



Report Reference Number: 2019/0147/OUT

To: Planning Committee
Date: 5 June 2019
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Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0147/OUT	PARISH:	Selby Town Council
APPLICANT:	Mrs Donaldina Ryan	VALID DATE: EXPIRY DATE:	25 th February 2019 22 nd April 2019
PROPOSAL:	Outline application for the erection of up to two self-build plots with all matters reserved.		
LOCATION:	Land Off Friars Meadow, Friars Meadow, Selby		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee as more than 10 letters of support have been received contrary to the Officer recommendations to refuse the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site comprises of a grassed areas and an access road. The site is located outside the development limits of Selby and is therefore located within the open countryside. To the north of the site are open fields and to the south and west of the site is a residential area.

The Proposal

- 1.2 The proposal is for an outline application for the erection of up to two self-build plots with all matters reserved.

Relevant Planning History

- 1.5 The following historical application is considered to be relevant to the determination of this application.
- 1.6 Application Number: 2018/0004/OUT, Description: Outline application for a proposed self-build plot for 1 detached dwelling house with all other matters reserved, Address: Land Off Friars Meadow, Friars Meadow, Selby, Decision: Refused, Decision Date: 24-APR-18

2. CONSULTATION AND PUBLICITY

- 2.1 **Parish Council** - Objects to this application as the proposal to be outside the development limits, no direct access and encroachment on the countryside.
- 2.2 **NYCC Highways Canal Rd** – Recommends a condition be attached regarding a Construction Management Plan
- 2.3 **Environment Agency** – Recommends a condition be attached regarding finished floor levels, no ground floor sleeping accommodation and that flood resilience mitigation are incorporated into the design.
- 2.4 **Selby Area Internal Drainage Board** – Advises the IDB's current guidelines for any increase in surface water discharge.
- 2.5 **Yorkshire Water** – Unclear on how the developer is proposing to dispose of surface water, and notes that the local public sewer network does not have capacity to accept an additional unrestricted discharge of surface water. Yorkshire Water also recommends two conditions are attached relating to ensuring separate systems of drainage for foul and surface water are utilised and details of surface water drainage are submitted.
- 2.6 **Contaminated Land** – No objections subject to recommendations
- 2.7 **Neighbour Comments** – Immediate neighbours were informed by letter, a site notice was erected and an advert placed in the local press. 10 letters of objections and 12 letters of support have been received as a result of this advertisement.

The letters of objection raise concerns regarding:

- The principle of residential development on agricultural land outside the development limits of Selby
- Encroachment into the open countryside
- Impact on Green Belt
- Loss of openness/farmland
- Increased traffic and parking resulting from the proposed development
- Impact of the proposed development on flood risk and drainage
- The impacts of the construction process on the residential amenity of neighbouring properties in terms of traffic, noise, pollution and disturbance
- The loss of view from existing residential properties arising from the proposed development
- The impact of the proposals on the value of the existing residential properties

- Access and ownership issues
- Loss of trees
- Size of plot
- Loss of privacy
- Large cesspit under the proposed building area
- New access may not be suitable for agricultural vehicles
- The letters of support and the proximity of the addresses to the application site

12 letters of support have been received, 6 of which are from the same address, Faraway House and a further 2 letters have been received from the same address, 5 The Green.

The letters of support make the following comments:

- Site does not appear to be sited in open countryside
- Highly sustainable location/close to Selby Town
- Council has a legal obligation to provide self-build plots
- Valuable addition to the area
- Current planning policy aims growth to this sustainable location
- Will not encroach into countryside, maintaining the visual amenity of the current settlement limits
- Planning Inspectorate identified the site to be adjacent to the development limits
- NPPF in favour of sustainable development
- Development would add to the mix and supply of the housing in the area
- Site is located within Flood Zone 3a which is the same as the neighbouring properties and would pose no greater risk to this small area
- Will contribute to Government's commitment to double the number of self-build plots by 2020
- Selby does not have enough plots to match the local demand
- Will help to meet local demand by providing self-build plots.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The application site is located outside development limits, and is therefore within the open countryside.
- 3.2 The application is located within Flood Zone 3 and is within an area benefitting from flood defences.

Policy Considerations

- 3.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that *"if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise"*.

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.

The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.

Annex 1 of the NPPF is concerned with its implementation and includes the following guidance -

“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).”

