SELBY
DISTRICT COUNCIL

Report Reference Number: 2017/0736/REMM (8/62/272C/PA)

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

APPLICATION NUMBER:	2017/0736/REMM	PARISH:	Church Fenton Parish Council
APPLICANT:	Strata Homes	VALID DATE: EXPIRY DATE:	13th July 2017 12th October 2017
PROPOSAL:	Reserved matters application relating to appearance, landscaping, layout and scale for erection of 50 dwellings of approval 2015/0615/OUT for outline application to include access for a residential development		
LOCATION:	Land South Of Main Street Church Fenton Tadcaster North Yorkshire		
RECOMMENDATION:	GRANT SUBJECT TO COMPLETION OF A DEED OF VARIATION TO s106		

This application has been brought before Planning Committee as more than 10 letters of representation have been received which raise material planning considerations and officers would otherwise determine the application contrary to these recommendations. It has also been requested by Cllr Musgrave.

1.0 INTRODUCTION AND BACKGROUND

The Site and Context

1.1 The application red line site relates to a series of agricultural fields south of Main Street and East of Church Street, Church Fenton. The site sweeps round from Church Street around the rear of St Marys Church up to the rear of the parish hall on Main Street and along the rear of the properties along Main Street. The site then

follows the dyke south from the Pumping Station and then steps in before sweeping back on Church Street. The fields are laid to crops.

The Proposal

1.2 This is a reserved matters application with layout, scale, appearance and landscaping being sought for approval. The layout plan provides for 50 dwellings on the northern part of the red line area. Vehicular access was approved at the outline stage and provides for an access road from the south east before the entrance to the village. An emergency access route and pedestrian link would be provided through to the Main Street from the North West corner of the site adjacent to the western side of the Parish Hall. Open space would be provided mainly on the east of the housing with areas of open space through the centre of the site flanking the east to west footpath to the Church. In addition the 'left over' areas around the north-west corner around the emergency access and the areas around the Church and the vicarage to the south would be public open space.

Relevant Planning History

1.3 The following permissions and approvals are considered to be relevant to the determination of this application.

1.4 <u>2015/0615/OUT- Permitted 03/12/2015</u>
Outline application to include access for a residential development on land to the south of Main Street, Church Fenton was granted subject to 30 conditions and a Section 106 agreement to secure the following:

- Affordable Housing - 40% (unless an alternative figure is justified in accordance with the Affordable Housing SPD and agreed by the Council). Tenure split- 30-50% Intermediate housing and 50-70% Rented Housing/ Allocation of the units and delivery.

- Waste and recycling contribution - Amount and Phasing of payment

- Education contribution - towards Kirk Fenton Primary School, and

- Open Space – Extent/Layout/Delivery/Maintenance and Management

1.5 <u>A Deed of Variation</u> to the S106 was completed on 19 September 2016 which amended the wording to the definition of the term 'Application' to exclude reference to the number of dwellings.

1.6 <u>2016/0463/MAN- Permitted 15/04/2016</u>
Non-material Amendment to approval 2015/0615/OUT which amended the conditions referencing plans. The change resulted in reference to the location plan only which is a red edge plan around the application and to remove the inclusion of the indicative layout plan which should not have been included in the list of plans.

2.0 CONSULTATION AND PUBLICITY

2.1 All immediate neighbours were informed by letter, a site notice has been erected, an advert placed in the local press and statutory consultees notified.

2.2 Conservation Officer

Comments made raising a series of concerns (plans amended following these and are discussed in the report);

- The main concern is impact upon the significance of the Grade I listed St Marys Church, the setting of which is considered to include the majority of the village and the agricultural fields to the east and south. The proposed development is still considered to cause less than substantial harm to the significance of this church due to the amount of new housing proposed within its setting.

- Development located too far south and too close to the Church.

- Historic link between the Church and former vicarage in the north would be lost.

- Impact upon the views to and from the Church from across the fields or the vicarage or how the context of the Church will change as a result of the new housing development.

- Harmful impact on The Old Vicarage to the north – Listed Grade II plans show at least 6 houses backing (now amended) onto the garden.

- Consideration needed of the impact upon The Croft, a Grade II listed building located to the west.

- An elevation plan/section plan/photomontage should be produced between the development and the listed buildings to show how the development will look in context with the listed buildings.

- The development still reads as a new housing development separate from the village of Church Fenton, this is caused by lack of integration and access to the site being from the bottom of the field and to the south of the Church rather than from the village main street.

- Still some concerns over some design details in relation to large areas of hardstanding, car park areas, the 2 ½ storey houses (limited examples within Church Fenton, uncharacteristic canopies, door and windows details.

2.3 Contaminated Land Consultants

Further information needed before any of the conditions on the Outline consent can be discharged.

2.4 Designing Out Crime Officer

Detailed list of informative comments made about the security of the design and layout.

2.5 Environment Agency

(Re-consulted due to change in zoning from Flood Zone 1 to Flood Zone 2).
Flood Risk Standing Advice for 'lower risk' development proposals on the government website should be viewed before making a decision.

2.6 Environmental Health

Comments relate to the original submission as a housing scheme for 100.

If more than 100 car spaces outside an Air Quality Management Area (AQMA) - recommend that the applicant incorporates good design in the interest of air quality. This may include the provision of Electric Vehicle (EV) charging. Recommend a Construction Management condition to protect residential amenity.

Further comments received April 2019 on the revised scheme for 50 dwellings stating that the above comments still apply.

2.7 Historic England (Oct 18)

Consultation on revised plans.

Confining dwellings to northern half and reduction in numbers has reduced the level of harm to the setting and significance of the listed building. Welcome the retention of land to the south of the church as arable as this will preserve more of the current rural agricultural setting of church which contributes to its significance.

Specific comments on the Planning Layout given in relation to keeping open space areas informal.

Original concerns on the outline application re-iterated in that the development will still cause harm through the change in character of the northern part of the site and the reduction in the extent of the rural setting which currently wraps around the church from north-east to south. A clear and convincing justification for this harm should be weighed against the public benefits taking into account the considerable importance and weight which should be afforded to the preservation of the setting of the listed building.

2.8 Landscape Architect

Generally agree to the revised layout. Detailed landscape proposals for the POS are still outstanding, particularly to the southern side of the site including detail of the highway sightlines and substation, detail of the suds pond, roadside verges (between the access road and hedgerow), stock-proof fence detail. The POS / Church boundary to the SW side should remove proposed trees and maintain gaps and views of the church. There is still need for further maintenance management information for the POS in relation to the S106.

2.9 Natural England

Natural England currently has no comment to make on the reserved matters.

2.10 NYCC- Education Directorate

As per S106 agreement (2015/0615/OUT) signed December 2015 the Local Authority would still require the full developer contribution as stated in this agreement.

