



Report Reference Number: 2018/0941/OUT

To: Planning Committee
Date: 16 January 2019
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APPLICATION NUMBER:	2018/0941/OUT	PARISH:	Cawood Parish Council
APPLICANT:	Stonebridge Homes Ltd And Mr David Pulleyn	VALID DATE: EXPIRY DATE:	10th August 2018 9th November 2018
PROPOSAL:	Section 73 Variation of condition 21 (plans) of approval 2015/0518/OUT Proposed outline application for the residential development (access and layout to be approved all other matters reserved) for 17 dwellings with garages, creation of access road and associated public open space following demolition of existing garages at land to the north west		
LOCATION:	Street Record Castle Close Cawood Selby North Yorkshire		
RECOMMENDATION:	APPROVE SUBJECT TO DEED OF VARIATION		

This application has been brought before Planning Committee because it seeks to vary application 2015/0518/OUT which was a departure from the Development Plan. It was considered however that there were material considerations which justified approval of the application. The current application seeks to vary that permission and therefore it does not fall within the Scheme of Delegation.

1. INTRODUCTION AND BACKGROUND

Site and Context

1.1 The application site comprises 1.58 hectares of land within open countryside. It is situated immediately adjacent to the defined Development limits for Cawood with access from Castle Close. The site is surrounded on three sides by open countryside, with residential development forming the south eastern boundary of the site. These houses are predominantly two storey, with the exception being 10 and 12 Castle Close which are situated adjacent to the southern end of the application site. These properties are single storey. The application site lies within Flood Zone 1 (low probability of flooding), Flood zone 2 (medium probability of flooding) and Flood Zone 3a (high probability of flooding).

1.2 The proposal

Planning permission was granted in outline on December 3rd 2015 for 17 dwellings with garages, creation of access road and associated public open space following the demolition of existing garages to facilitate the access. Layout and access were approved with all other matters reserved. The application was approved subject to a section 106 agreement to secure delivery of 40% on site affordable housing provision, on-site recreational open space, and a waste and re-cycling contribution. A subsequent application was approved on August 18th 2018 to modify the Section 106 to agree a reduction in the level of affordable housing to 23.5%. This was agreed following a revised viability that had been assessed by the District Valuer.

1.3 The current application seeks consent under Section 73 of the Act for a minor material amendment to enable development without complying with approved plans condition 21 attached to planning approval 2015/0518/OUT. If approved, a Section 73 application will result in a new decision notice that sits alongside the original permission. The Council cannot re-visit matters of principal unless there have been material changes in planning circumstances. The LPA can however look at all the conditions and not just the condition identified by the applicant. In this case the revisions will vary the housing layout and access. The housing will remain within the same part of the site, with the access point retained. It is essentially the design of the access road and the position of houses around the access that will change. As previously approved, the houses themselves will remain in that part of the site that lies within Flood Zone 1 as shown on the Environment Agency Flood maps for planning.

1.4 Since the outline application was approved, a revised National Planning Policy Framework was published in July 2018. Furthermore the Council can now demonstrate a 5 year deliverable housing supply. These are material considerations that apply to the consideration of this application.

Planning History

1.5 The following includes historical applications that are considered to be relevant to the determination of this application:

Application Number: 2014/1110/OUT - Outline application with all matters reserved for erection of residential development, creation of access road and associated public open. Decision: withdrawn.

Application Number: 2015/0375/OUT - Outline application including access and layout for residential development of 17 dwellings with garages, creation of access

road and associated public open space on land to the North West of Castle Close off Wolsey Avenue, Cawood, Selby, Decision: withdrawn

Application Number: 2015/0518/OUT - Outline application for the residential development (access and layout to be approved all other matters reserved) for 17 dwellings with garages, creation of access road and associated public open space following demolition of existing garages at land to the north west, Castle Close, Cawood, Selby, North Yorkshire. Decision: PERMISSION.

Application Number: 2016/0492/MLA - Application to modify a section 106 planning obligation under section 106BA following approval of 2015/0518/OUT 01-AUG-18 Decision: approved.

Application 2018/1302/MAN - Non material amendment to amend condition 2 to extend the time limit for the submission of reserved matters by 2 months of approval 2015/0518/OUT. (Proposed outline application for the residential development (access and layout to be approved all other matters reserved) for 17 dwellings with garages, creation of access road and associated public open space). Decision: approved.

1.6 Consultations

Parish Council - Initial comments requested explanation of the green dotted area on the drawing? Questioned whether if is a play area what equipment will be provided and what arrangements will be made for maintenance?

Further comments received on November 14th stated that Cawood PC have no objections.

NYCC Highways Canal Rd - No local highway authority objections to the Section 73 Variation of condition 21 (plans) of approval 2015/0518/OUT.

Land Use Planning Yorkshire Water Services Ltd - no comment to make regarding application 2018/0941/OUT.

Selby Area Internal Drainage Board - The application lies within the IDB district and indicates that the application will increase the impermeable area to the site. Therefore, the applicant should ensure that any existing or proposed surface water discharge system has adequate capacity for any increase in surface water run-off to the site. No objection in principle to the use of soakaways, however it will be necessary to carry out a percolation test to demonstrate that ground conditions are acceptable. If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow. If the surface water is to be discharged to any watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission, and would be restricted to 1.4 litres per second per hectare or greenfield runoff. No obstructions within 7 metres of the edge of a watercourse without Consent from the IDB. Should consent be required from the IDB as described above then advised that this should be made a condition of any Planning decision. Any surface water discharge into any watercourses in, on, under or near the site requires consent from the Drainage Board.

SuDS And Development Control Officer - The applicant should note that flood risk mapping has been updated subsequent to the approval 2015/0518/OUT. The site is partly within flood zone 1 and partly within flood zone 3. Development within the site should be directed to those areas with the lowest degree of flood risk.

Environmental Health - There are no Environmental Health objections to the proposals.

Environment Agency – Confirm that there are no objections to the revised plans.

North Yorkshire Bat Group – No comments received.

Yorkshire Wildlife Trust - No comments received.

County Ecology – Some reservations raised regarding the Great Crested Newt Assessment. One concern is that they did not assess whether Great Crested Newts are present in a pond shown on OS maps at Station Farm, around 220 metres NE of the development site. Conversely, it is questioned whether the level of mitigation is proportionate given that the impact on Great Crested Newts has been assessed as “low/negligible”.

