

# SELBY



DISTRICT COUNCIL



**Report Reference Number 2018/0260/FUL**

**Agenda Item No: 6.4**

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**To: Planning Committee**  
**Date: 5 September 2018**  
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APPLICATION NUMBER:	2018/0260/FUL	PARISH:	Bolton Percy Parish Council
APPLICANT:	Mr Robert Penty	VALID DATE: EXPIRY DATE:	8th March 2018 3rd May 2018
PROPOSAL:	Proposed erection of a four bedroom dwelling and garage		
LOCATION:	Low Farm Low Farm Road Bolton Percy York YO23 7AH		
RECOMMENDATION:	REFUSAL		

This application has been brought before Planning Committee at the discretion of the Head of Planning due to the issues arising out of public responses. The application was deferred from the Committee Meeting of May due to queries raised by an objector.

## **1. Introduction and background**

### **The Site**

- 1.1 The application site lies outside the development limits of Bolton Percy, a secondary village as identified in the Core Strategy, and is therefore located in the open countryside. The village development limits run through the centre of the farm site with this application sitting just outside but adjoining the boundary. It is within the Bolton Percy Conservation Area and is Flood Zone 1.
- 1.2 The site, which has frontage to Old Road, is part of the curtilage of the original farm complex known as Low Farm on the North East side of the village. It is bounded to the north west by Old Road, to the south by the plot of a new dwelling under construction and to the north by open field.

### **The Proposal**

- 1.3 The proposal is for a detached three bedroom dwelling with an attached single garage. Access is from Low Farm Road with an extension of the footpath across the site frontage.

### **Planning History**

- 1.4 The following historical applications are considered to be relevant to the determination of this application.
  - 2008/0418/CON (NOREQ - 10.04.2008) Conservation Area Consent for the demolition of grain store.
  - 2010/0828/FUL (PER - 18.11.2010) Conversion of redundant agricultural buildings to two dwellings including the addition of a two storey and a single storey extension. All the pre-commencement conditions have been discharged for the 2010 conversion permission were discharged.
  - 2013/0685/DPC (COND - 08.08.2013) Discharge of conditions 2 (materials), 4 (hard landscaping), 6 (landscaping), 7 (contamination investigation and risk assessment), 15 (site enclosure), 16 (trees) and 17 (demolition) of approval 2010/0828/FUL (8/78/100B/PA) for conversion of redundant agricultural buildings to two dwellings including the addition of a two storey and a single storey extension.
  - 2013/1046/DPC (COND - 22.10.2013) Discharge of conditions 7 (contamination) and 8 (remediation) of approval 2010/0828/FUL (8/78/100B/PA) for conversion of redundant agricultural buildings to 2 No dwellings including the addition of a two storey and a single storey extension.
  - 2013/1083/DPC (COND - 12.11.2013) Discharge of condition 9 (Remediation Scheme) of approval
  - 2012/0553/COU (PER - 12.02.2013) Change of use of part of former farmyard to garden land. The permission was subject to a condition requiring permission for any means of enclosure.

- 2015/0683/FUL (PER - 07.09.2016) Retention of an existing dwelling, the alteration of an existing agricultural building with previous planning permission for conversion to 2No. Dwellings with garden land and the erection of 1 No. dwelling. (This application was originally for 2 additional dwellings but was reduced to just one new build on the part of the site within the development limits).
- 2017/0118/FUL (REF - 31.01.2018) Erection of a four bedroom dwelling and garage
- 2017/0978/DOC (PCO - ) Discharge of conditions 02 (Materials), 03 (Ecology), 05 (Landscaping), 07 (Site Enclosure), 08 (works around trees), 09 (Ground Works - Surface Water), 10 (Ground Works - Highways), 11 (Construction Method Statement) of approval 2015/0683/FUL for retention of an existing dwelling, the alteration of an existing agricultural building with previous planning permission for conversion to 2No. dwellings with garden land and the erection of 2No. dwellings

## **2 Consultation and Publicity**

- 2.1 County Ecologist - The application is accompanied by an Ecological Impact Assessment (MAB - March 2018). Satisfied with the assessment in relation to nearby SINCS, SSSI's and wildlife. Conditions recommended in relation to new lighting and bats, hedgerow and demolition removal not to be undertaken during the nesting season and pre-commencement checks for barn owls.
- 2.2 Historic England – No objection on heritage grounds.

