.6 Policy SP1 of the Selby District Core Strategy Local Plan (2013) (CS) 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.
- 5.7 Policy SP2 of the CS sets out the long-term spatial direction for the District and provides guidance for the proposed general distribution of future development across the District. The settlement hierarchy is ranked on the Principal Town of Selby, Local Service Centres, Designated Service Villages and smaller villages. The CS identifies North Duffield as a 'Designated Service Village'. Policy SP2 sets out that service villages have some scope for additional residential and small-scale



employment growth to support rural sustainability and which conform to Policy SP4 of the Core Strategy.

- 5.8 North Duffield has a defined development limit which was established under the proposals map of the Selby District Local Plan, and which demonstrates that the village is relatively compact in form with its rural character well maintained. The Development Limits are part of the adopted plan and a means of implementing the Councils spatial development strategy by constraining development (subject to materials considerations) within the main body and confines of the village. Therefore, for the purposes of planning designation, the application site is located outside of the Development Limits on land within the countryside.
- 5.9 The Core Strategy supporting text states that, development in the countryside (outside development limits) will generally be resisted unless it falls within the exceptions stated within SP2 Criterion (c) which are 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, or other special circumstances.
- 5.10 The proposal would include a single 2 bedroom bungalow and four two-bedroom semi-detached homes. The proposed development would bring some small-scale economic benefits during construction and would contribute in a small way to the viability of existing local services and facilities. However, given the residential nature of the development, it is considered that the proposal would not contribute towards and improve the local economy beyond the construction phase. It is therefore considered that the development of the application site would not fall within any of the exceptions set out in Policy SP2 of the CS.
- 5.11 The applicant considers that whilst the site is outside the Development Limit boundary as identified on the local plan map, it is not classed as within the open countryside. They state that; *“the development limits associated with the local plan maps was not saved at the time of the preparation and adoption of the Core Strategy 2013 and as such are considered to be out of date”*.
- 5.12 In terms of the Development Limits, it is acknowledged that these were defined a number of years ago and are being reviewed as part of the preparation of the new Local Plan. However, in all cases the overriding consideration and starting point for determination is still the current adopted Development Plan policy, which comprises the saved policies of the Local Plan and the Core Strategy. In addition, there is nothing within the NPPF which suggests that the definition of settlement boundaries is no longer a suitable policy response and that such policies are out of date.
- 5.13 In terms of the emerging Local Plan and the commitment to review Development Limits at the present time this is at an early stage and little weight can be afforded to any progressing policy approach. The saved policies of the Local Plan and the Core Strategy remain the adopted development plan for the area for the purposes of Section 38(6) of the Town and Country Planning Act. Policy SP2 of the CS sets out the Spatial Development Strategy refers to the development limits of settlements. This site lies outside the Development Limits of North Duffield where the approach set out in SP2 c) applies.

- 5.14 In some circumstances, more recently, permission has been granted for small scale development outside of Development Limits, including pockets of greenfield land which project beyond the Development Limits. However, there have generally been a number of factors contributing to such decisions. Mainly these have been in sustainable locations such as Designated Service Villages where additionally a number of other site specific or historic factors in addition to the sustainability of the location or the physical, spatial and visual characteristics have contributed towards the justification. Whilst there are recent developments which have gone beyond the defined settlement boundaries, a carefully nuanced approach has been taken with each case determined on its individual merits and based on site circumstances. As such, it is considered that these do not bind the Council to approve this application.
- 5.15 The applicant has submitted a letter in support of the proposal and in particular refers to the recent application 2020/0183/FUL for the erection of a dwelling at the Paddocks to the rear of York Road which was granted permission at committee in December 2022. The applicant considers the same weight to the Development Limits should be applied to this site. That report stated:
- “The NPPF is a material consideration and as such should be taken in the planning balance and the appropriate weight be considered. The proposal is located just outside the development limit of a Designated Service Village of North Duffield which is within the third tier of the spatial strategy due to the availability of and access to local facilities. The proposal site is therefore not considered to be isolated, and it is well related to the settlement, as such significant weight is attached to the location.”*
- 5.16 It is acknowledged that in evaluating the application, the relationship of the proposal to the edge of the settlement and defined Development Limits (as set out on the Policies Map) should be given due consideration. However, the site referred to at the Paddocks for a single dwelling has differences to this site in terms of the location and its context within the surroundings. It is outside the development limits at the northern end of the village where surrounding development has already occurred. It occupies a site flanked by other development already under construction.
- 5.17 At the Paddocks the existing development that has been approved and implemented on the north-west side of the village extends beyond the development limit. The Paddocks case is situated on a small parcel of land to the south and west of this development and rounds off the development with only obscure views of the application site from the countryside. Mature trees exist along the western boundary which form a defensible boundary with the countryside, these trees are subject to a protection order and as such the boundary will be secured for some time. Taking into account the site characteristics, its planning history, its context in relation to the surrounding development and its lack of visual harm to the character of the area and the setting of the village, the scheme was supported by officers.
- 5.18 This site lies at the southern edge of the village. It is open and exposed and widely visible from the A163 approach to the village from the west. Visually the southern entrance to the village is clearly defined with the housing fronting the A163 and on the east side of Green Lane. Although there are allotments to the southwest, these are essentially open and undeveloped and appear as part of the wider open countryside. There are uninterrupted views across the application site into the larger agricultural field to the west which appear to merge as one larger field. There are no trees or significant visual boundaries to the site to separate it visually from the wider

