



Report Reference Number 2019/1074/FUL

To: Planning Committee
Date: 4th March 2020
Author: Jenny Tyreman (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/1074/FUL	PARISH:	Little Fenton Parish Council
APPLICANT:	Mr Richard Walls	VALID DATE:	17th October 2019
		EXPIRY DATE:	12th December 2019
PROPOSAL:	Retrospective application for the subdivision of an existing dwelling into 2 no. units and retention of a two-storey rear domestic extension		
LOCATION:	The Old Barn Sweeming Lane Little Fenton Leeds North Yorkshire LS25 6HF		
RECOMMENDATION:	REFUSE		

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

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside in planning policy terms. The application site is wholly located within Flood Zone 2, which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.
- 1.2 The application site comprises an existing dwelling accessed from Sweeming Lane, which has been extended and subdivided to form two dwellings without planning permission, hence the submission of this application retrospectively. The application site also comprises a number of outbuildings; a garden area and wooded area; and an area of hardstanding for parking, turning and manoeuvring.
- 1.3 Sweeming Lane comprises intermittent development to the east and west side, interspersed with open undeveloped land, much of which appears to be agricultural

or equestrian in use. The application site itself is surrounded by residential development to the immediate south and west, with a wooded area to the east and open undeveloped land to the north.

The Proposal

- 1.4 The application has been submitted retrospectively and seeks full planning permission for the extension and subdivision of an existing dwelling to form two dwellings.
- 1.5 The extension to be retained is located to the rear of the of the property, is two storey in height and measures 3 metres in depth by 6.2 metres in width and has a flat roof with eaves and ridge to a height of 5.4 metres above ground floor level. The materials used in the external construction of the extension match those of the host property, being stone and render.

Relevant Planning History

- 1.6 The following historical applications are considered to be relevant to the determination of this application.
- 1.7 An application (reference CO/1976/26284) for alterations and extensions was granted on 26 March 1976.
- 1.8 An outline application (reference CO/1977/26330) for the erection of a dwelling was granted on 03 August 1977.
- 1.9 An application (reference CO/1989/1446) for the proposed conversion of an existing building to form one dwelling was granted on 29 March 1990.
- 1.10 An application (reference CO/1995/0734) for the erection of an extension on the side elevation of an existing dwelling to form a lounge at ground floor with bedroom above was granted on 18 August 1995.
- 1.11 An application (reference CO/1998/0762) for the demolition of a woodshed and store and the erection of a replacement building was granted on 20 November 1998.
- 1.12 An application (reference 2019/0273/FUL) for the retrospective sub-division of the main dwelling into two separate residential units and the erection of a two storey rear extension was refused on 29 July 2019.

2. CONSULTATION AND PUBLICITY

- 2.1 **Parish Council** – No response within statutory consultation period.
- 2.2 **NYCC Highways** – No objections.
- 2.3 **Environmental Health** – No objections. An informative regarding foul sewage is recommended to be attached to any planning permission granted.
- 2.4 **Yorkshire Water Services Ltd** – No response within statutory consultation period.

- 2.5 **Selby Area Internal Drainage Board** – No response within statutory consultation period.
- 2.6 **The Environment Agency (Liaison Officer)** – Advised they are not required to be consulted – need to follow Standing Advice.

Telephone conversation dated 14.01.2020: Clarified that although the Standing Advice requires ground floor levels to be a minimum of whichever is higher of: 300 millimetres (mm) above the general ground level, or 600mm above the estimated river or sea flood level; where the estimated river or sea flood level has not been modelled, the proposal would be acceptable where the ground floor levels are a minimum of 300 millimetres (mm) above the general ground level and where flood resistance measures are incorporated 300mm above ground floor level.

