



Report Reference Number: 2018/0226/FUL

To: Planning Committee
Date: 6 February 2019
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Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0226/FUL	PARISH:	Thorganby Parish Council
APPLICANT:	Swanhome Developments Ltd	VALID DATE: EXPIRY DATE:	1st March 2018 26th April 2018
PROPOSAL:	Proposed demolition of existing dwellings, outbuildings and garages and the erection of 3 No. residential dwellings, garages and associated works and infrastructure (amendment to planning permission 2016/1029/FUL)		
LOCATION:	East End Cottage, Main Street, Thorganby, York, North Yorkshire, YO19 6DB		
RECOMMENDATION:	GRANT		

1. INTRODUCTION AND BACKGROUND

- 1.1 This application has been brought back before Planning Committee following consideration at the 6th June 2018 meeting, where Members resolved “To DEFER the application to a future meeting of the Committee in order for Officers to give further consideration to the application”.
- 1.2 This resolution was made after the then Case Officer had advised the Planning Committee that an additional letter of representation had been received since the Officers report had been written, advising that buildings on the site had been demolished and raising concerns regarding the potential impact on wildlife. A subsequent site visit by the then Case Officer confirmed that the outbuildings to the rear of the site had been demolished, which would have required planning permission given the location of the site within the Conservation Area. The acceptability of the proposal in principle relied upon the existence of an extant

planning permission (reference: 2016/1029/FUL) which was not considered to have been lawfully implemented due to the demolition of the outbuildings prior to the discharge of pre-commencement conditions attached to the extant planning permission. Therefore, Planning Committee were advised that it was no longer considered that there was a fall-back position of an extant planning permission and the recommended acceptability of the proposal in principle relied upon the existence of an extant planning permission. Officers therefore recommended that consideration of the application be deferred to a future meeting of the Planning Committee in order for Officers to consider whether there were any other material considerations that could outweigh the existing conflict with Policies SP2 and SP4 of the Core Strategy.

- 1.3 Since the 6th June 2018 resolution of Planning Committee the applicant's agent has submitted information justifying why the outbuildings were demolished prior to the discharge of pre-commencement conditions attached to planning permission reference 2016/1029/FUL and a discharge of condition application pursuant to planning permission reference 2016/1029/FUL has been submitted to and determined by the Local Planning Authority.
- 1.4 In addition, since the application was previously brought before Planning Committee, the revised National Planning Policy Framework (NPPF) was published in July 2018.
- 1.5 As such, Planning Committee is required to re-consider this application in light of these material changes.

2. CONSULTATION AND PUBLICITY

Since the resolution at Planning Committee on 6 June 2018 the following additional comments have been received.

- 2.1 **NYCC Ecology** – 17.12.2018: The updated Barn Owl Report, shows that the remaining buildings on the site are not currently used for either nesting or roosting by this species. Given that an outbuilding on the site (now demolished) had previously been found to be used occasionally by Barn Owls, the mitigation recommendations contained in Section 7 of the report are appropriate and proportionate. These involve a further precautionary check of the buildings immediately prior to demolition and erection of a pole-mounted Barn Owl box in the location specified. Should the Local Planning Authority be minded to grant permission, it is recommended that adherence to these recommendations is secured by way of condition.
- 2.2 **Neighbour Comments** – No further letters of representation have been received from neighbouring properties since this application was heard at the 6 June 2018 Planning Committee.

3. POLICY CONTEXT

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

- 3.1 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

- 3.2 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
- SP18 – Protecting and Enhancing the Environment
- SP19 – Design Quality

Selby District Local Plan

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

“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).”

- 3.4 The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- ENV2 – Environmental Pollution and Contaminated Land
- ENV25 – Control of Development in Conservation Areas
- ENV28 – Other Archaeological Remains
- T1 – Development in Relation to the Highway Network
- T2 – Access to Roads

4. APPRAISAL

- 4.1 The main issues which require re-consideration since the application was last presented to Planning Committee are as follows:

- The Principle of the Development
- Impact on Heritage Assets
- Design and Impact on the Character and Appearance of the Area
- Nature Conservation and Protected Species
- Affordable Housing
- Impact on Residential Amenity
- Impact on Highway Safety

- Impact on Archaeology
- Flood Risk and Drainage
- Land Contamination

The Principle of the Development

- 4.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.
- 4.3 The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Thorganby, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Thorganby and is therefore located within the open countryside in policy terms.
- 4.4 The proposed site plan (drawing no. WG395-04G) demonstrates how the proposed dwellings and part of the garden areas associated with those dwellings would be located within the defined development limits of Thorganby, while part of the proposed garden areas and the proposed access road would be located outside the defined development limits of Thorganby and would therefore be located within the open countryside in policy terms.
- 4.5 Policy SP2A (b) of the Core Strategy states that "Limited amounts of residential development may be absorbed inside Development Limits of Secondary Villages where it will enhance or maintain the vitality of rural communities and which conform to the provisions of Policy SP4 and Policy SP10". Policy SP4 (a) of the Core Strategy states that, in Secondary Villages, "conversions, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built up residential frontages, and conversion/ redevelopment of farmsteads" will be acceptable in principle.
- 4.6 The application proposes the demolition of a pair of semi-detached dwellings and associated outbuildings and garages and the erection of 3No. dwellings, garages and associated works and infrastructure, including an access road. The proposal would not result in a conversion; would only partly result in replacement dwellings (as three dwellings would be erected in lieu of the existing two); would not strictly result in the re-development of previously developed land, as garden land is excluded from this definition in the NPPF; would not result in the filling of a small linear gap in an otherwise built-up residential frontage; and would not result in the conversion or redevelopment of a farmstead. The proposal would therefore not be in accordance with Policies SP2A (b) and SP4 (a) of the Core Strategy. The application should therefore be refused unless material considerations indicate otherwise.
- 4.7 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 of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand.

- 4.8 When the application was taken to the 6th June Planning Committee, the Case Officer's Report (Appendix 1) set out there was an extant planning permission for the demolition of existing dwellings, outbuildings and garages at the site and the erection of 4No. residential dwellings, garages and associated infrastructure which was granted planning permission in February 2017 (under application reference 2016/1029/FUL). The extant planning permission was considered to be a clear fall-back position that was a material consideration of significant weight to outweigh the conflict with Policies SP2 and SP4 of the Core Strategy.
- 4.9 However, at the 6th June Planning Committee, the then Case Officer informed Members the outbuildings to the rear of the site had been demolished, which would have required planning permission given the location of the site within the Conservation Area. The acceptability of the proposal in principle relied upon the existence of an extant planning permission (reference: 2016/1029/FUL) which was not considered to have been lawfully implemented due to the demolition of the outbuildings prior to the discharge of pre-commencement conditions attached to the extant planning permission. Therefore, Planning Committee were advised that it was no longer considered that there was a fall-back position of an extant planning permission and the recommended acceptability of the proposal in principle relied upon the existence of an extant planning permission. The application was therefore deferred to a future meeting of the Planning Committee in order for Officers to consider whether there were any other material considerations that could outweigh the conflict with Policies SP2 and SP4 of the Core Strategy.
- 4.10 Since the 6th June Planning Committee, the applicant's agent has submitted information justifying why the outbuildings were demolished prior to the discharge of pre-commencement conditions attached to planning permission reference 2016/1029/FUL. The applicant's agent has advised that the outbuildings which were demolished were unsound and unsafe, and at the time of demolition it was considered that they needed to be demolished imminently for two main reasons: (1) they posed a significant health and safety risk and (2) to allow the applicant to discharge pre-commencement conditions.
- 4.11 While the above justification is noted, the applicant made no attempt to advise the Local Planning Authority of their intentions prior to the demolition or seek the Local Planning Authority's views on the demolition to it taking place.

