



Report Reference Number: 2018/0933/COU

To: Planning Committee
Date: 5th February 2020
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Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0933/COU	PARISH:	South Milford Parish Council
APPLICANT:	Mr Liam Condon	VALID DATE: EXPIRY DATE:	17th July 2019 11th September 2019
PROPOSAL:	Proposed and part retrospective change of use to a mixed use comprising a class A3 use for cafe tea room serving hot and cold food on the premises including children's and adult activities and events and beauty treatments with provision for 40 car parking spaces and 20 overflow car parking spaces		
LOCATION:	The Orangery Lumby Hall Butts Lane Lumby Leeds West Yorkshire LS25 5JB		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee as the application is a minor application where 10 or more letters of representation have been received which raise material planning considerations and where Officers would otherwise determine the application contrary to these representations.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The development limit boundary runs through the application site, such that the application site is part located within the defined development limits of Lumby which is a Secondary Village as identified in the Core Strategy, and part located outside

the defined development limits of Lumby and is therefore located within the open countryside. The application site is also wholly located within the Green Belt.

- 1.2 The application site is situated on the edge of Lumby, a small settlement of deeply rural character clustered around Butts Lane, and the lanes that run from that. The application site comprises a large stone clad, steel portal framed garage structure with a pitched roof covered in lightweight roof panels and an area of land to the west, south west and south comprising a hardstanding area, grassed area and driveway to Butts Lane. The application building is adjacent to Lumby Hall, which is a substantial house set in its own grounds, and a portion of it adjoins the flank, and part of the rear wall of 4 The Mews to the rear.
- 1.3 The wider surroundings of the application site are, with the exception of the dwellings to its north and east, principally open agricultural fields. Buildings within Lumby are in the main residential, with some agricultural structures and uses also abutting Butts Lane. Its lanes are narrow and winding.

The Proposal

- 1.4 The application seeks full planning permission for the proposed and part retrospective change of use of the site to a mixed use comprising: a Class A3 use for a café/tea room serving hot and cold food on the premises; a functions space including children's and adult activities and events; a beauty treatment space; an outdoor seating area and an outdoor children's play area; provision for 40 car parking spaces and 20 overflow car parking spaces; and associated service area and provision for 6 staff car parking spaces.
- 1.5 It should be noted that under application reference 2017/0209/COU, planning permission was granted for the change of use of the orangery and bar lounge to a traditional style tea room with associated car parking. Conditions attached to this planning permission restricted, amongst other things: (1) the opening hours to be between 10am and 5pm Tuesday to Friday and 9am to 5pm Saturdays and Sundays; (2) the tea room to not operate in excess of 40 covers at any one time; (3) there to be no outdoor seating areas; and (4) visitor car parking to be no more than 16 spaces. These restrictions were primarily in the interests of maintaining the character and appearance of the area and the residential amenity of neighbouring properties.
- 1.6 The current application seeks to intensify the use of the site by: (1) extending the opening hours of the site to be between 9am and 9pm Monday to Sunday (including Bank and Public Holidays). Note: While the submitted application form and planning statement set out that the opening hours of the café/tea room would be between 9am and 9pm Monday to Sunday (including Bank and Public Holidays), the submitted Noise Impact Assessment (NIA) sets out that there would be up to 20 events per year in the functions space which would operate until 1am; (2) using the previously approved tea room as a café/tea room serving hot and cold food on the premises which could operate up to 100 covers at any one time; (3) introducing an outdoor seating area and an outdoor children's play area; (4) creating a functions space including children's and adult activities and events; (5) introducing a beauty treatment space; and (6) increasing the capacity of the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces. Some of the aspects of the proposal are already operating at the site, hence the part retrospective nature of this current application.

Relevant Planning History

- 1.7 The following historical applications are considered to be relevant to the determination of this application.
- 1.8 An application (reference 2015/0289/COU) for the retrospective change of use of land for residential and a function and events venue was refused on 09.03.2016 and dismissed at appeal on 19.12.2016.
- 1.9 the An application (reference 2016/0969/CPP) for a lawful development certificate for proposed change of use of conservatory and adjacent room to use as a tea room was refused on 31.10.2016.
- 1.10 An application (reference 2017/0209/COU) for the change of use of the orangery and bar lounge to a traditional style tea room with associated parking was permitted on 14.07.2017.
- 1.11 An application (reference 2017/1352/CPP) for a lawful development certificate for the proposed use of land for different uses (including but not limited to weddings and general events) for a period of not more than 28 days in any calendar year (of which not more than 14 days in total will be used for holding a market or motorcar and motorcycle racing including trails of speed and practicing) and the provision of any moveable structures in accordance with Class B, Part 4 of Schedule 2 of the GPDO 2015 was refused on 26.02.2018.
- 1.12 An application (reference 2017/0293/HPA) for the proposed replacement of an existing damaged driveway, entrance gates, stone piers and cattle grid with new entrance gates, stone piers and cattle grid was permitted on 12.05.2017.

2. CONSULTATION AND PUBLICITY

- 2.1 **Parish Council – Initial response dated 05.09.19:** Object to this application, due to the impact it will have on residential amenity and the local highway and highway safety specifically: (1) parking resulting in mud on the road – the parking arrangements would use the grass in front of Lumby Hall, as at present with some additional spaces and there is a concern that in the winter months, the grass will get churned up and vehicles may take mud onto the highway causing a hazard to road users; (2) increase in vehicular traffic – the proposed opening hours are 9am-9pm, 7 days a week and there is concern that the access and egress to the site is troublesome; (3) noise and disturbance – there is concerns that increased vehicular activity will cause noise and disturbance, particularly with people leaving the site in the evening hours.

Further response dated 24.11.19: All of the previous comments remain.

- 2.2 **NYCC Highways – Initial comments dated 01.08.2019:** The visibility splays at the access are below the recommended 215 metres at just 64 metres. However the applicant has provided speed data to prove that vehicles are generally travelling below the 60mph speed limit. Therefore the reduction in visibility splays to 64 metres is acceptable given the speed vehicles would generally travel at. It should however be noted that due to the hedge location the visibility splays will need to be maintained regularly and maintained at a height no greater than 1.05 metres.

