



Report Reference Number: 2019/0109/FULM

To: Planning Committee
Date: 7 August 2019
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APPLICATION NUMBER:	2019/0109/FULM	PARISH:	Eggborough Parish Council
APPLICANT:	Countryside Properties PLC	VALID DATE:	6th February 2019
		EXPIRY DATE:	8th May 2019
PROPOSAL:	Proposed erection of 25 no. dwellings, with a vehicular access road adjoining the previously approved application scheme 2017/1131/REMM		
LOCATION:	Land Adjacent Selby Road Eggborough Goole East Yorkshire		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as the proposed development is a departure from the Development Plan, but there are material considerations which would justify approval of the application.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located outside, but immediately adjacent to, the defined development limits of Eggborough (which is a Designated Service Village as identified in the Core Strategy) and is therefore located within the open countryside in policy terms.
- 1.2 The application site comprises an area of open undeveloped grassland and forms part of a wider site which has planning permission for the residential development of 76 dwellings (under planning permission references 2015/0356/OUT and 2017/1131/REM). Development has commenced on the southern part of the wider site such that to the south of the application site residential development currently being constructed; to the east of the application site are existing residential

properties fronting Tranmor Lane; to the west of the application site is Selby Road, beyond which is open undeveloped grassland; while to the north of the application site is open undeveloped grassland.

The Proposal

- 1.3 The application seeks full planning permission for the proposed erection of 25 dwellings and an associated access road on land adjacent to Selby Road, Eggborough.
- 1.4 The application site forms part of a wider site which has planning permission for the residential development of 76 dwellings (under planning permission references 2015/0356/OUT and 2017/1131/REM). The 25 dwellings and access road proposed under the current application would effectively replace 25 dwellings and an access road granted planning permission under the previous applications, such that 76 dwellings would still be provided across the wider site.
- 1.5 This application has materialised as a result of an issue over the land ownership of a sliver of land to the northern boundary of the wider site. Under the current application, the red line boundary to the north has been re-aligned to overcome the issue of the land ownership, which has meant that the 25 dwellings and access road in this part of the site have needed to be re-aligned. This is considered to be a material amendment to the previously approved scheme and as such a full planning application has been submitted. The full planning application needs to be re-assessed against the policies of the Development Plan, taking into account any material considerations.

Relevant Planning History

- 1.6 The following historical applications are considered to be relevant to the determination of this application.
- 1.7 An outline application (reference: 2015/0356/OUT) for a residential development with all matters reserved for future consideration was granted on 1 December 2015.
- 1.8 A reserved matters application (reference: 2017/1131/REMM) relating to access, appearance, landscaping, layout and scale of approval 2015/0356/OUT for a residential development was granted on 12 March 2018.
- 1.9 A non-material amendment application (reference: 2018/0488/MAN) to planning permission reference 2017/1131/REMM, a reserved matters application relating to access, appearance, landscaping, layout and scale of approval 2015/0356/OUT for a residential development was granted on 25 May 2018.
- 1.10 A discharge of condition application (reference: 2018/0490/DOC) relating to conditions 5 (TPO), 7 (highways), 9 (Surface Water), 10 (Access), 11 (Visibility Splays), 12 (Visibility Splays), 13 (Highways), 15 (Surface Water), 16 (access, Parking, Manoeuvring & turning), 18 (off-street Parking), 20 (Construction Method Statement) & 21 (Noise) of approval 2017/1131/REMM, a reserved matters application relating to access, appearance, landscaping, layout and scale of approval 2015/0356/OUT for a residential development was granted on 25 September 2018.

- 1.11 A discharge of condition application (reference: 2018/0491/DOC) relating to conditions 5 (Surface Water) and 9 (Drainage) of approval 2015/0356/OUT, an outline application for a residential development with all matters reserved for future consideration was granted on 25 September 2018.
- 1.12 A section 73 application (reference: 2018/1013/OUT) to vary condition 11 (energy) of approval 2015/0356/OUT, an outline application for a residential development with all matters reserved for future consideration is pending consideration.