- 4.12 Notwithstanding the above, since the 6th June Planning Committee, a discharge of condition application pursuant to planning permission reference 2016/1029/FUL has been submitted to and subsequently determined by the Local Planning Authority. The determination of the aforementioned discharge of condition application by the Local Planning Authority, effectively serves as an acknowledgement by the Local Planning Authority that planning permission reference 2016/1029/FUL remains extant and can therefore be considered as a fall-back position.
- 4.13 Having regard to the above, it is considered that there is an extant planning permission for the demolition of existing dwellings, outbuildings and garages at the site and the erection of 4No. residential dwellings, garages and associated infrastructure which was granted planning permission in February 2017 (under application reference 2016/1029/FUL). The extant planning permission is considered to be a clear fall-back position that is a material consideration of significant weight to outweigh the conflict with Policies SP2 and SP4 of the Core Strategy. The proposal is therefore considered to be acceptable in principle.

Impact on Heritage Assets

- 4.14 The application site lies within the Thorganby Conservation Area, which is a designated heritage asset.
- 4.15 Relevant policies in respect of the effect upon heritage assets include Policies SP18 and SP19 of the Core Strategy and Policy ENV25 of the Selby District Local Plan. Policy SP18 requires, amongst other things, the high quality and local distinctiveness of the natural and man-made environment be sustained by safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledged importance. Policy SP19 requires, amongst other things, that proposals positively contribute to an area's identity and heritage in terms of scale, density and layout. Policy ENV25 requires development within or affecting a conservation area to preserve or enhance the character and appearance of the conservation area.
- 4.16 Relevant policies within the NPPF which relate to impact on heritage assets include paragraphs 189 to 198.
- 4.17 Paragraph 189 of the NPPF states that *"In determining applications, 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. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. 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"*.
- 4.18 Paragraph 192 of the NPPF states that *"In determining applications, local planning authorities should take account of:*

- a) *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) *the desirability of new development making a positive contribution to local character and distinctiveness”.*

- 4.19 Paragraph 193 of the NPPF states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”.*
- 4.20 Paragraph 196 of the NPPF states that *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”.*
- 4.21 Paragraph 196 of the NPPF should be read in conjunction with paragraph 193 of the NPPF which provides that when considering the impact of a proposal on the significance of a designated heritage asset, “great weight” should be given to the asset’s conservation. This wording reflects the statutory duty in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990.
- 4.22 Whilst considering proposals for development which affects a Listed Building or its setting, regard is to be made to Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 which requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'. Section 72 of the above Act contains similar requirements with respect to buildings or land in a Conservation Area.
- 4.23 The application proposes the demolition of a pair of semi-detached dwellings and associated outbuildings and garages and the erection of 3No. dwellings, garages and associated works and infrastructure, including an access road. This is an amendment to an extant planning permission for the demolition of existing dwellings, outbuildings and garages at the site and the erection of 4No. residential dwellings, garages and associated infrastructure which was granted planning permission in February 2017 (under application reference 2016/1029/FUL).

The Applicant’s Assessment of the Impact of the Proposals on Heritage Assets

- 4.24 The application has been supported by a Heritage Statement undertaken by Gallagher Planning dated February 2018. The Heritage Statement begins by setting out the applicant’s view that the application site does not fall within the Thorganby Conservation Area. This view is formed on the basis that while the application site is shown to be within the Conservation Area on the Conservation Area Maps provided on the Council’s website, the application site is not shown to be in the Conservation Area on the Proposals Maps within the Selby District Local Plan. Notwithstanding this, the applicant acknowledges that the Council

consider the application site to be within the Conservation Area and have therefore undertaken a Heritage Impact Assessment.

- 4.25 The submitted Heritage Statement describes the historic development of the area and the significance of the Conservation Area based on archaeological, architectural, artistic and historic interest. The Heritage Statement concludes that the buildings to be demolished as part of the proposals do not contribute to the setting, character or appearance of the Conservation Area. This view has been taken with reference to Historic England guidance. Their demolition is therefore not considered to result in any harm to the Conservation Area. In terms of the proposed dwellings, the submitted Heritage Statement sets out that the design of the proposed development would ensure that the proposal would be in-keeping with the character and appearance of the Conservation Area and would not result in any harm.

The Local Planning Authority's Assessment of the Impact of the Proposals on Heritage Assets

- 4.26 The Local Planning Authority are of the firm view that the application site is located within the Thorganby Conservation Area. This was designated in 1997 and extended in 1997 as shown on the Conservation Area maps provided on the Council's website (<https://www.selby.gov.uk/conservation-areas>). The boundary was reviewed in 2003 but was not changed. The Selby District Local Plan, which was adopted in 2005 (and relevant policies saved in 2008) is an Adoption Draft version and the Conservation Area boundaries shown on those Policies Maps are those which stood in 1995 (at the Pre-Deposit Consultation Draft stage). It was intended (see notes in Policies Map key) that the final printed plans would show the most up-to-date Conservation Area boundaries - but that final Adopted Plan version was never published. It is therefore the case that all the Conservation Area boundaries shown in the Selby District Local Plan are superseded in all cases by the Conservation Area maps published separately on the Council's website.
- 4.27 The application proposes the demolition of a pair of semi-detached dwellings and associated outbuildings and garages and the erection of 3No. dwellings, garages and associated works and infrastructure, including an access road. This is an amendment to an extant planning permission for the demolition of existing dwellings, outbuildings and garages at the site and the erection of 4No. residential dwellings, garages and associated infrastructure which was granted planning permission in February 2017 (under application reference 2016/1029/FUL).
- 4.28 In terms of the demolition of the existing buildings at the site, it is noted that the existing dwellings originally formed a single dwelling and were converted into two dwellings in the 1970s. The existing dwellings are typical of the area's lower status vernacular and despite forming part of the conservation area historic fabric; it is considered that they hold limited architectural or historic interest. Furthermore, it is considered that the outbuildings and garages at the site (which have already been demolished) held limited architectural and historic interest.
- 4.29 While the proposal would result in the loss of a part of the historic fabric of the conservation area, it is noted that under the extant planning permission it was considered that given the expanse of the area included within the conservation area and the site occupying a small part of this area, the demolition of the existing

buildings at the site would result in less than substantial harm to the significance of a designated heritage asset which would need to be weighed against the public benefit in accordance with paragraph 134 (now 196) of the NPPF.