open countryside. Upon entering Green Lane, there is a clearly defined edge to the settlement marked by newer development of terrace housing on the east. The first dwelling on the west side of Green Lane is Kapuni- a small bungalow set in a generous open plot. Physically and visually, this forms the defined edge to the settlement and is a transitional site which is semi-rural in nature due to the largely green and sylvan setting around the dwelling. North of this bungalow the development becomes more concentrated with newer developments on the west side of Green Lane which were granted at a time the council did not have a 5-year land supply. As such the development limits at this end of the village remain robustly defined. The proposed development would be an intrusive feature altering the balance on the west side of Green Lane from a gentle transition from field to low density low level development to more concentrated development in the village. It would appear as an incongruous feature detracting from the character of this part of the village and jutting out from this clearly defined development limit into open countryside.

- 5.19 It is acknowledged that the location of this application site is on the edge of a Designated Service Village and is a more sustainable location than other secondary villages or rural locations and would contribute to the supply of housing and delivery. These are material considerations. However, it would be beyond the existing extent of development which has spread to the west and south of Green Lane and would add a further projection of development to the south beyond the existing development limits. Furthermore, there is not a current shortage of housing land supply, and as such there is no reason to depart from the development plan. As the Inspector on the planning appeal pointed out

*“Under the same conditions, any site outside development limits could come forward and the cumulative effect of such development could cause significant harm to the Council’s spatial development strategy which has been instrumental in establishing a healthy land supply”.*

- 5.20 These dwellings are not considered to be needed to enhance or maintain the vitality of the rural community of North Duffield. Moreover, any minor economic of community benefits in this respect would not be sufficient to outweigh the harm that would be caused contrary to the Local Plan and the Framework. The principle of development has been determined with the full range of Local Plan Policies carrying full weight. The proposed housing development is outside the development limits of North Duffield and therefore in the open countryside, in conflict with Local Plan Policy and there are no material considerations that sufficiently outweigh the conflict with the Development Plan. The proposal is therefore contrary to Core Strategy Policies SP1, SP2, SP4, and SP5 and the NPPF.”

### **Design, Layout, Scale and Visual Impact**

- 5.21 Core Strategy Policy SP18 seeks to protect (amongst other things) local distinctiveness and Policy SP8 states that proposals should provide an appropriate mix of scale and types of dwellings which reflect the requirements taken from the latest Strategic Housing Market Assessment (SHMA).

- 5.22 Policy SP8 of the Core Strategy states that:

“Proposals for housing must contribute to the creation of mixed communities by ensuring that the types and sizes of dwellings provided reflect the demand and profile of households evidenced from the most recent strategic housing market

assessment and robust housing needs surveys whilst having regard to the existing mix of housing in the locality”.