2.11 NYCC Fire & Rescue Service

No objection/observation at this stage. Further comment will be made when a statutory Building Regulations consultation is made.

2.12 NYCC Heritage Officer

The outline planning permission includes a condition (No. 27) relating to archaeological mitigation. On the basis that the outline conditions remain active for the current phase of the development - no further comments to make on the reserved matters themselves.

2.13 NYCC Highways

Comments made, minor amendments suggested and conditions advised on the revised scheme.

2.14 North Yorkshire Bat Group

No comments received.

2.15 Public Rights Of Way Officer

Informative suggested with respect to the existing PROW's on site.
Response with regard to the Public Rights of Way running across the site remains the same. This applies to all three of the routes which we have previously advised will be affected. Note, with some concern, that only one of these is highlighted on the latest site layout plan.

2.16 Ramblers' Association

No comments received.

2.17 Rural Housing Enabler

Revised plan shows 10% (5 units). All five meet the Nationally Described Space Standards. The units are well positioned in the layout and are indistinguishable from the remaining development. Advise for confirmation of tenures and the developer to make early contact with a Registered Provider

2.18 Selby Area Internal Drainage Board

The application will increase the impermeable area to the site and the applicant will therefore need to ensure that any surface water systems installed have the capacity to accommodate any increase in surface water discharge from the site. Comments made and condition/ Informatives suggested.

2.19 SuDS

No comments to make.

2.20 SDC- Urban Design Team

Initial comments on the submitted scheme raise a series of concerns which are summarized below

- Attempts have been made to address serious and fundamental issues under the constraints offered by the approved Outline Application.

- Layout is considerably improved. Serious attempts made to tame the dominance of the street layout and create more informal spaces and areas of simplified street scene, where the proposed buildings define the street as opposed to regimented highway designs.

- Spaces around dwellings have also been improved where garage courts and side gardens have been used to create a more unique and varied street scene.

- More distinctive forms that better reflect some of the character of the village are included -some short rows of terrace units that positively front the spaces and 'double fronted' houses. These help define the street scene and create a more 'organic' or vernacular approach that is something of the like of typical settlements in this area.

- Some parking courts have also been utilised to help minimise harmful frontage parking.

- Materials suggestions include maintaining simple high quality brick with some limited use of render. The use of buff brick, or mixed brick should be resisted.

- The scheme is still standard house types and a layout that is not based on local characteristics.

- There is some toning down of the uniformity of these house types has been achieved, but ultimately such a street scene will still be very visible within the landscape and potentially affect key views towards the Grade I Listed Parish Church of St Mary.

Conclude on latest revisions that much has been done to create a better scheme to this site. Details of materials and landscaping and sensitive highway standards and conditions are key. The reality is however that this proposal is not the gentle evolutions that characterised the majority of the village. It is being undertaken by a housebuilder with a certain standard product and built in one phase. Whilst it is possible to change certain elements therefore of this product, it is very difficult, without significant willingness, to create an overall design that is 100% of the place. As such the planning balance of weighing this against other harm or benefits of this scheme would need to be undertaken.

2.21 Yorkshire Wildlife Trust

Pleased with variety of ecological enhancements suggested but the ecological suggestions in the Landscape Masterplan will need to be conditioned and a plan provided as to where bat boxes, bird boxes and deadwood and rubble piles will be positioned. This will enable a possible enhancement of biodiversity on the site as suggested in the NPPF.

2.22 Yorkshire Water Services Ltd

Comments made but no objection subject to in principle to the development being constructed in accordance with drawing E16/6722/004C (revision C) dated 11/09/2018,

2.23 Parish Council

Summary of comments

Wish to reconfirm its fundamental objection to the reserved matters application, and its view that it should be refused. Contrary to the draft Neighbourhood Plan which will be subject to its S14 consultation shortly.

Felt that there were good grounds for refusal of the outline application (particularly in the light of the comments by Historic England) but accepts that this consent was granted and has considered this application in the light of that decision.

Comments on scheme as originally submitted:

- Scheme ignores the previous negotiations to 50 dwellings in the northern part.
- Would destroy traditional characteristics of the village, which includes open views of Parish Church from the south and east, and traditional linear character.
- The cumulative impact of housing in Church Fenton is leading to increasing urbanisation of the village with the loss of green space and the linear village character.
- Loss of 2 footpaths.
- The Design and layout is poor and is contrary to the approved Village Design Statement.
- This is particularly important for a site which is close to the Church and a number of Listed Buildings.
- Agree with the comments made by the Urban Design/ Heritage Officer.
- The emerging Neighbourhood Plan intends to establish a Conservation Area in this part of the village which would include the Parish Church and all current Listed Buildings. Any development on this site should be assessed in the context of a proposed Conservation Area which this proposal fails to do.
- The proposal has an excessive number of dwellings off a single access road which creates issues of emergency access, lack of permeability and linkage with the rest of the village. The layout would create an alien estate that would seem separate from the rest of Church Fenton.
- Poor provision for visitor parking. Design of this scheme would lead to domination by vehicles.
- Poor grounds conditions exist which have not being properly assessed in geotechnical submissions.

Re-consultation on recent revised scheme - Advise Refusal

- It was assumed Selby DC would be sympathetic to its sensitive location (close to the listed Parish Church), and the scheme would be of a design and layout that was appropriate in the heart of a village. The current proposal is an estate development with estate type houses that have no local character. Should be refused unless there is a substantial redesign.
- The indicative plans for the outline approval showed 50 dwellings. This proposal represents an 8% increase in the numbers. More pertinently the additional units seemed to have been squeezed in requiring urban parking courts and backland development.
- The 3 storey dwellings are inappropriate when the Village Design Statement considers three storey dwellings are inappropriate in Church Fenton especially this sensitive location.
- The development makes little or no effort at integrating with the existing village and that it will back on to an area that had been discussed as a future possible conservation area with the support of Historic England.
- The open space is poorly located. The area alongside the access road is unsuitable for play space. The area to the east is primarily a drainage basin which will make it unavailable for parts of the year. All the space is divided from the community by highways which make it unsuitable as play space for unaccompanied children. A layout which creates an area of "Green" overlooked by dwellings would be more usable and more appropriate in a village location.
- A revised Design and Access Statement should be submitted as there has been a major change from the original submission.
- Should include an element of affordable housing indistinguishable from the remainder of the development, and preferably be shared ownership.

- The development obstructs a Public Right of Way which runs across the site. The Council is unaware of any application for a footpath diversion. The Council would object to this diversion due to the historic significance of the link between the old Vicarage and Church.
- It is unclear what steps would be taken to prevent the emergency access being used illegally by vehicles.
- Evidence has been identified regarding running sand in the area, and this is not properly addressed in this application.