- 4.30 In respect of the extant planning permission and the balancing test, it was considered that there would be a public benefit as a result of the proposal which included housing provision and improving the visual character of the site and conservation area. The scheme was considered to be of a good design and layout and was considered to be enhancement to the character and appearance of the conservation area. Therefore, it was concluded that while the proposal would lead to less than substantial harm to the significance of a designated heritage asset, namely the Thorganby Conservation Area, when the harm is weighed against the public benefits of the scheme, the proposal was considered to be acceptable.
- 4.31 The above consideration was the position taken in respect of the extant planning permission which can be implemented on the site. However, it is important to consider the proposed changes under the current application and whether this position would remain the same.
- 4.32 It can be seen from the submitted plans that the existing buildings at the site are still proposed to be demolished, but the proposal seeks permission to replace the previously approved pair of semi-detached dwellings with a single detached dwelling resulting in the provision of one less dwelling than the extant planning permission. It is proposed to increase the scale and height of the proposed dwellings (from the extant planning permission) given that there would be a reduction of one dwelling. It is also proposed to make some slight amendments to the proposed siting and design of the proposed dwellings and garages, from the extant planning permission.
- 4.33 The proposed design, appearance and use of materials of the proposed dwellings would be very similar to those approved under the extant planning permission. It is considered that the proposed slight change to positioning/siting is not consequential in respect of whether the proposal would preserve or enhance the character and appearance of the Conservation Area.
- 4.34 The proposed dwellings, as shown on the submitted plans, would be less than 500mm higher than the previously approved dwellings and less than 500mm wider than the approved dwellings. There would be no change in width to plot one dwelling from the building already approved in this location. It is considered that the proportions of the proposed dwellings, although relatively large would not be dissimilar to existing dwellings situated to the north east and east of the site and would not result in material increase over that already approved under the extant planning permission.
- 4.35 Therefore the proposal is not considered to be a significant increase in scale nor significant change to the elevational treatments, in the context of the existing extant planning permission.
- 4.36 Overall, having regard to the above discussion, the current proposal involving the demolition of the existing buildings at the site would result in less than substantial harm to the significance of a designated heritage asset, namely the Thorganby Conservation Area. Paragraph 196 of the NPPF states "*Where a*

development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use". As set out earlier in this report, paragraph 196 of the NPPF should be read in conjunction with paragraph 193 of the NPPF which states that when considering the impact of a proposal on the significance of a designated heritage asset, "great weight" should be given to the asset's conservation. This wording reflects the statutory duty in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990. The desirability of preserving the settings of heritage assets, including listed buildings and conservation areas, should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise.

- 4.37 In terms of public benefits, the proposal would result in the provision of additional housing in the District and would improve the visual character of the site and the Conservation Area. The scheme is considered to be of a good design and layout and is considered to result in an enhancement to the character and appearance of the Conservation Area. Furthermore, it is noted that there is an extant planning permission for the demolition of existing dwellings, outbuildings and garages at the site and the erection of 4No. residential dwellings, garages and associated infrastructure which was granted planning permission in February 2017 (under application reference 2016/1029/FUL).
- 4.38 Having regard to the above, it is considered that the proposed development would lead to less than substantial harm to the significance of a designated heritage asset, namely Thorganby Conservation Area. However, when the harm is weighed against the public benefits of the scheme, it is considered that the proposal is acceptable. The proposal would therefore be in accordance with Policies SP18 and SP19 of the Core Strategy, Policies ENV1 and ENV25 of the Selby District Local Plan and S66 (1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 and the advice contained within the NPPF.

Design and Impact on the Character and Appearance of the Area

- 4.39 The application proposes the demolition of a pair of semi-detached dwellings and associated outbuildings and garages and the erection of 3No. dwellings, garages and associated works and infrastructure, including an access road. This is an amendment to an extant planning permission for the demolition of existing dwellings, outbuildings and garages at the site and the erection of 4No. residential dwellings, garages and associated infrastructure which was granted planning permission in February 2017 (under application reference 2016/1029/FUL).
- 4.40 Given the size, siting and design of the proposals in respect of the context of their surroundings, it is considered that the proposals would not have any significant adverse impact on the character and appearance of the area, in accordance with Policy ENV1 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

Nature Conservation and Protected Species

- 4.41 The application site is within proximity of a number of European designated sites which are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the Habitat Regulations). The application site is within proximity to Skipwith Common Special Area of Conservation (SAC), River Derwent SAC and the Lower Derwent Valley SAC and Special Protection Area (SPA) which are European Sites. The Lower Derwent Valley SAC and SPA are also listed as the Lower Derwent Valley Ramsar site and is notified at a national level as Derwent Ings and the River Derwent Sites of Special Scientific Interest (SSSIs). Skipwith Common SAC is also listed as Skipwith Common SSSI. However, the application site is not designated itself as a formal or informal site for nature conservation.
- 4.42 Natural England have advised that if undertaken in strict accordance with the details submitted, the proposal is not likely to have a significant effect on the interest features for which Lower Derwent Valley (SPA, SAC & Ramsar) and River Derwent (SAC) has been classified and that it is not necessary for the Local Planning Authority to undertake an Appropriate Assessment to assess the implications of the proposal on the site's conservation objectives.
- 4.43 In addition, Natural England have also advised that they are satisfied that the proposed development if carried out in strict accordance with the details of the application, as submitted, would not damage or destroy the interest features for which the Derwent Ings and River Derwent SSSI have been notified.
- 4.44 A Bat Survey Report (reference: CE0223) undertaken by Curtis Ecology dated 20 July 2016 was originally submitted with the application. The survey concluded that there was no evidence of roosting bats and the site was considered to be of low significance as bat foraging habitat. However, the survey set out that there was evidence of Barn Owl roosting in the most westerly of the existing buildings, a dilapidated former poultry shed (Building 4 in the Bat Survey Report), though it was not considered that Barn Owls used the building for nesting. A condition was recommended to be attached to any planning permission granted requiring the development to be carried out in strict accordance with the mitigation measures set out in Section 7 of the Bat Survey Report.
- 4.45 At the 6th June Planning Committee, the then Case Officer had advised the Planning Committee that an additional letter of representation had been received since the Officers report had been written, advising that buildings on the site had been demolished and raising concerns regarding the potential impact on wildlife. A subsequent site visit by the then Case Officer had confirmed the outbuildings had been demolished. The demolition of the outbuildings had not been done in strict accordance with the mitigation measures set out in Section 7 of the Bat Survey Report.
- 4.46 Following advice from the County Ecologist, an updated Ecological Survey Report in Relation to Barn Owls (reference: CE0550) undertaken by Curtis Ecology dated 12 December 2018 has been submitted. The County Ecologist has been consulted on the updated report and has advised *"the updated Barn Owl report shows that the remaining buildings on the site are not currently used for either nesting or roosting by this species. Given that an outbuilding on the site (now demolished) had*

previously been found to be used occasionally by Barn Owls, the mitigation recommendations contained in Section 7 of the [updated] report are appropriate and proportionate. These involve a further precautionary check of the buildings immediately prior to demolition and erection of a pole-mounted Barn Owl box in the location specified. Should the Local Planning Authority be minded to grant planning permission, it is recommended that adherence to these recommendations is secured by way of condition”.

- 4.47 Subject to the aforementioned condition, it is considered that the proposal would not harm any acknowledged nature conservation interests or protected species and is therefore in accordance with Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and the advice contained within the NPPF.