2. CONSULTATION AND PUBLICITY

- 2.1 **Parish Council** – No objections. However, Councillors would request that a suitably worded condition regarding the addition of a youth/recreational shelter is attached to any planning permission granted. The youth/recreational shelter would allow teenagers to congregate in one place and would provide protection from the weather.
- 2.2 **Development Policy** – Provided comments on: (1) Impact on the Council's Housing Land Strategy; (2) The Principle of Development; (3) Previous Levels of Growth and the Scale of the Proposal; (4) Relation of the Proposal to the Development Limit.
- 2.3 **Landscape Consultant** – No objections, subject to provision of the following additional information and minor adjustments, some of which could be secured by condition:
- Detailed hard and soft landscaping scheme.
 - Details for the Public Open Space and arrangements for ongoing maintenance and management, in perpetuity (see previously agreed S106 Agreement).
 - Tree protection measures for trees and hedgerows to be retained (including TPO tree ref. 5/2002).
 - The eastern site boundary fence adjoining open countryside should be adjusted to be a rural boundary fence planted with native hedgerow (not 1.8m close boarded fence).
- 2.4 **Environmental Health** – It is noted that the applicant has submitted a Noise Assessment carried out by BWB dated by 04 January 2018. The results of this assessment, which is now over 16 months old, has been considered. The assessment only considers noise from one activity on the nearby North Point Business Park, Layher, which is operational during the daytime only. The Business Park now has a number of other activities including two companies which are transport based one of which is known to operate on a 24 hour basis. It is considered that the assessment therefore does not have sufficient information to determine the impact of noise from this Business Park on the residential amenity of the residents of the proposed dwellings.

It is noted that the noise from traffic in the area would also impact on the residential amenity in the private garden space and internal areas during the day and night. Mitigation measures are given in Section 5 of the Noise Assessment. (1) Private Garden Space - this incorporates a 1.8m high close boarded fence along the side of the gardens to the northern boundary to ensure that the resultant level in the private garden space meets the appropriate standard. This fence should have a surface mass of not less than 17kgm² and shall be free from gaps and cracks. All joins to

post to be effectively sealed as shall the joint between the lower edge of the panels and the soil. The barrier shall be maintained throughout the life of the development.

(2) Internal Noise Levels - the assessment has determined that appropriate internal noise levels will not be achieved during the day or night time due to noise from traffic without the need to keep windows closed. It is recommended that standard double glazing (4mm pane/12mm airgap/4mm pane) be installed with trickle vents sufficient to provide ventilation to rooms provided they offer a minimum of 32 dB.

However until the full impact of noise from the North Point Business Park is known, it cannot be agreed that the above mitigation is sufficient to prevent a loss of amenity.

- 2.5 **NYCC Highways** – No objections, subject to fourteen conditions relating to: (1) detailed plans of road and footway layout; (2) construction of roads and footways prior to occupation of dwellings; (3) discharge of surface water; (4) construction requirements of private access/verge crossings; (5) visibility splays; (6) pedestrian visibility splays; (7) approval of details for site works in the highway; (8) completion of works in the highway before occupation of dwellings; (9) detailed plan of ditch to be piped; (10) provision of approved access, parking and turning areas; (11) conversion of garages to habitable rooms; (12) highway condition survey; (13) travel plan; and (14) construction management plan.
- 2.6 **Yorkshire Water Services** - No objections, subject to two conditions relating to: (1) the provision of separate systems of drainage for foul and surface water on and off site; (2) approval of a scheme for surface water drainage prior to commencement of development.
- 2.7 **Danvm Drainage Commissioners Shire Group Of IDBs** - If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year. If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow. If the surface water is to be discharged to any watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission and would be restricted to 1.4 litres per second per hectare or greenfield runoff. No obstructions within 9 metres of the edge of a watercourse are permitted without Consent from the IDB. If surface water or works are planned adjacent to a Main River within the Drainage District, then the Environment Agency should be contacted for any relevant Permits.
- 2.8 **SuDS And Development Control Officer** – No response within statutory consultation period.
- 2.9 **Waste And Recycling Officer** – No objections. As there are more than four properties the developer will be required to purchase the waste and recycling containers for this development.
- 2.10 **Natural England** – No comments.
- 2.11 **North Yorkshire Bat Group** – No response within statutory consultation period.