Selby District Core Strategy Local Plan

3.5 The relevant Core Strategy Policies are as follows:

SP1 - Presumption in Favour of Sustainable Development
SP2 - Spatial Development Strategy
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

3.7 The relevant Selby District Local Plan Policies are as follows:

ENV1 - Control of Development
ENV2 - Environmental Pollution and Contaminated Land
T1 - Development in Relation to Highway
T2 - Access to Roads

4. APPRAISAL

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

- Principle of Development
- Design and Impact on the Character and Form of the Area
- Impact on Residential Amenity
- Impact on Highways
- Flood Risk and Drainage
- Other Issues

Principle of Development

- 4.2 The application site is located outside the defined development limits of Selby, which is the Principal Town as identified in the Core Strategy, and is therefore located within the open countryside.
- 4.3 Policy SP2A(c) of the Core Strategy states that *“Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances.”*
- 4.4 The proposal does not meet the requirements of Policy SP2A(c) as it is not for rural affordable housing need and there are no special circumstances that have been identified to justify the proposal the application should therefore be refused unless material considerations indicate otherwise.
- 4.5 Policy SP2A is consistent with the NPPF and therefore is considered up-to-date. The proposal is situated within open countryside and no special circumstances have been identified and therefore the proposal does not comply with Policy SP2A(c) and is not acceptable in principle.

Sustainability of Development

- 4.6 In respect of sustainability, the site is located just outside the defined development limits of Selby, which is the Principal Town as identified in the Core Strategy, which is the focus for new housing, employment, retail, commercial and leisure facilities. Selby Town is at the top of the settlement hierarchy and is therefore considered to be the most sustainable settlement within the District having regard to the type and range of facilities, public transport accessibility and access to employment opportunities. It should be noted that the site is located just outside the defined development limits of Selby, and therefore would be served by the facilities within this sustainable settlement so would perform highly in terms of its sustainability credentials. However, this needs to be considered alongside the impact on the character and appearance of the settlement.

Design and Impact on the Character and Form of the Area

- 4.7 The application site is located outside the defined development limits of Selby, which is the Principal Town as identified in the Core Strategy, and is therefore located within the open countryside. The application seeks outline planning permission for the erection of two self-build detached dwelling with all matters reserved for subsequent approval.
- 4.8 The application site is located to the north of Friars Meadow, which is a cul-de-sac to the north side of Monk Lane towards the north of Selby Town. The application site comprises an access road off Friars Meadow serving residential properties including Hillfield Farmhouse, Cherry Lea and Cherry Meadow Farm and areas of

green space. To the north of the application site is grazing fields, and to the south of the application site is residential development.

- 4.9 The site as existing provides a landscape buffer between the urban, residential development and the open fields beyond. There is a clear boundary between the open fields and urban development. The proposed dwellings are shown indicatively as being located within the south proportion of the site, to allow for the positioning of the proposed dwellings in this location the existing access is to be moved further north.
- 4.10 The previous application 2018/0004/OUT, stated that *“To the immediate north west, north east and south east of the application site would be grazing fields, while to the immediate south west would be a row of tall trees, which appear as a hedgerow, providing a clear boundary between the access road and built form beyond leading from Friars Meadow.”* These trees have been removed, and therefore, there is no longer a boundary between the access road and the open fields beyond.
- 4.11 The removal of the trees has inevitably changed the character of the area, and moving the access road further into the field will further alter the character of the open countryside. The introduction of development onto this land would extend the urban development and encroach into the open countryside, and change the character and appearance of the area.
- 4.12 Given the location of the proposed development in relation to its surroundings, it is considered that the residential development of this site would result in the urbanisation of an existing area of open fields and lead to encroachment into the open countryside. The proposal would not result in a natural rounding off of the settlement or provide a new defensible boundary. While it is noted that matters of layout, scale, appearance and landscaping are reserved for future consideration, it is not considered that an appropriate scheme could be advanced at the reserved matters stage which would be acceptable in these respects, without having a harmful impact on the character, form and setting of the existing settlement and this part of the open countryside.
- 4.13 Having regard to the above, given the location of the proposed development in relation to its surroundings, it is not considered that an appropriate layout, appearance, scale and landscaping of the proposed development could be achieved at the reserved matters stage, without having a significant adverse impact on character, form and setting of the existing settlement and this part of the open countryside. The proposal is therefore contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the guidance contained within the NPPF.

Impact on Residential Amenity

- 4.14 The application seeks outline planning permission for the erection of one self-build detached dwelling with all matters reserved. The layout, scale, appearance and landscaping of the dwellings is reserved for subsequent approval at the reserved matters stage, however, given the relationship between the application site and the neighbouring residential properties, it is considered that an appropriate scheme could be achieved at the reserved matters stage to ensure no significant adverse

effects of overlooking, overshadowing or oppression between the proposed dwelling and for the existing dwellings to the south west of the application site.