Affordable Housing

- 4.48 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) sets out the affordable housing policy context for the District. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District.
- 4.49 However, the NPPF is a material consideration and states at paragraph 63 - “Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount”. Major development is defined in Annex 2: Glossary as “For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more”.
- 4.50 Given the proposed number of dwellings is below 10 and the site area is less than 0.5 hectares, the proposal is not considered to be major development as defined in Annex 2 of the NPPF. It is therefore considered that having had regard to Policy SP9 of the Core Strategy, the Affordable Housing SPD and the advice contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

Impact on Residential Amenity

- 4.51 The layout of the site, the design of the units and the siting results in separation distances, and orientation that is considered acceptable so as to ensure that the proposals would not result in a significant detrimental impact through overlooking, overshadowing, loss of light or the creation of an oppressive outlook for neighbouring residential properties. In addition the scheme design has resulted in an internal layout which would ensure an appropriate level of residential amenity is secured.
- 4.51 It is noted that in respect of the potential impact on the closest neighbouring dwelling, Chesnut House, located to the south of the site, that the closest dwelling would be approximately 0.9 metres taller. However this dwelling would now be positioned further away from the neighbour than originally approved. The rear of

Chesnut House would face onto the side elevation of the nearest proposed dwelling at a distance of approximately 12.5 metres, at the closest point and this would be at an offset/oblique angle, as opposed to directly facing. It is noted that the proposed ground floor rear projection to this dwelling would be increased in size and as such a window is now proposed to be inserted into the flank elevation. This would be at a distance of approximately 14 metres from the rear elevation of Chestnut House. Given this window would be at ground floor level, it is not considered it would result in any significant adverse effects of overlooking to Chestnut House, however, it would be considered reasonable and necessary to attach a condition restricting permitted development rights for the insertion of any additional windows at first floor level in this elevation to any planning permission granted in order to protect the amenities and privacy of the adjoining occupiers. It would also be considered reasonable and necessary to attach such a condition in respect of Plot 3.

- 4.53 Subject to the aforementioned conditions, it is considered that the proposal would 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.

Impact on Highway Safety

- 4.54 The application site has an established vehicular access onto Main Street and the proposed dwellings would be accessed from a shared driveway leading from this existing vehicular access. The layout plan shows that vehicles can enter and leave the site in a forward gear and there is adequate space for on-site parking for each dwelling.
- 4.55 The Highways Authority have been consulted on the application and have not raised any objections, subject to the imposition of conditions.
- 4.56 Subject to the aforementioned conditions, it is considered that the proposal would be acceptable in terms of highway safety and is therefore in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Archaeology

- 4.57 The site is situated at the very edge of the historic medieval settlement at Thorganby. The adjacent fields contain ridge and furrow and it is likely that the site lay outside of the village. The County Archaeologist has advised that the archaeological potential is therefore fairly low for the medieval period.
- 4.58 The County Archaeologist has advised that the proposed development would involve the demolition of the existing dwellings and that these would have had a negative impact on any archaeological deposits should they have been present. As such they advise that they have no objections to the proposals and no further archaeological investigation would be required.
- 4.59 Having regard to the above, it is considered that the proposed development would not have any adverse impacts on archaeology in accordance with Policy ENV28 of the Selby District Local Plan and the advice contained within the NPPF.

Flood Risk and Drainage

- 4.60 The application site is located in Flood Zone 1 (low probability of flooding).
- 4.61 The submitted application form states that foul sewage would be disposed of via the main sewer with surface water disposed of via soakaways. Yorkshire Water have not responded to the proposal (although it is noted that they raised no objections to the previous application) and the Internal Drainage Board have raised no objections to the proposals subject to the imposition of conditions requiring drainage works to be agreed prior to the commencement of development. The Lead Flood Authority have provided detailed advice in respect of surface water drainage and flooding and it is considered appropriate to ensure that a satisfactory scheme for the disposal of surface and foul water be achieved, via imposition of an appropriately worded planning condition which captures the requirements of their advice given that the eastern part of the site is known to be subject to surface water flooding.
- 4.62 The comments of the Parish Council and the advice given by the LLFA is noted (in respect of the recommended submission of a Flood Risk Assessment). It is however acknowledged that a flood risk assessment should be submitted for all planning applications for development within Flood Zones 2 & 3, development on sites of 1 hectare or greater; development or changes of use to a more vulnerable class that may be subject to other sources of flooding. The proposed development does not fall within any of the above category's, the site is within Flood Zone 1, the site is not 1 hectare in size and the site is not changing use as such it is considered that there is no reasonable requirement for a flood risk assessment to be required for this proposed development.
- 4.63 Subject to a condition relating to drainage, it is considered that the proposals are acceptable in terms of flood risk and drainage in accordance with the advice contained within the NPPF.

Land Contamination

- 4.64 The application has been supported by a Phase 1 Environmental Assessment undertaken by DetlaSimons, dated November 2016. The Councils Contaminated Land Consultant has reviewed the aforementioned report and has recommended that four conditions should be attached to any planning permission granted relating to: (1) investigation and risk assessment; (2) the submission of a remediation scheme; (3) the implementation of a remediation scheme; and (4) the discovery of any unexpected contamination.
- 4.65 Subject to the aforementioned conditions, it is considered that the proposal would be acceptable in respect of land contamination in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

5. CONCLUSION

- 5.1 The application proposes the demolition of a pair of semi-detached dwellings and associated outbuildings and garages and the erection of 3No. dwellings, garages and associated works and infrastructure, including an access road.

- 5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states 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".
- 5.3 The application is contrary to Policies SP2A (b) and SP4 (a) of the Core Strategy. However, there is an extant planning permission for the demolition of existing dwellings, outbuildings and garages at the site and the erection of 4No. residential dwellings, garages and associated infrastructure at the site, which was granted planning permission in February 2017 (under application reference 2016/1029/FUL). This represents a fall-back position of significant weight. Having regard to the aforementioned fall-back position, it is considered that although the proposal is a departure from the Development Plan, the fall-back position represents a material consideration which would justify approval of the application in principle.
- 5.4 In terms of the impacts of the proposal, the proposed development would not have a detrimental effect on the heritage assets (having regard to paragraphs 189 to 198 of the NPPF and Section 66 of the Planning (Listed Building and Conservation Areas Act) 1990), the character and appearance of the area, nature conservation and protected species, affordable housing, residential amenity, highway safety, archaeology, flood risk and drainage, or land contamination.
- 5.5 The application is therefore considered to be in accordance with the relevant policies of the development plan, namely, Policies ENV1, ENV2, ENV25, ENV28, T1 and T2 of the Selby District Local Plan, Policies SP1, SP2, SP4, SP5, SP9, SP15, SP18 and SP19 of the Core Strategy. It is also considered that the application is consistent with relevant guidance in the NPPF and for the purposes of Section 38(6), there are no other material considerations which would indicate otherwise.

6. RECOMMENDATION

This application is recommended to be GRANTED subject to the following conditions:

01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

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

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

WG395-01B - Location Plan
WG395-02A – Existing Layout Plan
WG395-03 – Existing Floor Plans and Elevations
WG395-04G - Proposed Layout Plan
WG395 -05J - Proposed Ground Floor Plan
WG395-06F- Proposed First Floor Plan

WG395-09D - Individual House Elevations
WG395-07H - Proposed Elevations
WG395-10C - Garage Elevations and Fence Elevations

Reason:

For the avoidance of doubt.

03. No development above foundation level shall commence until details of the materials to be used in the construction of the exterior walls, roof(s), windows and doors of the proposed development have been submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

In the interests of visual amenity and in order to comply with Policies ENV1 and ENV25 of the Selby District Local Plan.

04. Prior to the occupation of the dwellings hereby permitted details of boundary treatments to be erected within the application site shall be submitted to and approved by the Local Planning Authority and erected in accordance with the approved details. Once erected, the boundary treatments shall be retained as such for the lifetime of the development.

Reason:

In the interests of visual amenity and residential amenity and in order to comply with Policies ENV1 and ENV25 of the Selby District Local Plan.

05. Prior to the occupation of the dwellings hereby permitted a scheme of soft and hard landscaping and tree planting for the site entrance, indicating inter alia the number, species, heights of planting and positions of all trees, shrubs and bushes and details for measures to protect existing trees has been submitted to and approved in writing by the Local Planning Authority. The approved scheme should thereafter be carried out in its entirety within the period of twelve months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. All trees, shrubs and bushes should be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses should be made good as and when necessary.