Request the car parking provision be increased to 50 spaces and an overflow car parking area be designated. This is particularly important to ensure that vehicles do not displace onto the highway and interfere with the free flow of traffic. This could be conditioned if necessary.

No objections subject to three conditions relating to: (1) visibility splays; (2) details of access, turning and parking; (3) provision of approved access, turning and parking areas.

Further comments dated 12.11.19: No objections subject to two conditions relating to: (1) visibility splays; and (2) provision of approved access, turning and parking.

2.3 **Environmental Health** – Initial comments dated 12.08.2019: Request additional information as follows: (1) The credibility of the Noise Impact Assessment (NIA) cannot be relied upon and a new assessment should be carried out to consider, in particular, potential noise impact associated with events proposed to run until 9pm; (2) concerns regarding the potential noise impact on the adjoining dwelling and garden, a basis of refusal in respect of application ref: 2015/0289/COU. The applicant states that any music inside the building would be controlled by a decibel limiting system; however, it is not clear what limit is proposed and how this will be quantified; (3) clarification required as to whether or not a restriction is proposed regarding number of events and the days on which they will take place; (4) this department has received previous complaints that waste generated at the site can often exceed capacity and the Local Planning Authority should seek to ensure that the provisions for waste disposal can be met in consideration of likely increased waste generation as a result of these proposals; (5) recommend that the applicant is asked to clarify the status of the sewer and that the use of the sewer will not give rise to additional foul drainage discharges and the resultant pollution. It is also recommended that NYCC Highways and the Environment Agency are consulted with so as to ensure the proposal does not pose an unacceptable flood risk to the village or to the development itself.

Further comments dated 29.10.19: Continue to request additional information as follows: (1) The applicant has removed the external function areas but is yet to consider general noise impact of the proposals on nearby sensitive receptors. The previous comments regarding issues with the NIA are still relevant and a new assessment should be carried out to consider, in particular, potential noise impact associated with events proposed to run until 9pm; (2) concerns regarding the potential noise impact on the adjoining dwelling and garden, a basis of refusal in respect of application ref: 2015/0289/COU. The applicant states that any music inside the building would be controlled by a decibel limiting system; however, it is not clear what limit is proposed and how this will be quantified; (3) clarification required as to whether or not a restriction is proposed regarding number of events and the days on which they will take place; (4) still outstanding information regarding the proposed waste disposal contract considering previous complaints and difficulties in large vehicles accessing the site.

Further comments dated 15.11.19: The NIA remains unacceptable, notably (but not restricted to) the methodology used (Code of Practice on Environmental Noise Control at Concerts) excludes from its scope the assessment of noise impact at sensitive premises which are structurally attached to the venue. Furthermore, the fact that the proposals are now much different only increases the justification to reassess noise impact. If the applicant is unable to reference suitable methodology for quantifying noise impact it may be that event venues adjoining noise sensitive

premises are typically considered unacceptable in terms of noise impact. Regarding waste disposal, the applicant is yet to confirm which provider is able to accommodate the needs of the venue. As such this does not yet alleviate concerns regarding waste disposal.

- 2.4 **The Environment Agency (Liaison Officer)** – No comments received.
- 2.5 **Yorkshire Water Services Ltd** – No comments received.
- 2.6 **Selby Area Internal Drainage Board** - If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year. If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow. If the surface water is to be discharged to any watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission and would be restricted to 1.4 litres per second per hectare or greenfield runoff. No obstructions within 7 metres of the edge of a watercourse are permitted without Consent from the IDB. If surface water or works are planned adjacent to a Main River within the Drainage District, then the Environment Agency should be contacted for any relevant Permits.
- 2.7 **Waste And Recycling Officer** – Initial response dated 02.08.19: A waste storage area has been identified. Due to the rural location of the premises it is advised that the applicant confirms that discussions have been held with a waste collection contractor and that they are able to service the site. The access to the premises is over a cattle grid which may make the site inaccessible to some providers who operate large RCV's.
- Further response dated 18.11.19: The site terminated their commercial waste agreement with Selby District Council as of 15th December 2019. Request that a copy of the Waste Transfer Note between the site and the new supplier be provided after this date to confirm alternative arrangements are in place for the legal disposal of commercial waste from the premises.
- 2.8 **Neighbour Summary** – All immediate neighbours have been informed by neighbour notification letter and a site notice has been erected. Eighty nine letters of representation have been received as a result of the advertisement of the application (as of 06.01.2020), forty three of which support the proposals, forty five of which object to the proposals and one of which neither supports nor objects to the application, but which provides comments on the proposals.

The letters of support mainly come from customers of The Orangery, many of who advise that they are regular customers and that the site provides a good place for parents and children to go and meet other parents and children. There are comments that the proposals would create employment opportunities, would not give rise to any highway safety issues given the limited size of the venue and would not have any adverse impact on drainage. The letters of support come from: Leeds (nine); Castleford (six); Thorpe Willoughby (four); Pollington (three); Wakefield (two); Knottingley (two); South Milford (two); Sherburn in Elmet (two); Barlow (two); Allerton Bywater (one); Kippax (one); Pontefract (one); Little Fenton (one);

Wistow (one); Harrogate (one); Doncaster (one) South Kirkby (one) and Lumby (one).

The letters of objection raise concerns in respect of: (1) the impact of the proposals on the Green Belt and the inappropriateness of the outdoor seating area and outdoor functions areas within the Green Belt location, as previously concluded in a 2017 application; (2) the proposed use being more in line with the previously dismissed appeal than the more recently granted planning permission for a traditional tea room; (3) the scale of the commercial development of the site; (4) the scale of the development at the site not being appropriate to the locality and thus adversely impacting on the character and appearance of the area; (5) the proposed hours of use – it has been suggested that the commercial use of the hall should be restricted to daytime hours only; (6) the increased use of the site having an adverse impact on the character and appearance of the area and the residential amenity of neighbouring properties and properties within Lumby as a whole; (7) the impact of the proposals on the residential amenities of neighbouring properties in terms of noise and disturbance; (8) the proposal goes against conditions which were attached to the 2017 planning permission; (9) the conditions of the previous planning permission at the site not being complied with; (10) the changing nature of the use from temporary to permanent; (11) highway safety implications and a result of the proposed access, parking arrangements and increased traffic through the village; and (12) drainage.