Overall, however, agree that the impact on Great Crested Newts is likely to be low and the measures outlined in the Wold Ecology Method Statement will minimise risks. These measures include herbicide treatment of the development site to remove vegetation and the use of wildlife exclusion fencing around the perimeter. Revision of the development layout within the red line boundary would not reduce the efficacy of these measures, so there is no need to revise the assessment referred to in Planning Condition 12 of the outline consent.

In relation to a question by a neighbouring occupier of a potential newt within their garden, it is confirmed that it does appear to be a newt. There are two levels of protection for this species – the Habitats Regulations are concerned with conserving populations while the Wildlife & Countryside Act extends protection to individual animals. No concern regarding the impact of this development on local populations of Great Crested Newt provided the proposed mitigation measures are adhered to. There may be a risk of displacing small numbers of individuals, and the mitigation measures are intended to minimise this risk. Great Crested Newts do wander widely and it is almost impossible to avoid all risk to individual animals. Do not think minor reconfiguration of the layout of the development changes the level of risk to Great Crested Newts.

As the applicant already has outline permission, it is their responsibility to ensure they develop the site in compliance with the law. The applicant should liaise with their ecologist to determine whether the exclusion fencing would require licensing in the light of evidence that individual Great Crested Newts do occur in nearby gardens.

Rural Housing Enabler - The positioning and layout of the four affordable housing units are acceptable, the drawings submitted do not detail internal floor areas however all affordable housing units should adhere to National Space standards and be built to the same standard of design and amenity as market housing. Request that the developer makes early contact with a partner RP for the affordable homes in order to confirm that the number, size and type of units are

acceptable to them; please refer them to Selby DC'S Affordable Housing SPD for a list of all the RP partners.

HER Officer - The details of the proposal have been checked against the Historic Environment Record. The site has been the subject of previous archaeological evaluation. This identified no archaeological constraints. Recommendation: I have no objection to the proposal and have no further comments make.

Designing Out Crime Officer - Front gardens should have clear demarcation to demonstrate 'ownership'. This is not clear for plot 12. The boundaries between each property at the front should also be clearly defined to create 'defensible space' and 'ownership'. Failure to clearly define 'territory' could result in neighbour disputes, particularly in respect of maintenance.

1.7 Publicity

The Application was advertised by site notice, neighbour notification letter and advertisement in the local newspaper. As a result two letters of objection have been received and include the following:

- The houses will be built on an existing flood plain. Whilst protected themselves, how will existing houses be protected to ensure that the development doesn't cause their houses to flood?
- Resident for 20 years and have always parked on Wolsey Avenue. The new road will go past where I park my car. Contractors and heavy vehicles risk causing injury to children and animals. What assurances are there that contractors won't take up limited parking or block driveways or damage cars?
- Concern regarding noise and dust as house backs onto the site and work shifts.
- Enclose evidence of Great Crested Newt in garden. No pond in garden so must be coming from the site.
- Appears that planning permission is a foregone conclusion. As Council tenants feel we have no say in the matter regarding the fact that the proposed dwellings will be built up to our boundary.
- Concern regarding flooding as when there is heavy rain it floods the garden.

2.0 APPRAISAL

- 2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that "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. 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.

2.2 Selby District Core Strategy Local Plan

The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development
SP2 - Spatial Development Strategy
SP4 - Management of Residential Development in Settlements
SP5 - The Scale and Distribution of Housing
SP8 - Housing Mix
SP9 - Affordable Housing
SP15 - Sustainable Development and Climate Change
SP16 - Improving Resource Efficiency
SP17 – Low Carbon and Renewable Energy
SP18 - Protecting and Enhancing the Environment
SP19 - Design Quality

2.3 Selby District Local Plan

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

Annex 1 of the NPPF provides as follows:-

“213.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).”

The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
ENV2 - Environmental Pollution and Contaminated Land
ENV3 - Light Pollution
ENV28 - Archaeological Remains
T1 - Development in Relation to Highway
T2 - Access to Roads
T7 - Provision for Cyclists
RT1 - Protection of Existing Recreational Open Space
RT2 - Open Space Requirements
CS6 - Development Contributions-Infrastructure
ENV1 - Control of Development
ENV2 - Environmental Pollution and Contaminated Land
ENV3 - Light Pollution
ENV28 - Archaeological Remains

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

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 (para 12). This application has been considered against the 2018 NPPF. The revised NPPF states in paragraph 7 that the 'purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three interdependent overarching objectives of social, economic and environmental.

3.0 Key Issues

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

- Principle of development
- Access
- Layout Appearance Scale and Appearance
- Neighbour Amenity
- Housing Mix
- Affordable housing
- Impact of revisions on flood risk.
- Ecology
- Flood Risk and Drainage

Principle of Development

Policy Background

3.1 Policy SP1 of the Core Strategy outlines that *"when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework"* and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.

3.2 For decision taking this means: "c) *'approving development proposals that accord with an up to date development plan without delay. And "d), where the policies most important for determining the application are out of date, (This includes for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing land) granting permission unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole.'*" During the consideration of application 2015/0518/OUT, Policy SP2 was 'out of date' because Selby District did not have a 5 year supply of housing. Accordingly the presumption in favour of sustainable development was triggered. It was determined that the site would deliver high quality homes for local people, and was acceptable in all other respects. In relation to this application the Council can now demonstrate a five deliverable supply and therefore para 11 d) "presumption in favour of granting housing applications do not apply." However, that the authority can demonstrate a five year supply is not a reason for resisting sustainable development and para 38 of the NPPF provides that decision-makers should seek to approve applications for sustainable development where possible.