2.24 Neighbour Summary

The application was advertised by site notice and local press notice and neighbour notification resulting in responses from 36 individuals and a further 46 individuals responding to the re-consultation. Comments on the originally submitted scheme are summarised below;

Main grounds of concerns are summarised below;

Principle of Development

- Fundamental objections to any housing on the site
- This is not the appropriate place for a large housing development in Church Fenton
- The Council now has a 5 year housing land supply and so this should be refused
- Disregards the Outline Permission more than doubles the quantity of housing
- Contrary to the development plan
- Conflicts with Green Belt Policy (*Officer Note - The site is not Green Belt land*)
- 40% Affordable Housing is not delivered
- Doesn't comply with Policy SP16 as 10% of energy supply needs to come from renewable sources

Character/Appearance/Heritage

- Out of scale and character with the village setting
- Adverse impact on setting of Listed Buildings
- Detailed comments on the layout
- buffer zone now filled with houses
- Footpath to vicarage would be lost
- The development does not integrate with the village
- Significantly increased density of housing from outline harms character of the area
- Need for a wide landscaped buffer to prevent the existing housing on main street from being overlooked
- Agreement with comments of the Urban Designer and the Conservation Officer about the poor character and design of the housing layout.
- Quality of housing design is poor

Residential Amenity / Noise

- Air quality impacts from number of houses
- Noise impacts from construction will impact on existing residents
- Impact on the privacy of existing occupiers
- Proximity of new development to existing properties
- Impact on the amenity / light of adjoining occupiers

- Boundary concerns form houses adjoining the site
- Rooms in the roof will overlook existing dwellings
- Reduction in local school children's ability to access walks and nature outings
- Proximity of housing to village hall – noise and disturbance to new occupants could arise from the activities

Drainage and Flood Risk

- Local Utility systems -drainage and sewage infrastructure inadequate

Highways / Parking /PROW's

- Increased congestion on Church street during services
- Increase in cars and commuting adding to highway problems
- Loss of a PROW unacceptable
- Developers suggestion that PROW is no longer used is misleading and untrue
- Main access is on a sharp bend- unsafe-lack of visibility- conflicts with farming traffic-no footpaths
- Covenants requested for construction traffic to protect the amenity of school children and residents

Services and Facilities

- Facilities in the settlement will not be able to cope with all this additional development
- School is at capacity
- Applicants claim that the development will encourage more facilities in services in the village is unfounded
- Church Fenton is a Designated Service village but has very limited services and facilities

Ecology

- Adverse impact on hedgerow habitat
- Loss of Wildlife Habitat
- Doesn't create ponds or habitat to encourage wildlife
- Loss of Grade 3b Agricultural Land

Other Matters

- Residents appear to have no influence over planning decisions
- Area of land to the east of the current vicarage could provide and extension to the churchyard. (Not a material planning consideration)
- Parish Council are preparing a Neighbourhood plan and this scheme would be contrary to its principles
- The developers should confirm that they will not remove hedgerows and confirm arrangements for their future
- Areas are stated to have instability and therefore pile drives for foundations could cause subsidence to existing buildings
- Ground conditions are unsuitable
- Original outline application suggested an area of land could accommodate a churchyard extension. This has been removed. Request it is re-instated.
- Anomalies on the plans pointed out
- Assurance was given at the Outline application that the scheme was for 50 houses –this application should be a fresh full planning application

- Safety aspect due to being ion the flight path of East Leeds Airport leading to a reduction in emergency landing places putting nearby properties at risk
- Adverse impact on the value of nearby residential dwellings
- Flawed consultation process - (those with lack of internet access and there have been problems uploading comments)

In support
- Affordable Housing would help retain young adults in the locality

Re-consultation on the revised plans took place in October 2018 resulting in responses from 48 individuals including a letter from the Member of Parliament, Nigel Adams. The following new issues were raised:

Principle of Development
- No's of houses should be limited to 50
- Application description should be accurate
- Contrary to the NPPF
- Overwhelming objection by the entire community
- The Draft Neighbourhood Plan identifies the site as valuable community green space and should be given weight in the decision process

Character/Appearance/Heritage
- Too many houses backing onto Grade II Listed -The Old Vicarage, Main Street – huge adverse impact on setting
- Heritage Impact Assessment is repeated from the Outline application and repeats its factual inaccuracies in relation to downplaying the significance and setting of The Old Vicarage
- Church Fenton will change in size from a village to a town
- Still Out of scale and character with the village setting despite reduction in numbers
- Cramming, too dense
- No improvement on house designs
- No communal space within the development is provided

Residential Amenity
- Still too close to existing housing- loss of amenity due to overlooking/loss of privacy
- Rooms in the roof cause direct overlooking of existing dwellings
- Garden dimensions are not mentioned on the plans- lack of clarity to proximity
- Residents concerns have not been addressed with these revised plans

Drainage and Flood Risk
- Increased risk of flooding
- Developers should pay for a new water pipeline

Highways / Parking /PROW's
- PROW to The Old Vicarage needs amendment to prevent a hazard of a cattle grid on the driveway
- Purpose of emergency access is unclear- concerns over use as a main access
- Any new housing development should require a contribution towards road improvements to help reduce traffic congestion

- Suggestions that the access has changed raising queries about the visibility and congestion around the site entrance

Services and Facilities

- . Bus services are even more limited and this will increase car usage

Other Matters

- Security concerns on layout, boundaries and density
- Lack of affordable housing
- Affordable Housing should be dispersed in the site
- Nothing to stop developers coming back with further numbers and
- Lack of transparency by the Council
- Consultation period has been too short

3.0 SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

3.1 The site is outside the defined development limits of Church Fenton as defined in the Local Plan. Church Fenton is a Designated Service village (DSV) as identified in the Core Strategy. The site is therefore located within the open countryside.

3.2 St Mary's Church abuts the western edge of the application site which is a Grade I Listed Building. Other Listed Buildings (Grade II) adjoin the site including dwellings the 'Old Vicarage' to the north adjacent to the village hall and 'The Croft' to the west.

3.3 A Public Right of Way (PROW) crosses the site from the east across open countryside leading to the church. There are also PROW's from the church leading to the main street and to the old vicarage.

3.4 When the outline permission was granted, the application site was mainly located within Flood Zone 1 (less than 1 in 1,000 or 0.1% chance of flooding in any year), which has a low probability of flooding. Part of the site (mainly the land to the east) was located within Flood Zone 2. However, in July 2018 the Environment Agency Flood Risk maps were updated and all of the application site has been assessed as being in Flood Zone 2 – i.e. having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.

Policy Context

3.5 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.

3.6 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

3.7 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.

3.8 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

The relevant Core Strategy Policies are:

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

Selby District Local Plan

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 Development
- CS6 – Development Contributions to Infrastructure and Community Facilities

Supplementary Planning Documents

- Affordable Housing Supplementary Planning Document 2013
- Developer Contributions Supplementary Planning Document March 2007

Church Fenton Neighbourhood Plan- The plan has recently been at the consultation stage before submission with the time period for comment ending 31 May 2019.

