



**Report Reference Number 2019/0513/FUL**

**To: Planning Committee**  
**Date: 4<sup>th</sup> March 2020**  
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APPLICATION NUMBER:	2019/0513/FUL	PARISH:	Church Fenton Parish Council
APPLICANT:	The Estate Of R F Dean (Deceased)	VALID DATE: EXPIRY DATE:	29th May 2019 24th July 2019 (Extension of Time to 6 <sup>th</sup> March 2020)
PROPOSAL:	Proposed erection of three detached dwellings following demolition of existing dwelling		
LOCATION:	Hilahgarth Main Street Church Fenton Tadcaster North Yorkshire LS24 9RF		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as it has received more than 10 letters of objection as a result of consultations which raise material considerations; as such it is considered locally controversial.

The application was initially considered at the 5<sup>th</sup> February 2020 meeting with Members deferring a decision for a Site Visit, which is to be held on the 3<sup>rd</sup> March 2020.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site is located on Main Street Church Fenton and is currently occupied by a single dwelling known as "Hilahgarth" which comprises a detached two storey dwelling with a side element which is single story. The dwelling sits within a plot of approximately 0.25 hectares and there are two existing vehicle access points in place from Main Street.
- 1.2 The site is surrounded by existing residential development, comprising a row of terrace properties to the east, Northfield Court to the north / north east which is a small development of detached dwellings and semi/terrace development on the opposite side of Main Street known as Northfield Terrace, as well as a grouping of detached properties which includes North View and Lennox House.

- 1.3 The site is within Flood Zone 2, so of medium probability of flooding. There are no statutory national or local landscape or wildlife designations covering the application site. There is no Conservation Area or nearby listed buildings that are affected.
- 1.4 There are a number of established trees within the site to the sides and rear of the existing dwelling.
- 1.5 There is a Tree Preservation Order relating to trees within the site as confirmed on the 22<sup>nd</sup> January 2020.

### **The Proposal**

- 1.4 The application was initially submitted for the erection of four (no 4) dwellings on the site although this was reduced to three (no. 3) during the life of the application with amended plans being submitted accordingly. The description of development also confirms the demolition of the existing property on the site.
- 1.5 The proposed scheme shows erection of 3 No. detached dwellings all facing onto Main Street. The scheme was revised during the life of the application, reducing the number of units from 4 to 3 and changing the layout and the latest revisions made on the 19<sup>th</sup> December 2019. As a result of these changes the scheme shows Plots 1 and 2 as 2/5 storey units providing 5 bed accommodation and Plot 3 being a two storey unit with a hipped roof design.
- 1.6 Plots 1 and 2 provide accommodation over three floors with the fifth bedroom being within the roof space with roof lights. Plot 3 is a 4 bed unit with accommodation over two floors. The floor plans also accommodate an integral garaging for each unit with a person access door from the garden areas. A series of streetscenes have been provided as part of the application accounting for changes in ground levels as set out in the submitted Flood Risk Assessment which notes that the dwellings would be set at least 300m above the ground level of the adjacent land.
- 1.7 The design of the units includes features such as chimneys and includes retention of trees within both frontage / side and rear garden areas.
- 1.8 The units will have individual access points from Main Street with turning areas provided to the front of each dwelling with car parking composite to the size of the dwellings. Submitted plans also show the visibility splays, confirm that the access crossings will be to design standard E5 and that all car parking provision outside visibility splays as well as the use of "ascot railings" on the road side to maintain visibility.
- 1.9 The site would be connected to mains services for both surface and foul water drainage.
- 1.10 The submitted plans confirm that a mix of fencing and hedges will define the boundaries of the site.
- 1.11 In terms of materials then the application form and the submitted Design and Access Statement state that the design incorporates detail such as art stone sills and detail courses and that materials would be utilise to blend into the local vernacular. Such details are also shown on the elevation plans.

### **Relevant Planning History**

- 1.12 Although there was an application in 1975 for an extension to the existing house (Ref 8/62/10/PA) was granted there are no other historical applications considered to be relevant to the determination of this application.

