



**Report Reference Number:** 2018/1139/FUL

**To:** Planning Committee  
**Date:** 9 October 2019  
**Author:** Rachel Smith (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/1139/FUL	PARISH:	Thorganby Parish Council
APPLICANT:	Mr Chris Garland	VALID DATE:	10th October 2018
		EXPIRY DATE:	5th December 2018
PROPOSAL:	Proposed construction of 1 No. dwelling on land to the rear of		
LOCATION:	Jubilee Cottage 13 Main Street Thorganby York North Yorkshire YO19 6DB		
RECOMMENDATION:	Minded to Grant subject to the completion of a planning obligation		

This application has been brought before Planning Committee as Officers consider that although the proposal is contrary to the provisions of the Development Plan there are material considerations which would justify approving the application.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site is located within the developments of Thorganby which is identified as a Secondary Village in the Core Strategy. It is within Thorganby Conservation Area.
- 1.2 The application site comprises part of the garden to Jubilee Cottage. The existing dwelling, together with its immediate attached neighbour is set back approximately 22m to the rear of Main Street.

## **The Proposal**

- 1.3 Permission is sought in full for the erection of a two storey dwelling. The proposed dwelling will be set approximately 30m to the rear of Main Street. Whilst located to the rear, the proposed dwelling will not be directly behind Jubilee Cottage and therefore from the street the front of the proposed dwelling will be visible to the side of Jubilee Cottage. As submitted the design of the dwelling had a gable to the front that was approximately 11m in length, together with a hipped roof to its frontage. As a result of comments made by officers, revised plans were received which reduced the front extension to 5m, and also revised the design to include a gable to the front and revised the fenestration. The dwelling will be constructed from reclaimed bricks with a natural clay pantile roof.
- 1.4 Access to the dwelling will be via the existing driveway to Jubilee cottage. Comments were however raised by the Highway Authority that the necessary sight lines would include land outside the control of the applicant. As a result of this the applicant submitted a revised ownership certificate (certificate B), and served notice on the neighbouring occupier over which the sight lines would cross.

## **Relevant Planning History**

- 1.4 The following historical application is considered to be relevant to the determination of this application.

Application Number: 2007/0671/FUL. Erection of a two storey extension to the side and rear and a double garage with office/ancillary accommodation, Address: Jubilee Cottage, 13 Main Street, Thorganby, York, North Yorkshire, YO19 6DB. Decision: Permitted. Decision Date: 16-AUG-07

Application Number: 2007/1353/FUL: Amendment to approved application 8/12/114/PA (2007/1353/FUL) for the erection of a two storey extension to the side and rear (roof height to be increased from that approved). Address: Jubilee Cottage, 13 Main Street, Thorganby, York, North Yorkshire, YO19 6DB. Decision: Permission granted. Decision Date: 27-DEC-07

Application Number: 2015/0816/OUT. Outline planning application for construction of 1no. new dwelling on land to the rear of Address: Jubilee Cottage, 13 Main Street, Thorganby, York, North Yorkshire, YO19 6DB, Decision: Permission granted. Decision Date: 13-NOV-15

## **2. CONSULTATION AND PUBLICITY**

### **2.1 Conservation Officer –**

#### **Comments on original application:**

The development does not preserve or enhance the character or appearance of the Conservation Area, it is contrary to Local Plan policy ENV25, Core Strategy policies SP18 and 19 and the NPPF as the development would cause less than substantial harm to the significance of the designated heritage asset of Thorganby CA. The new development would require a new design and form following an assessment of the character of the area.

### **2.2 Comments on the revised plans:**

The proposed development is located to the rear of Jubilee Cottage on Main Street in Thorganby. It is located within the Thorganby Conservation Area. Jubilee Cottage is set back from the road frontage and is of a traditional built construction of red brick and pantile roof. Its simple form and traditional appearance contributes to the character and appearance of the Thorganby Conservation Area. The proposed development has been re-designed to reflect the local character and building form by reducing the front projection and simplifying the openings. The materials are proposed to be brick to match those found on Jubilee Cottage and clay pantiles to match Jubilee Cottage. This approach will enable the development to sit comfortably within its surroundings. It is advised that conditions are imposed in relation to materials, (including lintels, sills, eaves and ridge), and boundary treatment. No development shall commence until the detailed design of the boundary treatment has been submitted to and approved in writing by the Local Planning Authority.