4.0 APPRAISAL

4.1 Objectors raise issues about the principle of the development and stress the overwhelming objection of the community to the development of this site. However, since the principle of development and the access have been established under the outline planning permission (reference 2015/0615/OUT) and this Reserved Matters application was submitted within the required timescale, the principle of the development is not a matter for reconsideration and the Council is not in a position to refuse approval to the reserved matters on grounds going to the principle of the development. Mention is made that the scheme does not accord with the emerging Church Fenton Neighbourhood Plan. Whilst the plan does refer to this site and the importance of maintaining the views of St Mary's Church, the plan is at the pre-consultation draft stage and the weight to be attached to it is very limited.

4.2 Similarly, objectors concerns about the capacity of the villages services and facilities to cater for the 50 houses is not a matter for consideration on this application. The main issues to be taken into account when assessing the reserved matters application are:

- Impact on the Character and Appearance of the Area and on Heritage Assets
- Impact on Residential Amenity
- Impact on Highway Safety
- Provision of Recreational Open Space
- Flood Risk
- Affordable Housing
- Other Issues

Impact on the Character and Appearance of the Area and on Heritage Assets

4.3 Approval of reserved matters in relation to layout, scale, appearance and landscaping is sought. The application red line area is 7.4 hectares covering a large belt of land south of properties on Main Street and extending around and beyond the church and vicarage to the south on Church Lane. In terms of the layout, this reserved matters application, as originally submitted, provided for 104 houses spread over the red line area, north and south with an undeveloped belt across the central area maintaining the open footpath route to the church.

4.4 It was established under the outline planning permission that only the area of development in the northern part of the site would be acceptable. An indicative layout was negotiated which provided for 50 houses and was superseded from the original indicative scheme. Although the outline permission granted did not specify the housing numbers nor did it include a parameters plan, the officer's report clearly set out the case for developing the northern area only, based on the impact on the Grade I Listed Church. The negotiated indicative plan was fundamental to the decision taken at planning committee in November 2015.

4.5 As such, in terms of the layout, officers have firmly resisted this reserved matters application which sought to utilise the full amount of the red line site for housing and to maximise the development potential. The scheme has been repeatedly and

successively amended until it reverted back to the 50 houses in the northern area in a similar coverage to the indicative outline plan.

4.6 The access was agreed at the outline stage and is to the south of the vicarage on Church Lane. However, the alignment of the spine road has been improved and moved closer to the west in order to minimise the amount of 'leftover' land to be managed as open space and to have a winding route more characteristic of a country lane. It is also reduced in width to provide a footpath on the west side only with grass verge and hedgerow to the east as a field boundary. The undeveloped area to the east of the spine road within the red line is now indicated to be incorporated back into the open agricultural land. The informal open space area is located on the eastern part of the site which can act as a buffer and transitional area to the open countryside beyond. Existing PROW's are now all to be retained.

4.7 The character of the village is mixed and there have been a number of modern estate developments on the west side of the village. However, around the periphery of application site, the character is an evolved one with a loose arrangement of individual dwellings of varying styles and sizes fronting the Main Street and Church Lane. The planning layout is now identified on drawing No 18-CT-BH-01 Revision G. In terms of the scale and appearance this housing layout this is considerably improved since the initial scheme was submitted.

4.8 The main changes are that the scheme now reflects a less formal layout and incorporates more informal spaces. Spaces around dwellings have also been improved where garage courts and side gardens have been used to create a more individual street scene. The variety of house types, including short rows of terrace units amongst detached and semi-detached housing better reflect the mix of housing in the village and help tone down the uniformity. Some parking courts have also been utilised to help minimise harmful frontage parking and to help remove the dominance of the car parking within the layout. The materials include brick variations with some limited use of render. The scheme still incorporates standard house types but attempts are made to vary these. A street scene drawing (plan ref: 18-CF-BH-01 Rev D) has been provided which demonstrates that the proposed dwellings would have a variable appearance. Details of materials have been submitted but officers have not agreed these due to the use of buff brick and render on some houses which is considered inappropriate for this location. However, a condition can be added requiring details of materials to be submitted and approved. Overall the scheme is closer in form to the indicative layout provided at the outline stage.

4.9 In terms of landscaping, the Councils Landscape Architect has been consulted and has contributed throughout the negotiations on this scheme. A landscape Master Plan (Plan ref: R/1987/11\F) and corresponding landscape detail (sheets R/1987/12A, R/1987/13A, R/1987/14A) within the development have been provided. Further information and clarification is needed in relation to the design of the SuDS basin and how this could be successfully integrated into the public open space (POS), to avoid it potentially being a steep-sided engineering solution which could require fencing for safety. It is therefore considered reasonable and necessary to attach a condition requiring further details of the pond to be submitted to and approved

4.10 In addition detailed planting schedule for some parts of the POS are still outstanding, particularly to the southern side of the site. It is considered important that gaps and views of the church are maintained and some amendment to the

indicative landscape detail in this area is required to achieve this. Objector's comments about the lack of communal space within the developed area are noted. However, given the large amount of informal open space provided around the development, it is considered unreasonable to require more provision.

4.11 Although the 'timing and implementation' of the open space provision are covered by the S106 agreement, this does not cover the implementation of landscaping within the developed areas or the additional areas of land over and above the open space requirement. Therefore a condition is necessary to ensure the full landscaping schedule is completely implemented.

4.12 Taking into account the totality of the scheme with its standard of layout, design, materials and landscaping the proposals are considered to comply with Policy ENV1 of the Local Plan which requires proposals to provide a good quality of development which takes account of the surrounding area. In this respect the development is compatible with the Development Plan.

4.13 Policy SP19 of the Core Strategy sets a higher test requiring development to contribute to enhancing community cohesion by achieving high quality design and having regard to local character, identity and context of surroundings including historic townscapes, settlement patterns and the open countryside. SP19 b) requires development to "Positively contribute to an areas identity and heritage in terms of scale, density and layout". This is assessed more fully below.

Heritage Assets

4.14 Relevant policies within the NPPF which relate to development affecting the setting of heritage assets include paragraphs 189 to 198.

4.15 As indicated in this report, the proposed development will give rise to less than substantial harm to the setting of designated heritage assets. With this in mind, Paragraph 196 of the NPPF states that *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use".*

4.16 Paragraph 196 of the NPPF should be read in conjunction with paragraph 193 of the NPPF which states that *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".* This wording reflects the statutory duties in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990.

4.17 Whilst considering proposals for development which affects a Listed Building or its setting, the statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'.