## **2. CONSULTATION AND PUBLICITY**

### **2.1 Church Fenton Parish Council** – initial comments from the Parish Council (June 2019) noted an objection to the application on the basis that

1. The proposal includes 4 new driveways on a corner where there is poor visibility. This area is already hazardous, with the previous owners never using the driveway opposite the entrance to the Recreation Ground as they felt it was unsafe. This proposal would be significantly detrimental to highway safety in an area that is regularly used by young children accessing the Recreation Ground.
2. There is no requirement in the Selby District Local plan for additional dwellings in Church Fenton. Numbers already with planning consent significantly exceed any need, so a less intensive proposal that has less impact can easily be justified.
3. The proposal includes 3 storey houses which is contrary to the approved Village Design Statement which is reinforced by Policy H2 in the draft Neighbourhood Plan which has recently been subject to a Regulation 14 consultation.
4. The proposal is contrary to Policy H1 of the draft Neighbourhood Plan in that it fails to provide a mixed development of integrate with neighbouring properties and landscape. Instead it offers large dwellings only.
5. The existing character of the site including a mature hedgerow and trees would be lost to the detriment of local amenity. There is significant concern about the loss of trees either as part of the development or once dwellings are occupied.
6. The site lies within Flood Zone 2. The Flood Risk assessment states that there are no other sites within the Church Fenton area that could accommodate this development. However there is no requirement in planning terms for any new development in Church Fenton, and there are many more development opportunities in nearby areas (such as Sherburn-in-Elmet).

Following revisions to the scheme in September 2019, further comments were received from the Parish Council noting

“The Parish Council have considered the revised proposals that have been submitted for this site. It does not consider that the changes are adequate to mitigate any of the previous objections. On that basis the Council wishes to reconfirm its comments sent on 8th July 2019. As well as being contrary to the Village design guide the proposed houses are not in keeping with the character and design of the nearby area (such as Northview and Northfield Court, and would dominate the area. However it would suggest that a development of 2 dwellings served off a single access could potentially provide an acceptable development solution. This would allow similar sized dwellings to be provided without the need for a 3rd storey.”

Following revisions to the scheme in December 2019, further comments were received from the Parish Council noting that “The Parish Council have considered the revisions and do not feel the changes are substantial enough to justify changes to the previous comments made by the Parish Council”.

- 2.2 **NYCC Highways** – initial comments on the application sought further information on the approach to the four access points in terms of visibility. Following revisions to the scheme and the provision of additional speed survey information NYCC Highways Officer advised that they have no objections to the scheme subject to conditions on
- Construction of private access / verge crossing requirements
  - Closing of existing access points
  - Visibility splay requirements
  - Pedestrian Visibility splay requirements
  - Provision of approved accesses, parking and turning areas prior to being brought into use
  - Garage conversion to habitable rooms restrictions without a planning application
- 2.3 **Yorkshire Water Services Ltd** – Advised that there are no observations on the scheme based on the information submitted.
- 2.4 **Environment Agency (Liaison Officer)** – Confirmed that the proposed development falls within Flood Zone 2, which is land defined in the planning practice guidance as being at risk of flooding. Advised therefore that the Council consider their standard comments for local planning authorities and planning applicants to refer to on 'lower risk' development proposals.
- 2.5 **Selby Area Internal Drainage Board** – Advised that the application site lies within their District, noting that the development would increase the impermeable area on the site. In this context they note that the application may relate to work in, on, under or near a watercourse within the Internal Drainage Board (IDB) Drainage District and requires consent from the IDB in addition to any landowner agreements for works, access, easements and planning permissions. As such they note the following
- i) 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.
  - ii) 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.
  - iii) 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.
  - iv) No obstructions within 7 metres of the edge of a watercourse are permitted without Consent from the IDB.
  - v) 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
  - vi) Should Consent be required from the IDB as described above then we would advise that this should be made a condition of any Planning decision any surface water discharge into any watercourses in, on, under or near the site requires consent from the Drainage Board.
- 2.6 **Environmental Health** – Confirmed that they consider that the proposed development will not have any adverse effects on surrounding property and local

amenities once operational. However, do foresee potential adverse effects on residents of the existing residential properties surrounding the development site during demolition and construction. These phases are likely to create dust, noise and vibration which may cause disturbance. To reduce the likelihood of such disturbance; it is recommended that the developer should submit a Demolition and Construction and Environmental Management Plan (DEMP/CEMP). The plans should outline controls and procedures to be followed during demolition and construction to control noise, dust and vibration emissions from the site. Working hours and times of large deliveries to the site should also be outlined. As such recommends imposing of a condition requiring prior to the site preparation demolition and construction work commencing; a scheme to minimise the impact of noise, vibration, dust and dirt on residential property in close proximity to the site.