- 2.7 **Contaminated Land Consultant** – No objections.
- 2.8 **Neighbour Summary** – All immediate neighbours were informed by neighbour notification letter and a site notice has been erected. Forty one letters of representation have been received as a result of the advertisement of the application all of which support the application for the following reasons: (1) the proposal complies with Policy SP2 of the Core Strategy; (2) the proposal represents sustainable development; (3) the extension is modest in size and scale and has no impact on the character of the surrounding area or the residential amenities of any neighbouring properties; (4) there are no highway safety issues resulting from the proposals; (5) the proposal would have no adverse impact on flood risk; (6) the southernmost of the subdivided dwellings would not be large enough to accommodate a family without the newly constructed extension; (7) the applicant needs to be close to their elderly parents who live in the adjacent property, the White House; (8) the proposal is in compliance with national policy for rural development; (9) there have been lots of barn conversions in Little Fenton; (10) other surrounding buildings are much larger than the extended property at the application site; (11) the original dwelling is as it stands (aside from the newly constructed extension), there have been no previous extensions; (12) the applicant was of the understanding that the extension was permitted development, not requiring planning permission; (13) there are inaccuracies in the Officers report for the previous planning application at the site, reference 2019/0273/FUL; (14) the decision on the previous planning application at the site is inconsistent with recent appeal decisions in Little Fenton and Biggin.

The letters of representation come from residents of Little Fenton (nineteen); Church Fenton (thirteen); Sherburn in Elmet (three); South Milford (two); Tadcaster (one); Hirst Courtney (one); Bolton Percy (one) and Poole (one).

3 SITE CONSTRAINTS

Constraints

- 3.1 The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside in planning policy terms.
- 3.2 The application site is wholly located within Flood Zone 2, which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1%

- 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.

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

SP5 – The Scale and Distribution of Housing

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

H14 – Extensions to Dwellings 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
- 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 the guidance in Paragraph 11 of the NPPF.

5.3 The application site comprises an existing dwelling accessed from Sweeming Lane, which has been extended and subdivided to form two dwellings. The application site is located within the small hamlet of Little Fenton which is not identified as a settlement with a defined development limit. As such, along with the existing dwellings in Little Fenton, the site is located outside the defined settlement limit of any nearby settlement, and is therefore located within the open countryside in planning policy terms.

5.4 Section 4 of the Core Strategy sets out the Spatial Development Strategy for Selby District. Sections 4.5 to 4.16 set out the settlement hierarchy for Selby District, which is used to guide development. Smaller villages and hamlets without development limits, and isolated groups of dwellings and single dwellings are treated as falling within the wider countryside. Development in the countryside (outside defined Development Limits), including scattered hamlets, will generally be resisted unless it falls within one of the categories of development set out in Policy SP2A(c) of the Core Strategy.

5.5 Policy SP2A(c) of the Core Strategy states “*Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural*

affordable housing need (which meets the provisions of Policy SP10), or other special circumstances”.

- 5.6 Section 55 of the Town and Country Planning Act 1990 sets out the meaning of ‘development’, that being *“the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land”*. Section 55 (1A) sets out that building operations include *“structural alterations of or additions to buildings”*, while Section 55 (3) (a) sets out that *“the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change of use of the building and of each part of it which is so used”*.
- 5.7 Having regard to Section 55 of the Town and Country Planning Act 1990, it is considered that the proposals involve building operations, in the form of the extension, and the material change of use of the building, in the form of the subdivision, which could be reasonably considered to be the re-use of the building. These two elements of the proposal will be considered further below.
- 5.8 In considering these elements of the proposals, it is useful to set out some background information relating to the application site. The submitted Planning Statement undertaken by the applicant’s planning agent, Melissa Madge, dated October 2019, sets out that the dwelling(s) subject of this application was formally an outbuilding to The White House (which is situated to the west of the application site) and the owners of The White House converted the outbuilding to a dwelling for their sons to occupy. Planning application reference CO/1989/1446 for the proposed conversion of an existing building to form one dwelling was granted on 29 March 1990 (Note: the approved plans shown in the submitted planning statement are incorrect and the actual plans can be found on the planning file). The northern half of the conversion only was carried out (due to limited funds) and the sons took occupation of the building. Five years later, when funds permitted, the works were to recommence, and a further application for planning permission was applied for due to a change in the design of the proposals – planning application reference CO/1995/0734 for the erection of an extension on the side elevation of an existing dwelling to form a lounge at ground floor with bedroom above was granted on 18 August 1995. Once the works were completed, the sons occupied the dwelling, but effectively split the accommodation, sharing a kitchen only. One of the sons and his wife had a baby in 2018 and required additional living space, so an extension was constructed (the one which is the subject of this application). At this time the building was still considered to be a single dwellinghouse. Shortly after completing the extension, the applicant enquired whether their Council Tax Bill needed amending, at which point it was established with Council Tax and Planning Enforcement that planning permission was required for the extension and subdivision of the existing dwelling to form two dwellings.