There is some benefit in removing the existing large agricultural shed and allowing greater views through to the nineteenth-century farm buildings behind. The large silos which stood at the front of the site have been demolished and the condition of the large timber shed has deteriorated in recent years. On a recent visit to Bolton Percy HE noted that two detached dwellings have been constructed opposite the site. HE therefore would not have any objection to the removal of the existing shed structure and replacement with a dwelling.

HE defer to the advice of your authority's specialist conservation and design advisers regarding the detail of the design of the dwellings. In our previous responses HE highlighted the importance of boundary treatments and welcomed the proposal to introduce hedgerows in appropriate species. Boundary treatments are not detailed on the plans submitted with the application and HE recommend this is clarified prior to determination of the application.

### 2.3 NYCC Highways

No Objections subject to conditions and Informatives.

### 2.4 Yorkshire Water

Based on the information submitted, no comments are required from Yorkshire Water.

## 2.5 Ainsty (2008) Internal Drainage Board

The Board does have assets adjacent to the site in the form of various watercourses around the village; these watercourses are known to be subject to high flows during storm events. Detailed comments and conditions recommended relating to soakaways to be included if consent is granted.

## 2.6 Conservation Officer – No comments received

Comments made on previous identical application (2017/0118/FUL) repeated below:

The previous proposed new development appeared to lack an identity as it was the scale of a house but with elements of a barn and did not reflect the farmhouse approach which they intended. The revised plan 303 shows a proposed dwelling which regular proportions and single storey elements which break up the bulk and massing of a new build property and provide variety and interest in its appearance. This approach is in line with the prevailing character of the village and much more appropriate.

## 2.7 Selby District Council - Urban Design Team

No comments received but comments on previous identical application repeated below:

Agree with the Conservation Officer that the scheme has improved substantially and now appears as a much more contextual form of building that should help to preserve and enhance the character of the village and associated heritage assets in light of its sensitive location to the village periphery. Recommends conditions of the architectural details.

## 2.8 Contamination Consultant

Content of applicants Phase 1 report accepted except in respect to gas risk which hasn't assessed the potential for possible burial of animal carcasses. Agree that further asbestos assessment required. Standard Conditions recommended

## 2.8 Parish Council

Re-iterate comments on previous scheme.

The only amendments seems to be car parking space. This does not overcome the problems with siting on Low Farm Road of the property, lack of parking for visitors and deliveries, plus sewage/surface water problems, outside the village envelope, velux windows been shown but no staircase etc.

1. Outside village development limits.
2. Secondary village in the Core Strategy.
3. Seven new houses in either completed/construction stage at the moment.
4. Situated on narrow single track road, no footpath - flooded during past few days.
5. The map supplied Fig 1 is out of date. The farm buildings are now under development.

6. Two new very large 5 bedroom properties have been completed recently in the paddock opposite the site. (Also not shown on map).
7. The silos are being replaced with converted barns and one already granted 4 bedroom house.
8. Sited in the Conservation Area.

Concern that Selby District Council can consider this application again, when it has already been refused and it must be refused again.

### **Publicity**

2.9 The site was advertised by Press Notice, Site Notice and Neighbour Notification.

### 2.10 Objections

At the time of writing this report letters of objection have been received from 12 individuals raising the following issues:

- Overdevelopment
- Not infill-outside development limits
- Inappropriate extension of a secondary village
- Adverse impact on CA
- Off street-parking inadequate
- Building position inaccurate
- Traffic problems
- Existing infrastructure overloaded
- Misleading why a 2<sup>nd</sup> application and not an appeal
- Process manipulation
- Local school over-subscribed
- Supporters are from York and have been canvassed by the applicant – no investment in preserving this village
- Claims that the support letters are not genuine and have been falsified.
- Refusal should be under delegated powers and the applicant should not be given the opportunity to get their way with this application through supplying dodgy letters and manipulating the system.
- Comments that the application is materially misleading and cannot be lawfully approved
- Deliberately running down the site and the neglect of the Heritage Asset so that re-development is seen as an improvement.
- Farmyard boundary was extended recently to include more land
- Queries raised about the land ownership within the red line and the blue line area and consequently the ownership certificates are incorrect making this an invalid application.
- Contamination Assessment out of date and should not be relied on.
- The site has been a working farmyard with beef suckler cows and calves as recent as spring 2017
- Other Questions on the application forms have provided false information in relation to hedgerows and watercourses.
- How the development will be carried out is material to the decision on whether to grant planning permission.

- The application does not meet the national minimum validation requirements because it does not show all the land necessary to carry out the proposed development. (reference made to the site across the road where the public highway was used as a loading zone and verges for parking)
- Suggestions that the development can't be contained within the small site and would result in violations of the highways acts, and potential harm to ecological and other interests during the development phase.
- The Ecological impacts will be wider than just the application site area and this should be taking into consideration
- Detailed queries raised about the construction of this scheme and the impact on local residents.
- Public interest is at risk
- Application forms say there are no new public rights of way to be provided which is false because a public footpath is to be provided along the site frontage.
- Providing such a footpath is unsustainable development (impermeable path, loss of hedgerow, leads nowhere)
- Construction Management Plan is urged due to the potential for a number of issues causing nuisance.
- Potential for lorries blocking main access into the village
- Queries the validity of the Ecology Assessment and the County Ecologists comments and consider that the full extent of land needed to carry out the development should be considered in their assessment.
- The EA maps are not up to date and don't account for new development that has taken place. Surface water maps show land to the west classed as medium high risk before the houses were built and a high risk area at the access to this site. Yorkshire Water are only commenting that the site can connect to the local sewer and the IDB are only saying there is no risk if the claims by the applicant can be achieved.
- No evidence to support the applicants claim that the scheme will reduce the flow of water into the existing drains
- LPA not assessing the evidence submitted on drainage.
- Implications of Supreme Court decision on Suffolk Coastal case in interpreting relevant policies for the supply of housing.
- Reference to planning history and the starting point should be a site with agricultural buildings.
- Not previously developed land because it's Agricultural Buildings and land.
- Contrary to Planning Policies SP2 and SP10 of the Core Strategy
- Ecological Survey inadequate and further survey work is needed as there is a reasonable likelihood of protected species being present
- No affordable housing is proposed.
- Inconsistencies and errors in the previous decisions.

## 2.11 Supports

In addition 16 letters of support have been received (at the time of writing this report) which it should be noted are mainly from residents of York, with 3 being from Appleton Roebuck and one from Bolton Percy itself. Main comments raised are as follows;

- Sympathetic addition which will enhance the Conservation Area
- 2m wide footpath to site frontage is an improvement

- Will reduce water flow to drains with new water attenuation and therefore decrease flood risk
- Sewage issues are only due to failure by Yorkshire Water
- Good use of farm buildings (was a working farm) which are an eyesore
- Not virgin land but Brownfield
- Complaints by residents helped to curtail the sites use as a farm base. Residential use would be appropriate next to the rest of the sites new residential use
- Part Q of the GPDO permits change of use to residential anyway
- BP does not have a village design statement like Appleton Roebuck And is therefore open to interpretations

### **3 SITE CONSTRAINTS AND POLICY CONTEXT**

- 3.1 The site is located outside the defined development limits of Bolton Percy and is therefore defined as open countryside by the Local Plan. The village development limits run through the centre of the farm site with this application sitting just outside but adjoining the boundary. It is within the Bolton Percy Conservation Area and is Flood Zone 1.
- 3.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 3.3 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy

#### **National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)**

- 3.4 The National Planning Policy Framework (July 2018) replaces the first NPPF published in March 2012. The Framework does not change the status of an up to date development plan and where an application conflicts with such a plan, permission should not usually be granted (paragraph 12). This application has been considered against the 2018 NPPF.