- 2.7 **County Ecologist** – confirmed that are satisfied with the scope and content of the submitted Ecological Impact Assessment (EclA) (MAB Ecology - April 2019 has been undertaken in accordance with current best practice guidelines. The assessment concludes that there will be no significant impact upon designated sites or protected species. Section 8 identifies some local level impacts which can be adequately avoided, mitigated or compensated through measures outlined in Section 9 of the report. As such, provided that the measures in section 9 are adhered to there will be no ecological impacts resulting from the development. Current National policy advocates building in enhancement measures for biodiversity and this is covered within section 10 of the report.

As such provided that the requirements within section 9 and section 10 of the report can be secured via a suitably worded condition, then there will be no significant ecological impacts

- 2.8 **North Yorkshire Bat Group** – No responses received in the statutory consultation period.
- 2.9 **Yorkshire Wildlife Trust** – No responses received in the statutory consultation period.
- 2.10 **Landscape Consultant** - No objection to the revised layout 'Proposed Block Plan 3 Houses dwg S/YTA 01 - 002 Rev B' provided that key trees are retained to protect local amenity, and a detailed landscaping scheme is secured via condition, alongside the erection of fencing for the protection of any retained tree must be undertaken in accordance with the Arboricultural Survey & Implications Study Amended October 2019, before any equipment, machinery or materials are brought on to the site for the purposes of the development, and must be maintained until all equipment, machinery and surplus materials have been removed from the site.

Following revisions to the scheme in December 2019, the Landscape Officer advised that previous comments apply and no further observations are required.

- 2.11 **Contaminated Land Consultant** - Confirmed that the Phase 1 report provides a good overview of the site's history, its setting and its potential to be affected by contamination. On this basis recommends a condition to cover the occurrence of on unexpected contamination during the development works.

## **Neighbour Summary**

2.12 The application was advertised via a site notice and through neighbour notification letters. As a result of a total of 26 submissions from 16 different addresses were received. A further 11 submissions were made following changes to the scheme on the 19<sup>th</sup> December 2019 largely from those who previously commented on earlier consultations and schemes. The comments received throughout the application can be summarised as follows:

#### *Principle of Development*

- There is no requirement for further development of this type in the village as there has been significant development already in the area and this should be a basis for rejecting this proposal
- The development is not needed - the Council has a 5 year housing land supply
- The current house is an asset to the community and a beautiful home

#### *Highways*

- The approach to the individual accesses to each dwelling is contrary to Policy T2 of the Local Plan
- Located on a bend in Main Street which is dangerous and immediate opposite entrance to the Park there should not be so many entrances in this location
- Scheme should have a single access with a shared drive area with parking to the rear of the dwellings
- Car will be parked opposite the proposed entrances and this would hamper manoeuvres
- The owner of the site used to tell visitors to use the entrance closest to Northfield Court away from the bend
- Parked cars in this area will affect the visibility and result in highway safety issues given that there is already significant parking on the opposite side of the road from the development site given limited parking afforded to the Northfield Terrace properties as a result of their age
- Will conflict with HGV's and Buses that use the site as well as tractors and car traffic
- Appropriate visibility should be secured and maintained
- Appropriate car parking provision should be made within the site
- Development of the site will increase danger for pedestrians passing the site including school children
- The traffic survey was done at the quietest time of the year (summer) and as such is not representative of the reality in the area

### *Residential Amenity*

- Will result in overlooking of occupiers on Northfield Court as far is discernible from the information provided by the applicants
- The siting and scale of the units adjacent to Northfield Court will impact on the privacy and daylight enjoyed by existing adjacent occupiers
- Access points will impact on amenity of occupiers opposite the site
- The development is located too close to the boundaries with the adjacent existing properties particularly 1 and 2 Northfield Court
- The development will impact on the air of the adjacent occupiers
- Revised plans (reducing the scheme to 3 units) does not address impacts on the neighbouring properties on Northfield Court and even with a two storey unit on Plot 3 impacts on the adjoining occupiers
- The design of Plot 3 in terms of side windows will result in overlooking of 1 Northfield Court