- 5.23 The scheme proposes a mix of a bungalow and two storey semi-detached properties all 2 bedroom. Reference is also made to the Selby District SHMA within the submitted DAS and advises there is a requirement to create a wide mix of dwellings as “*demand continues to outstrip supply.*”
- 5.24 Although the applicants have not provided specific evidence on whether the proposals accord with Policy SP8, Officers consider that the development of the site for this type of accommodation would add to the mix within the settlement and thus would provide a unit type that is appropriate for the locality and as such a condition should be utilised to ensure that the site developed for this specific mix of dwelling types and sizes. With this approach it is considered that the scheme is in accordance with Policy SP8 of the Core Strategy.
- 5.25 The submitted DAS refers to the the sites position at the “*entrance of the village.*” and the existing built form within the immediate locality which is characterised by a range of house types, plot sizes and materials. Residential development adjacent to the site to the east on Victoria Terrace comprises two storey, terraced properties. Dwellings on Maple Drive, a modern development, having terraced, two and a half storey dwellings.
- 5.26 The accompanying DAS also refers to the Village Design Statement (VDS) and includes examples (photographs) of other properties within the village. The submitted plans show that the proposed houses would be built using similar materials to those found locally and would provide a mix of different house types and thereby providing variety in their appearance. In this respect the proposed form and setting would maintain the current visual character and would be seen within the context of this part of the edge of the village. The approach taken in this application accords with the North Duffield Village Design Statement with a mix of house types fronting the Street in materials and form typical of the locality.
- 5.27 The proposed layout sees the properties being located to the frontage of the site and facing Green Lane, with outdoor amenity space and parking situated to the rear (north west). The layout accounts for the 9m strip and the portion of the site which is situated within Flood Zones 2 and 3 ensuring that the dwellings remain within Flood Zone 1.
- 5.28 In conclusion, it is considered that the proposal is acceptable in design terms with a similar layout pattern to the existing adjacent form of development typical of the village in terms of the siting of the proposed dwellings. These are set back from the road sufficiently to avoid an enclosed street frontage and the layout plan utilises the constraints of the site to its advantage. Parking is less typically to the rear but this maintains a car free frontage and allows the provision of landscaping and a footpath at the site frontage.
- 5.29 Overall in terms of design, layout and scale the scheme is considered acceptable and in keeping with other recent developments in the locality. The scheme is modest in scale and materials would reflect those used on existing properties. On this basis, the proposal is considered to be acceptable and therefore accords with Core Strategy Policies SP18 and SP8 and the NPPF in this regard.

## Residential Amenity

- 5.30 Policy in respect to impacts on neighbour amenity and securing a good standard of residential amenity are provided by Local Plan Policy ENV1 (1) and (4) and Core Strategy Policy SP19. In addition, paragraph 130(f) of the NPPF encourages the creation of places which are safe, inclusive and accessible, promoting well-being *'with a high standard of amenity.'*
- 5.31 There are no properties in the immediate vicinity of the site to the north west, west or south and the closest property to the north is the bungalow 'Kapuni' which would be situated more than 30m from the closest of the proposed dwellings. Kapuni is also separated from the site by a farm track and has intermittent planting at a relatively high level to its facing boundary. In addition, a hedgerow is proposed to be retained and supplemented to the north facing boundary of the application site.
- 5.32 To the south east of the site are a row of seven properties (Victoria Terrace) where the frontages face south and toward Market Weighton Road. A large area of hardstanding provides parking and immediately adjoins the rear (north) of these properties, which results in the amenity space being separated from the dwellings. An established hedgerow runs along the full extent of the side and rear boundaries of the gardens connected to No.1 Victoria Terrace and the rear boundaries of the remaining gardens. There would be no direct views of the site from the rear of this property. The side (west) elevation of No. 1 is the closest of these properties and faces the application site but is blank apart from a first floor window which serves a bathroom and given that there is a minimum distance of 13m between the side elevation Victoria Terrace and the closest property frontage of the proposal, there are no concerns in regards to residential amenity.
- 5.33 Adjoining the rear gardens of Victoria Terrace are a number of relatively new properties which are two and a half storey. The closest being No. 49 Maple Drive. This is located at a distance of approximately 20m from the closest proposed dwelling and is sited in a north west and south east direction. Therefore the distance and position of the existing dwelling, would prevent direct overlooking to or from properties within the proposal site.