- 3.3** Policy SP2A of The Core Strategy provides the Spatial Development Strategy for the district. This directs the majority of new development to the towns and more sustainable villages. It further identifies that Designated Service Villages have some scope for additional residential and small scale employment growth to support rural sustainability. Cawood is identified as a Designated Service Village, however the application site lies outside the development limits. The development of the site is therefore contrary to Policy SP2A (c) of the Core Strategy.
- 3.4** Policy SP4 of the Core Strategy states that in Selby, Sherburn in Elmet, Tadcaster and Designated Service Villages – conversions, replacement dwellings, redevelopment of previously developed land, and appropriate scale of development on greenfield land will be acceptable in principle. In this case, the site lies outside but immediately adjacent to the settlement boundary of Cawood. As such the site is located within the open countryside.
- 3.5** Policy SP2A (c) of the Core Strategy 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 communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances”*. Whether such ‘other special circumstances’ apply is considered below. The NPPF also confirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Sustainability of the Development

- 3.6** In terms of sustainability, the site is located adjacent to the development limits of the village of Cawood which is a Designated Service Village as identified in the Core Strategy where there is scope for additional residential growth to support rural sustainability. This is consistent with paragraph 78 of NPPF. The village contains a general store, post office, primary school, public house and a church. With respect to public transport the village has a limited bus service. It is therefore considered that the settlement is reasonably well served by local services which weighs in favour of a conclusion that despite being situated outside the defined development limits, the site is within a sustainable location.

Settlement Strategy, Previous levels of Growth and the Scale of the Proposal.

The application site lies immediately adjacent to the development limits for Cawood which is a Designated as a Service Village. Policy SP5 of the Core Strategy designates levels of growth to settlements based on their infrastructure capacity and sustainability. This policy sets a minimum target of 2000 for designated service villages, (DSVs) as a whole. The most recent monitoring indicates this has been exceeded by completions and permissions in these settlements as a whole. However, the Core Strategy does not set a minimum dwelling target for individual DSVs, so it is not possible to conclude that Cawood has exceeded its dwelling target. As a guide, for the purpose of consultation only the Council put forward various growth options for the DSVs as part of the development of PLAN Selby in 2014 and 2015 and at that time the research indicated minimum growth options of between 29-47 dwellings for Cawood.

To date, Cawood has seen 9 (gross) dwellings built in the settlement since the start of the Plan Period (7 net) in April 2011 and has extant gross approvals (including this site) for 50 dwellings (27 net), giving a gross total of 59 dwellings (51 net).

Taking into account the range of growth options identified for this settlement, the scale of this individual proposal, at 17 dwellings, is considered to be appropriate to the size and role of a settlement designated as a Designated Service Village/Local Service when considered in isolation from the other DSVs. The total net dwellings for the village when this development is added are 51. It is therefore considered that the development of the site for 17 dwellings is broadly consistent with Policy SP5 of the Core Strategy.

Fall - back position

- 3.7** The 'Fall Back' is appropriate in considering whether such 'other special circumstances' apply, (Policy SP2(c) or whether there are any material considerations (para 47 NPPF) that would warrant a decision contrary to the provisions of the development. It is established case law that if an applicant can demonstrate a 'fall-back' position, this may constitute a material consideration to be taken into account in determining the application. A 'fall-back' is an existing consent which is capable of being implemented irrespective of the decision on this current application. Under *Mansell v Tonbridge And Malling Borough Council* [2017] EWCA Civ 1314, which concerned the redevelopment of a site of a large barn and a bungalow to provide four dwellings, Lindblom LJ confirmed the legal considerations in determining the materiality of a fall-back position as a planning judgement were: (1) the basic principle is that for a prospect to be a "real prospect", it does not have to be probable or likely: a possibility will suffice; (2) there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme. or on the landowner or developer having said precisely how he would make use. In some cases that degree of may be necessary; in others, not. The degree of clarity and commitment required will always be a matter for the decision-maker's planning judgment
- 3.8** Turning to these development proposals, application 2015/0518/OUT remains extant and the Reserved Matters application has been submitted within the time scale (and is awaiting determination). Having taken account of the extant permission and the submission of the Reserved Matters application, it is considered that this remains a realistic 'fall-back' position. Whilst work has not commenced on site, the submission of the reserved matters by a developer shows clear intent to proceed with the development.
- 3.9** It is therefore considered that there is an extant permission on the site which can be implemented, (subjected to approval of the reserved matters). This represents a fall-back position and there is a real prospect that it could be implemented.. Furthermore, the 17 houses contribute towards the Council's housing land supply calculations. Of those 17 houses, 4 will be 'affordable'. This extant permission, and the location of the site directly adjacent to the development limits, amounts to the 'other special circumstances' referred to in SP2(c). Furthermore, there is nothing in the revised NPPF that would preclude the principle of the development of this site.

Indeed the NPPF in paragraph 38 states that local planning authorities should approach decisions on proposed development in a positive and constructive way.

- 3.10** In concluding the matter of principle, it is acknowledged that given the current position of a 5 year deliverable land supply, development in the countryside outside development limits would not be supported through the Development Strategy now. However it is considered that the extant permission on this site, the developer investment in submitting applications including the reserved matters and this Section 73 application constitutes the ‘special circumstances’ and material considerations that would outweigh the conflict with policy identified above. This approach is endorsed by the Government’s commitment to delivering a sufficient supply of homes as detailed in section 5 of the NPPF (2018). Paragraph 68 highlights the importance of small and medium sized sites in contributing to the housing requirement of the area. And further states that such sites are often built out quickly. At paragraph 78, the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. The village contains a shop, post office, primary school, public house and church. It is noted however that within Background paper 5 Sustainability Assessment of Rural Settlements of the Core Strategy that it is identified as less sustainable. This is mainly due to the limited access to public transport. Nevertheless given the location of the site adjacent to the settlement boundary, occupiers of the dwellings would utilise those identified services within the village, and therefore accord with the guidance in the NPPF. As such the location of the site would remain sustainable.

Access

- 3.11** Policy in respect of access and other highway considerations is provided by Policy SP19 of the Core Strategy, Policy ENV1 (2) T1 and T2 of the Selby District Local Plan and Section 9 of the NPPF. Of particular importance are paragraphs 108 and 109 which state:

‘108. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 3.12** Application 2015/0518/OUT approved the layout on the site and the access. This access is between existing housing opposite the end of Wolsey Avenue. Once entering the boundary of the site, the road was curved before leading into private drives to serve the housing. The revised layout maintains the same access to the point that it enters the agricultural land. However it then maintains a straighter

access with two private drives off it. The Highway Authority has confirmed that there are no objections to the development.