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

- 3.5 The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development  
 SP2 - Spatial Development Strategy  
 SP4 - Management of Residential Development in Settlements  
 SP5 - The Scale and Distribution of Housing  
 SP9 - Affordable Housing

SP15 - Sustainable Development and Climate Change  
SP16- Improving Resource Efficiency  
SP18 - Protecting and Enhancing the Environment  
SP19 - Design Quality

### **Selby District Local Plan**

- 3.6 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, the guidance in paragraphs 212 and 213 of the NPPF noting that the NPPF should be taken into account in determining applications, and that existing policies should not be considered out of date simply because they were adopted prior to the publication of the NPPF and that due weight should be given to them according to their degree of consistency with the Framework, so the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.
- 3.7 The relevant Selby District Local Plan Policies are:
- ENV1 - Control of Development
  - ENV2 - Environmental Pollution and Contaminated Land
  - T1 - Development in Relation to Highway
  - T2 - Access to Roads

### **Other Policies and Guidance**

- 3.8 Affordable Housing Supplementary Planning Document  
Developer Contributions Supplementary Planning Document  
Draft Selby District Strategic Housing Market Assessment – June 2015

## **4 Appraisal**

### **Key Issues**

- 4.1 The main issues to be taken into account when assessing this application are:
- a) The Principle of the Development
  - b) Impact on the Character and form of the village and the locality
  - c) Heritage Assets
  - b) Highway Safety conditions
  - c) Residential Amenity
  - d) Flood risk, Drainage and Climate change
  - e) Nature Conservation
  - f) Land Contamination
  - g) Affordable Housing
  - h) Other Matters

### **The Principle of the Development**

- 4.2 Policy SP1 of the Selby District Core Strategy Local Plan (2013) 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.



- 4.4 Policy SP2 identifies Bolton Percy as being a Secondary Village and states that limited amounts of residential development may be absorbed inside its development limits where it will enhance or maintain the vitality of rural communities. However, the application site lies outside the defined development limits of Bolton Percy. Policy SP2A(c) states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.
- 4.5 The proposals to develop this land for residential purposes are contrary to policy SP2A(c) of the CS and should be refused unless material circumstances indicate otherwise.
- 4.6 The Council have a five year housing land supply. This is not by itself sufficient reason in itself for refusing a planning application. The broad implications 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.
- 4.7 Notwithstanding the above the site is outside the development limits of Bolton Percy which is a Secondary village, thus being one of the smallest least sustainable settlements in the district. Bolton Percy was too small to include in the Core Strategy Background Paper No5 which assessed the relative sustainability of rural settlements by indicators such as settlement size, basic local services, accessibility and local employment. It is considered to be one of the smaller more remote and least sustainable settlements in the district. It has none of the basic key local services such as a shop, school, post office or doctor's surgery. Although there is a bus service to York, future occupants of the proposed new dwelling would most likely be mainly reliant on car use.
- 4.8 It is noted that the applicants have made reference to an appeal decision at Biggin, a smaller secondary settlement for two dwellings which was allowed. However, this is only one appeal decision and a number of recent appeal decisions for dwellings outside Secondary Villages have been dismissed on the basis of sustainability and accessibility to services, facilities and employment.
- 4.9 In terms of Previous Levels of Growth and the Scale of the Proposal it should also be noted that SP2 of the CS does not require Secondary Villages to accommodate additional growth through allocations. Core Strategy Policy SP5 designates levels of growth to settlements based on their infrastructure capacity and sustainability. The scale of this individual proposal, at 1 dwelling, is not considered to be inappropriate to the size and role of a settlement designated as a Secondary Village, when considered in isolation. However, Secondary Villages as a whole have already exceeded their minimum dwelling target set by Policy SP5. To date, Bolton Percy has seen 4 (gross) dwellings built in the settlement since the start of the Plan Period (4 net) in April 2011 and has extant gross approvals for 5 dwellings (5 net), giving a gross total of 9 dwellings (9 net).

- 4.10 When assessing the impacts of a housing scheme the effects on the settlements character, infrastructure capacity (including schools, healthcare and transport) and sustainability must also be considered. Given the limited services and facilities in the village, its isolated location and that its one of the least sustainable settlements in the district, there are insufficient justification on these grounds to set aside Policy SP2 in this case.

