



**Report Reference Number:** 2019/0857/FUL

**To:** Planning Committee  
**Date:** 4<sup>th</sup> December 2019  
**Author:** Gareth Stent (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0857/FUL	PARISH:	Hemingbrough Parish Council
APPLICANT:	Mr & Mrs S & C Atkinson	VALID DATE:	20th August 2019
		EXPIRY DATE:	15th October 2019
PROPOSAL:	Proposed conversion of redundant agricultural buildings into single dwelling with associated works and infrastructure		
LOCATION:	2 Babthorpe Cottages Hull Road Hemingbrough Selby North Yorkshire YO8 6EH		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as the proposal is contrary to the requirements of the development plan (namely Criterion 1 of Policy H12 of the Selby District Local Plan) but it is considered there are material considerations which would justify approval of the application.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site is located outside the defined development limits of any settlements and is therefore located within the open countryside.
- 1.2 The application site comprises a mainly brick built single storey agricultural building with a traditional clay pantile roof. The buildings are arranged in a 'U' formation with an area of hardstanding in the centre of the buildings. The western most section of the building is a timber clad structure with a corrugated sheeted roof, which is incapable on conversion and is set to be demolished and partially replaced.

- 1.3 The site is located approximately 0.8 km east of Hemingbrough village. The application site lies to the north of the A63 (Hull Road) where its access is gained via a single gravelled trackway. The access also serves the cluster of other buildings, one being farmstead and a pair of cottages one of which (eastern most) is owned by the applicant who also owns the buildings to the east.
- 1.4 To the north of the building is a small grassed paddock area. To the immediate east is a small holding, again owned by the applicant. Beyond this is a large agricultural range known as East Hagg Farm. Open agricultural fields and woodland make up the area's general character.

### **The Proposal**

- 1.5 The proposal is for the conversion of a small range of redundant agricultural outbuildings, to a single 3-bed residential dwelling. Part of the building is to be demolished and reconstructed and is therefore considered as an extension
- 1.6 The proposal has been amended since the original submission where the extent of the new build was reduced, as was the number of new openings.

### **Relevant Planning History**

- 1.7 The following historical application is considered to be relevant to the determination of this application.
- 1.8 2018/1112/AGR, Prior notification for erection of agricultural building, to the west of the site. Granted 22-OCT-18.
- 1.9 2019/0347/HPA - Proposed erection of two storey side and rear extension including front porch following demolition of existing side porch and rear privy, at 2 Babthorpe Cottages, Hull Road, Hemingbrough, Selby, Approved - 11-JUL-19.
- 1.10 2019/0830/DOC, Discharge of Condition 04 (Method Statement) of approval 2019/0347/HPA.

## **2. CONSULTATION AND PUBLICITY**

- 2.1 **Parish Council** – No response received.
- 2.2 **NYCC Highways** – No objections following x3 car parking spaces shown on amended plans.
- 2.3 **Yorkshire Water** - No objections.
- 2.4 **The Ouse & Derwent Internal Drainage Board** – Initially raised an objection over the siting of the package treatment plant within 9m of a watercourse controlled by the IDB.
- 2.5 **Environmental Health** – No objections.
- 2.6 **North Yorkshire Bat Group** – No response received.

- 2.7 **Yorkshire Wildlife Trust** – No objections following the submission of the comprehensive preliminary ecological appraisal report. There would seem to be little opportunity in the way of ecological damage, as the site is small, and the existing buildings are to be converted with no or minimal expansion of the floor plan. Consequently, it is not felt that the development would realistically cause any significant harm to biodiversity, and that there would be no loss or deterioration of irreplaceable habitats.
- 2.8 **County Ecologist** - A Preliminary Ecological Appraisal was undertaken in April 2019 which triggered a Great Crested Newt survey of nearby ponds and a bat activity survey. Both of these have been submitted. No Great Crested Newts were detected in the two nearby ponds considered to be suitable for this species. Nor was there any evidence of bats occupying the potential suitable building. The PEA recommended the provision of a bird nest box as enhancement but the Ecologists are happy for this to be left to the applicant's discretion.
- 2.9 **The Environment Agency (Liaison Officer)** – No response received.
- 2.10 **Contaminated Land Officer** – No objections subject to conditions covering the need for site investigation, remediation works and the reporting of unexpected contamination.
- 2.11 **Neighbour Summary** - All immediate neighbours were informed by neighbour notification letter and a site notice was erected. No letters of representation have been received as a result of the advertisement of the application.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The application site is located outside the defined development limits of any settlements and is therefore located within the open countryside.
- 3.2 The application site is located within Flood Zone 2, which has a medium probability of flooding.