- 2.12 **Designing Out Crime Officer** – No comments.
- 2.13 **North Yorkshire Fire & Rescue Service** – No objection/observation.
- 2.14 **Stephanie Porter Vale Of York CCG** – No response within statutory consultation period.
- 2.15 **Public Rights Of Way Officer** – No response within statutory consultation period.
- 2.16 **Education Directorate North Yorkshire County Council** – No contribution to be sought.
- 2.17 **HER Officer** – No objections.
- 2.18 **Neighbour Summary** - All immediate neighbours were informed by neighbour notification letter, a site notice was erected and an advert placed in the local press. One letter of representation has been received as a result of this advertisement, which gives support to the provision of a youth/teenager shelter within the proposed development.

3 SITE CONSTRAINTS

Constraints

- 3.1 The application site is located outside, but immediately adjacent to, the defined development limits of Eggborough (which is a Designated Service Village as identified in the Core Strategy) and is therefore located within the open countryside in policy terms.
- 3.2 The application site is located within Flood Zone 1, which has a low probability of flooding

4. POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". 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.
- 4.2 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.
- 4.3 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.

4.4 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).”

Selby District Core Strategy Local Plan

4.5 The relevant Core Strategy Policies are:

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

Selby District Local Plan

4.6 The relevant Selby District Local Plan Policies are:

ENV1 – Control of Development
ENV2 – Environmental Pollution and Contaminated Land
T1 – Development in Relation to the Highway Network
T2 – Access to Roads
RT2 – Open Space Requirements for New Residential Developments

5. APPRAISAL

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

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage
- Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing
- Recreational Open Space
- Waste and Recycling
- Other Issues

The Principle of the Development

- 5.2 The application site is located outside, but immediately adjacent to, the defined development limits of Eggborough (which is a Designated Service Village as identified in the Core Strategy) and is therefore located within the open countryside in policy terms.
- 5.3 On 10 August 2018, the Director of Economic Regeneration & Place formally endorsed an updated five year housing land supply methodology and resultant housing land supply as set out in the 2018-2023 - Five Year Housing Land Supply Statement. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (Policy SP5) can be considered up to date. The NPPF aim of boosting and maintaining the supply of housing is a material consideration when evaluating planning applications. An approval on this site (if its deliverability can be proved by the applicant) would provide additional dwellings to the housing supply.
- 5.4 Paragraph 12 of the NPPF emphasises that the development plan is the statutory starting point for decision-making, adding that where a planning application conflicts with an up-to-date development plan permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
- 5.5 The previous outline planning permission covering the wider site (reference 2015/0356/OUT) was granted when the Council could not demonstrate a deliverable 5 year supply of housing land and was therefore determined without the relevant Local Plan policies being given any weight as they were considered to be out of date. However, the outline planning permission expired in December 2018 and so the principle of development for this proposal must be considered again but this time with the full range of Local Plan housing land supply policies carrying full weight.
- 5.6 Policy SP2A(c) of the Core Strategy states *“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.”*
- 5.7 The proposal does not meet Policy SP2A(c) as it is not for rural affordable housing needs and there are no special circumstances. The application should therefore be refused unless material considerations indicate otherwise.
- 5.8 One such material consideration is that there is an extant reserved matters planning permission for the residential development of the site, under reference 2017/1131/REMM. While the current application only relates to part of that wider site, the 25 dwellings and access road proposed under the current application would effectively replace 25 dwellings and an access road granted under the aforementioned reserved matters application, such that 76 dwellings would still be provided across the wider site. The 25 dwellings and access road in this part of the

site have been re-aligned to overcome an issue relating to the land ownership of a slither of land to the northern boundary of the site, however, the general layout of the development, type, scale and appearance of the dwellings, landscaping and access would remain very similar to the approved scheme. This represents a fall-back position of significant weight.

- 5.9 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.