### **Design and Impact on the Character of the Area**

- 4.13 Although the proposal would extend development beyond the development boundary, in this case there is a distinctive change in character between the site and the open fields beyond. The application site is just outside but adjoining the development boundary. It is part of a farm site which already has had planning permission as part of the overall site for conversion of the farm buildings. This site forms part of the redline area of an approved scheme for conversions and new build which has been started. Visually the site is associated with the farm buildings and has physical boundaries of existing fencing separating it from the surrounding adjoining fields. The site contains a large modern corrugated farm building with a smaller open fronted shed and hard standing. These are in a dilapidated and run down condition. Beyond the site to the north the land is open undeveloped agricultural field.
- 4.14 This application site also previously had a separate permission for use as garden land. No permitted development restrictions were imposed on the permission. Although this permission has expired, the site was incorporated into the subsequent application reference 2015/0683/FUL as part of the red line and residential area.
- 4.15 The proposed scheme would bring some visual improvement to the northern end of the village through the removal of unsightly farm buildings and replacement with a more conventional cottage style dwelling with varying roof form and subsidiary elevations. It has been designed to appear as if it were a dwelling originally associated with the adjacent original brick barn complex. As such the approach to the village would be a visual improvement replacing the dominance of a new modern detached standard dwelling (approved under ref 2015/0683/FUL and currently under construction) with an open side garden with the proposed cottage style dwelling designed in the local vernacular. This proposed dwelling would be seen alongside the converted barns and would be visible as the first buildings at the north end of the village.
- 4.16 The proposed dwelling will continue the building line formed by the recently permitted adjacent new dwelling. The development of this site would therefore be a rounding off to the existing development and could form a new distinctive and defensible boundary edge to the settlement. As such there would be no impact on the character and appearance of the open land around the village. In terms of landscaping the plans indicate natural field hedging to the boundaries. This would ensure a soft natural new edge to this end of the village. Permitted development restrictions could be imposed to ensure the garden to the side does not contain any outbuildings which could detract from the site.
- 4.17 Having had regard to all of the above elements the scheme has been appropriately designed so as to ensure that there would be a positive impact on the character of the area and the locality in accordance with Policies ENV1 (1) and (4) and ENV15

of the Local Plan and Policies SP18 and SP19 of the Core Strategy Core Strategy and the NPPF.

### **Impact on the Heritage Assets**

- 4.18 In accordance with the NPPF paragraph 189 the Local Planning Authorities require the applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The Planning (Listed Building and Conservation Areas) Act 1990 requires, with respect to any buildings or land in a Conservation Area that special attention be paid to the desirability of preserving or enhancing the character or appearance of the area.
- 4.19 The site lies within the Bolton Percy Conservation area which extends to include the whole of the Low Farm site. The applicants Heritage Statement indicates that the plot currently includes a large timber framed barn which will be removed to leave a flat, level and largely open plot with a perimeter defined by a timber post and rail fence, which will be reinforced and enhanced with the new perimeter hedges of native species, hawthorn, blackthorn, holly and hazel to provide privacy when mature.
- 4.20 The village of Bolton Percy has a very mixed collection of dwellings of many styles and eras and as such the existing character and appearance of the conservation area in the village is quite indistinct, especially with the larger more modern dwellings recently built and characterised by the adjacent dwelling and those opposite the site. The architect has produced a more conventional cottage appearance. The additions on the three subsidiary elevations appear organic as historically, over time cottages were extended. The dwelling now has a simple design appropriate to its location. Materials and details of the boundary treatment and landscaping can be secured by condition.
- 4.21 Overall the removal of modern dilapidated structures would improve the appearance of the site. Views of the rear of the old brick farm buildings would be maintained and the dwelling design would appear more like a farm house associated with the traditional farm buildings.
- 4.22 The site is located on a visibly prominent site at the northern entrance to the village. This proposal would create an attractive development at this end of the village encompassing the new dwellings and the converted farm buildings with a new indigenous hedgerow to form a softened edge to the village. As such the character and appearance of this part of the Conservation Area would be enhanced. The comments of Historic England, the Conservation Officer and the Urban Design officer support this view that the development proposed would have a positive impact on the character and appearance of the Conservation Area.
- 4.23 Having had regard to the above comments and taking into account Paragraph 197 of the NPPF, it is considered that the proposals are considered acceptable with respect to the impact on designated and non-designated heritage assets in accordance with Policies ENV1 of the Selby Local Plan, Policies SP18 and SP19 of the Selby Core Strategy and the NPPF.