- 4.15 Having regard to the above, it is considered that an appropriate scheme could be achieved at the reserved matters stage, which would not result in any significant detrimental impacts on the residential amenities of the occupiers of the existing or proposed dwellings in accordance with Policy ENV1(1) of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Highway Safety

- 4.16 The comments of the neighbouring properties are noted regarding the impact of the proposals on highway safety.
- 4.17 The application seeks outline planning permission for the erection of two self-build detached dwellings with all matters reserved. The submitted location plan indicates that access could be taken from Friars Meadow, and moving the existing access road further north east into the field; however, as detailed above, the details of the access are reserved for subsequent approval at the reserved matters stage. NYCC Highways have been consulted on the proposals and have advised that there are no objections to the proposals in terms of highway safety, subject to a condition requiring a construction management plan. However, given the nature and scale of the proposal, for two dwellings it is considered unreasonable and unnecessary to attach such a condition.
- 4.18 Having regard to the above, it is not considered the impact of highway safety would be a reason for refusal at outline stage.

Flood Risk and Drainage

- 4.19 The comments of the neighbouring properties are noted regarding the impact of the proposals on flood risk and drainage.
- 4.20 The application site is located within Flood Zone 3a which has been assessed as having between a 1 in 100 or greater annual probability of river flooding (>1%) or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any one year.
- 4.21 Paragraph 155 of the NPPF states that *“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be safe for its lifetime without increasing flood risk elsewhere.”*
- 4.22 Paragraph 158 of the NPPF states that *“The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.”*

- 4.23 The application proposes the erection of two detached dwellings within Flood Zone 3a and therefore the sequential test would be required to determine whether there are any reasonably available sites at lower probability of flooding that could reasonably accommodate the proposed development. The application site is located outside the defined development limits of Selby, which is the Principal Town, as identified within the Core Strategy. As such, in accordance with the Selby District Council Guidance Note on the Sequential Test, published in March 2018 the geographical coverage area for the sequential test would be Selby Town. Furthermore, should the sequential test be passed, the exception test would be required as the proposed development is more vulnerable and within Flood Zone 3a. The exception test would need to show that the sustainability benefits of the development to the community outweigh the flood risk and that the development would be safe for its lifetime taking into account the vulnerability of its users and that it won't increase flood risk elsewhere.
- 4.24 A Flood Risk Assessment has been submitted with the application in which the applicant has undertaken the sequential and exception test, following the publication of the updated Selby District Council Guidance Note on the Sequential Test published in March 2019 further information was submitted by the applicant.
- 4.25 In terms of the sequential test, the applicants, both in the sequential test included within the flood risk assessment undertaken by F R Fillingham of Planmaster Architectural Services and further information submitted by the applicant, consider that in line with the Selby District Council Guidance Note on the Sequential Test, published in March 2019, the geographical coverage area for the sequential test would be Selby Town only. The submitted information has assessed Selby Town and reviewed potential sites, and has discounted all the reviewed sites due to sites not being available, sites having already implemented the permissions, sites being too large and also sites within the same flood zones. The Sequential Test also reviewed online market sales for development land. The Sequential Test concludes that there are no sequentially preferable sites.
- 4.26 Officers have undertaken the sequential test and no other sites have been identified within the defined limits of Selby which are reasonably available and could accommodate the proposed development and which are located within a lower flood zone. As such, the scheme is considered to be acceptable in terms of passing the sequential test.
- 4.27 As a 'More Vulnerable' development of a dwelling house in Flood Zone 3a, the proposal is required to pass the Exception Test 4 once the Sequential Test has been met. The NPPF requires that for the Exception Test to be passed it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk, and that it will be safe for the lifetime of the development.
- 4.28 The Flood Risk Assessment submitted by the application has identifies that the site is situated within the principal development town of Selby and as defined by Policy SP2 is a sustainable settlement within the District, in addition the application site is within walking distance from the Town Centre and is well served by local services and transport links. Therefore, the Flood Risk Assessment states there are clear social and economic benefits to the proposal. The site specific FRA concludes it

has demonstrated the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere.