### *Noise*

- 5.34 The submitted application includes an Addendum Noise Report which advises that the main source of noise to the site is from the adjacent Market Weighton Road (A163) and that mitigation measures are required to ensure the amenity of future occupants is acceptable.
- 5.35 The report advises that the amenity garden areas of the proposal (based on the original submitted layout), would need some noise mitigation measures to ensure that its noise climate from road traffic fell within generally accepted levels. A heavy-duty close-boarded fence of 1.8 metres in height (solid, no gaps), is calculated to bring garden noise levels below 50 dB(A) during the daytime.
- 5.36 In terms of glazing standard sealed units would provide sufficient noise attenuation to meet the internal noise standard described within BS8233. Windows would however need to remain closed to achieve this, so an alternative means of acoustic ventilation is recommended in noise sensitive rooms (Living Rooms, Dining Rooms and Bedrooms). The distance away and restricted angle of view of the A163 of plots 1 and 2 mean that these do not require alternative ventilation.

- 5.37 Whilst the location of the planned development at North Duffield is close to the A163, the noise measurements and calculations conducted for this report demonstrate that with the incorporation of the noise mitigation features described previously road traffic noise will be reduced to acceptable levels.

#### *Summary*

- 5.39 Given the nature of the development and its relationship to neighbouring residential properties, it would not have a significant adverse impact and an acceptable relationship could be achieved between the existing and proposed development. Furthermore, the mitigation measures referred to in the Noise Report and to be incorporated within the development would ensure that future occupants would be protected from noise disturbance from the A163 which can be controlled via condition. On this basis the proposal is considered to accord with Local Plan Policy ENV1 (1) and (4), Core Strategy Policy SP19 and the advice contained within the NPPF.

#### **Flood Risk & Drainage**

- 5.40 Core Strategy Policy SP15 require proposals to take account of flood risk, drainage and climate change. Criterion d) of Policy SP15 applies in respect of ensuring development is located which avoids flood risk areas.
- 5.41 The majority of the application site is located in Flood Zone 1 (low probability of flooding), which comprises of land assessed as being low risk and having a less than 1:1000 annual probability of flooding. A section of the land to the north west is situated within Flood Zones 2 and 3 and would comprise a 9m wide strip to provide an easement as required by the IDB with none of the proposed dwellings being situated within this area.
- 5.42 The Internal Drainage Board (IDB) have responded to the proposal and their final comments advise that as the development site is currently grassland, the maximum discharge rate normally accepted is at the "greenfield" rate of 1.4 litres per second per hectare. However, given the scale of the site at 0.69 hectares and using the greenfield run-off rates this would equate to a discharge rate of 0.966 litres per second. In addition, the IDB refers to the use of a hydrobrake with a discharge rate of 1 litres per second within the site and the use of a perforated filtration pipe to the watercourse. The IDB advise they would not normally agree to a higher discharge rate than that proposed by the greenfield run off rates but given the specific circumstances, they would accept the discharge rate proposed on this occasion. This is agreed on the basis that the Board can inspect the installation periodically to ensure that the discharge rate of 1 litres per second remains, which would need to be secured by condition.
- 5.43 The Environment Agency have advised that there are no objections to the proposal subject to there being no raising of the existing land levels of the site.

#### *Foul Drainage*

- 5.44 Foul drainage would discharge into the existing mains sewer on Green Lane and Yorkshire Water Services (YWS) have not raised objections but advise conditions be included requiring separate systems for foul and surface water and no piped discharge of surface water until a satisfactory outfall has been provided. In addition

they advise that the submitted details have not been approved for the purposes of adoption or diversion. Should the proposal be approved an informative would be included.

- 5.45 On the basis of the above comments, assessment and that the means of both foul and surface water drainage are provided in accordance with the conditions required by the above consultees, it is considered that the development is capable of a satisfactory provision for both foul and surface water and therefore accords with Core Strategy Policy SP15 and the relevant advice within the NPPF.