### **4 POLICY CONSIDERATIONS**

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 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.

4.4 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.

4.5 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**

4.6 The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development  
SP2 – Spatial Development Strategy  
SP9 - Affordable Housing  
SP15 – Sustainable Development and Climate Change  
SP18 – Protecting and Enhancing the Environment  
SP19 – Design Quality

### **Selby District Local Plan**

4.7 The relevant Selby District Local Plan Policies are:

ENV1 – Control of Development  
ENV2 – Environmental Pollution and Contaminated Land  
H12 – Conversion to Residential Use in the Countryside  
T1 – Development in Relation to the Highway Network  
T2 – Access to Roads

## **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

## The Principle of the Development

- 5.2 Policy SP1 of the Core Strategy outlines that *"when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework"* and sets out how this will be undertaken. Policy SP1 is therefore consistent with Paragraph 11 of the NPPF.
- 5.3 The application site is located outside the defined development limits of any settlements and is therefore located within the open countryside.
- 5.4 Policy SP2A (c) of the Core Strategy states that *"Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances."*
- 5.5 Paragraph 79 criteria C) of the NPPF states "Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- 5.6 This proposal would result in the re-use of an existing building and would therefore comply with Policy SP2A (c) of the Core Strategy and the NPPF.
- 5.7 Policy H12 of the Selby District Local Plan specifically relates to conversion to the conversion of rural buildings to residential use in the countryside and sets out that such proposals would be acceptable in principle subject to a number of criteria.
- 5.8 Criterion (1) of Policy H12 allows proposals for the conversion of rural buildings to residential uses provided *"it can be demonstrated that the building, or its location, is unsuited to business use or that there is no demand for buildings for those purposes in the immediate locality"*. The proposal does not meet this criteria and is therefore contrary to the requirements of the development plan. However, the approaches taken by Policy SP2A(c) and Paragraph 79 of the NPPF are significantly different to that taken in Policy H12 as they do not require the more onerous tests set out in H12 (1), with SP2A(c) expressing a preference for employment uses where proposals involve the re-use of a building, and paragraph 79 of the NPPF setting out that the re-use of redundant or disused buildings would be acceptable in the countryside. It is therefore considered that Policy H12 of the Selby District Local Plan should be given limited weight due to the conflict between the requirements of Criterion (1) of the policy and the approach set out both in the Core Strategy and within the NPPF.
- 5.9 Notwithstanding the above, Criterion (3) and (4) of Policy H12 require that *"the building is structurally sound and capable of re-use without substantial rebuilding"*

and *“the proposed re-use or adaptation will generally take place within the fabric of the building and not require extensive alteration, rebuilding and/or extension”*.

- 5.10 In terms of Criterion (3), it is noted that a structural report has been submitted with the application. This explains that the main brick built structures are capable of conversion and adaption without the need for substantial reconstruction or demolition. From a site visit it is noted that the main brick parts of the building were in good condition. The western most part of the building is not capable of conversion and is being demolished. On this basis, it is considered that the proposal would comply with Criterion (3) of Policy H12.
- 5.12 In terms of Criterion (4), the proposals would involve the reconstruction of the demolished part of the western elevation. This reconstruction would measure a maximum of 4 metres by 5 metres and have a floor space of 20 sq m. This was reduced from 40 sq m on the original proposal as it was regarded as being too excessive. This ties in with the main buildings to be converted and replicates the character and form of the structure. Whilst tis would not take place within the fabric of the existing building, this is not regarded as an extensive alteration/extension and complies with Criterion (4) of Policy H12.
- 5.13 The remaining criteria of Policy H12 relate to the impacts of the proposed conversion and extension and will therefore be assessed later in this report.
- 5.14 Having regard to the above, the proposal would be acceptable in principle and represent appropriate development in the countryside. The proposal has some conflict with H12 (1), however is compliant with the Policies SP1 and SP2 of the Core Strategy, and the remaining parts of Policy H12 of the Selby District Local Plan and national policy including paragraph 79 of the NPPF.