- 3.13** An objector has raised concerns regarding the impact of construction traffic on the parking of cars in the vicinity of the site, and potential danger to children or pets. The Highway Authority has not objected to the revised plans, and it is noted that the access to the site remains in the same place. It is also noted that the layout shows potential for parking for each dwelling. The access from Wolsey Avenue was previously considered to be of a sufficient width to access the development and good visibility exists on exit. Improvements to the highway with respect to re-surfacing would be secured by way of a Section 38 agreement.
- 3.14** In relation to comments regarding the impact of the development on existing parking for cars, and danger to children by construction traffic, there is inevitably some disturbance when development commences, however the site area includes sufficient space for the parking of construction vehicles and storage of materials. A condition has also been imposed requested specific details. The Highway Authority is satisfied that the proposed access is satisfactory, and construction vehicle will have to drive with due care and attention like any other road user.
- 3.15** It is noted that Cawood performs quite poorly with respect to its accessibility by public transport to service centres. As such there will be some reliance on private vehicles. However this requirement was recognised when the village was identified as a Designated Service Village. Furthermore local services would be available on foot or by bike.

Layout Appearance Scale and Appearance

- 3.16** Relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 and ENV3 of the Selby District Local Plan and Policy SP19 'Design Quality of the Core strategy. Section 12 of the NPPF states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.
- 3.17** The quantum of development remains the same as previously approved. Flood risk will be addressed later in the report; however the layout is dictated to a great extent by a large part of the site being within flood zone 3. This limits the developable area. The housing layout is still more informal than the existing housing in the surrounding area. However this is in part as a result of the flood constraints on the site. The houses are therefore towards the central part of the site. This does however enable a significant area of land that will not be occupied by built form and will comprise areas of garden or public open space. There is also potential for significant landscaping which will require detail at the reserved matters stage. Furthermore, it is considered that the revised layout will provide a more traditional road layout with houses grouped in a manner that is not out of keeping with the wider area. Neighbour amenity will be considered later in the report, however it is considered that the revised layout provides a better relationship with neighbouring occupiers than the extant approval on the site (2015/0518/OUT).
- 3.18** The Design and Access statement submitted with application 2015/0518/OUT set out the design principles. This included the properties being two storey with single storey garages. The detailed design of the houses will be fully considered at the reserved matters stage; however it is not considered that there are any aspects of the layout that would preclude an appropriate design being secured.

- 3.19** With respect to the impact on landscape character, regard has been had to Background Paper No. 10 to the Core Strategy- Landscape Appraisal. This states that the landscape is open to wide ranging views by virtue of the flat topography and limited tree and hedgerow planting in the field patterns. It further states that the village is generally well screened with only select areas being visible within open areas towards the village. However any development will be seen in the context of the existing development. Given the large parts of the site that are not constrained by built development, it is considered that there is significant potential for strategic and more localised planting of native species that will help to integrate the development in the landscape. This aspect is however for consideration at the reserved matters stage. External lighting will also be a consideration at this stage.
- 3.20** In terms of Designing out Crime, Police Architectural liaison officer has advised that front gardens should have clear demarcation to demonstrate 'ownership'. He further advises that this is not clear for plot 12. The boundaries between each property at the front should also be clearly defined to create 'defensible space' and 'ownership'. Failure to clearly define 'territory' could result in neighbour disputes, particularly in respect of maintenance. It is not considered that the submitted layout would preclude the issues raised, and as such the reserved matters can provide appropriate details.

Housing Mix

- 3.20** Policy SP8 requires that all proposals for housing must contribute to the creation of mixed communities by ensuring that the types and sizes of dwellings reflects the demand and profile identified in the SHMA. This is consistent with the requirements of Section 5 of the NPPF on delivering a sufficient supply of homes. Whilst the detail of the design of dwellings is for the reserved matters application, it is evident from the submitted layout that the development will deliver predominantly large dwellings. The mix shown comprises 12 five bedroom dwellings, 1 four bedroom dwellings, 2 three bedroom and 2 two bedroom dwellings. The Draft 2015 SHMA shows the greatest need for 2 and 3 bedroom dwellings (35% and 45%) with only 15 % requirement for larger dwellings. However the quantum of development has not changed since the outline and the constraints on the site as a result of the flood zones is a limiting factor on the layout. Furthermore, whilst there is potential to subdivide one of the larger plots to provide two smaller dwellings, this would increase the quantum of development. Any increase in numbers would lead to a reconsideration of all the material considerations, including highway and neighbour impact. Given an extant approval on the site for 17 dwellings, and a layout which does include four smaller dwellings, (2 two bedroom and 2 three bedroom dwellings), it is considered that this is a material consideration that would indicate an approval of this mix of dwellings contrary to Policy SP8 of the Core Strategy.

Affordable Housing

- 3.21** In terms of affordable housing, Policy SP9 states that the Council will seek to achieve a 40/60% affordable/general market housing ratio within overall housing delivery. In pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings.

3.22 The policy goes on to state that the actual amount of affordable housing to be provided is a matter for negotiation at the time of a planning application, having regard to any abnormal costs, economic viability and other requirements associated with the development. During consideration of application 2015/0518/OUT, the applicant confirmed that they were prepared to provide 40% affordable units and that this could be secured via a Section 106 agreement. Since that time, an application was submitted to modify the agreement so that they can provide less affordable housing on site. Such cases are determined on the basis of what amount of affordable housing can be accommodated without making the scheme unviable. The evidence used is therefore financial in nature and the Council sought the input from the District Valuer to provide specialist advice. On the basis of the viability assessment, it was agreed that the scheme can deliver 23.5% on-site affordable. This equates to 4 Affordable Housing Units. Whilst the details of the house types will be the subject of the reserved matters application, the layout plan shows the provision of two no. two bedroom affordable dwellings, and two no. three bedroom dwellings. Having taken account of the agreed viability, it is not considered that the development is contrary to Policy SP9 and furthermore it is not considered that the development conflicts with the requirements of section 5 of the NPPF in respect of affordable housing provision.