The Extension

- 5.9 Policy SP2A(c) of the Core Strategy allows for the extension of existing buildings in principle.
- 5.10 Policy H14 of the Selby District Local Plan specifically relates to ‘Extensions to Dwellings in the Countryside’ and states *“Outside defined development limits, proposals for the extension of existing dwellings will be permitted provided: 1) The proposal would be appropriate to its setting and not visually intrusive in the*

landscape; 2) *The proposal would not result in a disproportionate addition over and above the size of the original dwelling (my emphasis) and would not dominate it visually; and 3) *The design and materials of the proposed extension would be in keeping with the character and appearance of the dwelling and, where appropriate, other buildings in the area*".*

- 5.11 Criteria 1 requires *"The proposal would be appropriate to its setting and not visually intrusive in the landscape"*. In this respect, the design of the proposed extension, given its size, scale and flat roof at two storey level is not considered to be in keeping with the existing dwelling and other buildings in the area. However, it is acknowledged that the proposed extension would not be highly visible from public viewpoints and as such, while it is not considered that the roof design of the extension would be in keeping with the existing dwelling, it is not considered that this in itself would result in significant harm to its landscape setting, thus the proposed extension, on balance, complies with criteria (1) of Policy H14.
- 5.12 Criteria 2 requires *"the proposal would not result in a disproportionate addition over and above the size of the original dwelling (my emphasis) and would not dominate it visually"*. In establishing the original dwelling, planning permission was granted for the proposed conversion of an existing building to form one dwelling on 29 March 1990 under planning application reference CO/1989/1446. However, as set out in the submitted Planning Statement, only the northern half of the conversion was carried out and the sons took occupation of the building. It was not until at least five years later that further works to enlarge the dwelling were undertaken and this was subject to a further application for planning permission for the erection of an extension on the side elevation of an existing dwelling under reference CO/1995/073. As such, the original dwelling is considered to be that which was in situ when the sons took occupation, which is as shown on the photographs on page 8 of the submitted Planning Statement. From a search of the planning history of the site, prior to the extension subject of this application the original dwelling as defined above had been extended by approximately 103%. The extension under the current application increases the volume of the original building, cumulatively, by approximately 150%. This clearly represents a disproportionate addition over and above the size of the original building which, cumulatively, dominates the original building visually, thus the proposed extension does not comply with criteria (2) of Policy H14.
- 5.13 Criteria 3 requires *"The design and materials of the proposed extension would be in keeping with the character and appearance of the dwelling and, where appropriate, other buildings in the area"*. In this respect, while the materials used in the external construction of the extension are in keeping with the existing dwelling and other buildings in the area, being stone and render to match, the design of the proposed extension, given its size, scale and flat roof at two storey level is not considered to be in keeping with the existing dwelling and other buildings in the area, thus the proposed extension does not comply with criteria (3) of Policy H14.
- 5.14 Having regard to the above, the proposed extension is not considered to be acceptable in principle, contrary to Policy SP2A(c) of Core Strategy and Policy H14 of the Selby District Local Plan.

The Subdivision

- 5.15 Policy SP2A(c) of the Core Strategy allows for the re-use of existing buildings in principle. As set out earlier in this report the material change of use of the building,

in the form of the subdivision, could be reasonably be considered to be the re-use of the building.

- 5.16 Paragraph 79 of the NPPF states *“Planning policies and decisions should avoid the development of isolated home in the countryside unless one or more of the following circumstances apply”*...including where *“the development would involve the subdivision of an existing residential dwelling”*, which this proposal would involve, albeit with an extension.
- 5.17 However, having regard to the submitted Planning Statement, which sets out the background to the proposals, it is considered reasonable to conclude that the extension was required to facilitate the subdivision. Furthermore, numerous letters of representation set out that without the extension, it would not have been practical to subdivide the property into two dwellings as there would not have been enough space to provide two family homes. As set out earlier in this report, the proposed extension is not considered to be acceptable in principle, contrary to Policy SP2A(c) of Core Strategy and Policy H14 of the Selby District Local Plan.