- 2.3 The development will not cause harm to the significance of the designated heritage asset of the Thorganby Conservation Area and meets the requirements of the NPPF section 16. In particular paragraph 200 which states that new development within Conservation Areas should enhance its significance. Proposals that preserve those elements of significance that make a positive contribution to the asset should be treated favourably. The development will also preserve the character of the conservation area as required by the Planning (Listed Buildings and Conservation Areas) Act 1990 and Local Plan policy ENV25.

#### 2.4 **County Ecologist – Comments on initial plans**

Under Article 6(3) of the Habitats Directive (92/43/EEC), an appropriate assessment is required where a proposed development is likely to have a significant effect upon a European site. Regulations 61 and 62 of the Habitat Regulations relate to the assessment of proposals in proximity of European designated sites. The planning application for Jubilee Cottage has been screened in relation to the Habitat Regulations Assessment. These are sequential and it is only necessary to proceed to the next stage if likely significant effects cannot be ruled out on this basis. The screening of the site has taken into account the location of this site and the nature and scale of the proposed development in relation to the Lower Derwent Valley Special Protection Area, Special Area of Conservation, Ramsar site and component Sites of Special Scientific Interest. Taking account both of direct impact and indirect effects (e.g. noise, lighting, dust), it is not expected that any significant adverse effects on the features for which the Lower Derwent Valley is designated. As no likely significant effect is expected, no further assessment is required. It is assumed that foul water discharge will be of sufficient standard so as not to impair surface water quality in any receiving watercourse. There are some concerns about the impact on what appear to be mature hedgerow trees on the north-eastern boundary of the plot. The supporting statement submitted by the applicant states that, "Hedging and trees to the existing boundary will be retained, and only be trimmed back to suit requirements of the build". There have been other sites in Thorganby where bats and/or Barn Owls have been an issue and we would welcome an indication of the wildlife interest of any affected trees including potential or actual use by bats and Barn Owls. This information needs to be provided prior to determination in case of impacts on protected species. We assume that standard tree protection conditions will be conditioned.

#### **Comments on revised plans**

There isn't anything which alters previous comments provided; the main concern being that if mature trees in the north-eastern boundary of the site need to be cut back as part of the development, these will first need to be checked for the presence of bats and Barn Owls. If the trees are to be retained intact, or if only minor pruning is required, no ecology surveys are required.

## 2.5 **NYCC Highways**

### 2.6 **Comments on original submission**

Pre-application discussions were had with the applicant and it was determined that the required visibility splays of 2 metres by 43 metres could not be achieved. Given the geometry of the highway it would be acceptable for the northern splay to be reduced. However the southern splay should achieve a 2 metre by 43 metres visibility splay. This is not possible without encroaching on neighbouring land if the visibility splay is not protected through a legal agreement the Highway Authority would have to review their support of this application.

### 2.7 **Comments on revised plans**

Confirm that the Highway Authority has no objections to the proposed development but would recommended that the previously recommended conditions are applied in relation to Visibility. Details of Access, turning and parking. Together with informatives in respect of maintaining turning and parking areas free from obstruction, and prevention of mud on the road.

2.8 **Land Use Planning Yorkshire Water Services Ltd** - No comments on this application.

2.9 **The Ouse & Derwent Internal Drainage Board** – No objections subject to conditions attached to any permission granted.

### 2.10 **Parish Council – Comments made in relation to the initial plans.**

(i) The submitted application proposes to erect a large building on a small plot of land and is therefore too overpowering and not in keeping with the surrounding properties.

ii) Foul sewage is to be connected to the main sewer which Yorkshire Water openly admits is already over capacity.

iii) The Parish Council object to inappropriate development in back gardens/infill.

iv) This site was not identified by Selby District Council as an area of possible development within the village, nor is it an area denoted on the Brownfield Sites Register.

v). The site is not sympathetic to the local character ..... and the surrounding developed environment (para 127 (c) - NPPF).

vi). Any decision should take into account the desirability of maintaining an area's prevailing character and setting (including residential gardens) - para 122 (d) - NPPF.