Neighbour Impact

3.23 Policy in respect to impacts on residential amenity and securing a good standard of residential amenity is provided by ENV1 (1) of the Local Plan. The NPPF also states that planning should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

3.24 The revised layout plan demonstrates that appropriate separation distances could be achieved between the existing and proposed dwellings, and indeed between the dwellings on the application site itself. The extant permission shows dwellings in closer proximity to existing dwellings on Castle Close. Plot 7 is very close to the rear fence to 2 and 4 Castle Close with a further dwelling approximately 7m to the rear of the boundary with 10 and 12 Castle Close. On the current Layout, Plot 1 is again approximately 7m from the fence to properties on Castle Close, however the relationship with Castle Close is better because the actual dwelling it is behind on Castle Close is a greater distance, and other dwellings are now approximately 30m from the common boundary. The detailed design of the properties will be assessed in relation to neighbour amenity on the reserved matters application. An objection has raised concern that as Council tenants feel that they have no say in the matter regarding the fact that the proposed dwellings will be built up to their boundary. Whilst the objector has not included their address, comments regarding this matter have been taken into account, however as discussed above, it is considered that the revised plan provides a better relationship when taken as a whole in relation to existing neighbours. A proposed dwelling is closer to the rear of 8 Castle Close, than on the extant layout, however at a separation distance of 23m between the two dwellings it is considered that it is within normal tolerances. It is also of note that the dwelling on the proposed layout has a side elevation towards Castle Close which is less likely to result in overlooking.

3.25 Objectors have also expressed concern that the noise levels and air pollution would increase dramatically and there would be impacts on residents throughout the build. The development of the site will inevitably increase noise and other

impacts. However it will be a temporary impact and impacts in relation to noise and vibration have been addressed by condition. Having taken into account the matters discussed above it is considered that an appropriate scheme can be designed at reserved matters stage which should not cause significant detrimental impact on the residential amenities of either existing or future occupants in accordance with policy ENV1(1) of the Local Plan and the NPPF.

Flood Risk and Drainage

- 3.26** Policies SP15, of the Core Strategy require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design. This is reaffirmed in chapter 14 of the NPPF. At paragraph 155 it states that:

Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. The application site is located in Flood Zones 1 (low probability of flooding), 2 (medium probability of flooding) and 3a (high probability of flooding). The houses will however be sited in that part of the site that lies within Flood Zone 1, with much of the access road, public open space and some garden areas within Flood Zone 3. The Selby District Council Sequential Test Guidance Note (2017) (SPD) accords with the policies in the Core Strategy and the NPPF. It also states that a pragmatic approach on the availability of alternative sites should be taken. Cawood is a Designated Service Village and therefore the SPD states that the area of search should be limited to that particular service village. In this case there are no alternative sites within Cawood. However the guide also states that for applications that are not within Development Limits but immediately adjacent, the proposals must comply with the Councils' Guidance Note for applicants on the Council's 5 Year Supply Position in respect to sustainability.

- 3.27** It was concluded during consideration of the extant outline application that a sequential approach has been taken to the layout of the development to ensure that the residential dwellings would be located within Flood Zone 1 (lowest probability of flooding). There are parts of the access road located within Flood Zones 2 and 3, however sequentially the access could not be created within a lower flood zone. It was therefore considered that the sequential test has been passed. Given that the outline application is extant, it is not considered that a further sequential test is required.

- 3.28** Paragraph 102 of the NPPF states that if following application of the sequential test it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding the exception test can be applied, if appropriate. For the exception test to be passed it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk; and a site specific Flood Risk Assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible, will reduce flood risk overall.

- 3.29** It is considered that there are wider sustainability benefits to the community which include the economic, social and environmental benefits. The proposal would generate employment opportunities in both the construction and other sectors linked to the construction market. The proposals would bring additional residents to the area who in turn would contribute to the local economy through supporting local facilities.
- 3.30** The proposal would also deliver levels of both open market and affordable housing in Cawood and hence promote sustainable and balanced communities and would assist in the Council meeting the objectively assessed housing needs of the district. In addition the scheme would incorporate an area of recreational open space on site. Furthermore, the development would deliver high quality homes that take account of environmental issues such as flooding and impacts on climate change.
- 3.31** In terms of flood resilience and drainage, the 2015 application was accompanied by a Flood Risk Assessment which examines the flood sources and states that the most likely threat of flooding is as a result of the River Ouse which runs to the east of the village or over topping from Internal Drainage Systems failing. With respect to historical flooding the report confirms that in 2011 the site suffered from surface water ingress from the farmland located to the west and this water was pumped with the approval of the Internal Drainage Board to a field drain in the north east corner of the site. The report states that since this time the field drains have been cleaned out and since that date there has been no further ingress of surface water onto this site.
- 3.32** The report stated that although the footprint of the dwellings falls outside Flood Zones 2 and 3, various flood risk mitigation measures would be incorporated into the development which include new dwellings to have a finished floor level of at least 300mm above existing ground level, to have no ground floor sleeping accommodation, watertight external door construction to a minimum of 350mm above floor level, with letter boxes no lower than mid height, ensure that all sockets will be served by wiring from the first floor loops and situated 0.6m above floor level, non-permeable areas outside the dwellings to be kept to a minimum and using solid ground floor construction. In addition the report states that advice will be placed within the dwelling advising what action to take in preparation of a flood occurring and what to do in the event of a flood or breach occurring.
- 3.33** It is noted that concern was raised by neighbouring residents on the previous application in relation to whether the development will increase flood risk for their property. A similar objection has been made in relation to the current application with respect to drainage and flooding. On the previous application the Environment Agency took account of the Flood Risk Assessment and confirmed that they had no objections on the grounds of flood risk subject to a series of mitigation measures being secured by way of a planning condition. A condition was imposed that required the applicant to submit a plan to demonstrate that any ground raising in the construction of the access road will not alter existing flood flow routes. If this cannot be achieved the applicant is required to submit details of a like for like compensatory storage design for the total volume lost (i.e. total area of FZ3 which will no longer available to be used for storage post the construction of the road). A further condition was imposed requiring details of surface water drainage to be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. In relation to this proposal, the Environment Agency has confirmed that there are no objections to

the revised layout. It is considered that the combination of the conditions will ensure that the development does not increase flood risk elsewhere. Yorkshire Water has raised no objection to the development, and North Yorkshire County Council's Flood Risk Management Team have advised that development of the site should be directed to those areas that are at lowest risk of flooding. It is confirmed that the houses will be sited within that part of the site that is at lowest risk of flooding. It is not considered that the revised layout will have any greater impact on flood risk than the extant permission. It is therefore considered that the development accords with Policy SP15 (d) and the NPPF.