The letter of comment states that Butts Lane needs repairing and has been received from a resident of Lumby.

3 SITE CONSTRAINTS

Constraints

- 3.1 The development limit boundary runs through the application site, such that the application site is part located within the defined development limits of Lumby, which is a Secondary Village as identified within the Core Strategy, and part located outside the defined development limits of Lumby and is therefore located within the open countryside. The application site is also located wholly within the Green Belt.
- 3.2 The application site is located within a Locally Important Landscape Area.
- 3.3 The application site is located within Flood Zone 1.

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
SP3 – Green Belt
SP13 – Scale and Distribution of Economic Growth
SP14 - Town Centres and Local Services
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
ENV15 – Conservation and Enhancement of Locally Important Landscape Areas
EMP8 – Conversions to Employment Use in the Countryside
T1 – Development in Relation to the Highway Network
T2 – Access to Roads
S3 – Local Shops

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
- Other Issues
- Determining Whether Very Special Circumstances Exist

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 the guidance in Paragraph 11 of the NPPF.
- 5.3 The development limit boundary runs through the application site, such that the application site is part located within the defined development limits of Lumby, which is a Secondary Village as identified within the Core Strategy, and part located outside the defined development limits of Lumby and is therefore located within the open countryside. The application site is also located wholly within the Green Belt.
- 5.4 Policy SP2A (d) of the Core Strategy states that "*In Green Belt including villages washed over by Green Belt, development must conform to Policy SP3 and national Green Belt policies*".
- 5.5 Policy SP3B of the Core Strategy states "*In accordance with the NPPF, within the defined Green Belt, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted*".
- 5.6 The decision making process when considering proposals for development in the Green Belt is in three stages, and is as follows:
- a) It must be determined whether the development is appropriate or inappropriate development in the Green Belt.
 - b) If the development is appropriate, the application should be determined on its own merits.
 - c) If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which clearly outweigh the harm to the Green Belt by reason of its inappropriateness, and any other harm identified.
- 5.7 Policy SP13 of the Core Strategy supports the more efficient use of existing employment sites and premises within defined Development Limits through modernisation of existing premises, expansion, redevelopment, re-use, and intensification. In rural areas, sustainable development (on both Greenfield and Previously Developed Sites) which brings sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported, including for example, the reuse of buildings. In all cases, development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.

- 5.8 Policy EMP8 of the Selby District Local Plan specifically relates to the ‘Conversions to Employment Use in the Countryside’ and sets out that such proposals would be permitted provided 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 will not require extensive alteration, rebuilding and/or extension; amongst other factors relating to the impacts of the proposed conversion.
- 5.9 Policy SP14 of the Core Strategy supports shops and services, including village shops and services, by resisting the loss of existing facilities and promoting the establishment of new facilities to serve the day-to-day needs of existing communities and the planned growth of communities.
- 5.10 Policy S3A of the Selby District Local Plan specifically relates to ‘Local Shops’ and sets out that outside defined shopping and commercial centres, proposals for local shops (Class A1) and commercial premises such as financial and professional services, public houses, cafes, restaurants and takeaways (Class A2 and A3) will be permitted provided the proposal is within the defined development limit; and the proposal is intended to serve a purely local function or there is a demonstrable need for the particular outlet in the locality; the scale of provision would be appropriate to the locality; amongst other factors relating to the impacts of the proposed development.
- 5.11 The proposals can be split up into four broad areas for the purposes of assessing the principle of the development, as follows:
- The change of use of the building to provide a café/tea room serving hot and cold food on the premises which could operate up to 100 covers at any one time;
 - The change of use of the building to provide a functions space including children’s and adult activities and events and a beauty treatment space;
 - The change of use of land to provide an outdoor seating area and outdoor children’s play area to be used in association with the café/tea room and functions space.
 - The change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces.

The change of use of the building to provide a café/tea room serving hot and cold food on the premises which could operate up to 100 covers at any one time

- 5.12 Paragraph 145 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than for specified exceptions. Since this element of the proposal does not propose the construction of new buildings, paragraph 145 of the NPPF would not apply.
- 5.13 Paragraph 146 of the NPPF states that certain other forms of development are also not inappropriate, meaning forms other than the construction of new buildings. This includes “*the re-use of buildings provided that the buildings are of permanent and substantial construction*”. This element of the proposal would involve the re-use of a building which is considered to be of permanent and substantial construction and would preserve the openness of the Green Belt, thus this element of the proposals is considered to be appropriate development within the Green Belt in accordance

with Policies SP2 and SP3 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 146).

- 5.14 The proposal would comply with criteria (1) and (2) of Policy EMP8 of the Selby District Local Plan as 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 will not require extensive alteration, re-building and/or extension.
- 5.15 Policy SP14 of the Core Strategy and Policy S3A of the Selby District Local Plan relate to local services/shops. Under planning application reference 2017/0209/COU for the change of use of two rooms within the premises to a traditional style tea room, it was considered that there was a demonstrable need for a small scale traditional style tea room within Lumby. This conclusion was reached having regard to the number of letters of support which had been received as part of the advertisement of the application. Furthermore, it was considered that the scale of the provision was appropriate to the locality, as the use covered two rooms of the premises and conditions were attached to the planning permission restricting the use to be for a traditional style tea room only and for the use not operate in excess of 40 covers at any one time, in order to ensure the scale of the provision remained appropriate to the locality. On this basis the proposals were considered to be acceptable in accordance with Policy SP14 of the Core Strategy and Policy S3A of the Selby District Local Plan. Regardless of the outcome of this current planning application, the previous planning permission for the change of use of two rooms within the premises to a traditional style tea room remains.
- 5.16 The current application seeks planning permission for the change of use of the building to provide a café/tea room serving hot and cold food on the premises which could operate up to 100 covers at any one time. While it is noted from a site visit that there were two rooms of the premises set out with tables and chairs (those granted planning permission to be used as a traditional style tea room under planning permission reference 2017/0209/COU), these rooms linked to two other larger rooms within the premises, which are proposed to provide a functions space including children's and adult activities and events. There would be nothing to preclude goods purchased from the café/tea room to be consumed within the functions space as well as the two rooms set out with tables and chairs. This scenario was evident during the site visit. Indeed, in order to operate up to 100 covers at any one time on the premises, it is considered the functions space would be required to be used for this purpose at times.
- 5.17 In terms of criteria (1) of Policy S3A of the Selby District Local Plan, the proposal would be located within the defined development limits and thus would satisfy this criterion. In terms of criteria (2) of Policy S3A of the Selby District Local Plan, it is not considered that the proposal serves a purely local function, as letters of support received as part of the advertisement of the application are mainly from customers who could not be considered to be local to Lumby, being from Leeds (nine); Castleford (six); Thorpe Willoughby (four); Pollington (three); Wakefield (two); Knottingley (two); South Milford (two); Sherburn in Elmet (two); Barlow (two); Allerton Bywater (one); Kippax (one); Pontefract (one); Little Fenton (one); Wistow (one); Harrogate (one); Doncaster (one) South Kirkby (one) and Lumby (one). The supporting text to Policy S3A of the Selby District Local Plan at paragraph 9.20 suggests that 'local' would reduce the need for travelling, thus the service or shop would be accessible within walking distance. However, criteria (2) offers an alternative - that there is a demonstrable need for the particular outlet in the locality.