**Parish Council comments in relation to the revised Plans**—No views received.

## 2.11 Neighbour publicity

All immediate neighbours were informed by letter, and a site notice was erected and an advert placed in the local press. No neighbour letters received.

## 3 SITE CONSTRAINTS

### Constraints

- 3.1 The application site is located within the development limits for Thorganby, and is within Thorganby Conservation Area. It lies within Flood Zone 1, which has a low probability of flooding. The site does not contain any protected trees and there are no statutory or local landscape designations. Whilst it does not lie in an area protected for nature conservation it is within the vicinity of the Lower Derwent Valley Special Protection Area, Special Area of Conservation, and Derwent Ings SSSI which lie across the road to the south east.

## 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. On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies .
- 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  
SP4 - Management of Residential Development in Settlements  
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  
ENV25 - Development in Conservation Areas

## **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 Policy SP1 of the Selby District Core Strategy Local Plan (2013) outlines that when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Paragraph 12 of the NPPF (2019) re-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.

- 5.3 The application site lies within the development limits of Thorganby which is identified as Secondary village within the Core Strategy. Policy SP2A(b) states that *'Limited amounts of residential development may be absorbed inside Development Limits of Secondary Villages where it will enhance or maintain the vitality of rural communities and which conforms to the provisions of Policy SP4 and Policy SP10.'*

Reference to Policy SP10 relates to Rural Housing Exception sites, and from the commentary that accompanies Policy SP2, it is not intended that all housing that complies within the criteria in Policy SP4 should be limited to 'rural affordable housing'.

- 5.4 Policy SP4 a) includes that:

*'In Secondary Villages –conversions, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built up residential frontages, and conversions/redevelopment of farmsteads*

- 5.5 The previous outline permission (2015/0816/OUT) granted consent for one dwelling when the Council could not demonstrate a deliverable 5 year supply of housing land and was therefore determined when the tilted balance in favour of sustainable development was engaged. However this consent expired during the course of this application, 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 The commentary to Policy SP4 states that it provides *'greater clarity about the way proposals for development on non-allocated sites will be managed, by identifying the types of residential development that will be acceptable in different settlement types. (para 4.55)* The development of the land would result in a dwelling to the rear of existing properties and therefore would not constitute *'the filling of a small linear gap in an otherwise built up residential frontage.'* Therefore it follows that the development does not fall within any of the categories of development identified as acceptable in Secondary Villages in Policy SP4 (a) and is therefore contrary to both Policy SP4(a) and Policy SP2A(b) of the Core Strategy.
- 5.7 In considering what material considerations apply that might indicate against a refusal on policy grounds, the following matters are considered relevant.

(i) Sustainability

The site lies inside of the defined Development Limits of Thorganby, which is a Secondary Villages as defined in the Core Strategy and is considered to be less sustainable than Designated Service Villages. Taking account of the NPPF, paragraph 38 states that: *'Decision-makers at every level should seek to approve applications for sustainable development where possible.'* At paragraph 59 it includes that to support the Government's objective of significantly boosting the supply of housing, it is important that a sufficient amount and variety of land can come forward where it is needed. The Framework goes on to state (in para 68) that small and medium sized sites can make an important contribution to meeting the housing requirements of an area. And at paragraph 78 it includes that to promote sustainable development in rural area, housing should be located where it will

enhance or maintain the vitality of rural communities, and further that Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.

In terms of services provided as of December 2018 the services include;

- 1 village hall
- 1 public house
- 2 Hotel/ Guest House/B & B
- 1 Nursery/ Pre-School Group
- 1 Playing Field/ Play Ground
- Bus service operating 3 times a day.