- 4.29 There is an appeal decision for the site (Appeal Reference: APP/N2739/W/18/3202126) and whilst there are differences in the two applications such as the number of dwellings, the appeal application was for 1 dwelling and the siting of the dwelling, the comments made by the Planning Inspector are still relevant:

“In relation to wider sustainability benefits, I have had regard to the benefits set out by the appellant within the FRA and other evidence. I acknowledge that the proposal would represent a self-build dwelling which would add to the mix and supply of housing in the area and would have sustainable access to services within Selby. Whilst these are factors which are encouraged by the Framework and other policies, the benefits arising from a single dwelling would be modest. Furthermore, the benefits would essentially be limited to the appellant and future residents of the dwelling, rather than wider sustainability benefits to the community. I am also mindful of the negative effects of the proposal on the community in respect of the detrimental effect on the character and appearance of the countryside setting of this area of Selby, and to which I give substantial weight for reasons stated previously. On balance, I do not consider that the proposal would provide wider sustainability benefits to the community that outweigh the identified flood risk and that it would therefore fail this element of the Exception Test.”

- 4.30 It is still considered the wider public benefits of the proposal would be modest and together with the harm caused to the character and appearance of the open countryside, it is considered the benefits to the community do not outweigh the flood risk and consequently the proposal would fail this element of the Exception Test.
- 4.31 The FRA specifies flood mitigation measures to make the development safe from flooding and which also concludes that it will not increase flood risk elsewhere. It should also be noted that the Environment Agency do not object to the proposal subject to conditions relating to mitigation measures. However, the NPPF is clear that both elements of the Exception Test will have to be passed for development to be acceptable.
- 4.32 The application forms submitted states that surface water will be disposed of via sustainable drainage systems, soakaways and main sewers. The Internal Drainage Board has been consulted and has provided details of their current guidelines. Yorkshire Water have also been consulted on the proposals and recommended a condition to clarify the method of surface water disposal.
- 4.33 Having regard to the above, it is not considered that drainage would be a reason for refusal at outline stage.

Affordable Housing

- 4.34 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.

- 4.35 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”*.
- 4.36 The application proposes the erection of two dwellings on a site which has an area of less than 0.5 hectares, such that 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, therefore affordable housing would not be required for this proposal.

Land Contamination

- 4.37 The application is supported by a planning application form and a Phase 1 Contaminated Land Investigation Report. The planning application form sets out that the proposed use would be vulnerable to the presence of contamination, which is agreed as the proposed use of the site would be for residential purposes. The contaminated land screening assessment form sets out that the current use of the land is a vacant field and that the proposed use of the land is for domestic purposes. In terms of the past land use, the Phase 1 Contaminated Land Investigation Report sets out that the site has been used for agricultural purposes, while adjacent land has been used for both domestic and agricultural purposes. From a search of historic maps it is confirmed that the past land use of the application site has been for agricultural purposes and adjacent land has been used for both domestic and agricultural purposes.
- 4.38 Having regard to the above, it is considered that there is limited potential contamination to be present at the site. Having regard to the above, it is not considered the impact of land contamination would be a reason for refusal at outline stage.

Other Issues

- 4.39 It is noted that the proposal is for a self-build dwelling and the letters of support have made reference to the Self-build and Custom Housebuilding Act 2015 and the self-build register. The Self-Build and Custom Housebuilding Act 2015, places a duty on local authorities in England to keep and have regard to a register of people and groups interested in self-build and custom build housing. The NPPG, in paragraph 023 reference ID 57-023-201760728, states that Local Authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand on the self-build and custom housebuilding register in their area. The first base period begins on the day on which the register is established and ends 30 October each year. At the end of each base period, local authorities have 3 years in which to give permission for an equivalent number of plots of land, which are suitable for self-build and custom housebuilding, as there are entries for that

base period. The Local Authority currently has 41 people on the self-build register and 5 of these have mentioned Selby as their preferred location, and the Local Authority therefore supports applications for self-build and custom housebuilding, providing that the proposals accord with the development plan. Furthermore, the Local Authority is exploring options for the provision of self-build and custom housebuilding in its forthcoming Sites and Allocations Local Plan, which includes the potential to allocate land specifically for self and custom builders. This document is programmed to be adopted in 2019. In this instance, the Local Authority have identified that the proposal does not accord with the development plan and on balance the material considerations do not indicate otherwise and therefore cannot be supported, notwithstanding the fact that the proposal is for two self-build dwellings.

- 4.40 Concerns have been raised regarding the impact of the construction process on the residential amenity of neighbouring properties in terms of traffic, noise and disturbance and this can be controlled by an appropriate condition relating to construction management.
- 4.41 The loss of private views from existing residential properties arising from the proposed development and the impact of the proposals on the value of existing residential properties is not material planning considerations which can be taken into account in the determination of this application.
- 4.42 Concerns have been raised over land ownership and access to the application site over third party land. The applicants have indicated that the land within the red edge of the location plan is within their ownership by signing ownership certificate A on the submitted application form. The issue of the access and maintenance of the access is a separate civil matter.