In this respect, it is noted that the application has received 43 letters of support (the location from which these have been received is noted above). Yet 45 letters of objection have also been received, the majority of which are from residents of Lumby. No information has been put forward by the applicant to demonstrate the need for the particular outlet in the locality. It is therefore not considered that the letters of support received, alone, is demonstrable of the need for the particular outlet in the locality as has been suggested by the applicant's agent. Thus, it is not considered that criteria (2) has been satisfied. In terms of criteria (3) of Policy S3A of the Selby District Local Plan, it is not considered that the scale of the provision would be appropriate to the locality having regard to the scale of the use to operate up to 100 covers (which is more than double what was previously considered to be appropriate under application reference 2017/0209/COU) and the nature of the locality, comprising the Secondary Village of Lumby.

- 5.18 Having regard to the above, while the change of use of the building to provide a café/tea room serving hot and cold food on the premises, which could operate up to 100 covers at any one time, would be appropriate development within the Green Belt in accordance with Policies SP2 and SP3 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 146) and would comply with criteria (1) and (2) of Policy EMP8 of the Selby District Local Plan, it is not considered that the proposals, given their nature and scale, would serve the day-to-day needs of the existing community, would serve a purely local function, nor be of a scale appropriate to the locality. Furthermore, it has not been demonstrated that there is a need for this particular outlet in the locality. This element of the proposal is therefore considered to be contrary to Policy SP14 of the Core Strategy and Policy S3A of the Selby District Local Plan.

The change of use of the building to provide a functions space including children's and adult activities and events and a beauty treatment space

- 5.19 Paragraph 145 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than for specified exceptions. Since this element of the proposal does not propose the construction of new buildings, paragraph 145 of the NPPF would not apply.
- 5.20 Paragraph 146 of the NPPF states that certain other forms of development are also not inappropriate, meaning forms other than the construction of new buildings. This includes "*the re-use of buildings provided that the buildings are of permanent and substantial construction*". This element of the proposal would involve the re-use of a building which is considered to be of permanent and substantial construction and would preserve the openness of the Green Belt, thus this element of the proposals is considered to be appropriate development within the Green Belt in accordance with Policies SP2 and SP3 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 146).
- 5.21 The proposal would comply with criteria (1) and (2) of Policy EMP8 of the Selby District Local Plan as 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 will not require extensive alteration, re-building and/or extension.
- 5.22 Having regard to the above, the change of use of the building to provide a functions space including children's and adult activities and events and a beauty treatment space would be appropriate development within the Green Belt in accordance

with Policies SP2 and SP3 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 146) and would comply with criteria (1) and (2) of Policy EMP8 of the Selby District Local Plan.

The change of use of land to provide an outdoor seating area and outdoor children's play area to be used in association with the café/tea room and functions space

- 5.23 Paragraph 145 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than for specified exceptions. Since this element of the proposal does not propose the construction of new buildings, paragraph 145 of the NPPF would not apply.
- 5.24 Paragraph 146 of the NPPF states that certain other forms of development are also not inappropriate, meaning forms other than the construction of new buildings. This includes "*material changes in the use of land*" provided they preserve the openness of the Green Belt and the purposes of including land within it. This element of the proposal would involve the use of a small area of land measuring approximately 58m² for an outdoor seating area in association with the café/tea room and functions space, and a larger area of land measuring approximately 1500m² for a children's play area in association with the café/tea room and functions space – as shown on drawing no. YTA 2 Revision C. The outdoor seating area would be such a scale that it would be considered to preserve the openness of the Green Belt and the purpose of including land within it. The children's play area is not shown to have any fixed play equipment, and currently comprises a grassed area surrounded by hedges and trees. Subject to a condition to ensure that there is no fixed play equipment on the children's play area, it is considered that its scale and nature within its context would preserve the openness of the Green Belt and the purposes of including land within it.
- 5.25 Subject to the aforementioned condition, the change of use of land to provide an outdoor seating area and outdoor children's play area to be used in association with the café/tea room and functions space would be appropriate development within the Green Belt in accordance with Policies SP2 and SP3 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 146).
- 5.26 Letters of representation setting out that under application reference 2017/0209/COU the material change of use of land to provide an outdoor seating area was considered to be inappropriate development within the Green Belt are noted. However, since the assessment and determination of that application, the NPPF has been updated (most recently with the publication of the February 2019 version). Within the updated NPPF, material changes in the use of land are now considered to be appropriate development in the Green Belt provided they preserve the openness of the Green Belt and the purposes of including land within it (paragraph 146).

The change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces

- 5.27 Paragraph 145 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than for specified exceptions. Since this element of the proposal does not propose the construction of new buildings, paragraph 145 of the NPPF would not apply.