(ii) Site characteristics

5.8 Policy SP2 A (b) identifies that limited amounts of residential development may be absorbed within the development limits of Secondary Villages. Policy SP4 goes on to identify the types of development that this may refer to. Within para 4.55 it states that it is intended to support development on the most sustainable locations, in a way which strikes a balance between maintaining the vitality and longer term sustainability of all settlements whilst avoiding the worst excesses of garden grabbing particularly in smaller settlements. Whilst it is noted that dwellings in this part of Thorganby lie predominantly close to the road frontage, numbers 13 and 14 are set significantly back behind extensive gardens. The proposed dwelling would lie to the side of number 13, and set further back from the Main Street than Jubilee Cottage, when viewed from the road it, relates visually to 13 and 14. Crucially there are no other dwellings between the application site and the main road. When viewed from the road frontage, the degree of set back of 13 and 14 Main Street is such that the proposed dwelling would look aligned with those existing dwellings and therefore to all intents and purposes would 'appear as 'a small gap site'. This is a particular set of circumstances that would not therefore be readily replicated elsewhere in Thorganby or indeed in other secondary villages. The development only relates to one dwelling, and will retain an acceptable level of garden for the existing dwelling. As such it is considered that it is the type of limited development that policy SP2A(b) and SP4.

5.9 In support of the principle of the development the site is located within the development limits of Thorganby and to all intents and purposes is a small gap site. It is considered that the level of service weighs in favour of a conclusion that in terms of access to local facilities, the site can be considered as being reasonably sustainable. Taking this into account together with, the reference in paragraph 78 of the NPPF to promoting sustainable development in rural areas where it will enhance or maintain the vitality of rural communities, and in particular the identified locational characteristics of the site, the proposed development accords with the spirit of the policy when looked at in the round with the NPPF. It is therefore not considered that the development of the site would harm the strategy for the supply of housing in the Core Strategy, and the material considerations identified would outweigh the lack of compliance with that part of policy SP4 which requires such sites to be small gap sites in a *linear frontage*. It is therefore considered that such factors constitute the material considerations that would outweigh the lack of compliance with that part of SP4 and consequently SP2A (b) identified. It is still necessary, however, to consider whether those other matters of acknowledged interest still weigh in favour of the development or not.



## Impact on Heritage Assets

- 5.10 The site lies within Thorganby Conservation Area. Paragraph 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 includes a general duty that *'special attention shall be paid to the desirability of preserving or enhancing the character and appearance of the Conservation Area'*. Relevant policies in respect to the impact of development in the Conservation area include Policy ENV25 of the Selby District Local Plan and Policies SP18 and SP19 of the Core strategy.
- 5.11 The previous application on the site made reference to 'Thorganby: A review of the Special Architectural and Historic Interest of the village'. It identified that the character of the village is mainly comprised of its predominantly linear layout and the materials used in its buildings is predominantly brick. It further referred to the lack of a strong building line, with some housing set close to the back of the highway, and others with a generous front garden. It then identified that the site is set back from Main Street and would not be readily visible from view other than neighbouring properties, and *'Given the layout of the village it is considered that the proposal, by virtue of its location, would have a neutral impact on the character and form of the village'*. *The Heritage section concluded that the proposal would preserve the character, appearance and significance of Thorganby conservation Area.*
- 5.12 The NPPF at par 189 requires that applicants describe the significance of any heritage asset affected. The application is accompanied by a Heritage Statement that concludes that the development will not impact on any listed buildings or areas of archaeological sensitivity and has taken account of the character of Thorganby Conservation area. The supporting statement also advises that the revised design takes account of the comments of the Conservation Officer. When the current application was submitted, it included details of a dwelling that accorded with the plan submitted as indicative with the outline application. Because details of design were reserved it carried little weight other than to provide some demonstration of how a dwelling could be accommodated on the site. During consideration of the current application, officers raised concern that the design of the dwelling was inappropriate and out of keeping with this part of the conservation area. This included an overly large front extension together with a hipped roof. Following discussions with officers revised plans were received that reduced the length of the front extension, revised the design to a gable to accord with the immediate neighbouring dwellings, and showed a traditional wet verge, reclaimed bricks and traditional window proportions. It is considered that the revised plans are a significant improvement and will result in a dwelling that relates well in terms of proportions and detailing to the character of the area, and consequently the significance of the Conservation Area. It is however considered that permitted development rights should be removed to ensure that any alterations or extensions that might otherwise be approved required an assessment of the impact on the character of the Conservation Area.
- 5.13 Having regard to the Duty under the Planning (Listed Buildings and Conservation Areas) Act 1990 and the requirements of Policy ENV25 it is considered that the development will preserve the significance of the Conservation area and having identified no harm, meets the requirements of the NPPF section 16. In particular paragraph 200 which states that new development within Conservation Areas should enhance its significance. Proposals that preserve those elements of significance that make a positive contribution to the asset should be treated favorably.