Reason:

To allow the Local Planning Authority to control the development in detail in order to ensure that the proposals are acceptable having had regard to the character and appearance of the area to comply with Policy ENV1 of the Selby District Local Plan and Policy SP19 of the Core Strategy.

06. Notwithstanding the provisions of Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order (2015) (or any order revoking or re-enacting that Order) no windows and/or new openings shall be placed at first floor level or above in the east flank elevations of Plots 1 and 3 hereby permitted.

Reason:

In order to safeguard the rights of control of the Local Planning Authority and in the interests of the amenity of the adjoining residential properties, having had regard to Policy ENV1 of the Selby District Local Plan.

07. No construction works shall take place on site outside the hours of 8am to 6pm Monday to Friday, 9am to 1pm Saturday, or at all on Sundays and Bank Holidays.

Reason:

In interests of the amenities of the adjacent properties and having had regard to Policy ENV1 of the Selby District Local Plan.

08. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:

a. The existing access shall be improved by widening the access for the first 6 metres into the site and the crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E6d.

b. Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.

c. Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.

All works shall accord with the approved details.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to ensure a satisfactory means of access to the site from the [public highway in the interests of vehicle and pedestrian safety and convenience.

09. Prior to the development being brought into use, splays shall be provided giving clear visibility of 45m measured along both channel lines of the major road Main Street from a point measured 2m down the centre line of the access road. The eye height will be 1.05m and the object height shall be 0.6m. Details of highway improvement works, namely the relocation of the existing gateway feature, shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority and shall be completed in accordance with the approved details. Once created, the visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and in the interests of road safety.

10. The development hereby permitted shall be carried out in strict accordance with the recommendations contained within Section 7 of the updated Ecological Survey Report in Relation to Barn Owls (reference: CE0550) undertaken by Curtis Ecology dated 12 December 2018.

Reason:

In the interests of nature conservation and the protection of protected species and in order to comply with Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 of the Selby District Core Strategy Local Plan.

11. Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be 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 is subject to the approval 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;
 - 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'.

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.

12. Prior to development, 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) shall be prepared and is subject to the approval in writing of the Local Planning Authority, if required following the investigation and risk assessment undertaken in relation to Condition 11. The scheme shall 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.

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.

13. Prior to first occupation or use, the approved remediation scheme shall be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out shall 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.

14. 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.

7. Legal Issues

7.1 Planning Acts

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

7.2 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.

7.3 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.

8. Financial Issues

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

9. Background Documents

Planning Application file reference 2018/0226/FUL and associated documents

Contact Officer: Jenny Tyreman, Senior Planning Officer

Appendices: Appendix 1: 6th June 2018 Planning Committee Report



Report Reference Number: 2018/0226/FUL

To: Planning Committee
Date: 6 June 2018
Author: Ann Rawlinson (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0226/FUL	PARISH:	Thorganby Parish Council
APPLICANT:	Swanhome Developments Ltd	VALID DATE:	1st March 2018
		EXPIRY DATE:	26th April 2018
PROPOSAL:	Proposed demolition of existing dwellings, outbuildings and garages and the erection of 3 No. residential dwellings, garages and associated works and infrastructure (Amendment to planning permission 2016/1029/FUL)		
LOCATION:	East End Cottage, Main Street, Thorganby, York, North Yorkshire, YO19 6DB		

This application is to be determined by the Planning Committee as Officers consider that although the proposal is contrary to the provisions of the Development Plan there are material considerations that would justify approving the application.

1. Introduction and Background

The Site and Context

- 1.1 The application site comprises a pair of two storey semi-detached dwellings and a cluster of outbuildings (including a double brick built garage, a large shed/workshop and some smaller sheds) with garden land mainly to the rear of the buildings. The site is accessed off a private drive from Main Street, Thorganby. The site is bounded to the south, north east and east by other residential properties within the village of Thorganby and to the north and west by paddocks, beyond which lie agricultural land.

The Proposal

- 1.2 Planning permission is sought for the demolition of a pair of semi-detached dwellings and outbuildings and the erection of three dwellings, garages and associated works and infrastructure. It is proposed to construct three two storey

detached dwellings with rear single storey extensions and to erect three single storey detached garages.

- 1.3 Proposed materials would consist of slate roof, brickwork, timber fascias, soffits and bargeboards, art stone cills and lintels/brick soldier heads and grey plastic double glazed windows. Design features include porches, chimneys, soldier courses. Post and rail facing and hedgerow would be incorporated to boundaries.

Relevant Planning History

- 1.4 2016/1029/FUL (Approved-22.02.2017). Proposed demolition of existing dwellings, outbuildings and garages and the erection of 4 No. residential dwellings, garages and associated works and infrastructure
- 1.5 CO/1977/01159 (Approved) Alterations & Extensions
- 1.6 CO/1977/01158 (Approved) Erection of A Double Garage & Coal Store
- 1.7 CO/1974/01093 (Approved) Proposed alterations To Dwelling House

2 CONSULTATION AND PUBLICITY

- 2.1 **Highways Authority** – No objections subject to the impositions of conditions.
- 2.2 **Thorganby Parish Council** – Raise concerns that the site is located in between Flood Zone 2 and Flood Zone 3.
- 2.3 **Conservation Officer** – No consultation response received.
- 2.4 **County Ecologist** – No objections subject to the imposition of a condition.
- 2.5 **HER Archaeology Officer** – No objections.
- 2.6 **Natural England** – No objections.
- 2.7 **The Ouse & Derwent Internal Drainage Board** - No objections subject the impositions of conditions.
- 2.8 **Sustainable Drainage Systems** – Detailed advice provided in respect of flooding and drainage which includes run-off destinations and rates, soakaway testing, peak flow and volume control, pollution control, climate change and urban creep, designing for exceedance, construction and maintenance.

It is also advised that a Flood Risk Assessment (FRA) should be submitted. The site is situated adjacent a flood zone warning area and close to flood zones 2 and 3. Surface water flooding appears to be an issue for the site and should be explored to ensure that it does not pose a risk to the development.

- 2.9 **Environmental Health Team**– No objections raised.
- 2.10 **Historic England** - Do not wish to offer any comments. Suggest seek the views of specialist conservation and archaeological advisers, as relevant.

- 2.11 **North Yorkshire Bat Group** – No consultation response received within the statutory consultation period.
- 2.12 **Yorkshire Wildlife Trust** - No consultation response received within the statutory consultation period.
- 2.13 **Neighbour Notification** - The application has been advertised as a Departure from the Development Plan and as affecting the character and appearance of the conservation area by site notice, neighbour notification letter and advertisement in the local newspaper. Two letters of representation have been received outlining the follows concerns, as summarised below.

1)The barn is occupied by owls. 2) The surrounding wildlife meadow is an important wildlife corridor. 3) The reduction in house quantity from the existing agreed permission will put further pressure on the field to yield to make up the shortfall with new development. 4) The field is also of historic interest, being the last field of a series of medieval "Rig and Furrow" paddocks that run from Westfield Lane to Hab Lane. 5) Concern is raised regarding hedgerows and trees and the visual appearance adjacent the Conservation area. 6) Concern is raised that it seems an easier project for the owner to knock down the existing cottage and replace. 7) This is an old cottage and part of the character of the village. 8) This is purely for financial reasons to be able to have larger properties on the same footprint.