Conclusion on the Principle of the Development

- 5.18 While the subdivision of an existing dwelling may be acceptable in principle in the open countryside in accordance with Policy SP2A(c) of the Core Strategy and national guidance contained within the NPPF (specifically paragraph 79), it is considered reasonable to conclude in this instance that the extension was required to facilitate the subdivision. When considering the extension, this would result in a disproportionate addition over and above the size of the original building which, cumulatively, dominates the original building visually contrary to criteria (2) of Policy H14 and given its size, scale and flat roof at two storey level is not considered to be in keeping with the existing dwelling and other buildings in the area contrary to criteria (3) of Policy H14. The proposed extension is therefore not considered to be acceptable in principle, contrary to Policy SP2A(c) of Core Strategy and Policy H14 of the Selby District Local Plan. On this basis the proposal for the extension and subdivision of the existing dwelling to form two dwellings would be unacceptable in principle, contrary to Policies SP1 and SP2 of the Core Strategy, Policy H14 of the Selby District Local Plan and national policy contained within the NPPF (specifically paragraph 79).

Design and Impact on the Character and Appearance of the Area

- 5.19 The application comprises an existing dwelling accessed from Sweeming Lane, which has been extended and subdivided to form two dwellings without planning permission. As established earlier in this report, the application site is located within the small hamlet of Little Fenton which is not identified as a settlement with a defined development limit and is therefore located within the open countryside in planning policy terms. Sweeming Lane comprises intermittent development to the east and west side, interspersed with open undeveloped land, much of which appears to be agricultural or equestrian in use. The application site itself is surrounded by residential development to the immediate south and west, with a wooded area to the east and open undeveloped land to the north.
- 5.20 Development within the vicinity of the application site is quite mixed in terms of the size and scale of properties and external facing materials, however, dwellings in the vicinity all appear to have simple, traditional forms with pitched roof forms.

- 5.21 The submitted plans show the existing dwelling has been subdivided such that the original building (to the north of the southernmost side wall of the porch) would form one dwelling, while the previous extensions to the original building together with the proposed extension would form the second dwelling. The proposed extension is two storey, measuring 3 metres in depth, 6.2 metres in width and has a flat roof with eaves and ridge to a height of 5.4 metres. While the materials used in the external construction of the extension are in keeping with the existing dwelling and other buildings in the area, the design of the proposed extension, given its size, scale and flat roof at two storey level is not considered to be in keeping with the existing dwelling and other buildings in the area. However, it is acknowledged that the proposed extension would not be highly visible from public viewpoints and as such, while it is not considered that the roof design of the extension would be in keeping with the existing dwelling, it is not considered that this in itself would result in such significant harm to the character and appearance of the area to justify a reason for refusal of the application.
- 5.22 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 Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy and SP19 of Core Strategy and national policy contained within the NPPF.

Impact on Residential Amenity

- 5.23 In terms of the potential for overshadowing, oppression and overlooking between the two dwellings, consideration principally needs to be given to the impact of the extension which has been constructed to facilitate the subdivision of the existing dwelling. This is sited to the rear elevation of the southernmost dwelling and projects outwards from previous extensions which have been undertaken at the dwelling. The proposed extension is two storey, measuring 3 metres in depth, 6.2 metres in width and has a flat roof with eaves and ridge to a height of 5.4 metres. The extension would extend up to the common boundary with the northernmost of the proposed two dwellings, which benefits from a glazed rear conservatory extending approximately 2 metres in depth and an amenity space to the rear of the property, however it is noted that the rear amenity area extends some way to the rear and also to the north side of the dwelling. Given the presence of the rear conservatory, from which there would be good outlook to the south east, east, north east and north; the nature and extent of the rear amenity area for that dwelling to the rear and side of the dwelling; and the orientation of the dwelling to the north of the extension, where the conservatory and immediate rear amenity area is already overshadowed for much of the second half of the day, it is not considered that in this instance, the proposed extension would have a such a significant adverse impact on the residential amenities of the occupants of the northernmost dwelling in terms of overshadowing and oppression, such that a reason for refusal could be sustained. In terms of overlooking, a condition could be attached to any planning permission granted restricting the insertion of any windows in the northern elevation of the extension in the interests of the residential amenities of the neighboring property.
- 5.24 Given the size of the plot in which the dwellings are located, it is considered that the two dwellings would each benefit from an adequate amount of useable external amenity space.
- 5.25 Subject to the aforementioned condition, it is considered that the proposals would not have a significant adverse impact on the residential amenities of the occupiers

of the proposed dwelling, contrary to Policy ENV1 (1) of the Selby District Local Plan and national policy contained within the NPPF.