## **Layout and Character Assessment**

- 5.14 This part of Thorganby is essentially linear, with dwellings predominantly close to the road frontage. However nos. 13 and 14 provide an unusual set of circumstances in that whilst they front the Main Street, they have a generous front garden, and as such are set well back from the street. The proposed dwelling would be to the side of 13 Main Street. Whilst it would be further in the site, it would relate to the existing dwellings in terms of scale and orientation. Crucially there are no other properties between the dwellings and the street frontage, and from the street frontage the dwelling would not be out of kilter with those dwellings to the south west. Whilst the dwelling will utilise the existing access to Jubilee Cottage it is considered wide enough to accommodate cars associated with both properties. In view of this the development would not fall into what is commonly described as 'backland development'.
- 5.15 In terms of design, there were significant concerns regarding the scale and design of the dwelling as submitted. However the revised plans have addressed the concerns raised, and it is considered that the proposed dwelling is of an appropriate scale and includes a gable frontage that is not dissimilar to 14 Main Street. Furthermore the dwelling will have traditional windows and will be constructed from reclaimed bricks and natural clay roof tiles. It is therefore concluded that the dwelling will result in a good design that respects the character of the streetscene. As such it accords with Policy ENV1(1) and (4) of the Selby District Local Plan, Policy SP19 Design Quality of the Core Strategy and Section and Section 12 of the NPPF in relation to achieving well designed places.

## **Residential Amenity**

- 5.16 The proposed dwelling will share an access with Jubilee Cottage, and will provide turning to the front of that dwelling. The dwelling will have some impact on the existing amenities of the occupiers of Jubilee Cottage due to impact on outlook and intervisibility between first floor windows. However the gable of the proposed dwelling that has a bedroom window at first floor level is offset from the immediate rear of Jubilee cottage, with the other window on the front of the proposed dwelling only associated with a landing as any intervisibility will be limited. It is also considered that overshadowing will be limited due to the orientation of the proposed dwelling in relation to the existing house, and the main outlook to the rear of 13 Main Street will be maintained. There will be some impact due to the additional vehicular movements, but given the scale of the development and the proposed boundary treatment it is not considered that will have a significant adverse impact. The cars for the proposed dwelling will be screened from Jubilee Cottage by a 1.8m high boundary fence. The turning area will also be separate.
- 5.17 In relation to neighbouring occupiers, the relationship and orientation in relation to 14 Main Street is such that any impact will be negligible. Furthermore there is a separation distance of approximately 40m between the front of the proposed dwelling and the rear of the nearest neighbour to the south east, The Old Vicarage, as such there will be little impact on their existing amenities. It is however considered that permitted development rights that relate to extensions and outbuildings should be removed to ensure that any alterations or extensions that might otherwise be approved require an assessment of the impact on the existing amenities of neighbouring occupiers.

- 5.18 It is therefore considered that whilst there will be some impact on the existing amenities of the applicants existing dwelling; it is not considered that such that it will have a significant adverse impact on their existing amenities. As such, the application accords with the requirements of Policy ENV1 (1) of the Selby district Local Plan.

### **Flood Risk Drainage and Climate Change**

- 5.19 The revised plan demonstrated that Foul water will discharge to a Sewage Treatment Tank or septic tank, with surface water into an attenuation tank or soak away. Yorkshire Water Services have advised that they have no comments to make on the application. The Internal Drainage Board has stated that the development will enlarge the impermeable area on site and has the potential to increase the rate of surface water run-off from the site if this is not effectively constrained. It is recommended that any permission is conditioned upon details to demonstrate whether the proposed drainage proposals are acceptable, and that ground conditions are suitable for any soakaway.
- 5.20 In terms of Climate change, Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate meet 8 criteria set out within the policy. Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree depending largely on the nature and scale of the proposed development. Having had regard to the nature and scale of the proposal, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change over and above that required by Building Regulations is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria of SP15 (B) of the Core Strategy. Therefore having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.