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The development site lies inside the defined development limits of Thorganby and within the Thorganby Conservation Area. There is land to the north that is described as a paddock of which lies outside the defined development limits and does not form part of this proposal. The site is situated within Flood Zone 1 which is at low probability of flooding.

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

- 3.2 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.
- 3.3 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. 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.

Selby District Core Strategy Local Plan

3.4 The relevant Core Strategy Policies are:

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

Selby District Local Plan

3.5 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004 applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans 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)".

3.6 The relevant Selby District Local Plan Policies are:

Policy ENV1:	Control of Development
Policy ENV2:	Environmental Pollution and Contaminated Land
Policy ENV25:	Conservation Areas
Policy T1:	Development in relation to the Highway Network
Policy T2:	Access to Roads

4.0 APPRAISAL

4.1 The main planning considerations to be taken into account when assessing this application are:

- Principle of Development
- Design and Impact on the Character and Appearance of the Conservation Area
- Impact on Residential Amenity
- Impact on the Highway Safety
- Impact on Nature Conservation and Protected Species
- Archaeology
- Affordable Housing
- Flood Risk and Drainage
- Land Contamination

Principle of Development

- 4.2 Policy SP1 of the Core Strategy outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF.
- 4.3 The application site is situated inside the defined development limits of Thorganby and thus Policy SP2Ab states that limited amounts of residential development may be absorbed inside development limits of Secondary Villages where it will enhance and maintain the vitality of rural communities and conform to the provisions of Policy SP4.
- 4.4 Policy SP4a states that in secondary villages certain types of development are acceptable and include conversions, replacement dwellings, redevelopment of previously developed land and filling of small linear gaps in otherwise built up residential frontages.
- 4.5 The proposal involves the replacement of two dwellings with three dwellings with a significantly larger footprint and mass. Part of the development includes development of previously developed land, but garden land development is explicitly excluded from this definition in the NPPF. It is therefore considered that the proposal would not fall under any of the exceptions listed in Policy SP4a. The application should therefore be refused unless material circumstances indicate otherwise.
- 4.6 It is established case law that if an applicant can demonstrate a fallback position i.e. an existing consent which could be implemented in the absence of a new permission; this constitutes a material consideration to be taken into account in determining the application. In this case there is an extant planning permission for the demolition of existing dwellings, outbuildings and garages and the erection of four residential dwellings, garages and associated infrastructure which was granted planning permission in February 2017 and this remains valid for the current application site. The extant planning permission is considered a clear fallback position that is a material consideration of sufficient weight to outweigh the provisions of SP2 and SP4 of the Core Strategy.

Design and Impact on the Character of the Conservation Area

- 4.7 The application site lies within the Thorganby Conservation Area. The agent has submitted a Heritage Statement which has carried out an assessment of the impact of the development on the Conservation Area. There is no Conservation Area appraisal for the conservation area and the statement has described the historic development of the area and the significance of the conservation area based on archaeological, architectural, artistic and historic interest. The buildings to be demolished are noted as not contributing to the setting, character or appearance of the conservation area. This view has been taken with reference to Historic England guidance.
- 4.8 Whilst the statement notes some of the paragraphs in the NPPF that are applicable (129, 137, 138) to the assessment of impact on the conservation area, it fails to explicitly assess the proposal against paragraphs 132 and 133/134 where applicable. However, the case officer has explored these NPPF tests.

- 4.9 Paragraph 131 of the NPPF states that in determining planning applications, local planning authorities should take account of:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - the desirability of new development making a positive contribution to local character and distinctiveness.
- 4.10 Paragraph 132 of the NPPF is most relevant. This requires when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
- 4.11 The proposal involves the demolition of a pair of semi-detached dwellings and outbuildings. The dwellings on site were originally a single dwelling and converted into two dwellings in the 1970s. The dwellings are typical of the area's lower status vernacular and despite forming part of the conservation area historic fabric, they hold limited architectural or historic interest. The outbuildings hold limited architectural or historic weight, as they are run down and structurally unsound in parts.
- 4.12 Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 4.13 The proposal would result in the loss of a part of the historic fabric of the conservation area. In respect of the extant planning permission, it was considered that, given the expanse of the area included within the conservation area and the site occupying a small area of this area, the loss would result in less than substantial harm. Paragraph 134 of the NPPF would thereby be engaged and the less than substantial harm should be weighed against the public benefits of the proposal.
- 4.14 In respect of the extant planning permission and the balancing test, the principle of redevelopment of the site was noted in the previous application as enhancing the character and appearance of the conservation area as the site currently detracts from the area. Bringing forward housing located within the village was supported and the proposal was considered to be a positive attribute to the public benefit case given that the site has been neglected over recent years since being vacant and this has contributed to the negative appearance the site has on the character and appearance of the conservation area. It was noted however that at paragraph 130 of the NPPF, this states that, where there is evidence of deliberate neglect or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision. This is not necessary explicitly evidenced as being the case.

- 4.15 In respect of the extant permission, it was previously considered that there would be a public benefit as a result of the proposal which included housing provision and improving the visual character of the site and conservation area. The scheme was considered to be of a good design and layout and was considered to be enhancement to the character and appearance of the conservation area.
- 4.16 The above consideration was the position taken in respect of the existing extant permission which can be implemented on the site. However it is important to consider the proposed changes and whether this position would remain the same.
- 4.17 It can be seen from the submitted plans that the proposal seeks permission to replace the previously approved pair of semi-detached dwellings with a single detached dwelling resulting in one less dwelling than the extant permission. It is proposed to increase the scale and height of the proposed dwellings (from the extant permission), given that there would be a reduction of one dwelling. It is also proposed to make some slight amendments to the proposed siting and design of the proposed dwellings and garages, from the extant permission.
- 4.18 The proposed design, appearance and use of materials of the proposed dwellings would be very similar to that already approved. It is considered that the proposed slight change to positioning/siting is not consequential in respect of whether the proposal would preserve the character and appearance of the Conservation Area.
- 4.19 The proposed dwellings, as now indicated on submitted amended drawings, would be less than 500mm higher than the previously approved dwellings and less than 500mm wider than the approved dwellings. There would be no change in width to plot one dwelling from the building already approved in this location. It is considered that the proportions of the proposed dwellings, although relatively large would not be dissimilar to existing dwellings situated to the north east and east of the site and would not result in material increase over that already approved.
- 4.20 Therefore the proposal is not considered to be a significant increase in scale nor significant change to the elevational treatments, in the context of the existing extant permission.
- 4.21 Having taken all of the above into account officers consider that the proposal would preserve the character and appearance of the Thorganby Conservation Area, required by the statutory duty of S72 (1) of the Planning (Listed Building and Conservation Area Act) 1990. It is considered that the proposal accords with Policy ENV1 and ENV25 of the Selby District Local Plan (2005), SP18 and SP19 of the Selby District Core Strategy Local Plan (2013) and Section 12 of the NPPF.

Impact on Residential Amenity

- 4.22 The layout of the site, the design of the units and the siting results in separation distances, and orientation that is considered acceptable so as to ensure that the proposals would not result in a significant detrimental impact through overlooking, overshadowing, loss of light or the creation of an oppressive outlook for neighbouring residential properties. In addition the scheme design has resulted in an internal layout which would ensure an appropriate level of residential amenity is secured.