### **Highways, Access & Parking**

- 5.46 Policy in respect to highway safety and capacity is provided by SDLP Policies ENV1 (2), T1 and T2 and criterion f) of Core Strategy Policy SP15. The aims of these policies accord with paragraph 108 (b) of the NPPF which states that development should ensure that safe and suitable access can be achieved for all users to a site. In addition paragraph 109 which advises that development should only be refused (on highway grounds) where it would result in an unacceptable impact on highway safety.
- 5.47 There have been many minor changes to the technical details of the proposed access throughout the planning process in order to satisfy the Highway Officer's technical requirements. The main access to this site would be a private drive given that the site now proposes only 5 dwellings and would be maintained as such. The site access would be taken from Green Lane in a similar position to that of the refused scheme under 2019/0759/FUL.
- 5.48 Parking is located to the rear of the site with shared access leading to the parking areas. The submitted Design and Access Statement (DAS) states that the layout avoids frontage parking and "*avoids a car free streetscene,*" as well as ensuring that surveillance is maintained onto Green Lane from the property frontages. It is also considered in encouraging more sustainable development that a condition be added which would require the provision of electric vehicle charging points, which is referred to in Core Strategy Policy 15.
- 5.49 A footpath would be designed to continue to the boundary of the allotments to the south of the site. This would provide safe pedestrian access to the community facility and would run along the frontage of the plots on Green Lane.
- 5.50 In conclusion and on the basis of the favourable comments from the Highway Officer, being subject to conditions relating to parking, turning, access, verge crossing, off-site highway works and Construction Phase Management Plan, the highway specifics are considered to be acceptable and would therefore accord with Local Plan Policies T1 and T2; Core Strategy Policy SP15 and the advice within the NPPF.

### **Landscaping**

- 5.51 Core Strategy Policy SP18 requires that high quality and local distinctiveness of the natural environment will be sustained by '*safeguarding, and where possible, enhancing the natural environment, including the landscape character and setting of areas of acknowledged importance.*'

- 5.52 The proposal includes removal of the existing hedge to the site frontage in order to extend the grass highway verge which would run across the frontage of plots 1 to 4 at the junction of Market Weighton Road and Green Lane. The hedge would however be reinstated but set back further from the highway in order to allow for better visibility at the junction. A native hedgerow with trees interspersed would be planted along a large proportion of this boundary, enabling screening from Market Weighton Road. The southern boundary with the allotments would have a 1.8m high timber fence to provide screening and acoustic insulation from the south. Additional trees would be planted at intervals between the access road and the drainage easement area to the west.
- 5.53 Further low-level planting is proposed to the immediate frontage of the dwellings in order to separate the public and private space. The additional landscaping to the front of the site would soften the built form and add quality to the street scene. An 1800mm high screen wall / fencing is utilised where private garden space meets in order to provide adequate screening for privacy.
- 5.54 The Landscape Architect has advised there are no objections but requires a condition to ensure that all planting is undertaken in the first available planting season following occupation of the dwellings and to be maintained.
- 5.55 On the basis of the above assessment, the proposal is considered to accord with Core Strategy Policy SP18 and the advice within the NPPF.

## **Ecology**

- 5.56 Protected Species include those protected under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration. Relevant policies in respect of nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 of the Core Strategy which accord with paragraph 170 of the NPPF. Point d) of Paragraph 170 (NPPF) recognises the need for the planning system to contribute to and enhance the natural and local environment by recognising the wider benefits of ecosystems and minimising impacts on and providing net gains in relation to biodiversity.
- 5.57 The site comprises a mix of grassland types with dotted areas of scrub, trees and a mature hedgerow which is present to the majority of the boundaries. The application site is not a formal or informal designated protected site for nature conservation; known to support or be in close proximity to any site supporting protected species or any other species of conservation interest. Skipwith Common is, at its nearest point, over 1 km from the application site, with Moses Drain, arable farmland and Cornelius Causeway in between and the Lower Derwent Valley is, at its nearest point, over 1.5 km to the east with the village of North Duffield between.
- 5.58 The Ecology Officer considers the revised ecology report and Landscape and Ecology Management Plan (LEMP) to be acceptable subject to conditions requiring adherence to its mitigation measures, which have now been submitted. They reiterate previous advice that Selby District Council should consider a strategic approach to managing recreational pressure arising from new housing development in settlements surrounding the internationally-designated wildlife sites of Skipwith Common and the Lower Derwent Valley. This is a strategic matter for further consideration through the emerging development plan when considering the level of future development in the area overall.