Ecology

- 3.34** An extended Phase 1 Habitat Survey undertaken by Wold Ecology was submitted with the approved application (2015/0518/OUT) and this has been updated. (July 2018). The report confirmed that there are no statutory nature conservation designated sites within 2km of the site. There are however a number of locally designated sites. The extended phase 1 survey and ecological assessment took account of the impact of the development on bats, great Crested Newts, Badger, Birds reptiles and Hedgehogs. It concluded that the proposed development is unlikely to impact on European protected species or associated habitats. However the report recommends several measures to ensure potential adverse impacts to Wildlife are avoided. With respect to bats the report concludes that the trees and buildings within the application site do not have features suitable to support roosting bats. The wider area supports a network of habitats including hedgerows, rivers, ditches, scattered trees and mature gardens and grasslands which offer alternate foraging and commuting habitat for bats, however the application site is not considered integral to the favourable population status of local bat populations.
- 3.35** In terms of Great Crested Newts a field survey was carried out during consideration of the 2015 application. This established that an infield pond was present within the large paddock, however when reassessed it was established that this only held water during periods of heavy rain and was dry on the second visit as such it was established that no aquatic habitat would be lost as a result of the proposed development. There were aquatic habitats within 500m of the application site, comprising four ponds. The report established that one pond was no longer present, one pond did not hold water all year round and two of the ponds were permanent, however the landowners did not give permission to fully inspect these ponds. The report therefore concluded that on the basis of the field surveys and desk top studies undertaken there is a low probability of great crested newts being present due to a number of factors including the fact there are no permanent ponds located within the construction zone and that potential great crested newt movement into the construction zone would be from high quality terrestrial habitat (Castle Garth) to sub optimum sheep grazed pasture with no suitable aquatic habitat. The updated report confirms that records of great created newts occur within 500m of the application site. The entire application site was assessed for its potential. It was determined that given the distances between the proposed development area and the nearest breeding pond, and the low quality of habitats in the development area, great crested newts are unlikely to be encountered during stripping of vegetation from the development area.
- 3.36** With respect to other species, the report confirms the application site is not considered to be valuable to wintering birds, and there is no evidence of badger or hedgehog activity. Furthermore there are no potential roosts within the application site. Although the wider area supports several woodland habitats, mature gardens

and grassland which offer alternative foraging and commuting habitat. The County Ecologist has expressed some reservations regarding the Great Crested Newt Assessment produced by Wold Ecology. One concern is that they did not assess whether Great Crested Newts are present in a pond shown on OS maps at Station Farm, around 220 metres NE of the development site. However he agrees that the impact on Great Crested Newts is likely to be low and the measures outlined in the Wold Ecology Method Statement will minimise risks. These measures include herbicide treatment of the development site to remove vegetation and the use of wildlife exclusion fencing around the perimeter. He further advises that the proposed revision to the layout would not reduce the efficacy of these measures, so there is no need to revise the mitigation referred to in the condition attached to the outline application. The mitigation includes hedgerows being retained and protected and maintained at a height of 2m with long term management, any clearance being undertaken outside bird nesting season, bird boxes to be erected throughout the site, care to be taken to vegetation clearance or strimming in order to protect hedgehogs and trees to be retained and enhanced through planting native species which should be incorporated into any detailed landscaping scheme and these measures should be secured via condition.

- 3.37** It is noted that a neighbouring occupier has provided a photo of a likely Great Crested Newt being seen in their garden which abuts the site. The County Ecologist has been re-consulted and advises that there are two levels of protection for this species – the Habitats Regulations are concerned with conserving populations whilst the Wildlife & Countryside Act extends protection to individual animals. It is not considered that the development will impact on local populations of Great Crested Newt provided that the proposed mitigation measures previously proposed are adhered to. There may be a risk of displacing small numbers of individuals, and the mitigation measures are intended to minimise this risk. The County ecologist has advised that Great Crested Newts do wander widely and it is almost impossible to avoid all risk to individual animals. Furthermore it is for the applicant to ensure that the development the site in compliance with the law. Further clarification of the updated newt mitigation measures has however been sought and Members will updated whether an exclusion fencing would require licensing in the light of evidence that individual Great Crested Newts do occur in nearby gardens.
- 3.38** North Yorkshire Bat Group and Yorkshire Wildlife Trust were consulted, however did not provide comments with respect to the application.
- 3.39** Subject to the clarification sought in relation to GCN exclusion fencing together with the mitigation required by condition 12 on Outline 2015/0518/OUT it is not considered that the proposal would impact on the local newt population and would accord with Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and the NPPF with respect to nature conservation .

Heritage

- 3.40** Policies ENV27 and ENV28 of the Local Plan and Policy SP18 of the Core Strategy and the NPPF require proposals to take account of their impacts on heritage assets and in particular in relation to this site, archaeology.
- 3.41** The NPPF paragraph 189 states that Local Planning Authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate

to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. The site does not lie within a conservation area, or its setting, nor does it impact on a listed building. Nevertheless, the County Heritage Services were consulted on this application and have confirmed that the site has been the subject of previous archaeological evaluation. This identified no archaeological constraints. Accordingly the development accords with Policy SP18 (1 and 2), and Policies ENV 27 and ENV 28 of the Selby District Local Plan. It also accords with the requirements of Section 16 of the NPPF.

Recreational Open Space

- 3.42** The proposed layout demonstrates that there would be on-site provision for recreational open space, although the detailed type of provision to be provided would be established in detail at reserved matters stage with delivery secured through the Section 106. It is noted that the proposals would result in the loss of an existing area of recreational open space which residents previously stated is well used by local children. Policy RT1 of the Local Plan is relevant which states that proposals which would result in the loss of existing recreation open space will not be permitted unless, the use has been abandoned and the site is not required to remedy an existing deficiency for recreation use elsewhere, alternative provision of at least the equivalent size, accessibility and quality is made within the locality to serve the needs of the existing community or sports and recreation facilities can best be retained and enhanced through the re-development of a small part of the site. In light of this policy the applicants have demonstrated that this provision would be provided alongside new provision, within the application site to accord with policy.
- 3.43** It is therefore considered that subject to a Section 106 agreement to secure the on-site provision of Recreational Open Space, the proposals are appropriate and accord with Policies RT2 of the Local Plan, Policies SP12 and SP19 of the Core Strategy and the NPPF.