- 5.28 Paragraph 146 of the NPPF states that certain other forms of development are also not inappropriate, meaning forms other than the construction of new buildings. This includes "*material changes in the use of land*" provided they preserve the openness of the Green Belt and the purposes of including land within it. This element of the proposals would involve the use of an area of land measuring approximately 780m² either side of the driveway for a visitor car parking area to include the provision of 40 car parking spaces and 20 overflow car parking spaces – as shown on drawing no. YTA 2 Revision C.
- 5.29 Under planning application reference 2017/0209/COU for the change of use of two rooms within the premises to a traditional style tea room, it was considered that the provision of 16 visitor car parking spaces, which would be available for use during the opening hours of the tea room (10am to 4pm Tuesday to Friday, 9am to 4pm Saturday and Sunday and not at all on Bank or Public Holidays), would result in a temporary use of the land and would preserve the openness of the Green Belt and the purposes of including land within it. Furthermore, under planning application reference 2015/0289/COU for the retrospective change of use of land for residential and a function and events venue, an Inspector concluded that the provision of 56 visitor car parking spaces, which would be available for use during only 20 events held at the site per year would result in a temporary use of the land and would preserve the openness of the Green Belt and the purposes of including land within it.
- 5.30 The current application seeks planning permission for the change of use of the site to a mixed use comprising: a Class A3 use for a café/tea room serving hot and cold food on the premises; a functions space including children's and adult activities and events; a beauty treatment space; and an outdoor seating area and an outdoor children's play area, which would be served by 40 car parking spaces and 20 overflow car parking spaces – a total of 60 visitor car parking spaces. The submitted application form sets out that the opening hours of the café/tea room would be between 9am and 9pm 7 days a week (including Bank and Public Holidays), but in addition, the submitted Noise Impact Assessment (NIA) sets out that there would be up to 20 events per year in the functions space which would operate until 1am – thus the use of the site is proposed to be greatly intensified by comparison with what was applied for under planning permission references 2017/0209/COU and 2015/0289/COU. The proposals would significantly increase the amount of parked vehicles on the site and given the proposed opening hours of the premises, it is not, in this instance, considered that the parking of the vehicles could be described as a temporary use of the land, as the areas would be designated for the parking of vehicles on a permanent basis and in use a considerable amount of time per week. In terms of whether the proposed use of the land would preserve the openness of the Green Belt and the purposes of including land within it, both spatially and visually, the parking of vehicles in the areas as shown on drawing no. YTA 2 Revision C, surrounded principally with open agricultural fields, would be considered to result in a material depletion in the openness of the Green Belt and would conflict with the purposes of including land within it.
- 5.31 Having regard to the above, the change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces would be inappropriate development within the Green Belt contrary to Policies SP2 and SP3 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 146).

Conclusion on the Principle of the Development

- 5.32 Overall, while the change of use of the building to provide a café/tea room serving hot and cold food on the premises which could operate up to 100 covers at any one time; the change of use of the building to provide a functions space including children's and adult activities and events and a beauty treatment space; and the change of use of land to provide an outdoor seating area and outdoor children's play area to be used in association with the café/tea room and functions space would be considered to be appropriate development within the Green Belt, the associated change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces, which is a fundamental element of the proposals, without which the overall change of use of the site proposed could not function, would be considered to be inappropriate development within the Green Belt. Paragraph 143 of the NPPF sets out:

"Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations" (paragraph 144 of the NPPF).

- 5.33 Furthermore, while the change of use of the building to provide a café/tea room serving hot and cold food on the premises, which could operate up to 100 covers at any one time, would be appropriate development within the Green Belt in accordance with Policies SP2 and SP3 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 146) and would comply with criteria (1) and (2) of Policy EMP8 of the Selby District Local Plan.

It is not considered that the proposals, given their nature and scale, would serve the day-to-day needs of the existing community, would serve a purely local function, nor be of a scale appropriate to the locality. Furthermore, it has not been demonstrated that there is a need for this particular outlet in the locality. This element of the proposal is therefore considered to be contrary to Policy SP14 of the Core Strategy and Policy S3A of the Selby District Local Plan.

Design and Impact on the Character and Appearance of the Area

- 5.34 Under planning application reference 2015/0289/COU for the retrospective change of use of land for residential and a function and events venue to hold up to 20 events per year such as weddings and christenings for between 80 to 100 guests, with live and amplified music up 1am (which was dismissed at appeal), an Inspector concluded that whilst the proposed development would only have a minimal effect of the appearance of the area, arising chiefly from cars parking, its effects on the settlements character would go beyond the merely visual effects of the proposal. The Inspector found that there was very limited background noise in the village, which gave it an intrinsically quiet rural character. At paragraph 10 of the appeal statement, the Inspector states *"The proposed use would introduce a considerable amount of additional activity in and around the appeal building both during the day, but more critically during the night and early morning, affecting a substantial proportion of weekends in the year. This would include, but not be limited to, the arrival of staff; the making of deliveries; activity with unloading deliveries in the service yard at the rear; the arrival of guests, which would be predominantly by car*

due to the remoteness of the location; and the sound of the events themselves. At the end of an event, the dispersal of guests and staff would be another source of sound, including voices, car doors opening and closing, and the sound of engines.” At paragraph 11, the Inspector concludes “Taken together, these additional and substantial sources of noise would harm the surrounding noise environment and character of the settlement, to the detriment of its amenity and thus would conflict with Policies SP13 D and SP15 of the Selby District Core Strategy (adopted October 2013) (the Core Strategy); and Policies ENV1 and EMP 8 of the Selby District Local Plan (adopted February 2005) (the Local Plan). Taken together, and amongst other matters, these Policies seek to ensure that new economic developments in rural areas are sensitive to the character and quality of the surrounding local environment, and are consistent with the objective of the Framework given at paragraph 17 that planning should recognise the intrinsic character of the countryside.”