- 5.59 The Yorkshire Wildlife Trust's final comments concur with the Ecology Officer's response and advise no further comments. In terms of Biodiversity the revised Biodiversity Metric shows a small net gain in terms of area-based habitats but a much more generous increase in linear habitat provision. The Ecologists is satisfied this fulfils the NPPF aspiration to ensure that developments deliver net benefits for nature.
- 5.60 Subject to the inclusion and adherence to the relevant condition, the proposal accords with Policy ENV1(5) (SDLP); Policy SP18 (SDCS) and the advice contained within the NPPF.

### **Contamination/Ground Conditions**

- 5.61 Local Plan Policy ENV2 and criterion k) of Core Strategy Policy SP19 require development which would give rise to or would be affected by unacceptable levels of (amongst other things) contamination or other environmental pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated within new development. Paragraph 178 (a) of the NPPF states that development sites should be suitable for the proposed use taking account of ground conditions and risks arising from unstable land and contamination.
- 5.62 A Phase 1 Preliminary Risk Assessment accompanies the application which advises the survey did not reveal any evidence of made ground or any signs of subsidence or land contamination any significant potential contaminant linkages, so the overall risk is considered to be low.
- 5.63 The Contamination Consultant (CC) has advised that the submitted desk study and site walkover indicate that land contamination is unlikely to be present and that historic maps show that no past industrial activities have been located onsite or within the immediate vicinity. The submitted survey also shows the site to be low risk. The consultant concludes that the site is low risk and that no further investigation is necessary. A condition is recommended to deal with any unexpected contamination.
- 5.64 In conclusion, there are no concerns with regard to contamination and the development is considered to accord with Local Plan Policy ENV2 and criterion k) of Core Strategy Policy SP19, in addition to the NPPF.

### **Archaeology**

- 5.65 Local Plan Policy ENV27 and Core Strategy Policy SP18 (amongst other things) are concerned with the protection of archaeological remains and that the NPPF (para. 194) affords protection for such remains.
- 5.66 The applicants submitted an archaeological geophysical survey. The survey has identified a number of anomalies that may be of archaeological interest; however the results were unclear due to interference in the data from nearby metal objects (fences etc). Given the known archaeological resource of the surrounding area, consisting of extensive later prehistoric and Roman landscapes and artifact scatters, it is recommended that a programme of archaeological observation and recording takes place during the development. A condition is therefore recommended.

5.67 In conclusion and based on the PA's comments, there are no outstanding issues or concerns in respect of archaeological implications (subject to the inclusion of the requisite condition), of the proposal and the proposed development would therefore comply with Local Plan Policy ENV27 and Core Strategy Policy SP18 and the provisions of the NPPF.

### **Affordable Housing**

5.68 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) sets 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.

5.69 Whilst the Policy seeks financial contributions from sites below the threshold of 10 dwellings, the NPPF is a material consideration and states at Paragraph 63 that provision of affordable housing should not be sought for residential developments which are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). In respect of sites where the yield is to be less than 10 units, a financial contribution is identified as being appropriate. Policy SP9 has in this regard been superseded by the Ministerial Statement and national advice. Tariff style charges such as that identified in Policy SP9 can no longer be applied. The LPA has confirmed that this approach will be applied.

5.70 The application is in full with a site area of more than 0.5 ha (0.69 ha) and the proposed number of dwellings is below 10 and the site could not reasonably accommodate 10 or more dwellings due to the constraints from Flood Zones 2 and 3 to the north western boundary. Furthermore, the proposal is not considered to be major development as defined in Annex 2 of the NPPF.

5.71 It is therefore considered that having had regard to Policy SP9 of the Core Strategy, the Affordable Housing SPD and the advice contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

### **Recreational Open Space**

5.72 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. There is a requirement to provide 60sqm per dwelling which, in this case, would equate to 300sqm. The submitted layout plan does not incorporate any on-site recreational open space as part of the development.

5.73 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. Discussion with the Parish Council would be needed to identify which of the two would be of the most benefit to the village. 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.

5.74 In this instance a commuted sum would be required and depending upon the requirements of the Parish Council. Payment would need to be secured through the applicant entering into a Section 106 Agreement which would be required to be in place prior to the issuing of any planning permission.