### **Highway Impact**

- 5.21 The proposed development will utilise the existing access to Jubilee Cottage. The access is considered to be wide enough to accommodate vehicular movements associated with both properties. There are two parking spaces and a garage provided to the front of the dwelling. During consideration of the application as submitted, the Highway Officer advised that whilst there was no objection in principle to the development, the visibility splays would pass over land that was not in the applicant's control. Accordingly, the applicant submitted a revised plan that included the visibility splays and also signed ownership certificate B and 'served notice' on the ownership of the land in question. On this basis there is no Highway Authority objection subject to conditions. It will however be necessary to protect the splay through a legal agreement.

### **Ecology**

- 5.22 The site does not lie within a protected area for ecology. Nevertheless it is within proximity to a number of European designated sites which are afforded protection under the Conservation of Habitats and Species Regulations 2017. This includes the Lower Derwent Valley Special Protection Area, the Lower Derwent Valley SAC Skipwith Common Special Area of Conservation. The Lower Derwent Valley SAC and SPA are also listed as the Lower Derwent Valley Ramsar site and is notified at a national level as Derwent Ings and the River Derwent Sites of Special Scientific

Interest. Under Article 6(3) of the Habitats Directive (92/43/EEC), an appropriate assessment is required where a proposed development is likely to have a significant effect upon a European site. Regulations 61 and 62 of the Habitat Regulations relate to the assessment of proposals in proximity of European designated sites. The stages of the Habitat Regulations Assessment are sequential and it is only necessary to proceed to the next stage if likely significant effects cannot be ruled out. The application has been screened on this basis, taking account of the location of this site and the nature and scale of the proposed development in relation to the Lower Derwent Valley Special Protection Area, Special Area of Conservation, Ramsar site and component Sites of Special Scientific Interest. Taking account both of direct impact and indirect effects (e.g. noise, lighting, dust) it is not considered that there will be any significant adverse effects on the features for which the Lower Derwent Valley is designated. As no likely significant effect is expected, no further assessment is required. Foul water discharge should be of a sufficient standard so as not to impair surface water quality in any receiving watercourse.

- 5.23 Concerns were initially expressed regarding potential for the impact on mature hedgerow trees on the north-eastern boundary of the plot. However the applicant has advised that any work will take place outside the bird nesting season and tree protection will be carried out. It is still considered appropriate however to add an informative that if the trees need to be cut back as part of the development, these will first need to be checked for the presence of bats and Barn Owls. Biodiversity enhancement in the form of Owl/Bat Boxes will be provided. It is considered that this accords with policy SP18 3(b) and (c), and paragraphs 170 and 175 of the NPPF.

### **Affordable Housing**

- 5.24 Relevant policies in respect to affordable housing mix include Policy SP9 of the Core Strategy, the Affordable Housing SPD and section 5 of the NPPF. However the subsequent publication of the NPPF 2018 and 2019 is a material consideration. The NPPF sets out in 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). In the light of this it is not considered that affordable housing contributions should be sought on this application.

### **5.25 Other Matters**

The Parish Council has not commented on the revised plans but have made an objection which includes the following points in respect to the original plans submitted:

1. The submitted application proposes to erect a large building on a small plot of land and is therefore too overpowering and not in keeping with the surrounding properties.
2. Foul sewage is to be connected to the main sewer which Yorkshire Water admits is already over capacity.
3. The Parish Council object to inappropriate development in back gardens/infill.

4. This site was not identified by Selby District Council as an area of possible development within the village, nor is it an area denoted on the Brownfield Sites Register.

5 The site is not sympathetic to the local character.....and the surrounding developed environment (para 127 (c) - NPPF).