Design and Impact on the Character and Appearance of the Area

- 5.10 The application site comprises an area of open undeveloped grassland and forms part of a wider site which has planning permission for the residential development of 76 dwellings (under planning permission references 2015/0356/OUT and 2017/1131/REM). Development has commenced on the southern part of the wider site such that to the south of the application site residential development currently being constructed; to the east of the application site are existing residential properties fronting Tranmor Lane; to the west of the application site is Selby Road, beyond which is open undeveloped grassland; while to the north of the application site is open undeveloped grassland.
- 5.11 The application site forms part of a wider site which has planning permission for the residential development of 76 dwellings (under planning permission references 2015/0356/OUT and 2017/1131/REM). The 25 dwellings and access road proposed under the current application would effectively replace 25 dwellings and an access road granted planning permission under the previous applications, such that 76 dwellings would still be provided across the wider site. As set out earlier in this report, this application has materialised as a result of an issue over the land ownership of a sliver of land to the northern boundary of the wider site. Under the current application, the red line boundary to the north has been re-aligned to overcome the issue of the land ownership, which has meant that the 25 dwellings and access road in this part of the site have needed to be re-aligned.
- 5.12 The general layout of the development, type, scale and appearance of the dwellings, landscaping and access as shown on the submitted plans would all remain very similar to the extant reserved matters application and are not considered to have any significant adverse impact on the character and appearance of the area.
- 5.13 Having regard to the above, it is considered that the proposal is acceptable and would not have a significant or detrimental impact on the character and appearance of the area. The proposal is therefore considered acceptable in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policies SP4 and SP19 of Core Strategy and national policy contained within the NPPF.

Impact on Residential Amenity

- 5.14 Given the size, siting and design of the proposed dwellings and their relationship to neighbouring residential properties outside the application site, it is not considered that the proposals would result in any significant adverse effects of overlooking, overshadowing or oppression on the residential amenities of any neighbouring residential properties outside the application site. While the proposals would have

an effect on views from existing neighbouring properties fronting Tranmor Lane, this is not a material consideration which can be taken into account in the determination of this application.

- 5.15 Given the layout, scale, appearance and landscaping of the proposed dwellings, it is not considered that the proposals would result in any adverse effects of overlooking, overshadowing or oppression on the residential amenities of any residential properties within the application site. Furthermore, the proposed dwellings would each benefit from an adequate amount of useable external amenity space for the occupiers of the proposed dwelling.
- 5.16 The comments of the Council's Environmental Health Officer are noted, wherein concerns are raised regarding the potential for future occupiers of the proposed dwellings to be subject to noise and disturbance from surrounding land uses. However, it is noted that under the reserved matters planning permission (reference 2017/1131/REMM) the Council's Environmental Health Officer raised similar concerns and advised that additional monitoring should be carried out at the northern boundary of the site to determine the impact of the business park on the residential amenities of the future occupiers of the proposed dwellings. This was conditioned to be undertaken prior to the commencement of development at the site, along with a requirement for the development to be carried out in accordance with mitigation measures set out within the report, including the provision of an acoustic fence along part of the northern boundary of the site and the provision of double glazing to properties. Under discharge of condition application reference 2018/04920/DOC pursuant to the aforementioned reserved matters application (which was determined in September 2018), the applicants provided further information on how the business park operates and following consideration of this information by the Council's Environmental Health Officer, they confirmed that they did not require any further information in relation to this issue and would not object to this condition being discharged.
- 5.17 Having regard to the Environmental Health Officers comments in relation to the discharge of condition application pursuant to the reserved matters application (which represents a fall-back position), it is considered that no further information is required to be submitted under the current application to demonstrate that the surrounding land uses would not have any significant adverse impact on the residential amenities of the future occupiers of the proposed dwellings. However, as with the reserved matters application, it would be considered reasonable and necessary to attach a condition requiring the development to be carried out in accordance with the noise mitigation measures set out in Section 5 of the submitted Noise Assessment undertaken by BWB Consulting Limited, dated January 2018.
- 5.18 The Council's Environmental Health Officer has also recommended a condition requiring a Construction Environmental Management Plan (including details of how noise, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated, to be submitted to and approved in writing by prior to the commencement of development). A condition requiring a Construction Management Plan was attached to the previous reserved matters application and covered issues of dust, but not noise. Having regard to the fall-back position, it is considered reasonable and necessary to attach a similarly worded condition to any planning permission granted regarding a construction management plan, which would cover dust, but not noise.