- 4.23 It is noted that in respect of the potential impact on the closest neighbouring dwelling, Chesnut House, located to the south of the site, that the closest dwelling would be approximately 0.9 metres taller. However this dwelling would now be positioned further away from the neighbour than originally approved. The rear of Chesnut House would face onto the side elevation of the nearest proposed dwelling at a distance of approximately 12.5 metres, at the closest point and this would be at an offset/oblique angle, as opposed to directly facing. It is noted that the proposed ground floor rear extension to this dwelling would be increased in size and as such a window is now proposed to be inserted into the flank elevation. This would be at a distance of approximately 14 metres from the rear elevation of Chestnut House. Therefore in order to protect the amenity of Chesnut House in respect of overlooking, it is recommended that this window be opaque glazed. The proposed garage in respect of the dwelling located closest to Chesnut House would have a similar impact as that approved.
- 4.24 Having taken into account the matters discussed above it is considered that the proposal would 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.

Impact on the Highway Safety

- 4.25 The site has an established vehicle access and the proposal would use the same access. The layout plan shows that vehicles can enter and leave the site in a forward gear and there is adequate space for on-site parking for each dwelling.
- 4.26 The Highways Authority have assessed the application and raise no objection subject to the imposition of conditions.
- 4.27 It is therefore considered that the scheme is acceptable and in accordance with policies ENV1(2), T1 and T2 of the Local Plan, Policy SP19 of the Core Strategy and Paragraph 39 of the NPPF with respect to the impacts on the highway network subject to conditions.

Impact on Nature Conservation and Protected Species

- 4.28 The application site is within proximity of a number of European designated sites which are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the Habitat Regulations). The application site is within proximity to Skipwith Common Special Area of Conservation (SAC), River Derwent SAC and the Lower Derwent Valley SAC and Special Protection Area (SPA) which are European Sites. The Lower Derwent Valley SAC and SPA are also listed as the Lower Derwent Valley Ramsar site and is notified at a national level as Derwent Ings and the River Derwent Sites of Special Scientific Interest (SSSIs). Skipwith Common SAC is also listed as Skipwith Common SSSI. However, the application site is not designated itself as a formal or informal site for nature conservation.
- 4.29 Natural England have advised that if undertaken in strict accordance with the details submitted, the proposal is not likely to have a significant effect on the interest features for which Lower Derwent Valley (SPA, SAC & Ramsar) and River Derwent (SAC) has been classified and that it is not necessary for the Local Planning

Authority to undertake an Appropriate Assessment to assess the implications of the proposal on the site's conservation objectives.

- 4.30 In addition, Natural England have also advised that they are satisfied that the proposed development if carried out in strict accordance with the details of the application, as submitted, would not damage or destroy the interest features for which the Derwent Ings and River Derwent SSSI have been notified.
- 4.31 The application is accompanied with a Bat Survey. A preliminary bat roost assessment followed by a dusk emergence survey was undertaken by Curtis Ecology in June 2016. The level of survey effort conforms to good practice standards. No evidence of roosting bats was detected and the site was considered to be of low significance as bat foraging habitat.
- 4.32 However, there was evidence of Barn Owl roosting in the most westerly of the existing buildings, a dilapidated former poultry shed (Building 4 in the bat survey report). It was not considered that Barn Owls used the building for nesting. Section 7 of the Curtis Ecology report provides recommendations for wildlife mitigation.
- 4.33 The County Ecologist has recommended that should planning permission be granted a condition should be imposed requiring compliance with the recommendations set out in the Curtis Ecology report.
- 4.34 In respect of concerns raised by the objector in relation to impact on trees and hedgerows, it is noted that the proposed redevelopment would result in some loss of hedges within the site. In this respect is considered appropriate that a condition be imposed should planning permission be granted to ensure that the site is appropriately landscaped. Indeed the submitted plans do indicate that native species hedges would be planted and landscaping would take place.
- 4.35 Having had regard to all 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 subject to conditions that the proposals be carried out in accordance with the mitigation measures set out in the Bat Survey Section 7.1

Archaeology

- 4.36 The site is situated at the very edge of the historic medieval settlement at Thorganby. The adjacent fields contain ridge and furrow and it is likely that the site lay outside of the village. The County Archaeologist has advised that the archaeological potential is therefore fairly low for the medieval period.
- 4.37 The County Archaeologist has advised that the proposed development would involve the demolition of the existing dwellings and that these would have had a negative impact on any archaeological deposits should they have been present. As such they advise that they have no objections to the proposals and no further archaeological investigation would be required.
- 4.38 The proposals are therefore considered acceptable with respect to the impact on designated and non-designated heritage assets in accordance with Policies ENV1

and ENV28, of the Local Plan, Policies SP18 and SP19 of the Core Strategy and Part 12 of the NPPF.

Affordable Housing

- 4.39 In the context of the 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 application has to be determined at committee in accordance with the scheme of delegation.

Flood Risk and Drainage

- 4.40 The application site is located in Flood Zone 1 (low probability of flooding), albeit it is close to flood zone 2/3. The application form states that foul sewage would be disposed of via the main sewer with surface water disposed of via soakaways. Yorkshire Water have not responded to the proposal (although it is noted that they raised no objections to the previous application) and the Internal Drainage Board have raised no objections to the proposals subject to the imposition of conditions. The Lead Flood Authority have provided detailed advice in respect of surface water drainage and flooding and it is considered appropriate to ensure that a satisfactory scheme for the disposal of surface and foul water be achieved, via imposition of an appropriately worded planning condition which captures the requirements of their advice given that the eastern part of the site is known to be subject to surface water flooding.
- 4.41 The comments of the Parish Council and the advice given by the LLFA is noted (in respect of the recommended submission of a Flood Risk Assessment). It is however acknowledged that a flood risk assessment should be submitted for all planning applications for development within Flood Zones 2 & 3, development on sites of 1 hectare or greater; development or changes of use to a more vulnerable class that may be subject to other sources of flooding. The proposed development does not fall within any of the above category's, the site is within Flood Zone 1, the site is not 1 hectare in size and the site is not changing use as such it is considered that there is no reasonable requirement for a flood risk assessment to be required for this proposed development.
- 4.42 Subject to imposition of a condition to ensure a satisfactory drainage scheme being brought forward to adequately address flood risk, drainage and climate change in accordance with Policies SP15, SP16 and SP19 of the Core Strategy Local Plan, and the NPPF, the proposal is considered acceptable.

Land Contamination

- 4.43 It is noted that the Council's Contaminated Land Consultant was consulted in respect of the previous application on the site. The Council's Contaminated Land Officer reviewed the proposal and considered that it was appropriate to recommend that conditions could be imposed to ensure that the site was safe for its intended use. Notwithstanding this the applicant has submitted a phase 1 investigation report

has been considered by the Council's Contaminated land Consultant who advised that the conditions set out below should be imposed on any grant of planning permission to ensure that the site is safe for its intended use.

- 4.44 The proposals, subject to the imposition of the previously recommended conditions are therefore considered to be acceptable with respect to contamination in accordance with Policy ENV2 of the Local Plan, Policy SP19 of the Core Strategy and Part 11 of the NPPF.