Contamination

- 3.44** Policies ENV2 of the Local Plan and SP19 of the Core Strategy relate to contamination. These policies should be afforded significant weight. The previous application (2015/0518/FUL) application was accompanied by a Contamination Statement which confirmed that there are no signs of contaminants being present and no historic uses of the site which would have caused contamination.
- 3.45** The Council's Contaminated Land Consultant confirmed that the Contamination Statement was lacking in detail and a full Phase 1 Contaminated Land Report would be required which can be secured via condition. The proposals are therefore acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan and Policy SP19 of the Core Strategy.

Energy and Resource Efficiency

- 3.46** Policy SP15 of the Core Strategy (Sustainable Development and Climate Change) seeks to promote sustainable development through a number of measures. SP15 B aims to ensure the design and layout of development contributes towards reducing carbon emissions and is resilient to the effects of climate change. It requires that where necessary or appropriate schemes should (criteria a) & b)) improve energy efficiency and minimise energy consumption and should incorporate sustainable design and construction techniques. Criterion e) requires the incorporation of decentralised, renewable and low carbon forms of energy generation in line with Policies SP16 & SP17. The sustainability of the location has been addressed earlier in the report. Policy SP18 seeks to protect and enhance the Environment through a number of measures including criterion SP18 (8) which seeks to ensure that developments minimise energy and water consumption, the use of non-renewable resources and the amount of waste material.
- 3.47** Policy SP16 of the Core Strategy relates to Improving Resource Efficiency. In order to achieve this objective the policy requires, amongst other things, that unless a particular scheme would be demonstrably unviable or not feasible;

“New residential developments of 10 dwellings or more or non-residential schemes of 1000 m2 gross floor space or more to provide a minimum of 10% of total predicted energy requirements from renewable, low carbon or decentralised energy sources (or else in accordance with the most up to date revised national, sub regional or local targets”

Notes supporting this policy objective state that:

“Whilst building standards for insulation and energy efficiency are not directly within the remit of the planning system, the council, when considering development proposals will take into account the need to utilise energy efficient designs for all aspects including layout (e.g. orientation and passive solar design).”

The extant application is subject to a condition that requires that 10% of the energy is from renewable, low carbon or decentralised energy sources. It is considered that a variation of this condition to also allow a ‘fabric first approach’ would accord with the NPPF. Paragraph 95 of the NPPF advises that LPA’s should plan for new development in locations and ways which reduce greenhouse gas emissions. Significantly it also advises that any local requirements should be consistent with the Governments zero carbon buildings policy and that nationally described standards should be adopted. The overall aim of addressing the causes of climate change by reducing carbon emissions in CS SP15 and SP16 and the related policies are still broadly consistent with the NPPF. However, seeking to achieve that aim by specifying a target for on-site energy generation from renewable sources does not now accord with Paragraph 95 of the NPPF and would exceed national requirements in terms of carbon reduction. It is therefore considered that an amendment to the condition to include a fabric first approach whilst not complying with Policy SP16 of the Core Strategy would still comply with Policy SP15 in seeking to reduce carbon emissions and would accord with the NPPF.

Education, Healthcare, Waste and Recycling

- 3.48** Policies ENV1 and CS6 of the Local Plan and the Developer Contributions Supplementary Planning Document set out the criteria for when contributions towards education, healthcare and waste and recycling are required. These policies should be afforded significant weight.
- 3.49** During consideration of the previous application confirmed that no education contributions would be required. In addition, education contributions are no longer compliant with the CIL Regulations and this is a material consideration that would indicate why such contributions should not be sought. With respect to Waste and Recycling, a contribution of £65 per dwelling would be required and this would therefore be secured via Section 106 agreement.
- 3.50** Having had regard to the above, the proposals comply with policies ENV1 and CS6 of the Local Plan, Policy SP19 of the Core Strategy and the Developer Contributions SPD with respect to developer contributions.

Other matters

- 3.51** In relation to conditions, the approved outline consent on the site includes a number of pre-commencement conditions. Legislation has changed since the previous approval and now Section 100ZA (8) of the Town and Country Planning Act 1990), provides that such conditions should only be used where the local planning authority is satisfied that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would have been otherwise necessary to refuse the whole permission and the applicant has given written consent to such a condition.
- 3.52** A pre-commencement condition that does not meet the legal and policy tests may be found to be unlawful by the courts and therefore cannot be enforced by the local planning authority if it is breached. The conditions have therefore been revised accordingly, and pre-commencement required only in cases that are essential for the development such as contamination and drainage.
- 3.53** The extant permission is subject to a Section 106 which secures delivery of 23.5% affordable housing which equates to 4 houses together with waste and re-cycling contributions and to secure contributions for the maintenance of the open space on site to a Management Company.

Conclusion

- 4.0** The site lies outside the development limits for Cawood which is a Designated Service Village. As such in terms of the development plan the site lies within the open countryside, and development is therefore contrary to the Spatial Strategy contained within Policy SP2 of the Core Strategy. However Policy SP2 (c) limits development in the countryside unless '*other special circumstances*' apply. It has been demonstrated in paragraph 3.7 that there is a fall-back position in the light of the existing outline permission on the site, there is a 'real prospect' of it being implemented, and this is capable of giving rise to "special circumstances" for the purposes of Policy SP2. Furthermore the development secures the delivery of four affordable homes. This accords with the relevant parts of section 5 of the NPPF that refers to the Government's objective of 'significantly boosting the supply of

homes'. It is further considered that the revised layout has a better relationship with neighbouring occupiers than the extant permission.

- 4.1** It is not considered that there are any material considerations identified that would justify the refusal of the proposed development. The recommendation is therefore one of approval subject to revised conditions and a Deed of Variation of the section 106 agreement to take account of the current application.

5.0 RECOMMENDATION

- 5.1** Subject to clarification in relation to new mitigation this application is recommended to be APPROVED subject to a deed of variation in respect to the Section 106 and the following conditions:

- 01** Approval of the details of the (a) appearance, b) landscaping and c) scale (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: This is an outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority.

- 02** Applications for the approval of the reserved matters referred to in No.1 herein shall be made by 4th February 2019, and the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason:

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

Reason:

This is outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority.

- 03.** The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within the FRA:

1. The applicant shall submit a plan demonstrating that any ground raising in the construction of the access road will not alter existing flood flow routes. If the applicant cannot demonstrate this, the applicant shall submit details of a like for like compensatory storage design for the total volume lost (i.e. total area of FZ3 which will no longer available to be used for storage post the construction of the road).
2. Flood resilience measures to be installed as detailed in the FRA:
 - Finished floor levels are set no lower than 300mm above existing ground level and to be of solid construction.
 - Watertight external door construction to 350mm above ground level.
 - Sleeping accommodation to be provided at upper floor level.
 - Sockets to be wired from above.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason:

To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to reduce the risk of flooding to the proposed development and future occupants.