4.18 In the case of *Barnwell Manor Wind Energy Ltd v E.Northants DC, English Heritage, National Trust & SSCLG [2014] EWCA Civ 137,* it was held that in enacting Section 66(1) of the Planning (Listed Buildings and Conservation Areas

Act) 1990, Parliament intended that the desirability of preserving the significance of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise. In *The Forge Field Society and Others, Regina (on The Application of) v Sevenoaks District Council [2014] EWHC 1895 (Admin)* Lindblom J confirmed that the desirability of preserving the significance of listed buildings should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise.

4.19 Setting is defined in the NPPF as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. The recent Court of Appeal decision in *Catesby Estates Ltd v Steer [2018] EWCA Civ 1697,* confirmed that the identification of setting and its extent it not a matter for the court, and will always be a matter of fact and planning judgment.

4.20 The site is located adjacent to a Grade I Listed Building (St Mary's Church). In addition there are Grade II Listed Buildings adjoining the site, the Croft to the west and the Vicarage to the north. The impact of the proposal on the setting of the Listed Buildings is therefore a fundamental issue and is intrinsically linked to the impact on the character and form of the surrounding area.

4.21 An assessment of the significance and the impact of the development on the setting of the Listed Buildings was undertaken at the outline planning application stage. It was concluded, on the basis of the revised indicative layout, which removed any development (other than the access road) from the southern part of the site, that the development resulted in less than substantial harm to the significance of the Heritage Assets. Moreover, the harm was assessed and considered to be outweighed by the public benefits of the proposal in terms of the housing provision. This principle was established at the outline application stage.

4.22 The comments from numerous objectors on the harm to the setting of the Listed Church and the surrounding Listed Buildings are noted. As outlined above, the principle of development on the site has been established in the outline permission. In determining the outline permission, significant consideration was given to the potential harm to heritage assets, which was itself afforded great weight. This consideration was based on the indicative layout plan provided by the developers; the Council determined that there would be less than substantial harm which was outweighed by the economic, social and environmental benefits of the scheme. For the purpose of this reserved matters application, the details of the layout and scheme now provided have been compared with those of the indicative scheme to see whether they will result in any additional harm to the significance of the heritage assets. Regard has also been had to the comments made by Historic England.

4.23 In terms of the impact on the setting of the Grade I Listed Church, the layout is an improvement on the outline indicative layout plan. The coverage of the housing development is essentially the same although the development is pulled back further north from the centre of the site. The open views towards the church from the east are maintained along the footpath corridor. The indicative layout had dwellings whose side elevations and side boundaries faced south towards the

church. However, the layout now provides for houses along the south edge re-orientated to face towards the church creating a street scene and sense of place. This is an improvement when viewing the development from the public footpath through the centre of the site leading to the church. The fronts of the houses create a street scene leading to the church and when viewed across open countryside from the south. The houses closest to the church as indicated in the Street Scenes plan (Ref 18-CF-BH-SS-01 Revision D) are varied in form with detached and terraced dwellings.

4.24 In terms of the impact on 'The Croft', a Grade II Listed dwelling, the layout is also an improvement on its setting compared with the indicative layout. The Croft is set well back from the site boundary within its own extensive grounds. The scheme maintains the public footpath which runs along its rear boundary within a strip of open space. The indicative scheme showed a solid row of housing nearest to the Croft, the layout now provides a detached dwelling with generous spaces either side or a pair of semi-detached dwellings to the north. This 'loosening' and variation to the housing layout is an improvement on the indicative layout providing more gaps and space and less concentration of new housing around the rear views towards the Listed dwelling.

4.25 In terms of the impact on 'The Old Vicarage' to the north, a Grade II Listed Building, the indicative layout showed three dwellings in a solid row with little gap between them adjoining the rear boundary to The Old Vicarage. This reserved matters application as originally submitted indicated 6 dwellings backing on to the Old Vicarage plot. These have been reduced to two dwellings within generous spacing between them. As such the gaps and views into and out of this listed property are improved both from the original submission and from the outline indicative layout. The footpath link between the Old Vicarage and the Church, which is a historic link and a PROW would be maintained.

4.26 The comments of the Urban Designer and the Conservation Officer have been instrumental in achieving the overall changes to the scheme achieved so far. Furthermore recent changes in response to local objections raised and to the overall design and layout have resulted in the removal of the 2.5 storey houses in proximity to the Listed Buildings which were considered to be too prominent. A revised massing plan has now recently been received which relocates them within the central eastern part of the residential site.

4.27 It is noted that the Conservation Officer and the Urban design team conclude that the scheme is still "*not the gentle evolutions that characterised the majority of the village. It is being undertaken by a housebuilder with a certain standard product and built in one phase"* and *"still reads as a new housing development separate from the village of Church Fenton",* and *"ultimately such a street scene will still be very visible within the landscape and potentially affect key views towards the Grade I Listed Parish Church of St Mary".* However, much has been done to create a better scheme to this site in line with the original indicative layout upon which the original assessment was made. Implementation with appropriate materials and all the landscaping will be important in softening the impact of an estate form of development.

4.28 Having regard to the location of the proposed development and the context of the site, it is considered that the layout, scale, appearance and landscaping of the proposed development is, on balance, acceptable subject to conditions requiring further details as mentioned above.

4.29 Overall it is concluded that there would be no additional harm to the setting of the Listed Buildings beyond that which was associated with the outline application. In conclusion there is no change to the original assessment in that the development would result in less than substantial harm to the significance of the Heritage Assets. Moreover, the harm, even having special regard to the desirability of preserving the setting of the Listed Buildings and the need to give this considerable importance and weight, will still be outweighed by the public benefits of the proposal in terms of the housing provision as identified at the time of the outline application. In this respect no further conflict with the aims of Policies SP18 and SP19 of Selby District Core Strategy is identified. For these reasons the scheme would also not fail the statutory test in Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990.

4.30 In terms of the Development Plan, the detailed scheme now under consideration, as referred to above, is considered to comply with Policy ENV1 of the Local Plan In terms of Policy SP19 and in particular SP19 b), this needs to be weighed in the balance. The development is not considered to contribute positively to the areas identity due simply to the presence of a large modern housing estate and the repeat forms of housing design which are at odds with the evolved, random and individual character and pattern of housing characteristic of the edges of this settlement. However, balanced with this is the securing of the open space through the centre of the site and to the south with a high quality landscaping scheme will contribute to a high quality setting to the southern and eastern sides of the village and to the views towards and setting of the Listed Buildings. This would be secured and maintained for the long term. For these reasons, on balance the development is considered to comply with SP19 of the Core Strategy.

Recreation Open Space

4.31 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. For schemes of 50 dwellings or more, provision within the site is normally required. The S106 controls the delivery of the POS and its future maintenance and require 0.3 hectares (equates to 60 sqm for 50 dwellings) to be in a location agreed.