Impact on Highway Safety

- 5.26 The submitted plans demonstrates that the two dwellings would both utilise the exiting vehicular access onto Sweeming Lane and would both utilise existing areas of hardstanding to the front, side and rear of the existing dwelling for parking and turning.
- 5.27 North Yorkshire County Council Highways have been consulted on the proposals and have advised that there are no objections to the development from a highway safety perspective.
- 5.28 Having regard to the above, 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.

Flood Risk and Drainage

- 5.29 The application site is located within Flood Zone 2, which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.
- 5.30 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”*.
- 5.31 Paragraph 158 of the NPPF states that *“The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding”*.
- 5.32 Paragraph 159 of the NPPF states that *“If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance”*.
- 5.33 Paragraph 164 of the NPPF states *“Applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 50”*.
- 5.34 The Council has produced a guidance note on the application of the sequential test within Selby District – “Selby District Council Flood Risk Sequential Test Developer Guidance Note” dated October 2019. Having regard to the national policy contained

within the NPPF and the advice contained within the Guidance Note, the sequential test would not be required for the extension and subdivision of an existing dwelling to form two dwellings, as this would involve a change of use (the change of use being the subdivision of the dwelling, as per Section 55 of the Town and Country Planning Act 1990).

- 5.35 A site specific flood risk assessment has been submitted with the application. This has been undertaken by the applicant's planning agent, Melissa Madge, utilising information acquired from the Environment Agency. The Environment Agency have been consulted on the site specific flood risk assessment and have advised that they are not required to be consulted on the proposal given the flood zone and the vulnerability of the proposed development and that instead the Local Planning Authority need to follow the Standing Advice. The Standing Advice relates to surface water management, access and evacuation and floor levels. When the submitted flood risk assessment is assessed against the Standing Advice, the proposals are considered to be acceptable in terms of surface water management and access and evacuation. In terms of floor levels, the Standing Advice requires ground floor levels should be a minimum of whichever is higher of: 300 millimeters (mm) above the general ground level of the site or 600mm above the estimated river or sea flood level. However, the information acquired from the Environment Agency states that modelling of the estimated river or sea flood level has not been undertaken in respect of this site. The Environment Agency have been contacted for clarification on what to do in this instance and have advised, through a telephone conversation, that although the Standing Advice requires ground floor levels to be a minimum of whichever is higher of: 300 millimetres (mm) above the general ground level, or 600mm above the estimated river or sea flood level; where the estimated river or sea flood level has not been modelled, the proposal would be acceptable where the ground floor levels are a minimum of 300 millimetres (mm) above the general ground level and where flood resistance measures are incorporated 300mm above ground floor level. The submitted site specific flood risk assessment states that the ground floor levels would be a minimum of 300 millimetres (mm) above the general ground level, which could be secured by way of condition to any planning permission granted, as could the incorporation of flood resilience measures 300mm above ground floor level.
- 5.36 In terms of drainage, the submitted application form sets out that surface water would be disposed of via soakaway, while foul sewage would be disposed of via septic tank. A Foul Drainage Assessment Form has also been submitted, which provides further details of the proposed use of a septic tank for foul sewage disposal. The Internal Drainage Board, Yorkshire Water and the Council's Environmental Health Officer have been consulted on the proposals. The Internal Drainage Board and Yorkshire Water have not raised any objections to the proposals. The Council's Environmental Health Officer have advised they have no objections, but recommend an informative is attached to any planning permission granted directing the applicant to the information provided by the Environment Agency regarding the use of septic tanks for foul sewage disposal. This information states that *"If you have a septic tank that discharges directly to surface water you will need to replace or upgrade your treatment system by 1 January 2020"*. Hence depending on the outlet for the water from the system the applicant may want to consider a package treatment plant. The applicant should seek the appropriate consent to discharge issued by the Environment Agency.
- 5.37 Subject to the aforementioned conditions, it is considered that the proposals are acceptable in respect of flood risk and drainage in accordance with Policy SP15 of

the Core Strategy, Policy RT9 (2) of the Selby District Local Plan and national policy contained within the NPPF.