### **Highway Safety conditions**

- 4.24 The proposed dwelling would have an access directly onto Old Road, with the footpath extended across the front of the site.
- 4.25 On the recently approved scheme 2015/0683/FUL improvements were sought and the developer has agreed, to provide a new footway linking the site. This will encourage walking and provide safer access to and from the site for pedestrians. The plans for this dwelling clearly indicate this provision would be continued across the site frontage. In respect of parking provision, an appropriate level of parking provision can be achieved within the scheme in accordance with the required standards.
- 4.26 The concerns of local residents in relation to parking, service vehicles and deliveries, footways and road safety are noted. However, the Local Highway Authority is satisfied that the scheme is acceptable subject to the conditions imposed under section 3 of this report.
- 4.27 The scheme provides a safe means of access to the dwelling with adequate parking. It is therefore considered to be acceptable and in accordance with policies ENV1(2), T1 and T2 of the Local Plan, Policy SP19 of the Core Strategy and Paragraph 105 of the NPPF with respect to the impacts on the highway network subject to conditions.

### **Residential Amenity**

- 4.28 The nearest dwellings are the existing Farm House already on the site, together with the approved new house on the adjoining plot and the traditional farm buildings which have consent for conversion. 2 other semi-detached dwellings front the un-adopted side lane opposite the site. In addition, new dwellings are under construction on the opposite side of Old Road.
- 4.29 The design of the scheme ensures that no significant detriment would be caused through overlooking, overshadowing or creating an oppressive outlook on either the future residents of the proposed dwellings or the occupiers of adjacent properties. Adequate distances exist between the buildings and together with the arrangement of dwellings with private garden areas to the rear the scheme is considered acceptable.
- 4.30 Therefore the proposal would not cause a detrimental impact on the residential amenities of either existing dwellings and an adequate standard of amenity can be provided for future occupants in accordance with Policy ENV 1 (1) of the Local Plan and the NPPF

### **Flood risk, Drainage and Climate change**

- 4.31 The application site is located in Flood Zone 1 (low probability of flooding) and as such it is not at risk from flooding. In respect of surface water run-off drainage it is proposed for source control of run-off via infiltration systems to a soakaway. Foul water would be disposed of via the existing main sewer.
- 4.32 The concerns of the Parish Council and Local Residents in relation to problems with drainage are noted. However, both the Water Authority and the Drainage Board support the scheme subject to conditions. The applicant has worked with the drainage board towards a solution and they are now satisfied that the applicant has

a clear methodology for sustainable disposal of surface water. The applicant has clarified the intention to discharge into the watercourse using the existing facilities, and will attenuate the discharge rate to 70% of the existing. A condition can be imposed to make this a requirement

- 4.33 In respect of energy efficiency, renewable materials will be utilised as far as possible and solar panels will be considered in order to reduce the reliance on non-renewable energy sources. In addition the dwellings would be constructed to Code for Sustainable Homes Level 3 with appropriate glazing and insulation required to meet this standard. As such the proposals will satisfy Policies SP15 and SP16 of the Core Strategy.
- 4.34 Therefore it is not considered the proposed development would have a significant impact on flood risk, drainage and the sewerage system. Having had regard to the above, subject to the inclusion of conditions the proposed scheme is therefore considered acceptable in accordance with Policy ENV1(3), Policies SP15 and SP16 of the Core Strategy and the NPPF with respect to flood risk, drainage and climate change, subject to attached conditions.