4.32 The submitted proposed layout demonstrates that recreation open space would be provided to the east of the proposed dwellings and at various undeveloped areas within the red line site. The total amount of provision would be 1.82 Hectares (4.5 acres). This is in significantly in excess of the 60 square metres per dwelling required by Policy RT2 and the Section 106 Agreement. The generous amount of open space is due to the need to retain the open character and views of the Grade I Listed Church and therefore large amounts of land within the red line area need to remain undeveloped. These need to be managed to ensure they don't become neglected eyesores which could be harmful to the setting of the Listed Buildings and would detract from the locality. A Landscape Management Plan has been provided which covers the first 5 years with a system in place for reviewing operations at the end of the 5 years to allow the plan to be updated in accordance with site conditions. It covers works detailed in the landscape drawings and the landscape conditions. The work would be implemented by a Landscape contractor and subsequently manages by a management company. A Deed of Variation to the S106 is required to ensure that all of the open space within the redline area is laid out, landscaped, managed and maintained as Public Open Space and not just

the 0.3 hectares identified in the original S106 agreement and to tie in the management plan.

4.33 In terms of the nature of the Public Open Space, Church Fenton already has an equipped play area close to the north east corner of this site. The plans submitted therefore provide for the layout and landscaping of land within the site as 'informal' public open space which contains landscape planting, footpaths and seating within the layout. The general arrangement proposed is acceptable in principle although and further detail can justifiably be dealt with through the imposition of a planning condition.

4.34 The existing S106 Agreement prevents work commencing until the "Open Space Specification" has been agreed fully agreed in writing with the Council. It also prevents the occupation of any dwelling until the open space has been provided in accordance with the approved works or the management arrangements for the land have been agreed.

4.35 Overall it is considered that the details submitted are acceptable in terms of the impact on the character and appearance of the area and for the setting of the Heritage Assets subject to the completion of the above mentioned Deed of Variation to the S106. A draft has been received at the time of writing this report.

Impact on Residential Amenity

4.36 To the north and west of the application site are existing residential properties fronting onto Main Street and Church Lane. The land to the south and east is undeveloped open countryside.

4.37 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. The distances between the new dwellings and existing dwellings has been amended to more than meet the minimum separation distance requirements. Moreover, the layout has been further amended to reduce the density of dwellings on the northern periphery to maintain gaps. The concerns of residents regarding overlooking from 2.5 storey dwellings have been noted. However, where the 2.5 storey dwellings adjoin existing dwellings on Main Street, the second floor dormer windows face south or east and are not on the north roof elevation facing existing dwellings. Objectors have referred to the lack of a buffer between existing dwellings and the new which does not reflect the buffer shown on the indicative layout plan. However, the layout is now very similar to the indicative plan in terms of the distances between the dwellings. While the proposals would have an effect on views from existing neighbouring properties, this is not a material consideration which can be taken into account in the determination of this application.

4.38 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.

4.39 It is noted that concerns have been raised by neighbouring residential properties regarding the impact of the construction works on the residential amenities of neighbouring properties. In terms of air quality the comments of the Environmental Health Officer are noted and have been drawn to the attention of the developer. However, the number of dwellings is now reduced from 100 to 50. Condition 09 requires all construction access via Church Street. Condition 18 of the outline consent requires a scheme to be submitted for approval of construction on-site parking and materials storage. The outline consent does not include a general construction management plan and therefore it is not possible to impose such a condition at this reserved matters stage.

4.40 Other concerns raised relate to the proximity of the village hall and the potential for the activities in the hall to disturb new residents. However, there are already residential dwellings in closer proximity to the hall. As such it is not considered that the existence of these new dwellings would be likely to have grounds for curtailing its activities on the grounds of noise and disturbance.

4.41 Comments have been made regarding a loss of school children's ability to access country walks and nature outings. However, no specific details of how this development would impact on these on a permanent basis have been provided. The footpath links through the site would be maintained and a large amount of informal public open space would be provided. As such the development would be likely to enhance the children's access to open space.

4.42 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 within the NPPF.

Impact on Highway Safety

4.43 The access to the site has been established through the outline permission. Appropriate conditions are attached to the outline consent. In terms of parking, turning and manoeuvring within the application site, the submitted proposed layout plan demonstrates that each dwelling would benefit from parking space within the curtilage of each dwelling and garages are provided. NYCC Highways have been consulted on the proposals and were involved in discussion about the road layout in order to achieve a more flexible and informal arrangement and to move away from the traditional anywhere design of new housing estates. Comments from the Highway Engineer have been received on the revised plans which are considered acceptable subject to minor amendments in relation to the emergency access width (further amended plans now received to meet this requirement) and appropriate conditions.

4.44 Objectors raise concerns over the position of the access, increased congestion and increased parking on Church Lane are noted. However, the access was considered and approved on the outline application. No changes are proposed to the access position. The reduced road width and its alignment within the site don't affect road safety at the junction with Church Road/Ash Lane.

4.45 Regarding the PROW's within the site, these are all now to be retained. However, the route and condition of the PROW beyond the application site are not matters for consideration on this application. The Highways officer and the PROW officer are satisfied with the amended details of the layout. The requests of some respondents in relation to the need for management of construction traffic for the safety of school

children have been noted. However, as mentioned in the above section on Residential Amenity, condition 09 requires all construction traffic to be via the new access on Church Lane and not via the emergency access from Main Street.

4.46 Some responses have queried the purpose of the emergency access and raised concerns that this could be used as a main access. This is necessary from a highway safety aspect but the design would be such that its use as a secondary vehicular access would not be possible. Any non-emergency use is mitigated by the design.

4.47 Having regard to the above, , it is considered that the proposal is acceptable in terms of highway safety and is therefore in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and the NPPF.

Flood Risk

4.48 At the time of granting the outline permission the majority of the site was within Flood Zone 1 on the Environment Agency Flood Zone Maps, with only a small part on the north east corner being within Flood Zone 2.

4.49 The Outline Planning Application was accompanied by a flood risk assessment (the FRA) which provides at para 1.3;

"The aforementioned site is predominantly in an area classified by the Environment Agency as Flood Zone 1, the low risk area; however the northeast corner of the plot lies within the fluvial Flood Zone 2, an area with a 'medium' probability of flooding by rivers. The plan area of the site is approximately 7.5ha of which approximately 1.0ha is Flood Zone 2. All developed areas within the site will be entirely located in Flood Zone 1."

4.50 The outline permission was granted subject to condition 22 which states that;

"All dwellings shall be located in flood zone 1 as stated in paragraph 1.3 of the FRA introduction.

Reason
To reduce flood risk to properties."

The reserved matters application was submitted in 2017 since which negotiations have been ongoing over the layout and designs. In July 2018, the Environment Agency updated the flood risk maps and the entire application site is now located within Flood Zone 2.

4.51 The Environment Agency has been re-consulted. They point out the site is in Flood Zone 2 and recommend the local planning authority view the online Flood Risk Standing Advice (FRSA) before making a decision on the application. The online FRSA advises needs to satisfy itself with regard to the need for a sequential test and if this is satisfied to check if an exception test also needs to be done.