- 5.19 Having regard to the above, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policy ENV1 (1) of the Selby District Local Plan and national policy contained within the NPPF.

Impact on Highway Safety

- 5.20 The access to the wider site from Selby Road has been established through the reserved matters application. The application site would be accessed from the same position on Selby Road and would benefit from an internal access road culminating in a turning point. The proposed dwellings would be arranged around this access road. The general layout of the development including this access road would be very similar to the extant reserved matters application and would result in the same level of parking provision for each dwelling.
- 5.21 NYCC Highways have been consulted on the proposals and have not raised any objections, subject to a number of conditions. However, some of these conditions are not considered to be reasonable and necessary given the works that have already taken place in relation to the reserved matters application.
- 5.22 Subject to conditions relating to detailed plans of road and footway layout; construction of roads and footways prior to occupation of dwellings; discharge of surface water; construction requirements of private access/verge crossings; pedestrian visibility splays; provision of approved access, parking and turning areas; conversion of garages to habitable rooms; travel plan; and construction management plan 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 national policy contained within the NPPF.

Flood Risk and Drainage

- 5.23 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 5.24 In terms of drainage, the submitted application form sets out that surface water would be disposed of via sustainable drainage systems, while foul sewage would be disposed of via mains sewer. Furthermore, a Drainage Strategy produced by Westleigh Partnerships Ltd, dated September 2017 has been submitted. The Local Lead Flood Authority, Yorkshire Water and the Shire Group of Internal Drainage Boards have been consulted on the proposals and have not raised any objections subject to a condition requiring further details of the proposed means of surface water drainage to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.
- 5.25 It is noted that a similar condition was attached to the outline planning permission and has subsequently been discharged by the Local Planning Authority, however, as no details of this drainage strategy have been submitted with the current application, it is considered that a condition requiring further details of surface water drainage is reasonable and necessary in this instance.

Nature Conservation and Protected Species

- 5.26 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.

- 5.27 The application site is not a protected site for nature conservation and is not known to support, or be in close proximity to, any site supporting protected species or any other species or habitat of conservation interest.
- 5.28 Having regard to the above, 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 national policy contained within the NPPF.

Land Contamination

- 5.29 The application has been supported by a Geo-Environmental Site Assessment undertaken by RSK Environment Limited, dated November 2017. It is noted that the application site comprises an area of open undeveloped grassland, which has historically been used for grazing horses. The use of the application site remains unchanged from when the previous outline planning application (reference 2015/0356/OUT) was submitted, at which time the Council's Contaminated Land Consultant considered that the proposals were acceptable in respect of land contamination subject to a condition requiring the reporting of any unexpected contamination.
- 5.30 Having regard to the above, subject to the aforementioned condition 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 national policy contained within the NPPF.

Affordable Housing

- 5.31 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 states *"The Council will seek to achieve a 40%/60% affordable/general market housing ration within overall housing delivery. In pursuit of this aim, the Council will negotiate for on-site provision of affordable housing up to a maximum of 40% of the total new dwellings on all market housing sites at or above the threshold of 10 dwellings (or sites of 0.3ha) or more. On sites below the threshold, a commuted sum will be sought to provide affordable housing within the District."*
- 5.32 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"*.
- 5.33 The current application seeks full planning permission for the proposed erection of 25 dwellings and the submitted affordable housing plan (drawing no. 506/01(02)002F) demonstrates that three affordable housing units would be provided within the application site, which would all be intermediate. This would clearly not meet the requirements of Policy SP9 and the accompanying Affordable

Housing SPD, which requires provision of up to 40% affordable housing (subject to viability) and would not result in a policy compliant tenure split of 30 – 50% intermediate tenure and 50 – 70% social rent.