- 5.35 Under planning application reference 2017/0209/COU for the change of use of two rooms within the premises to a traditional style tea room, it was considered that the proposal would not have any significant adverse effect on the character and appearance of the area, due to the nature and scale of the proposals and the opening hours, both of which were restricted by way of conditions.
- 5.36 The current application seeks to intensify the use of the site by: (1) extending the opening hours of the site to be between 9am and 9pm Monday to Sunday (including Bank and Public Holidays). Note: While the submitted application form and planning statement set out that the opening hours of the café/tea room would be between 9am and 9pm Monday to Sunday (including Bank and Public Holidays), the submitted Noise Impact Assessment (NIA) sets out that there would be up to 20 events per year in the functions space which would operate until 1am; (2) using the previously approved tea room as a café/tea room serving hot and cold food on the premises which could operate up to 100 covers at any one time; (3) introducing an outdoor seating area and an outdoor children’s play area; (4) creating a functions space including children’s and adult activities and events; (5) introducing a beauty treatment space; and (6) increasing the capacity of the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces. Thus, it appears that the use of the site would be more intensive than that dismissed at appeal under planning application reference 2015/0289/COU.
- 5.37 In terms of the impact of the proposal on the appearance of the area, the proposals would result in the re-use of buildings which would not have an impact on the appearance of the area, and would include the provision of an outdoor seating area and children’s play area (with no fixed play equipment) which would not have any significant impact on the appearance of the area given its context. The proposals would also result in the provision of 40 car parking spaces and 20 overflow car parking spaces – a total of 60 visitor car parking spaces – either side of the driveway, which would be designated for the parking of vehicles on a permanent basis and in use a considerable amount of time per week. Surrounded principally by open agricultural fields, the introduction of this scale of car parking for such an intensive use would be considered to have an impact on the appearance of the area. Furthermore, the site is located within a Locally Important Landscape Area, wherein Policy ENV15 of the Selby District Local Plan requires development to conserve and enhance the character and quality of the landscape. It is not considered that the scale of the car parking provision and the intensity of the use of the car parking provision would conserve and enhance the character and quality of the landscape in this instance.

- 5.38 In terms of the impact of the proposal on the character of the area, the intensification of the use of the site, over and above that already approved under planning application reference 2017/0209/COU would introduce a considerable amount of additional activity to the site, both during the day and at night year round and potentially the early morning for part of the year. This would include, but not be limited to, the arrival of staff; the making of deliveries; activity associated with unloading deliveries in the service yard at the rear; the arrival and dispersal of customers and guests, which would be predominantly by car due to the remoteness of the location; children playing in the outdoor children's play area; and the sound of the functions/events. Taken together, these additional sources of noise are considered to harm the surrounding noise environment and character of the settlement, to the detriment of its amenity.
- 5.39 Having regard to the above, the proposal is considered to have a significant and detrimental impact on the character and appearance of the area, contrary to Policies ENV1, ENV15, EMP8 and S3A of the Selby District Local Plan, Policies SP13D, SP15 and SP19 of the Core Strategy. Taken together, these policies seek to ensure that new economic development in rural areas are sensitive to the character and quality of the surrounding local environment, and area consistent with the objective of the NPPF given at paragraph 170 that planning should recognise the intrinsic character and beauty of the countryside.

Impact on Residential Amenity

- 5.40 The application has been supported by a Noise Impact Assessment (NIA) (reference DC1836 – R3v1) undertaken by Dragonfly Consulting dated October 2015 and Sound Insulation Tests (SITs) (reference DC1836-R2) undertaken by Dragonfly Consulting dated September 2015. These are the same NIA and SITs which were submitted as part of application reference 2015/0289/COU.
- 5.41 Under planning application reference 2015/0289/COU for the retrospective change of use of land for residential and a function and events venue to hold up to 20 events per year such as weddings and christenings for between 80 to 100 guests, with live and amplified music up 1am (which was dismissed), an Inspector raised concerns that the submitted Noise Impact Assessment (NIA) was not based on the correct Code and highlighted deficiencies in the NIA, in that the assessment focused on the effects of the internally generated noise from the appeal building, and contained no explicit consideration of the effect of traffic noise, use of the service yard or general comings and goings from the venue. In terms of the an assessment of living conditions of adjacent residential buildings, the Inspector concluded at paragraph 17 of the appeal decision that "*Given the lightweight nature of the appeal building's roof and its proximity to No 4 particularly its bedroom window, the potential for music noise to cause significant disturbance to the dwelling's occupiers within both the dwelling's habitable rooms and its garden are considerable*" and that "*Whilst I had regard to the proposed roof insulation measures included with the appeal documents, I have been supplied with no substantive evidence to suggest what level of mitigation would be delivered by these, and how this could address the harm that would be caused to the occupiers of No 4*"(paragraph 18). Moreover the Inspector considered that noise arising from the use of the service yard "*would be likely to exacerbate the harmful effects the proposed development would cause to the living conditions of the occupants of No 4*"(paragraph 19). In terms of the impact of the proposals on the living conditions of Cass Lane Cottage, the Inspector concluded "*the potential for disturbance for the*

cottage's occupiers arising from the comings and particularly goings of event attendees is considerable" (paragraph 22). For these reasons, the Inspector concluded the proposed development would cause harm to the living conditions of the occupants of 4 The Mews and Cass Lane Cottage through noise and disturbance.