4.52 However, a decision has already been made on this through the grant of the outline consent, and only those matters reserved for subsequent approval can be considered here.

4.53 In view of this and the attached planning conditions to the Outline Consent, legal opinion on the implications of the updated flood risk maps have been sought by Officers. This has now been received.

4.54 The opinion confirms that the correct interpretation of condition 22 is that it restricts the location of dwellings to the area described as Flood Zone 1 in paragraph 1.3 of the FRA (accompanying the outline permission) and not that dwellings may only be located in an area which is now classed as a Flood Zone 1 area, as defined by the updated Environment Agencies Flood map. On this basis, it is concluded that the development complies with the requirements of condition 22 of the Outline consent.

4.55 Policy SP1 of the Core Strategy sets out the Councils approach to the presumption in favour of sustainable development unless the adverse impacts of granting permission significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole.

4.56 Although the flood risk of the site has changed, this does not put the development in conflict with the Development Plan which does not exclude development in Flood Zone 2. Moreover, the principle of the development on the land has already been established by the Outline Planning Permission. *(A local planning authority is not entitled to refuse to approve reserved matters on grounds going to the principle of the development itself and therefore already implicit in the grant of the outline planning permission: see Lewis Thirkwell Ltd v SSE (1978)).* The Council is therefore unable to refuse the scheme on this basis. Furthermore, the flood risk was assessed in the FRA at the time of the Outline permission and the Environment Agency raised no specific objections or when re-consulted on this application on the acceptability of that assessment. It would not therefore be appropriate to require re-consideration of this issue or require a sequential test to be done at this state as this would be going back to reconsider the principle of the development.

4.57 Notwithstanding this it would be appropriate to impose a condition requiring the details of finished slab floor levels to be required for the approval of the local planning authority to ensure the development is resilient to flooding without increasing ground levels within the site or increasing the risk of flooding elsewhere.

4.58 Subject to such a condition the scheme is considered acceptable in terms of flood risk and would not conflict with Policy SP1 of the CS or with the NPPF.

Affordable Housing

4.59 The outline scheme and associated Section 106 agreement secured 40% on site provision of affordable housing, with a tenure split of 30-50% Intermediate and 50-70% Rented. Clauses within the S106 also require confirmation of the phasing plan for delivery and set the parameters for the allocation of units to occupiers.

4.60 The Section 106 Agreement provides that;

" the units of affordable housing shall comprise 40% of the total number of dwellings on the site (rounded up to the nearest whole dwelling), unless an alternative figure is justified in accordance with the Affordable Housing SPD and agreed by the District Council…"

4.61 The quantity of Affordable Housing provision has been under negotiation and the Council has sought the advice of the District Valuer (DV) on this matter. Due to a

number of reasons, there are abnormal building costs on this site including the substantial length of access road relative the number of houses provided. The DV has advised that the development can support the provision of only 5 units which amounts to 10% provision.

4.62 The developers have agreed to this level of provision. An affordable housing plan has now been received identifying units 35, 36, 33, 45 and 46 of the layout. These are well spaced and integrated amongst the market housing. The developers confirm that the houses will be constructed to Homes and Communities Agency Design and Quality Standards and will have the same external design so as to be distinguishable from the market units.

4.63 The Council's Rural Housing Enabler has been consulted on the updated proposals but raised no objections to the previously submitted details and advises that the applicant should make early contact with a partner Registered Provider on order to confirm that the number, size and type of the units are acceptable to them.

4.64 In light of the circumstances and the assessment of the DV this level of 10% provision is deemed to be acceptable. As such the requisite number of affordable units, the type, position and design are in accordance with the S106 agreement can be provided and the proposals accord with Policy SP9 of the Core Strategy which seeks to negotiate up to 40% maximum of total new dwellings on all market housing sites above the threshold of 10 dwellings.

Other Matters

4.65 Objectors refer to Policy SP16 of the Core Strategy (which aims to improve resource efficiency through a number of measures) and point out this scheme does not provide 10% energy supply from renewable sources. However, this is a requirement of condition 20 of the Outline Consent and is not a matter for consideration on this application.

4.66 Numerous comments and concerns were raised in relation to the capacity of utilities for drainage and sewage and the likely increase in flooding. Conditions were attached to the Outline consent requiring details of drainage to be submitted and approved. These are not a matter for consideration on this application. Scale, layout, design and landscaping are the matters for approval. The utility authorities have been consulted and have not raised new issues in relation to the matters under consideration.

4.67 A number of responses suggested that the developers are likely to come back in the near future with an increase in housing numbers again. The Council cannot prevent a developer from seeking to do so. However, this scheme has been agreed on the basis that a more intensive scheme would be materially harmful to the character and appearance of the area and to the setting of the listed buildings. Moreover, a Deed of Variation to the S106 agreement is required before this permission is granted to ensure the 'leftover' areas of open space are retained as such and the landscaping scheme is implemented in full. It is officer's opinion that any increased numbers could be firmly resisted for sound material planning reasons.

4.68 In terms of ecological impacts, objectors raise numerous concerns which were considered at the outline planning stage. The consent requires, under condition 24, that the development to be implemented in accordance with the recommendations

and mitigations of the Ecological Assessment dated June 2015. Similarly the loss of the Agricultural land is not a matter for consideration on this application.

4.69 Those representing the Church have raised the issue that the indicative layout suggested land could be available for a graveyard extension. However, this was shown as a 'potential' on an indicative plan. There was no requirement to provide this nor can it be insisted upon as it is not reasonably related to the development nor is it required in planning terms to make the development acceptable.

4.70 Comments have been raised in terms of the land stability and the potential for the site to result in damage to existing buildings. The Council cannot say with complete certainty that this would not occur. However, no evidence has been provided to substantiate the likelihood of such damage or to demonstrate that this land is unstable. Notwithstanding this, Policy SP19 (k) sets out that a key requirement that new residential development should meet is the need to "preventing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water, light or noise pollution or land instability". Land instability can cause damage to local property and associate infrastructure and the planning system can try to minimise the risks and effects and help ensure development occurs with appropriate precautions. As such, it is considered expedient to impose a condition requiring details of a stability risk assessment is undertaken and adequate mitigation measures to address any issues raised be submitted for the written approval of the local planning authority before any work commences on site. It is considered that this should be a pre-commencement condition and therefore the agreement of the developer is being sought at the time of writing this report.

4.71 `The safety of planes to and from East Leeds Airport has been raised but there is no evidence to suggest that the development of this site would compromise planes on their flight path to and from the airport or lead to a reduction in safe emergency landing spots.

4.72 Loss of value to existing property is raised as an objection. However, this is not a material planning consideration.