- 04 There shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site, until the following drawings and details have been submitted to and approved in writing by the Local Planning Authority:
- a. Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:
 - the proposed highway layout including the highway boundary
 - dimensions of any carriageway, cycleway, footway, and verges
 - visibility splays
 - the proposed buildings and site layout, including levels
 - accesses and driveways
 - drainage and sewerage system
 - lining and signing
 - traffic calming measures
 - all types of surfacing (including tactiles), kerbing and edging.
 - b. Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:
 - the existing ground level
 - the proposed road channel and centre line levels
 - full details of surface water drainage proposals.
 - c. Full highway construction details including:
 - typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
 - when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
 - kerb and edging construction details
 - typical drainage construction details.
 - d. Details of the method and means of surface water disposal.
 - e. Details of all proposed street lighting.
 - f. Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.

g. Full working drawings for any structures which affect or form part of the highway network.

h. A programme for completing the works.

The development shall only be carried out in full compliance with the approved drawings and details unless agreed otherwise in writing by the Local Planning Authority.

INFORMATIVE:

In imposing the condition above it is recommended that before a detailed planning submission is made a draft layout is produced for discussion between the applicant, the Local Planning Authority and the Highway Authority in order to avoid abortive work. The agreed drawings must be approved in writing by the Local Planning Authority for the purpose of discharging this condition.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and to secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of highway users.

05. No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to basecourse macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation. The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority before the first dwelling of the development is occupied.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and to ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.

06. There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details and programme.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and in the interests of highway safety

07. There shall be no HCVs brought onto the site until a survey recording the condition of the existing highway (Wolsey Avenue) has been carried out in a manner approved in writing by the Local Planning Authority.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and in the interests of highway safety and the general amenity of the area

08. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until:

(i) The details of the following off site required highway improvement works, works listed below have been submitted to and approved in writing by the Local Planning Authority:

a. Footway/Carriageway remedial works (Wolsey Avenue)

(ii) A programme for the completion of the proposed works has been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.

INFORMATIVE:

There must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the Highway Authority.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and to ensure that the details are satisfactory in the interests of the safety and convenience of highway users.

09. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and to ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity the development.

10. No development for any phase of the development shall take place until a Construction Method Statement for that phase has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period for the phase. The statement shall provide for the following in respect of the phase:

- (i) the parking of vehicles of site operatives and visitors
- (ii) loading and unloading of plant and materials
- (iii) storage of plant and materials used in constructing the development
- (iv) erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
- (v) wheel washing facilities
- (vi) measures to control the emission of dust and dirt during construction
- (vii) a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason:

In accordance with Policies ENV1, T1 and T2 of the Local Plan and in the interests of highway safety and the general amenity of the area

11. No above ground works will be commenced until either it has been demonstrated that at least 10% of the energy requirements supply of the development for that phase has been secured from decentralised and renewable or low-carbon energy sources; or an alternative approach, such as fabric first, has been agreed with the local planning authority. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be first submitted to and approved in writing by the Local Planning Authority. Works shall thereafter be implemented in accordance with the approved details and timetable and retained, maintained and retained thereafter.

Reason:

In the interest of sustainability, to minimise the development's impact.

12. The development shall be carried out in complete accordance with the mitigation measures and recommendations set out in the Extended Phase 1 Habitat Survey and Great Crested Newt Assessment by Wold Ecology Ltd unless otherwise approved in writing by the Local Planning Authority.

Reason:

In the interests of ensuring that the scheme avoids potential impacts on nesting birds and to ensure the enhancement of the site for wildlife purposes.

13. No development shall commence until an investigation and risk assessment has been undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted and approved in writing of the Local Planning Authority. The report of the findings must include:

- i. a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- ii. an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- iii. an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

The proposed scheme shall thereafter be carried out in accordance with any recommendations set out in the approved report.

Reason:

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

14. No development shall commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The proposed scheme shall thereafter be carried out in accordance with the recommendations set out within the approved report.

Reason:

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

15. Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and be subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

16. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:

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

17. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site based

on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage design should demonstrate that the surface water runoff generated during rainfall events up to and including the 1 in 100 years rainfall event, to include for climate change and urban creep, will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The approved drainage system shall be implemented in accordance with the approved detailed design prior to completion of the development.

The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance.

Reason:

To prevent the increased risk of flooding; to ensure the future maintenance of the sustainable drainage system, to improve and protect water quality and improve habitat and amenity.

18 No dwelling shall be occupied until arrangements for the provision of recreational open space on the development have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall cover the following matters:-

- a) the layout and disposition of the recreational open space, including any play equipment to be provided, if any.
- b) the timescale for the implementation and completion of the works to provide the recreational open space;
- c) the mechanism for ensuring that the recreational open space will be available for the public within perpetuity.
- d) maintenance of the recreational open space in perpetuity.

Reason:

To ensure the provision of appropriate recreational open space to serve the development and in accordance with Policy RT2 of the Selby District Local Plan.

19 Should any of the proposed foundations be piled then no piling shall commence until a schedule of works to identify those plots affected, and setting out mitigation measures to protect residents from noise, dust and vibration shall be submitted to and approved in writing by the Local Planning Authority. The proposals shall thereafter be carried out in accordance with the approved scheme.

Reason:

In the interest of protecting residential amenity in accordance with Policies ENV1 and ENV2 of the Local Plan.

20 Prior to the site preparation and construction work commencing, a scheme to minimise the impact of noise and vibration on residential properties in close proximity to the site, shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

In the interests of protecting residential amenity in accordance with Policies ENV1 and SP19 of the Local Plan and the NPPF.

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

1518 Location/B Location Plan
1518 Site Plan 500/C Proposed Plans
1518 Site Plan 1250/B Proposed Plans
1576/001 Topographical Survey.

Reason: For the avoidance of doubt.

6.0 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.

7.1 Financial Issues

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

8.0 Background Documents

- 8.1 Planning Application file reference 2018/0941/OUT and associated documents.

Contact Officer: Rachel Smith, Principal Planning Officer

Appendices: None