- 5.42 Under planning application reference 2017/0209/COU for the change of use of two rooms within the premises to a traditional style tea room, it was considered that the proposal would not have any significant adverse effect on the living conditions of the occupants of the adjacent residential buildings, due to the nature and scale of the proposals and the opening hours, both of which were restricted by way of conditions.
- 5.43 As established earlier in this report, the current application seeks to intensify the use of the site, such that it appears that the use of the site would be more intensive than that dismissed at appeal under planning application reference 2015/0289/COU.
- 5.44 The Council's Environmental Health Officer (EHO) has been consulted on the proposals and has advised that Lumby is described as being in a 'tranquil' area within the terms of the criteria laid out in the three government policy statements. In view of this the Council's EHO would raise concerns regarding the use of external areas for functions and the potential for loss of amenity at nearby sensitive receptors, most notably from noise impact. The applicant states that there will be no impact as concluded in a supporting Noise Impact Assessment (NIA); however, the Council's EHO advises that the same NIA was submitted in support of previously refused application 2015/0289/COU for a function and events venue whereby the conclusions drawn were considered dubious, specifically the contention that those proposals would not give rise to an unacceptable impact on residential amenity despite investigations by the Environmental Health department to the contrary. Furthermore, under application reference 2015/0289/COU, an Inspector raised concerns that the submitted NIA was not based on the correct Code and highlighted deficiencies in the NIA. In view of this, the Council's EHO advises that the credibility of the NIA cannot be relied upon and a new assessment should be carried out to consider, in particular, potential noise impact associated with events proposed to run until 9pm, or 1am, whichever is the case proposed, given the contradictory information provided on opening hours. Furthermore, the Council's EHO raises concerns regarding the potential noise impact on the adjoining dwelling and garden (at 4 The Mews). The applicant states that any music inside the building would be controlled by a decibel limiting system; however, it is not clear what limit is proposed and how this will be quantified. The supporting sound insulation tests simply conclude that the tested walls meet the required standard under the Building Regulations 2000 (Approved Document E 2004) which does not alleviate these concerns.
- 5.45 Following the submission of amended plans removing the external function areas, the Council's EHO advised that applicant had still not considered the general noise impact of the proposals on nearby sensitive receptors and advised that their previous comments regarding issues with the submitted NIA were still relevant and a new NIA should be carried out. The Council's EHO also advised that the remaining issues raised initially by them also still required addressing.
- 5.46 The applicant has declined to provide the aforementioned information requested by the Council's EHO.

5.47 In the absence of a suitable NIA and details of any proposed mitigation measures, it is not possible to determine whether the proposed development would result in harm to the occupants of the adjacent residential buildings through noise and disturbance. The proposal is therefore considered to be contrary to Policies ENV1, ENV2, S3A of the Selby District Local Plan and Policy SP19 of the Core Strategy. These policies are broadly consistent with the NPPF, insofar as it requires planning to seek to ensure a good standard of amenity for all existing and future occupants of land or buildings, and to ensure new development avoids noise that would have significant adverse impacts to quality of life (paragraph 127).

Impact on Highway Safety

- 5.48 The submitted plans demonstrate that the site would be access from Butts Lane and the proposed use of the site would benefit from provision for 40 car parking spaces and 20 overflow car parking spaces – a total of 60 visitor car parking spaces – and 6 staff car parking spaces (as shown on drawing no. YTA 2 Revision C).
- 5.49 NYCC Highways have been consulted on the proposals and have advised that they have no objections to the proposals in terms of highway safety subject to two conditions relating to visibility splays and the provision of the approved access, turning and parking areas.
- 5.50 Subject to the aforementioned conditions, and notwithstanding representor comments, it is considered that the proposals would not have any significant or detrimental impact on highway safety in accordance with Policies ENV1 (2) and (3), EMP8 (6), S3A (4) and (5), T1 and T2 of the Selby District Local Plan and national policies contained within the NPPF.

Flood Risk and Drainage

- 5.51 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 5.52 In terms of drainage, surface water disposal would not be impacted as a result of the proposals. In terms of foul sewage, the submitted application form sets out that foul sewage would be disposed of via septic tank or package treatment plant. The local Internal Drainage Board, Yorkshire Water and the Council's EHO has been consulted on the proposals. The local Internal Drainage Board and Yorkshire Water have no raised any objections to the proposals. The Council's EHO has advised that while they have no reason to consider the drainage proposals to be insufficient for the intended use, in the wider context they are aware of drainage issue within Lumby and that the village is not served by a public sewerage system. Therefore, the Council's EHO recommends that the status of the sewer is confirmed by the applicant and the applicant is asked to confirm that the sewer will not give rise to additional foul drainage discharges and resultant pollution. The Council's EHO also recommends that NYCC Highways and the Environment Agency are consulted on the application to ensure the proposal does not pose an unacceptable flood risk to the village or to the development itself. The applicant's drainage engineers have confirmed that the sewer will not give rise to additional foul drainage discharges and resultant pollution. NYCC Highways and the Environment Agency have been consulted on the proposals and have not raised any objections in terms of flood risk and drainage.

5.53 Having regard to the above, and notwithstanding representor comments, it is considered the proposals are acceptable in terms of flood risk and drainage.

Other Issues

5.56 It has been brought to Officers attention that due to the location of the site, which is accessed over a cattle grid, a standard sized refuse collection vehicle is unable to access the site. The Council's EHO has advised that they have received previous complaints that waste generated at the site can often exceed capacity and have requested that the Local Planning Authority seek to ensure that the provisions for waste disposal can be met in consideration of likely increased waste generation as a result of these proposals. The Council's Waste and Recycling Officer (WRO) has advised that the applicant has terminated their commercial waste agreement with Selby District Council and have signed up with an alternative provider – the Council's WRO requests that a copy of the Waste Transfer Note between the site and the new supplier is provided to confirm alternative arrangements are in place for the legal disposal of commercial waste from the premises. This information has not been requested on the basis that there is separate legislation (to planning legislation) that would require the applicant to ensure appropriate disposal of waste from the site, including the Environmental Protection Act 1990 and the Waste (England and Wales) Regulations 2011.

5.57 Concerns have been raised that conditions attached to planning permission reference 2017/0209/COU have not been complied with. Any potential breaches of planning permission should be raised with the Council's Planning Enforcement Team for investigation in the first instance, however, it is noted that this current planning application seeks to regularise some of those potential breaches of planning control.

Determining Whether Very Special Circumstances Exist

5.58 It has been determined earlier in this report that the proposal comprises inappropriate development in the Green Belt (by reason of the change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces not preserving the openness of the Green Belt and the purposes of including land within it), which is by definition harmful to the Green Belt. Other harm resulting from the proposal has been identified, namely:

- Conflict with Policy SP14 of the Core Strategy and Policy S3A of the Selby District Local Plan, as the proposals given their nature and scale, would not serve the day-to-day needs of the existing community, would not serve a purely local function, and would not be of a scale appropriate to the locality. Furthermore, it has not been demonstrated that there is a need for this particular outlet in the locality.
- Conflict with Policies ENV1, ENV15, EMP8 and S3A of the Selby District Local Plan, Policies SP13D, SP15 and SP19 of the Core Strategy and national policy contained within the NPPF, as the proposals given their nature and scale are considered to have a significant and detrimental impact on the character and appearance of the area.
- Conflict with Policies ENV1, ENV2, S3A of the Selby District Local Plan, Policy SP19 of the Core Strategy and national policy contained within the NPPF, as in the absence of a suitable NIA and details of any proposed mitigation measures, it is not possible to determine whether the proposed

development would result in harm to the occupants of the adjacent residential buildings through noise and disturbance.