- 5.34 However, it should be taken into account that this application site forms part of a wider site which has planning permission for the residential development of 76 dwellings (under planning permission references 2015/0356/OUT and 2017/1131/REM). The 25 dwellings and access road proposed under the current application would effectively replace 25 dwellings and an access road granted planning permission under the previous applications, such that 76 dwellings would still be provided across the wider site. When the current application is looked at in the context of the wider site, the affordable housing plan (drawing no. 506/01(02)002F) demonstrates that 31 affordable housing units would be provided in total, 15 of which would be intermediate and 16 of which would be social rent. This would result in 40% affordable housing provision across the wider site with a policy compliant tenure split. The Council's Rural Housing Enabler has been consulted on the proposals and has not raised any objections having regard to the context of the current application in relation to the wider site.
- 5.35 The outline planning permission relating to the wider site (reference 2015/0356/OUT) was subject to a Section 106 Agreement, which required (amongst other things) the provision of 40% affordable housing at the site and for the location and layout of the affordable housing to be in accordance with an affordable housing plan. An affordable housing plan was approved under the reserved matters application. The affordable housing plan submitted under the current application amends the location of four of the affordable housing units, but the number and tenure split remain the same as previously approved. It is considered a Deed of Variation to the original Section 106 Agreement associated with the outline planning permission at the wider site can ensure the appropriate provision of affordable housing across the wider site (as per the submitted affordable housing plan, drawing no. 506/01(02)002F).

Recreational Open Space

- 5.36 Policy RT2 of the Selby District Local Plan requires proposals for new residential development comprising 5 or more dwellings to provide recreational open space at a rate of 60 square metres per dwelling.
- 5.37 The submitted layout plan demonstrates that a significant area of recreational open space would be provided within the application site, in excess of the requirements of Policy RT2 of the Selby District Local Plan. However, it should be taken into account that this application site forms part of a wider site which has planning permission for the residential development of 76 dwellings (under planning permission references 2015/0356/OUT and 2017/1131/REM). The 25 dwellings and access road proposed under the current application would effectively replace 25 dwellings and an access road granted planning permission under the previous applications, such that 76 dwellings would still be provided across the wider site. When the current application is looked at in the context of the wider site, the area of recreational open space provision is proportionate to the number of dwellings provided in terms of the requirements of Policy RT2 of the Selby District Local Plan.
- 5.38 The outline planning permission relating to the wider site (reference 2015/0356/OUT) was subject to a Section 106 Agreement, which required (amongst other things) the provision of recreational open space at a rate of 60m² per

dwelling. The Section 106 Agreement also sets out the timing of the submission of details of the recreational open space, the timing of the provision of the recreational open space and details of the ongoing maintenance of the recreational open space. It is considered a Deed of Variation to the original Section 106 Agreement associated with the outline planning permission at the wider site can ensure the appropriate provision of recreational open space across the wider site and set out the timing of the submission of details of the recreational open space, the timing of the provision of the recreational open space and details of the ongoing maintenance of the recreational open space across the two planning permissions.

Waste and Recycling

- 5.39 The Council's Waste and Recycling Officer has been consulted on the proposals and has advised that they have no objections to the proposals in terms of waste and recycling.
- 5.40 The Council's Waste and Recycling Officer has however advised that for developments of 4 or more dwellings developers must provide waste and recycling provision at their own cost. It is noted that the Section 106 Agreement pursuant to outline planning permission reference 2015/0356/OUT contained a requirement for the developer to make a contribution to cover the cost of the waste and recycling provision, which was to be £65 per dwelling. It is noted that only 51 of the dwellings approved under the associated reserved matters application (reference 2017/1131/REMM) will be constructed, with the remaining 25 being constructed under this current application. A Deed of Variation to the original Section 106 agreement associated with the outline planning permission at the wider site could ensure that across the wider site, a waste and recycling contribution of £65 per dwelling was sought on a total of 76 dwellings – made up from 51 dwellings under the reserved matters application and 25 dwellings under the current application.

Other Issues

- 5.41 Policy SP16 of the Core Strategy states *"new residential developments of 10 dwellings or more or non-residential schemes of 1000m2 gross floor space or more, [are required to] provide a minimum of 10% of total predicated energy requirements from renewable, local carbon or decentralized energy sources"*. A condition could be attached to any planning permission granted requiring such a scheme to be submitted in relation to the proposed development prior to the commencement of development.
- 5.42 The comments of the Parish Council and the neighboring property are noted regarding the request for the provision of a youth shelter. However, it is not considered reasonable or necessary to require the applicant to provide such a facility within the proposed development.