6. Any decision should take into account the desirability of maintaining an area's prevailing character and setting (including residential gardens) - para 122 (d) - NPPF.

In terms of the size of the dwelling, and the impact on the character of the area, officers raised concerns regarding the scale and design of the proposed dwelling as submitted. Revised details were submitted and the revised plan took account of comments made. This has resulted in a significant reduction in the front extension from 11m to 5m. The design was also changed to reflect the more traditional approach of a gable with materials and window proportions that are in keeping with the character of the area.

In relation to Parish comments that the development relates to inappropriate development in back gardens/infill it is clarified in this report that whilst the proposed dwelling is set well back from many properties in this part Thorganby, the immediately adjacent dwellings are also set behind long front gardens. Given there is no other dwelling in front of the application site it is not considered that it falls into what is commonly considered to be backland development. The revisions to the design have resulted in a dwelling that relates better to the character of the immediate area and crucially is considered to preserve the character of the Conservation Area.

Policy in the Development Plan and the NPPF does not require sites to be specifically identified as 'an area of possible development. However it is noted that the site *does fall* within the development limits for Thorganby.

In terms of drainage, Yorkshire Water Services has advised that they have no comments to make on the application, and the Internal Drainage Board has not objected but has requested details.

## **6 CONCLUSION**

6.1 The site lies within the development limits of a secondary village. Policy SP2A(b) identifies that limited development may be absorbed inside the Development limits where it will enhance or maintain the vitality of rural communities and which conform to the provisions of Policy SP4 and SP10. It is considered that the development of the site does not comply with any of the types of development identified in Policy SP4 a) as being acceptable therefore it fails to comply with policies SP2A (b) and Policy SP4 of the Core Strategy, and should therefore be refused unless material considerations indicate otherwise.

6.2 It has been demonstrated that such material considerations include particular locational characteristics identified. And indeed the development of the site will result in one dwelling that complies with some of the commentary in relation to those policies. Whilst the site is not the filling of a small linear frontage gap in an otherwise built up frontage, because of the location of the adjacent dwellings set behind long gardens it has many attributes of such development. Furthermore the

development of one dwelling will support the level of services that the village offers. and some limited weight to the previous approval on the site. It is further identified that the level of services that include a bus service are such that it is a reasonably sustainable location.

- 6.3 A further material consideration is the NPPF. This states in para 38 that decision makers should seek to approve applications for sustainable development where possible. Paragraph 59 identifies the Government's objective of significantly boosting the supply of housing. The Framework goes on to state (in para 68) that small and medium sized sites can make an important contribution to meeting the housing requirements of an area. And at paragraph 78 it includes that to promote sustainable development in rural area, housing should be located where it will enhance or maintain the vitality of rural communities, and further that Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.
- 6.4 The proposal in terms of the environmental impacts are considered acceptable In terms of ecology, taking account of both of direct impact and indirect effects (e.g. noise, lighting, dust) it is not considered that there will be any significant adverse effects on the features for which the Lower Derwent Valley is designated. As no likely significant effect is expected, no further assessment is required.
- 6.5 It is also considered that the proposal would preserve the character of the conservation area and be acceptable in terms of design, impact on the character of the area and neighbour amenity. Drainage can be addressed through a condition. It is not considered that the objections have raised any matters that would result in a conclusion that the application should be refused. In terms of Highway issues, visibility splays can be secured by a Section 106 agreement or unilateral undertaking.
- 6.6 Taking this into account and considering that all other matters are acceptable, it is not considered that approving the application would cause harm to the Council's strategy for the provision of housing. Accordingly, subject to recommended conditions and the completion of a legal agreement to secure the visibility splays the recommendation is one of minded to approve unless any consultation responses are received as a result of the re-advertisement of the application that raise issues not previously considered.

## 7 RECOMMENDATION

This application is one of **minded to approve** subject to a **legal agreement** to secure the visibility splays, and the conditions set out below.

This application is recommended to be

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:

Reason: For the avoidance of doubt.

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

Reason: In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan.

04. No development of a building/s shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including roofing, cladding and render) to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.

Reason: In the interests of visual amenity, and in order to preserve the character of Thorganby Conservation Area.

05. Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any equivalent Order following the revocation and re-enactment thereof (with or without modification), the dwelling hereby approved shall not be altered or extended, and no buildings or structures shall be erected within its curtilage.

Reason: In order to prevent overdevelopment of the site, to ensure that satisfactory provision of outdoor amenity space for the dwelling house is maintained and to safeguard the amenities of the occupiers of adjacent dwellings in accordance with Policy ENV1 of the Selby District Local Plan.

06. Prior to the occupation of the dwelling hereby permitted, a landscaping scheme for the application site and boundary treatments to be retained and erected within the application site shall be submitted to and approved by the Local Planning Authority. The landscaping scheme shall be carried out in its entirety within the first planting and seeding season following the occupation of the dwelling. 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. All boundary treatments shall be implemented in full accordance with the approved details prior to the occupation of the dwelling and thereafter shall be retained as such for the lifetime of the development.

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

07. The construction of the dwelling shall not commence) until splays are provided giving clear visibility of 30.5 metres measured along the centre line of the northern splay and 43 metres to the southern channel line of the carriageway of the major road (Main Street) from a point measured 2 metres down the centre line of the access road. The eye height will be 1.05 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

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

Reason: In accordance with policy T1 of the Selby district local Plan and in the interests of road safety.

08. Unless otherwise approved in writing by the Local Planning Authority, there shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:

- b. vehicular, cycle, and pedestrian accesses
- c. vehicular and cycle parking
- d. vehicular turning arrangements
- e. manoeuvring arrangements

The proposals shall cater for all types of vehicles that will use the site. The parking standards are set out in the North Yorkshire County Council publication 'Transport Issues and Development - A Guide' available at [www.northyorks.gov.uk](http://www.northyorks.gov.uk).

Reason: In accordance with policy T1 of the Selby District Local Plan, and to ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.

09. No part of the development shall be brought into use until the approved vehicle access; parking, manoeuvring and turning areas approved under condition number 08 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 Policy T1 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.

10. Existing boundary trees and hedgerows to be retained shall be protected by tree protection fencing and ground protection in accordance with BS 5837:2012 Trees in relation to design, demolition and construction. If any work is required to cut back these trees, other than minor pruning, it will be necessary to provide an ecological survey together with any necessary mitigation, carried out by a qualified ecologist to demonstrate that there are no bats or barn owls occupying the trees or hedging prior to the commencement of any such works. Any such works should be



carried out in accordance with BS 3998 (British Standard Recommendations for Tree Work 1989)

Reason: In the interests of tree protection and ecological maintenance.

11. Details of biodiversity enhancement shall be provided in the form of bat and owl boxes. Details of which shall first be submitted to and approved in writing by the local Planning Authority. Thereafter the dwelling shall not be occupied until such approved works are carried out on site.

Reason: In the interests of enhanced biodiversity.

12. Notwithstanding the submitted details, development shall not commence until a scheme detailing foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. Principles of sustainable urban drainage shall be employed wherever possible. Where surface water is to drain to soakaway, the submitted details shall include confirmation of a satisfactory percolation test in accordance with BRE 365 to determine the suitability of the soakaway for surface water drainage. Should these tests indicate that the soakaway is not acceptable then details of alternative drainage for surface water either to a watercourse or to mains sewer shall be submitted to and approved in writing by the Local Planning Authority. If foul drainage is to drain to the Yorkshire Water surface water sewer in Main Street written evidence of consent from Yorkshire Water Services along with confirmation that the sewer has sufficient capacity to handle the discharge shall be provided. Only the approved scheme shall be implemented.

Reason: To prevent the increased risk of flooding; to ensure the provision of adequate and sustainable means of drainage in the interests of amenity in accordance with Policy SP15 of Selby Core Strategy.

13. Prior to the commencement of such works on site, precise details of all windows including materials, method of opening, depth of reveal, and profile of glazing bars shall be submitted to, and approved in writing by the local Planning authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: In the interests of preserving the character of the Conservation Area.

## 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 2018/1139/FUL and associated documents.

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**Appendices:** None