Therefore it is necessary to consider whether very special circumstances exist which outweigh the harm to the Green Belt by reason of its inappropriateness and the other harm identified.

- 5.59 In this instance, the applicants have not advanced a case for very special circumstances (as they do not consider the proposal to comprise inappropriate development within the Green Belt) and therefore the Local Planning Authority would conclude that on the basis of the information provided with the application, very special circumstances do not exist which clearly outweigh the harm to the Green Belt by reason of its inappropriateness and any other harm resulting from the proposals.

6 CONCLUSION

- 6.1 The development limit boundary runs through the application site, such that the application site is part located within the defined development limits of Lumby which is a Secondary Village as identified in the Core Strategy, and part located outside the defined development limits of Lumby and is therefore located within the open countryside. The application site is also wholly located within the Green Belt. The application seeks full planning permission for the proposed and part retrospective change of use of the site to a mixed use comprising: a Class A3 use for a café/tea room serving hot and cold food on the premises; a functions space including children's and adult activities and events; a beauty treatment space; an outdoor seating area and an outdoor children's play area; provision for 40 car parking spaces and 20 overflow car parking spaces; and associated service area and provision for 6 staff car parking spaces.
- 6.2 While the change of use of the building to provide a café/tea room serving hot and cold food on the premises which could operate up to 100 covers at any one time; the change of use of the building to provide a functions space including children's and adult activities and events and a beauty treatment space; and the change of use of land to provide an outdoor seating area and outdoor children's play area to be used in association with the café/tea room and functions space would be considered to be appropriate development within the Green Belt, the associated change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces would be considered to be inappropriate development within the Green Belt. Paragraph 143 of the NPPF sets out:

"Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations." (paragraph 144 of the NPPF).

- 6.3 Other harm has been identified namely: (1) conflict with Policy SP14 of the Core Strategy and Policy S3A of the Selby District Local Plan, as the proposals given their nature and scale, would not serve the day-to-day needs of the existing community, would not serve a purely local function, and would not be of a scale appropriate to the locality. Furthermore, it has not been demonstrated that there is a need for this particular outlet in the locality; (2) conflict with Policies ENV1,

ENV15, EMP8 and S3A of the Selby District Local Plan, Policies SP13D, SP15 and SP19 of the Core Strategy and national policy contained within the NPPF, as the proposals given their nature and scale are considered to have a significant and detrimental impact on the character and appearance of the area; and (3) conflict with Policies ENV1, ENV2, S3A of the Selby District Local Plan, Policy SP19 of the Core Strategy and national policy contained within the NPPF, as in the absence of a suitable NIA and details of any proposed mitigation measures, it is not possible to determine whether the proposed development would result in harm to the occupants of the adjacent residential buildings through noise and disturbance.

- 6.4 Having regard to the above, it is necessary to consider whether very special circumstances exist which clearly outweigh the harm to the Green Belt by reason of its inappropriateness and any other harm resulting from the proposals, as identified above. In this instance, the applicants have not advanced a case for very special circumstances and therefore the Local Planning Authority would conclude that on the basis of the information provided with the application, very special circumstances do not exist which clearly outweigh the harm to the Green Belt by reason of its inappropriateness and any other harm resulting from the proposals.

7 RECOMMENDATION

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

01. The proposed change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces would not fall into any of the exceptions to inappropriate development in the Green Belt set out within paragraph 145 of the NPPF, and would not comprise any of the other forms of development which are not inappropriate in the Green Belt as set out in paragraph 146 of the NPPF. The proposal is therefore inappropriate development in the Green Belt where it is national policy to refuse such development unless there are very special circumstances which clearly outweigh the harm to the Green Belt and any other harm identified, which have not been demonstrated in this case. As such, the proposal is contrary to Policies SP2A (d) and SP3 of the Core Strategy and national policy contained within the NPPF.
02. The change of use of the building to provide a café/tea room serving hot and cold food on the premises, which could operate up to 100 covers at any one time, would not serve the day-to-day needs of the existing community, would not serve a purely local function, and would not be of a scale appropriate to the locality. Furthermore, it has not been demonstrated that there is a need for this particular outlet in the locality. This element of the proposal is therefore contrary to Policy SP14 of the Core Strategy and Policy S3A of the Selby District Local Plan.
03. The proposed change of use of land to provide an increased capacity for the visitor car parking area to include provision for 40 car parking spaces and 20 overflow car parking spaces would have an adverse impact on the character and appearance of the area and would not conserve or enhance the character and quality of the Locally Important Landscape Area. This element of the proposal is therefore contrary to Policies ENV1, ENV15, EMP8 and S3A of the Selby District Local Plan, Policies SP13D, SP15 and SP19 of the Core Strategy.
04. The proposed intensification of the use of the site would introduce a considerable amount of additional activity to the site, both during the day and at night year round

and potentially the early morning for part of the year. Taken together, these additional sources of noise would result in harm to the surrounding noise environment and character of the settlement, to the detriment of its amenity. The proposal is therefore contrary to Policies ENV1, EMP8 and S3A of the Selby District Local Plan, Policies SP13D, SP15 and SP19 of the Core Strategy and national policy contained within the NPPF.

05. The applicant has failed to submit a suitable Noise Impact Assessment and details of any proposed mitigation measures and therefore the applicant has provided insufficient information to allow the Local Planning Authority to make an appropriate and full assessment of the impact of the proposed development on the living conditions of the occupants of the adjacent residential buildings through noise and disturbance. The proposal is therefore contrary to Policies ENV1, ENV2, S3A of the Selby District Local Plan, Policy SP19 of the Core Strategy and national policy contained within the NPPF.

8 Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9 Financial Issues

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

10 Background Documents

Planning Application file reference 2018/0933/COU and associated documents.

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Appendices: None