6. CONCLUSION

- 6.1 The application seeks full planning permission for the proposed erection of 25 dwellings and an associated access road on land adjacent to Selby Road, Eggborough.
- 6.2 In terms of the principle of the development, the application is contrary to Policy SP2A(c) of the Core Strategy. However, there is an extant reserved matters planning permission for the residential development of the site, under reference

2017/1131/REMM. While the current application only relates to part of that wider site, the 25 dwellings and access road proposed under the current application would effectively replace 25 dwellings and an access road granted under the aforementioned reserved matters application, such that 76 dwellings would still be provided across the wider site. The 25 dwellings and access road in this part of the site have been re-aligned to overcome an issue relating to the land ownership of a slither of land to the northern boundary of the site, however, the general layout of the development, type, scale and appearance of the dwellings, landscaping and access would remain very similar to the approved scheme. 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.

- 6.3 In other respects, the proposed development would not have a detrimental effect on the character and appearance of the area, the residential amenity of the occupants of neighbouring properties, highway safety, flood risk and drainage, nature conservation and protected species or land contamination, subject to suitable conditions. Furthermore, the proposal would be acceptable in respect of the provision of affordable housing and recreational open space when the application is considered in the context of the wider site, which benefits from an outline and reserved matters approval. A Deed of Variation to the original Section 106 Agreement could enable these contributions to be provided across the wider site.
- 6.4 The proposed development is therefore considered to be acceptable having had regard to Policies ENV1, ENV2, T1, T2 and RT2 of the Selby District Local Plan, Policies SP1 SP2, SP4, SP5, SP8, SP9, SP15, SP16, SP18 and SP19 of the Core Strategy and national policy contained with the NPPF, which at Paragraph 12 makes provisions for decisions to depart from an up-to-date development plan where material considerations indicate that the plan should not be followed.

7. RECOMMENDATION

This application is recommended to be GRANTED subject to the completion of a Section 106 Agreement and 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/surveys listed below:

506/01(02)001 A – Site Location Plan
506/01(02)003 – Existing Site Plan
506/01(02)002 – Proposed Site Layout Plan
506/01(02)002F – Affordable Housing Plan
506/01(02)026 A – Materials Layout Plan
506/01(02)008 B – Proposed Boundary Treatments
506/01(02)022 – House Type EE

506/01(02)024 – House Type HH
506/01(02)023 – House Type GG
506/01(02)013 – House Type E
506/01(02)014 – House Type G
506/01(02)015 – House Type H
506/01(02)016 – House Type I

Reason:

For the avoidance of doubt.

03. The development hereby permitted shall be carried out in accordance with the noise mitigation measures set out in Section 5 of the submitted Noise Assessment undertaken by BWB Consulting Limited, dated January 2018. Once implemented, these noise mitigation measures shall be retained and maintained as such for the lifetime of the development.

Reason:

In the interests of residential amenity and in order to comply with Policies ENV1 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

04. The landscaping scheme as shown on drawing no. 506/01(02)002 shall be carried out in its entirety within the first planting and seeding season following the occupation of the dwellings. All trees, shrubs and hedges and plants shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and any trees, shrubs, hedges, or plants which die, are removed, or become seriously damaged or diseased shall be replaced within the next available planting and seeding seasons with ones of similar size and species.

Reason:

In the interests of visual amenity and residential amenity and in order to comply with Policy ENV1 of the Selby District Local Plan and Policy SP19 of the Core Strategy.

05. The development hereby approved shall be carried out in accordance with a scheme for the protection of tree preservation order tree 5/2002, which shall have first been submitted to and approved in writing by the Local Planning Authority. No equipment, machinery or materials shall be brought onto the site for the purposes of development until the scheme is in place, and the scheme shall be kept in place until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area protectively fenced in accordance with this condition, fires shall not be lit, and ground levels within those areas shall not be altered, nor shall any excavation be made.

Reason:

To ensure that the development does not adversely impact on tree preservation order tree 5/2002 and in order to comply with Policy ENV1 of the Selby District Local Plan.