### **Impact on Nature Conservation and Protected Species**

- 4.35 Protected Species are protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of a protected species is a material planning consideration.
- 4.36 The Ecological Appraisal submitted confirms that there are no notable or protected habitats on site. There were no signs of use by protected species nor did the site offer suitable habitat for any. The site consists of bare ground, a section of species-poor hawthorn hedge, a small strip of improved grassland, and an open-sided barn. The barn offers no bat roosting potential and no further bat survey work is required. A barn owl has previously used the barn as an occasional feeding roost site, but there is no evidence of recent usage. A permanent internal barn owl nest box is being provided within a building adjacent to the site, which is subject to recent planning approval and condition. There would be loss of nesting habitat in the agricultural building and there could be risk of disturbance to nesting birds if hedges or building removal takes place in the nesting season or if active nests are present. However this can be controlled through a suitable planning condition. There are local records for great crested newt (GCN) from Bolton Percy. However, due to the fact that the development site is within an active farm yard, and there is an absence of suitable GCN habitat on site, presence/absence surveys are not required.
- 4.37 Concerns have been raised by objectors on the scope of the ecological assessments and on the wider impact of the proposals beyond the red line area. This was discussed with the County Ecologist who commented on the objections that;
- Wider impacts may be of concern and it would be useful to have a response from the applicant in terms of what impacts may occur outside of the red line boundary and they should ask their ecologists to undertake an impact assessment for these areas.
  - Timing of the ecology appraisal – both surveys for this site were undertaken outside of the optimal window for a Phase 1 habitat survey – however, given the

habitats present within the red line boundary and the features being assessed for protected species this is not considered to limit the conclusion of the assessment.

- GCN surveys and assessment – the assessment undertaken for GCN is considered appropriate and proportionate for the scale and location of the development. Notwithstanding the above comment regarding impacts outside the red line boundary it is considered that the development would not impact upon any ponds within the local area and the habitats found on site are of low value for GCN. It is therefore considered in accordance with the Habitat Regulations that the development as proposed would not have an impact upon the favourable conservation status of the species. The ecology report indicates that there are limited features on site which have the potential to support GCN, as such it is considered low risk that GCN could be found during the construction works. If found on site, harm to GCN during construction could be minimised by providing an informative within any permission granted.
- Water voles – the red line boundary of the site does not include habitat suitable for supporting water vole and there is no watercourse in the immediate surroundings which would be indirectly impacted – however as noted above impacts outside the red line boundary should consider whether the water course along the road and to the north of the site would be affected.

4.38 The applicant has confirmed that the only work outside the site would be the provision of services. There would be no disturbance to the open land to the north. The land to the south and east is currently a construction site for the barn conversions and additional dwelling. In terms of services, the Yorkshire Water pipe runs down the road fronting the site to the west and it is expected that the site would connect to that. The main foul drain pipe runs across the front of the site and the site would connect to that. In terms of rainwater, the discharge of the attenuation scheme is expected to be to the existing water courses which front the site. Similarly electricity would be connected by running across the frontage of the southern corner of the construction site to the south. As such the development would have little impact outside the red line site other than in front to the west on the street to connect to the various services.

4.39 In the light of the above it is considered that the proposal would accord with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation.

### **Land Contamination**

4.40 A Phase 1 Contamination Report was submitted as part of the previous planning application for the majority of the site and was the subject of a planning condition which was discharged as part of the commencement of the previous permission. Although a contamination assessment is not an essential requirement for single dwelling applications, an updated Phase 1 report was requested and supplied by the applicant.

4.41 The Councils Contamination Consultant comments that the Phase 1 report provides a good overview of the site's history, its setting and its potential to be affected by contamination. It is recommended that gas monitoring is carried out as part of future site investigation and that further asbestos assessment is required at the site due to proposed future residential use. Standard conditions can be imposed to secure the necessary investigation, remediation and mitigation.

As such the proposals are therefore acceptable with respect to contamination in accordance with Policy ENV2 of the Selby Local Plan and Policy SP19 of the Selby Core Strategy.