Land Contamination

- 5.38 The application has been supported by a contaminated land screening assessment form.
- 5.39 The submitted information has been reviewed by the Council's Contaminated Land Consultant who has advised that the submitted contaminated land screening assessment form does not identify any significant potential contaminant sources, so no further investigation or remediation work is required. The Council's Contaminated Land Consultant therefore advises that there are no objections to the development.
- 5.40 Having regard to the above, it is considered that the proposal would be acceptable in respect of land contamination in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and national policy contained within the NPPF.

Affordable Housing

- 5.41 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Planning Document (SPD) sets out the affordable housing policy context for the District. Policy SP9 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.
- 5.42 However, the NPPF is a material consideration in planning decisions (as set out in paragraph 2 of the NPPF) and states at paragraph 63 - *"Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount"*. 'Major development' is defined in Annex 2: Glossary as *"For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more"*.
- 5.43 The application proposes the creation of one additional dwelling on a site which has an area of less than 0.5 hectares, such that the proposal is not considered to be major development as defined in Annex 2 of the NPPF. It is therefore considered that having had regard to Policy SP9 of the Core Strategy, the Affordable Housing SPD and national policy contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

6 CONCLUSION

- 6.1 The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside in planning policy terms. The application has been submitted retrospectively and seeks full planning permission for the extension and subdivision of an existing dwelling to form two dwellings.

- 6.2 While the subdivision of an existing dwelling may be acceptable in principle in the open countryside in accordance with Policy SP2A(c) of the Core Strategy and national guidance contained within the NPPF (specifically paragraph 79), it is considered reasonable to conclude in this instance that the extension was required to facilitate the subdivision. When considering the extension, this would result in a disproportionate addition over and above the size of the original building which, cumulatively, dominates the original building visually contrary to criteria (2) of Policy H14 and given its size, scale and flat roof at two storey level is not considered to be in keeping with the existing dwelling and other buildings in the area contrary to criteria (3) of Policy H14. The proposed extension is therefore not considered to be acceptable in principle, contrary to Policy SP2A(c) of Core Strategy and Policy H14 of the Selby District Local Plan. On this basis the proposal for the extension and subdivision of the existing dwelling to form two dwellings would be unacceptable in principle, contrary to Policies SP1 and SP2 of the Core Strategy, Policy H14 of the Selby District Local Plan and national policy contained within the NPPF (specifically paragraph 79).
- 6.3 Notwithstanding the above, the proposal is considered to be acceptable, on balance, in terms of its design and impact on the character and appearance of the area and impact on residential amenity. Furthermore, the proposal is considered to be acceptable in terms of its impact no flood risk and drainage, nature conservation and protected species, land contamination and affordable housing.

7 RECOMMENDATION

- 7.1 This application is recommended to be REFUSED for the following reason(s):

01. The extension would result in a disproportionate addition over and above the size of the original building which, cumulatively, dominates the original building visually contrary to criteria (2) of Policy H14 and given its size, scale and flat roof at two storey level is not considered to be in keeping with the existing dwelling and other buildings in the area contrary to criteria (3) of Policy H14. The proposed extension is therefore not considered to be acceptable in principle, contrary to Policy SP2A(c) of Core Strategy and Policy H14 of the Selby District Local Plan. The extension is required to facilitate the subdivision of the dwelling into two dwellings, thus the proposal for the extension and subdivision of the existing dwelling to form two dwellings would be unacceptable in principle, contrary to Policies SP1 and SP2 of the Core Strategy, Policy H14 of the Selby District Local Plan and national policy contained within the NPPF (specifically paragraph 79).

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 2019/1074/FUL and associated documents.

Contact Officer: Jenny Tyreman (Senior Planning Officer)

Appendices: None