06. There shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site, until the following drawings and details have been submitted to and approved in writing by the Local Planning Authority:

a) Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:

- o the proposed highway layout including the highway boundary
- o dimensions of any carriageway, cycleway, footway, and verges
- o visibility splays
- o the proposed buildings and site layout, including levels
- o accesses and driveways
- o drainage and sewerage system
- o lining and signing
- o traffic calming measures
- o all types of surfacing (including tactiles), kerbing and edging

b) Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:

- o the existing ground level
- o the proposed road channel and centre line levels
- o full details of surface water drainage proposals

c) Full highway construction details including

- o typical highway cross-sections to scale of not less than 1:50 showing a specification for all
- o the types of construction proposed for carriageways, cycleways and footways/footpaths
- o when requested cross sections at regular intervals along the proposed roads showing the
 - o existing and proposed ground levels
 - o kerb and edging construction details
 - o typical drainage construction details.

d) Details of the method and means of surface water disposal.

e) Details of all proposed street lighting.

f) Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.

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

h) A programme for completing the works.

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

Reason

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

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

programme approved in writing with the Local Planning Authority before the first dwelling of the development is occupied.

Reason

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

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

Reason:

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

09. 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 access shall be formed with 6 metre radius kerbs, to give a minimum carriageway width of 5.5 metres, and the access road into the site shall be constructed in accordance with Standard Detail number A1.
- b. Individual vehicle crossings to dwellings shall be constructed in accordance with the approved details and/or Standard Detail number E6.
- c. Provision shall 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.
- d. Provision of tactile paving in accordance with the current Government guidance.

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.

10. 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 visibility splays providing clear visibility of 2 metres x 2 metres measured down each side of the access and the back edge of the footway of the major road have been provided. The eye height will be 1.05 metre 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.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and the interests of road safety to provide drivers of vehicles using the access and other users of the public highway with adequate inter-visibility commensurate with the traffic flows and road conditions.

11. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas are available for use. 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 ENV1, 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.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order), the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

Reason:

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

13. Prior to the development being brought into use, a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. This shall include:

- a. the appointment of a travel co-ordinator
- b. a partnership approach to influence travel behaviour
- c. measures to encourage the use of alternative modes of transport other than the private car by persons associated with the site
- d. provision of up-to-date details of public transport services
- e. continual appraisal of travel patterns and measures provided through the travel plan
- f. improved safety for vulnerable road users
- g. a reduction in all vehicle trips and mileage
- h. a programme for the implementation of such measures and any proposed physical works
- i. procedures for monitoring the uptake of such modes of transport and for providing evidence of compliance.

The Travel Plan shall be implemented and the development shall thereafter be carried out and operated in accordance with the Travel Plan.

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to establish measures to encourage more sustainable non-car modes of transport.

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

- a. the parking of vehicles of site operatives and visitors

- b. loading and unloading of plant and materials
- c. storage of plant and materials used in constructing the development
- d. reaction and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
- e. wheel washing facilities
- f. measures to control the emission of dust and dirt during construction
- g. a scheme for recycling/disposing of waste resulting from demolition and construction works
- h. HGV routing to avoid

Reason:

In accordance with Policies ENV1, T1 and T2 of the Selby District Local Plan and to provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.

15. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which shall first have been submitted to and approved in writing by the Local Planning Authority. If discharge into the public sewer is proposed, the information shall include, but not be exclusive to:
- i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
 - ii) the means by which the discharge rate shall be restricted to a maximum rate of 5 litres per second.

Reason:

In order to ensure that no surface water discharge takes place until proper provision has been made for its disposal.

16. In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:

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

17. No dwelling hereby permitted shall be occupied until a scheme to demonstrate that at least 10% of the energy supply of the development has been secured from renewable, local carbon or decentralized energy sources including details and a timetable of how this is to be achieved, including details of physical works on site, has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.

Reason:

In the interest of sustainability and to minimise the impact of the development in accordance with Policy SP16 of the Core Strategy.

8. Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

8.3 Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

9. Financial Issues

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

10. Background Documents

Planning Application file reference 2019/0109/FULM and associated documents.

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Appendices:

None