### **Design and Impact on the Character and Appearance of the Area**

- 5.15 Relevant policies in respect to design and the impact of development on the character and appearance of the area include Policy ENV1 (1) and (4) of the Selby District Local Plan. This is a general considerations policy and supports good development taking account of the effect upon the character of the area or amenities' of adjoining occupiers and the standard of layout, design and materials in relation to its surroundings. Policy H12 (5) states conversions of rural buildings will only be permitted where the provision of access, curtilages and works would not have a significant adverse effect on the character and appearance of the area or surrounding countryside. Policy SP19 of the Core Strategy seeks to enhance community cohesion by high quality design and having regard to local character. Further to this, relevant policies within the NPPF include paragraphs 124, 127, 128, 130, 131 which seek to achieve well designed places.
- 5.16 The application site comprises a brick built agricultural building and an area of hardstanding to the front (south) and a small grassed paddock area to the north, which is to be used as the amenity space for the dwelling. When converting traditional rural buildings it is important to keep the character and form of the existing structure and a series of new openings can often dilute this historical character. In this case the main alterations would be the re-use of a number of existing openings to form windows and doors and the introduction of a number of new openings both within the elevations to form windows and the roof in the form of roof lights. Officers had some initial concerns about the number of new openings on the north east elevation and these were later removed.

- 5.17 The proposed alterations are now considered acceptable in respect of design and impact on the character and appearance of the area.
- 5.18 In terms of the proposed extension, this would have the same form as the remaining buildings and be linked to the main structure giving the scheme better continuity and form. It is proposed to be finished in vertical board-on-board dark stained timber as a contemporary reinterpretation of the existing building it replaces, with the pantile roof covering. As such, it is considered the proposed extension would have an acceptable design in relation to the converted barn and would satisfactorily integrate into the proposed dwelling.
- 5.19 Having regard to the above, it is considered that the proposals would not have a significant or detrimental impact on the character and appearance of the area in accordance with Policies ENV1 (1) and (4) and H12 (5) of the Selby District Local Plan, Policy SP19 of Core Strategy and national policy contained within the NPPF.

### **Impact on Residential Amenity**

- 5.20 The proposed dwelling would be sited to the west of the pair of cottages known as 1 & 2 Babthorpe Cottages. The applicant owns the eastern most cottage.
- 5.21 Given the nature of the proposals, for the conversion and extension of an existing building, and having regard to the size, scale, siting and design of the proposed extension, it is not considered that the proposals would result in any significant adverse effects in terms of overshadowing or oppression between the existing and proposed dwellings. Furthermore, given the location of windows in the proposed dwelling, it is not considered that the proposals would result in any significant adverse effects of overlooking and therefore accords with the requirements of ENV 1 which considers the effect upon the amenity of adjoining occupiers.
- 5.22 In terms of the provision of amenity space for the proposed dwelling, it is considered that the proposal would enable the provision of an adequate amount of useable external amenity space for the occupiers of the proposed dwelling. This is a grassed paddock area to the north of the building, with parking and hard surfaced turning to the south.
- 5.23 The Council's Environmental Health Officer was consulted in relation to the buildings position next to an agricultural type barn where the applicants keeps a small number of pigs. The agent has confirmed that these are small numbers and are not intensively reared and stock numbers are very low akin to hobby farming. No objections were raised as whilst some agricultural activity exists from the site, this isn't of a scale that would cause nuisance nor that would warrant a condition linking occupation of the building to the complex or agricultural worker.
- 5.24 The proposed residential use of the building is therefore acceptable in terms of residential amenity for adjoining and proposed occupiers and in accordance with Policies ENV1 (1) and H12 (5 & 6) of the Selby District Local Plan and national policy contained within the NPPF namely paragraphs 124, 127, 128, 130, 131 which seek to achieve well designed places.

## **Impact on Highway Safety**

- 5.25 The proposed dwelling would be accessed from an existing vehicular access from A63 Hull Road and would benefit from an area of hardstanding for parking, turning and maneuvering to the south of the dwelling. NYCC Highways have been consulted on the proposals and were satisfied with the access, however required the surface to be upgraded so that it can accommodate the increase in traffic. x3 parking spaces were also requested to be shown on the plans and conditions have been imposed covering the need to provide and retain the parking spaces.
- 5.26 Having regard to the above and subject to the proposed conditions, it is considered that the proposal would be acceptable in terms of highway safety in accordance with Policies ENV1 (2), H12 (7), T1 and T2 of the Selby District Local Plan and national policy contained within the NPPF Section 12, which seeks to ensure developments are well designed and function for their intended use.