4.73 In terms of the claims of a flawed public consultation process and any disadvantage to non-internet users, the application has been advertised in accordance with the Councils policy by advertising in the local press, by site notice and by direct notification of neighbours whose land adjoins the site. The opportunity has existed to respond either on line or by writing to the Council. All representations received, whether within the time period or not, have been fully considered on this application. As such the claims have no foundation. Comments that residents appear to have no influence over planning decisions is equally without foundation. Whilst the Council are not able to acknowledge and respond individually to each letter, the weight of public opinion is a contributing factor to achieving change to a scheme.

6.0 Conclusion

6.1 The application site benefits from an outline planning permission, which considered the principle of the development and access (reference 2015/0615/OUT) with all other matters (layout, scale, appearance and landscaping) reserved for future consideration. Therefore, the principle of the development and access has been established through the outline planning permission and only those reserved

matters (layout, scale, appearance and landscaping) can be considered at this stage.

6.2 Having assessed the proposals against the relevant policies, the reserved matters for the layout, scale, appearance and landscaping are considered to be acceptable subject to the completion of a Deed of Variation with respect to the amount of open space provision. The details ensure that the proposal would not result in detrimental impacts on the character and appearance of the area, the residential amenity of the occupiers of neighbouring properties or highway safety.

6.3 In relation to Heritage Assets overall it is concluded that there would be no additional harm to the setting of the Listed Buildings beyond that which was anticipated at the outline application stage. In conclusion there is no change to the original assessment in that the development would result in less than substantial harm to the significance of the Heritage Asset. Moreover, the harm, even having special regard to the desirability of preserving the setting of the Listed Buildings, will still be outweighed by the public benefits of the proposal in terms of the housing provision. It would not conflict with the aims of Policies SP18 and SP19 of Selby District Core Strategy and would not fail the statutory test in Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990.

6.4 The proposed development is therefore considered to be acceptable having had regard to Policies ENV1, ENV2, T1, T2, RT2 and CS6 of the Selby District Local Plan, Policies SP1 SP2, SP4, SP5, SP8, SP9, SP15, SP16, SP18 and SP19 of the Core Strategy and the NPPF.

7.0 RECOMMENDATION

7.1 This application is recommended to be Granted subject to the satisfactory completion of a Deed of Variation to the Section 106 Agreement to vary the amount of public open space provision and subject to the following conditions;

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

Planning Layout	18-CF-BH-01-Revision H
Affordable Housing Plan	18-CF-BH-01 Revision G
Emergency Access Plan	18-CF-BH-EM-01 Revision G
Massing Plan	18-CF-BH-MA-01 Revision G
Materials Plan	18-CF-BH-MAT-01 Revision G
Areas Plan	18-CF-LD-AR-01 Revision G
Landscape Master Plan	R/1987/11\J
Landscape Details	R/1987/12D
Landscape Details	R/1987/13B
Landscape Details	R/1987/14A
Landscape Management Document	April 2019
House Type Pack	Dated February 2019
Garage Type Pack	Dated August 2018
Close Coupled Substation	GTC-E-SS-0012_R1_7_1_OG_1
Double Boarded Fencing	SD10.EX.110
Fence-Post and Wire	April 2019
Main Road and Sewer Plan	E16/6722/004C (Preliminary Issue)

Reason:
For the avoidance of doubt.

02 Notwithstanding the Materials Plan indicated in Condition 01 above, no development of the dwellings above foundation level shall commence until details of the materials to be used in the construction of the exterior walls and roofs 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.

03 Notwithstanding the submitted Landscape Master Plan (R/1987/11\J), Landscape Details, (R/1987/12D, R/1987/13B, R/1987/14A) and the Areas Plan (REF- 18-CF-LD-AR-01 Revision G), no development shall commence until a full detailed landscaping scheme and tree and shrub planting scheme for all the Public Open Space areas as indicated on the Areas Plan, has been submitted together with a Phasing Plan for the implementation of both the landscaping scheme within the housing development area and the Public Open Space Areas has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include:-

- Identification of all existing trees and shrubs to be retained setting out measures for their protection throughout the course of development
- Details of the species, location, planting density and stock size in respect of all tree and shrub planting.
- Details of replacement hedge planting at the main access to Church Lane
- Details of the surface materials of the footpaths
- Details of the benches and bins and any other street furniture
- Details of the Suds drainage basin area (including cross sections) which should provide for a basin that can be integrated into an area of public open space without the need for fencing to ensure safety.
- Details of stock proof fencing where the site adjoins open fields to the east
- Details of the measures for the management and maintenance of the approved landscaping
- Details of the proposed open space land management regime in perpetuity.

All planting, seeding or turfing comprised in the approved phasing plan and landscaping, tree planting scheme shall be carried out in the first planting and seeding seasons following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner. Any trees or shrubs which die, are removed or become seriously damaged or diseased within the first five years following completion of the development shall be replaced in the next planting season with others of similar size and species. The drainage basin area shall be constructed in accordance with the approved details only and thereafter maintained as such for the lifetime of the development.

Reason - in order to ensure implementation of the landscaping and open space scheme and the preservation and planting of trees and landscaping in accordance with s.197 of the Act and in the interests of visual amenity and in order to comply with saved Policy ENV1 of the Selby District Local Plan.

04 The site layout shall incorporate the following measures;

a) All access roads shall be constructed with speed humps or raised tables the details of which will have received the prior written approval of the Local Planning Authority.
b) Plots with integral garages shall be set back to ensure a minimum of 6 metres drive length between the back of the footway and the garage door
c) All boundary details should not be greater than 600mm above road level for a distance of 2 metres back from the rear of the footway
d) The emergency access shall be 3.7 metres wide with lockable bollards
e) Trees should not be planted within 1.5m of any footway and 2.5 metres of any road.

Reason
In the interests of road safety measures and to comply with Policy T1 of the Local Plan.

05 Before any work starts on site, a revised Flood Risk Assessment incorporating mitigation measures to ensure the development is flood resilient without raising land levels or increasing the risk of flooding elsewhere shall be submitted for the written approval of the local planning authority and thereafter the approved measures shall be incorporated into the development.

Reason
To reduce the risk of flooding to the dwellings and surrounding area.

06 Before any work starts on site, a Land stability risk assessment shall be undertaken incorporating mitigation measures for any risks identified. The assessment shall be submitted for the written approval of the local planning authority and thereafter the mitigation measures incorporated shall be fully implemented.

Reason
To minimise the risks of harm to human health, local property and associated infrastructure from potential Land instability and to comply with the requirements of Policy SP19 of the Core Strategy

3.1 Legal Issues

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

3.1.2 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.

3.1.3 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.

3.2 Financial Issues

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

4. Conclusion

4.1 As stated in the main body of the report.

5. Background Documents

5.1 Planning Application file reference 2017/0736/REMM and associated documents.

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Appendices: None