5.0 CONCLUSION

- 5.1 It is proposed to demolish the existing dwellings, outbuildings and garages and erect three residential dwellings, garages and associated works and infrastructure. The proposal does not meet any of the forms of development which are considered to be appropriate under Policy SP4 (A) of the Selby District Core Strategy.
- 5.2 Notwithstanding the above, it is established case law that if an applicant can demonstrate a fallback position i.e. an existing consent which could be implemented in the absence of a new permission; this constitutes a material consideration to be taken into account in determining the application. In this case there is an extant planning permission for the erection of four dwellings under application number 2016/1029/FUL which is cable of being implemented. The extant planning permission is considered as a clear fallback position that is a material consideration of sufficient weight to outweigh the provisions SP2 of the Core Strategy, as the erection of four dwellings can constructed in this location.
- 5.3 Matters of acknowledged importance such as impact on the character and appearance of the conservation area, layout, scale, design, flood risk, drainage, contamination, archaeology, nature conservation, impact on residential amenity, impact on the highway network and affordable housing contributions are considered to be acceptable, subject to the imposition of the planning conditions set out below.

6.0 RECOMMENDATION

The application be approved subject to the imposition of the following conditions:

01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

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

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

WG395-01B-Location Plan
WG395 -05J-Proposed Ground Floor Plan
WG395-06F- Proposed First Floor Plan
WG395-07H-Proposed Elevations
WG395-09D-Individual House Elevations
WG395-10C-Garage Elevations and Fence detail

WG395-04G-Proposed Site Plan

Reason:

For the avoidance of doubt.

03. No development shall commence above foundation level until details of the materials to be used in the construction of the surfaces, boundary treatment, exterior walls, roofs, windows and doors of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

In the interests of visual amenity and in order to comply with Policies ENV1 and ENV25 of the Selby District Local Plan.

04. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements

a. The existing access shall be improved by widening the access for the first 6 metres into the site and the crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E6d.

b. Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.

c. Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.

All works shall accord with the approved details.

INFORMATIVE:

You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in this condition.

Reason:

To ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience having regard to Policies T1 and T2 of the Selby District Local Plan

05. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splay is provided giving clear visibility of 45 metres measured along both channel lines of the major road Main Street from a point measured 2 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height

shall be 0.6 metres. Once created these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

INFORMATIVE:

An explanation of the terms used above is available from the Highway Authority.

Reason: In the interests of road safety having regard to Policies T1 and T2 of the Selby District Local Plan.

06. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number 4 have been constructed in accordance with the submitted drawing (Reference WG395-04G). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with Policies T1 and T2 of the Selby District Local Plan and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development

07. No development shall be commence until a scheme for the provision of surface water drainage works and temporary flood risk measures during the construction phase has been submitted to and approved in writing by the Local Planning Authority. Any such scheme shall be implemented as approved before the development is brought into use and in respect of the approved temporary flood measures, before construction commences.

The following criteria should be incorporated:

- Any proposal to discharge surface water to a watercourse from the redevelopment of a brownfield site should first establish the extent of any existing discharge to that watercourse.
- Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140lit/sec/ha or the established rate whichever is the lesser for the connected impermeable area).
- Discharge from "greenfield sites" taken as 1.4 litre/second/hectare (1:1 year storm).
- Storage volume should accommodate a 1:30 year event with no surface flooding and no overland discharge off the site in a 1:100 year event to include for urban creep.
- A 20% allowance for climate change should be included in all calculations.
- A range of durations should be used to establish the worst-case scenario.
- The proposed SuDS attenuation features should be able to provide the 1 in 100 year design flood event plus with an allowance for climate change and for urban creep. This should be incorporated into the detail drainage design.
- Mitigation measures should be incorporated to minimise the risk of flooding to properties.
- Site design must be such that when SuDS features fail or are exceeded, exceedance flows do not cause flooding of properties on or off site.
- Runoff must be completely contained within the drainage system (including areas designed to hold or convey water) for all events up to a 1 in 30 year event.

- The design of the site must ensure that flows resulting from rainfall in excess of a 1 in 100 year rainfall event are managed in exceedance routes that avoid risk to people and property both on and off site.
- The suitability of soakaways, as a means of surface water disposal, by percolation tests to determine soil infiltration rate should be ascertained in accordance with BRE Digest 365 Soakaway design (2003) and CIRIA Report 156 Infiltration drainage – manual of good practice (1996). Method of test must be relevant to proposed SuDS.
- Pollution from surface water runoff from the development from parking areas and hardstanding areas should be mitigated against by the use of oil interceptors, road side gullies, reedbeds or alternative treatment systems.

There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.

Reason:

To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding as required by NPPF Part 10.

INFORMATIVE:

Testing must be carried out at or as near as possible to the proposed soakaway location (No greater than 25m from proposed soakaway for uniform subsoil conditions. For non-uniform subsoil conditions testing must be carried out at the location of the soakaway). Testing must be carried out at the appropriate depth for proposed SuDS (e.g. invert level, base level of soakaway etc.) relative to existing ground levels. Three percolation tests are to be performed at each trial pit location to determine the infiltration rate, where possible. Where slower infiltration rates are experienced, testing must be carried out over a minimum period of 24 hours (longer if 25% effective depth is not reached). 25% effective depth must be reached. Extrapolated test data will not be accepted.

Summary of acceptable infiltration rates for development surface water drainage (m/sec): > $\times 10^{-6}$ - Appropriate for soakaways - Infiltration tests to BRE 365 standards and information of the ground conditions and groundwater levels. = $\times 10^{-6}$ – Borderline - Infiltration tests to BRE 365 standards and information of the ground conditions and groundwater levels. < $\times 10^{-6}$ - Not Viable - Seek alternative means of disposal of surface water.

Should infiltration prove unfavourable, surface water discharged to one of the following will need to be considered in order of the priority shown and in accordance with the Building Regulations: Part H: a. Discharge to a surface water body. b. Discharge to a surface water sewer, highway drain or other drain. c. Discharge to combined sewer. Micro Drainage calculations would confirm the required Surface water attenuation volume. An exceedance plan would show overland flow during an extreme flood event, exceeding the capacity of the proposed drainage system.

08. The development hereby permitted shall be carried out in strict accordance with the recommendations outlined in the Bat Survey Report dated July 2016 in Section 7 of the report.

Reason:

In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1(5) of the Local Plan and Policy SP18 of the Selby District Core Strategy Local Plan (2013).

09.No development shall commence until an investigation and risk assessment (in addition to any assessment provided with the planning application) shall be 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. This shall be submitted to and approved in writing by 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;
 - 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'.

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, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

10.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 shall 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.

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, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

11. Prior to first occupation or use, the approved remediation scheme shall be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out shall be produced and be submitted to and approved in writing by 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, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

12. 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, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

13. No development shall take place until details of the proposed means of disposal of foul drainage, have been submitted to and approved by the local planning authority. Any such scheme shall be implemented as approved before the development is brought into use.

Reason:

To ensure that the site is properly drained in accordance with Policies SP15, SP16 and SP19 of the Core Strategy.

14. The development hereby permitted shall not be occupied until the window at ground floor level in the east elevation to House One to the east of the site has been fitted with obscure glazing. The obscure glazing shall thereafter be retained for the lifetime of the development.

Reason:

To ensure a satisfactory standard of residential amenity for adjacent occupiers having regard to Part 11 of the National Planning Policy Framework.

15. No demolition or construction shall commence until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include

- indications of all existing trees and hedgerows on the land
- identify those to be retained and set out measures for their protection throughout the course of development
- Details of the species, location, planting density and stock size on planting of all trees, hedgerows and shrub planting.
- Details of the measures for the management and maintenance of the approved landscaping

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner. Any trees which die, are removed or become seriously damaged or diseased within the first five years shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity and ecological value and in order to comply with Policies ENV1 and ENV25 of the Selby District Local Plan and Parts 11 and 12 of the NPPF.

Contact Officer: Ann Rawlinson, Principal Planning Officer

Appendices: None