### **Affordable Housing**

- 4.42 Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District.
- 4.43 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.
- 4.44 The objection on the grounds of no affordable housing contribution is noted. However, in the context of the recent Court of Appeal Judgement in relation to the West Berkshire Case the Council is no longer able to seek a contribution for Affordable Housing under SP9 of the Core Strategy and the Affordable Housing SPD. The proposal is contrary to the provisions of the Development Plan but there are material considerations – the High Court decision on the West Berkshire case - which would justify approving the application without the need to secure an affordable housing contribution. The proposed legal agreement is therefore no longer required.
- 4.45 The proposed development, although contrary to Policy SP9 of the Core Strategy is considered acceptable without an Affordable Housing contribution.

### **Other Matters arising from letters of response**

- 4.46 Queries were raised about land ownership of the adjoining barn conversion site and of a strip of land on the site frontage which links to the highway. Amended plans have been received removing the adjoining site from the 'blue' line area since this has now been sold. There were suggestions that this was misleading and the application was not lawful. However, the blue line area was based on the plans submitted on the preceding planning application before the site was sold and was a simple error on behalf of the applicant which has now been corrected. The applicant has also now verified the land ownership of the site frontage and therefore the certificates of ownership submitted with the application are correct.
- 4.47 In respect of the wider implications for ecology and drainage beyond the application site area, it is normal for the wider implications of the development to be considered by the Council and consultees. It is not necessary or reasonable to expect an applicant to include land beyond the site area, outside of their ownership to be included within the red line on the grounds that the ecological or drainage impacts are more extensive than the site area itself. The red line plan should encompass the

land for which planning permission is sought. It is accepted that during construction activities may go beyond the red line site. Moreover, Officers are satisfied that the wider implications of the impact of the development have been taken into consideration and assessed by consultees. Objectors refer to comments by the applicant about the proximity of watercourses being false and raise concerns about flooding. The problems within Bolton Percy are acknowledged. However, the IDB raise not objections to this proposal subject to conditions. It would not be reasonable to require improvements to the local systems from this development not would it be reasonable to withhold planning permission if this development would not exacerbate or increase those existing drainage problems.

- 4.48 Letters of support suggest that the agricultural building could be converted under Permitted Development Rights under the GPDO 2015, Schedule 2, Part 3, Class Q and this should be a fallback position which is a material consideration. However, the PD Rights cannot be engaged due to the building being in the Conservation Area.

## **5 CONCLUSION**

- 5.2 Having assessed the proposals against the relevant policies, it is considered that an appropriate layout, scale, appearance, landscaping and access could be achieved for the proposals to be acceptable in respect of the impact on the character and appearance of the area, impact on residential amenity and impact on highway safety. Furthermore, the proposals are considered to be acceptable in respect of Historic Assets, flood risk, drainage and climate change, nature conservation and protected species, land contamination.
- 5.3 Given that the site is outside the development limit of a Secondary Village it would not fall within any of the categories of development set out in Policy SP2 (c). It therefore conflicts with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth. Moreover, the proposed development would not amount to a sustainable form of development and would thus be contrary to Policy SP1 and Policy SP2A(c) of the Core Strategy. The application should therefore be refused unless material considerations indicate otherwise.
- 5.4 On balance, although there would be some positive impact on the Conservation Area, and no harm to the character or appearance of the area is identified, this is not considered to outweigh the conflict with Policies SP1 and SP2(A)(c) of the Core Strategy and it is concluded that the proposals would be unacceptable.

## **6 Legal Issues**

### **6.1 Planning Acts**

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

### **6.2 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.



### 6.3 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.

### **Financial Issues**

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

## **7 Recommendation**

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

01 There are already extant approvals for a total of 9 dwellings and capacity for further residential development already exists in the village Bolton Percy, a settlement, which is secondary Village in the Core Strategy. The expansion of the village beyond the development limits would undermine the spatial integrity of the development plan and the ability of the council to deliver a plan led approach. The proposal does not fall within any of the categories of development set out in Policy SP2 (c) would therefore conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth moreover, the proposed development would not amount to a sustainable form of development and would thus be contrary to SP1 and Policy SP2A(c) of the Core Strategy and paragraph 14 of the NPPF.

### **Background Documents**

Planning Application file reference 2017/0118/FUL and associated documents.

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**Appendices:** None