## **Flood Risk and Drainage**

- 5.27 Relevant policies in respect to flood risk and drainage include Policy ENV1 (3) of the Local Plan and Policy SP15 of the Core Strategy and Section 14 of the NPPF. Paragraph 155 of the NPPF states that “Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere”.
- 5.28 The application site is located within Flood Zone 2, which has a medium probability of flooding and which is a material consideration. The proposal was supported by a Flood Risk Assessment. The Environment Agency refers Local Planning Authorities to standing advice if it's a 'more vulnerable' use in Zone 2. The main emphasis of this is ensuring finished floor levels are 300mm above current floor levels or 600mm above known flood levels for new build.
- 5.29 The applicant confirmed that raising the internal floor level would not be possible and would have a negative effect on the character of the conversion as it would necessitate ramped or stepped access and make floor to ceiling heights inadequate. On this basis no mitigation is considered necessary. The applicants will be directed to flood evacuation and flood resilience measure via an informative.
- 5.30 In terms of the need for a sequential test the Selby District Council Developer Guidance Note Aug 2019 describes situations where exemptions from both Sequential Test and Exception Test can occur. These include the following:

Minor Development:

Paragraph 164 and footnote 51 of the NPPF state that minor development means:

- Minor non-residential extensions: industrial/commercial/leisure etc. with a footprint less than 250 square metres
- Alterations: development that does not increase the size of buildings e.g. alterations to external appearance.
- Householder development: For example; sheds, garages, games rooms etc. within the curtilage of the existing dwelling, in addition to physical extensions to the



existing dwelling itself. This definition excludes any proposed development that would create a separate dwelling within the curtilage of the existing dwelling e.g. subdivision of houses into flats.

- Changes of use except for changes of use to a caravan, camping or chalet site, or to a mobile home or park home site

5.31 The proposal is regarded as a change of use i.e. agriculture to residential and is therefore exempt from requiring a sequential or exception test.

5.32 In terms of drainage, the submitted application form sets out that surface water drainage would be disposed of via soakaway, and that foul drainage will be to a package treatment plant. The IDB wanted the treatment plant moving away from the watercourse and amended plans were received to show this (Site Plan Rev E). No objections have been raised by any consultees in relation to drainage and it is noted that no drainage related conditions were considered reasonable or necessary to attach to the extant planning permission at the site.

5.33 Having regard to the above, it is considered that the proposals are acceptable in terms of flood risk and drainage in respect of Policy ENV1 (3) of the Local Plan and Policy SP15 of the Core Strategy and Section 14 of the NPPF.

### **Nature Conservation and Protected Species**

5.34 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2017. The presence of protected species is a material planning consideration.

5.35 The application has been supported by Preliminary Ecological Appraisal (PEA) was undertaken in April 2019 which triggered a Great Crested Newt survey of nearby ponds and a bat activity survey. No Great Crested Newts were detected in the two nearby ponds considered to be suitable for this species. Nor was there any evidence of bats occupying the potential suitable building. The PEA recommended the provision of a bird nest box as enhancement, however the council's ecologist did not feel this was something which warranted a condition and left this to the applicant's discretion. The Yorkshire Wildlife Trust also raised no objections to the proposal.

5.36 Having regard to the above, it is considered that the proposals would not harm any acknowledged nature conservation interests or protected species and is therefore in accordance with Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, national policy contained within the NPPF, the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2017.

### **Land Contamination**

5.37 Former agricultural buildings have the potential to have historic contaminants and given the new residential use is regarded as being sensitive, officers must establish if the conversion and its future residential occupation is safe. The application was not supported by any desk based assessment and given the former agricultural use, the Contaminated Land Officer has requested a series of conditions requiring a contamination assessment be undertaken with remediation controlled as necessary.