5. CONCLUSION

- 5.1 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposal is unacceptable in principle and contrary to Policy SP2A(c) of the Selby District Core Strategy. The proposal does not comprise any of the types of development that are acceptable in principle under Policy SP2A (c) of the Core Strategy. While the proposed development would perform highly with respect to its sustainability credentials, given its location marginally beyond the defined development limits of Selby, the location of the proposed development outside the defined developments limits is considered to have an unacceptable impact on the character and form of the settlement. Therefore, on balance, the proposal is unacceptable in principle and contrary to Policy SP2A(c) of the Selby District Core Strategy and hence the overall Spatial Development Strategy for the District.
- 5.2 The proposal would have a harmful impact on the character and appearance of the area contrary to Policy ENV1(1) and (4) of the Selby District Local Plan, Policy SP19 of the Core Strategy and the guidance contained within the NPPF. The residential development of this site would result in the urbanisation of an existing area of open fields and lead to encroachment into the open countryside. While it is noted that matters of layout, scale, appearance and landscaping are reserved for future consideration, it is not considered that an appropriate scheme could come

forward at the reserved matters stage which would be acceptable in these respects, without having a harmful impact on the character, form and setting of the existing settlement and this part of the open countryside.

- 5.3 The proposed residential development for two dwellings is therefore considered to be unacceptable in terms of flood risk and contrary to the NPPF. The application site is located within Flood Zone 3a. The NPPF states that all proposals located in Flood Zone 2 and 3a require a Sequential Test to determine whether there are any reasonably available sites at less risk of flooding that could accommodate the development. For development located within the open countryside, the Sequential Test should be undertaken and the search area should be Selby Town. Whilst it is noted the proposal passes the Sequential Test, the proposal failed to pass the Exception Test and is therefore unacceptable in terms of flood risk.
- 5.4 Notwithstanding the above the following details would be supplied at reserved matters stage and so would not be reasons for refusal, the residential amenity of neighbouring properties or highway safety and it is considered the proposal is acceptable in respect of drainage, nature conservation and protected species, land contamination and affordable housing.

6. RECOMMENDATION

This application is recommended to be refused for the following reasons:

- 01 The proposal would result in the creation of two new dwellings within the open countryside, wherein accordance with the overall Spatial Development Strategy for the District, development will be restricted to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances. The proposal does not comprise any of the types of development that are acceptable in principle under Policy SP2A (c) of the Core Strategy. While the proposed development would perform highly with respect to its sustainability credentials, given its location marginally beyond the defined development limits of Selby, which is the Principal Town as identified within the Core Strategy and would result in an acceptable level of growth for Selby as the Principal Town, the location of the proposed development outside the defined developments limits is considered to have an unacceptable impact on the character and form of the settlement. Therefore, on balance, the proposal is unacceptable in principle and contrary to Policy SP2A (c) of the Selby District Core Strategy and hence the overall Spatial Development Strategy for the District.
- 02 The residential development of this site would result in the urbanisation of an existing area of open fields and lead to encroachment into the open countryside. While it is noted that matters of layout, scale, appearance and landscaping are reserved for future consideration, it is not considered that an appropriate scheme could come forward at the reserved matters stage which would be acceptable in these respects, without having a harmful impact on the character, form and setting of the existing settlement and this part of the open countryside. Therefore, the proposal is unacceptable in terms of its impact on the character and appearance of

the area contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

03. The application site is located within Flood Zone 3a. The NPPF states that all proposals located in Flood Zone 2 and 3a require a Sequential Test to determine whether there are any reasonably available sites at less risk of flooding that could accommodate the development. For development located within the open countryside, the Sequential Test should be undertaken with the search area of Selby Town. The application passes the Sequential Test and therefore is subject to the Exception Test. It is still considered the wider public benefits of the proposal would be modest and together with the harm caused to the character and appearance of the open countryside, it is considered the benefits to the community do not outweigh the flood risk and consequently the proposal would fail this element of the Exception Test. The proposed residential development for two dwellings is therefore considered to be unacceptable in terms of flood risk and contrary to the NPPF.

7. Legal Issues

7.01 Planning Acts

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

7.02 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.

7.03 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 2019/0147/OUT and associated documents.

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Appendices: None