### **Waste and Recycling**

5.75 For developments of 4 or more dwellings developers must provide waste and recycling provision at their own cost and as such should the application be approved a condition could be imposed to secure a scheme for the provision of waste and recycling equipment. The Waste & Recycling Officer queried whether the drive would be private and advised on this basis that the position of the bin presentation points would be acceptable. The waste and recycling contribution would be provided under the Section 106/Unilateral Agreement in accordance with Developer Contributions.

### **Minerals and Waste**

5.76 The application site is located within an area identified for the safeguarding of mineral resources, specifically Brick Clay and sand and gravel. Relevant policies in relation to the NYCC Minerals and Waste Plan 2022 (MWP) 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 Area to which Policy D13 applies.

5.77 The proposals being on a green field site for 5 dwellings, do not fall within the list of types of developments which are exempt from consideration and consultation set out under para 8.55 of the MWP. Moreover, it is adjacent to a large open field part of the wider open countryside which is covered by the safeguarding policy. Therefore, in accordance with Policy S02 of the MWP, applications for development other than mineral extraction in Safeguarded Surface Minerals Resource areas should include an assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development. Following receipt of such an assessment from the applicant, it would be necessary for consultation with the NYCC Minerals Authority to take place.

5.78 Given the small scale of the development it is likely that it would be either unfeasible or unviable to extract the mineral beneath the site. Moreover, in allowing the development it would be unlikely to impact on wider safeguarding of the mineral area identified which covers a significantly wide area. However, should members be minded to approve this scheme, then deferral would be necessary to allow time for an assessment and consultation to take place in accordance with Policy S02 of the MWP.

5.79 The NYCC Minerals and Waste Plan identifies the site as within a Coal Mining Development Area to which Policy D13 applies. However, the Coal Authority Interactive Map identifies North Duffield as falling within a Coal Mine Reporting Area

for property transactions and conveyance and does not identify the site within a high risk area.

- 5.80 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.

### **Other Matters**

- 5.81 Local Plan Policy ENV1 and the Developer Contributions Supplementary Planning Document set out the criteria for when contributions towards education and healthcare are required. Given the small scale of the application, it does not trigger any of the contributions listed.

## **6. CONCLUSION**

- 6.1 The application site is outside the development limit of a Development Service Village (DSV) and would not fall within any of the categories of acceptable forms of development set out in Policy SP2 A(c) and the development of the site would conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth. The proposed development would thus be contrary to Core Strategy Policies SP1 and Policy SP2 A(c). As such, development should be refused unless material considerations indicate otherwise.
- 6.2 Officers consider there are no material considerations to justify the departure, as the development would encroach beyond the boundary of the adjacent built form into adjacent countryside and the development of the site would be harmful to the character and appearance of the area and the setting of North Duffield. Furthermore, the previous permissions on this site were approved when the Council could not demonstrate a 5-year housing land supply and have now lapsed. A similar application for development of 5 dwellings on this site was recently dismissed on appeal and the circumstances have not materially changed since that decision to warrant reconsideration.

## **7. RECOMMENDATION**

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

01. The proposed housing development is outside the development limits of North Duffield and therefore in the open countryside, in conflict with Local Plan Policy and there are no material considerations that sufficiently outweigh the conflict with the Development Plan. The proposal is therefore contrary to Core Strategy Policies SP1, SP2, SP4, and SP5 and the NPPF.
02. The site lies outside the established development limits of North Duffield and due to its size, position and open nature would not represent a natural rounding off or provide new defensible boundaries. It would expand the settlement southwards increasing the built form at the edge of the village creating a block of development encroaching into the rural open countryside location. The proposal would be an incongruous feature dominating the southern approach to the

village and creating a harsh new urban edge abutting the allotment site when viewed from the south detracting from the current open rural character and appearance of the area. It would conflict with local and national policies that seek to protect the countryside. The scheme would therefore result in a development which would have a significant and demonstrably harmful impact on the character, form and setting of the village contrary to the aims of Policies SP1, SP18 and SP19 of the SDCSLP and ENV 1 of the SDLP and with 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 2021/1353/FUL and associated documents.**

**Contact Officer:** Fiona Ellwood (Principal Planning Officer)

**Appendices:** None