## **Affordable Housing**

- 5.38 Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District.
- 5.39 Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District. The Policy notes that the target contribution will be equivalent to the provision of up to 10% affordable units. The calculation of the extent of this contribution is set out within the Affordable Housing Supplementary Planning Document which was adopted on 25 February 2014.
- 5.40 However, in the context of the West Berkshire decision it is considered that there is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. It is therefore considered that having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

## **6 CONCLUSION**

- 6.1 The application seeks full planning permission for the conversion and extension of an existing brick built barn to form 1No. dwelling.
- 6.2 The application is considered to be acceptable in principle and represents appropriate development in the countryside in accordance with Policies SP1 and SP2 of the Core Strategy, Policy H12 (3) and (4) of the Selby District Local Plan and national policy including paragraph 79 of the NPPF. Policy H12 (1) of the Selby District Local Plan is given limited weight as the approaches taken by Policy SP2A(c) and Paragraph 79 of the NPPF are significantly different to that taken in Policy H12 as they do not require the more onerous tests set out in H12 (1).
- 6.3 Furthermore, having assessed the proposals against the relevant policies, it is considered that the proposals are acceptable in respect of their 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 and affordable housing.

## **7 RECOMMENDATION**

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

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

Reason:

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

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

Amended site plan Rev E - 11.11.19

Amended Proposed Floor Plans and Elevations Rev G - 8.10.19

Location Plan 01C - 16.8.19

Reason:

For the avoidance of doubt.

03. Notwithstanding the provisions of Class A to Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) no extensions, garages, outbuildings or other structures shall be erected, nor new windows, doors or other openings inserted other than those hereby approved.

Reason:

In order to ensure that the character and appearance of the surrounding area is protected in the interests of residential amenity having had regard to Policies ENV1 and H12 of the Selby District Local Plan.

04. 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 until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:

- a. The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number A1.
- b. Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority. All works shall accord with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason

In accordance with policy T1 and T5 of the Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

05. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number 2 have been constructed in accordance with the submitted drawing (Reference drawing number WG764 Rev 10E). 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 and T5 and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

06. No development approved by this permission shall be commenced until the Local Planning Authority in consultation with the Internal Drainage Board has approved a Scheme for the provision of surface water drainage works. Any such Scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

The following criteria should be considered:

Any proposal to discharge surface water to a watercourse from the redevelopment of a brownfield site should first establish the extent of any existing discharge to that watercourse.

Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140lit/sec/ha or the established rate whichever is the lesser for the connected impermeable area).

Discharge from “greenfield sites” taken as 1.4 lit/sec/ha (1:1yr storm).

Storage volume should accommodate a 1:30 yr event with no surface flooding and no overland discharge off the site in a 1:100yr event.

A 30% allowance for climate change should be included in all calculations.

A range of durations should be used to establish the worst-case scenario.

The suitability of soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 or other approved methodology.

#### Reason

To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding.

07. Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

#### Reason

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

08. Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason

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

09. Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

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

Reason

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

INFORMATIVE

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

INFORMATIVE

## MAINTENANCE RESPONSIBILITY - GENERAL

The proposed development is within the Board's area and is adjacent to the West Hagg Farm Drain (to the west of the development site) and Babthorpe Farms Drain (to the south of the site), which at this location, are maintained by the Board under permissive powers within the Land Drainage Act. 1991.

However, the responsibility for maintenance of the watercourse and its banks rests ultimately with the riparian owner.

## CONSENT - GENERAL

Under the terms of the Land Drainage Act. 1991 and the Board's Byelaws, the prior written consent of the Board is required for any proposed works or structures in, under, over or within 9 metres of the top of the bank of any watercourse.

## CONSENT - DISCHARGE

Under the Board's Byelaws the written consent of the Board is required prior to any discharge into any watercourse within the Board's District.

## INFORMATIVE

You are advised to consider the flood evacuation measures and flood resilience measures as advocated in the Environment Agencies standing advice at

<https://www.gov.uk/guidance/flood-risk-assessment-standing-advice#extra-flood-resistance-and-resilience-measures>

## **8 Legal Issues**

### **8.1 Planning Acts**

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

### **8.2 Human Rights Act 1998**

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

### **8.3 Equality Act 2010**

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

## **9 Financial Issues**

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

## **10 Background Documents**

Planning Application file reference 2019/0857/FUL and associated documents.

**Contact Officer:** Gareth Stent, Principal Planning Officer  
[gstent@selby.gov.uk](mailto:gstent@selby.gov.uk)

**Appendices:** None