### *Design*

- The development represents over development of the site and it should be only for 2 houses
- The site should accommodate 2 dwellings and they should all be 2 storey not 3 storey
- The height of the proposed dwellings will be out of character with the surrounding area and they should all be two storey
- The proposed size and style of the dwellings are not acceptable
- The proposed dwellings are not in keeping with the area
- The emerging Neighbourhood Plan clearly demonstrates the importance and style and character and this area is peppered with historically significant buildings including some immediately adjacent to this site and this development should take account of these accordingly
- The scheme does not accord with the Village Design Statement
- A development of bungalows on the site should be considered

### *Flood Risk and Drainage*

- The development should be designed to accommodate high rainfall and attenuation tanks to mitigate potential risk of flooding to neighbouring properties
- Existing drains in the area are already not accommodating excess rain water
- The site is in Flood Zone 2 and should not be developed particularly when no need for additional housing in Church Fenton

### *Trees, Landscaping and Ecology*

- Development of the site will result in pressure to remove more trees from the site in the long term
- The submitted survey includes errors in terms of the grading of the trees within the site – in one section T9 is Category A but then later Category B – this should be reviewed
- Development will result in loss of habitat
- Hedge on road frontage should be retained

### *Construction Impacts*

- Works should be controlled regarding the depositing of mud on the highway and cleaning of vehicles leaving the site

- Residents will be impacted when the site is being constructed including those that work from home

*Other matters*

- The land should be sold to NYCC Highways to allow them to make the road safer in this location through widening
- Request that the Planning Committee visit the site prior to making a decision on the application
- The development does not accord with the National Planning Policy Framework
- The annotations on the drawing imply that the applicants control the hedgerow to the rear of 1 Northfield Court – this is not the case
- Will reduce the property values of the adjacent properties
- The existing house would make a family home and should be retained as such – a single dwelling in a treed plot

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The application site is currently occupied by a dwelling within the development limits for Church Fenton.
- 3.2 There are no statutory national or local landscape or wildlife designations covering the site and there is no Conservation Area or nearby listed buildings that are affected.
- 3.3 The site is located within Flood Zone 2 and therefore has a medium risk of flooding.
- 3.4 There is a TPO (Ref TPO 08/2019) relating to the site which protects three groups of trees within the site.

### **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  
SP4 - Management of Residential Development in Settlements  
SP8 - Housing Mix  
SP9 - Affordable Housing  
SP15 - Sustainable Development and Climate Change  
SP16 - Improving Resource Efficiency  
SP18 - Protecting and Enhancing the Environment  
SP19 - Design Quality

### **Selby District Local Plan**

4.7 The relevant Core Strategy Policies are:

ENV1 - Control of Development  
ENV2 - Environmental Pollution and Contaminated Land  
H2B - Housing Density  
T1 - Development in Relation to Highway  
T2 - Access to Roads

### **Other**

4.8 Church Fenton Village Design Statement (CF-VDS) was approved as Supplementary Planning Document in February 2012 and the site lies partly within Character Area 1 – Village Centre as a result of its location on Main Street.

## **5 APPRAISAL**

5.1 The main issues to be taken into account when assessing this application are:

- Principle of Development
- Design and Impact on the Character and Appearance of the Area including Landscaping

- Impact on Residential Amenity
- Highway Impacts
- Flood Risk and Drainage
- Ecology and Protected Species
- Contamination
- Construction Stage Impacts
- Affordable Housing and Housing Mix
- Other Matters arising from Consultations

### **Principle of 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 the NPPF in relation to the presumption in favour of sustainable development and decision taking.
- 5.3 Policy SP2 of the Core Strategy sets out the Spatial Development Strategy with SP2(A) noting Church Fenton as a Designated Service Village (DSV) which are noted as having scope of additional residential and small scale employment growth to support rural sustainability subject to compliance with Policy SP4.
- 5.4 Policy SP4 (A) of the Core Strategy relates to development in settlements, and notes that in order to ensure that the development of non-allocated sites contributes to sustainable development and the continued evolution of viable communities then within DSV's supports conversions, replacement dwellings, redevelopment of previously developed land and appropriate scale development on greenfield sites (including garden land and conversion / redevelopment of farmsteads). SP4 (C) notes that schemes will be expected to protect local amenity, preserve and enhance the character of the local area and to comply with normal planning considerations and SP4 (D) notes that any scheme would need to be of a "appropriate scale" in relation to density, character and form of the local area and should be appropriate to the function of the settlement within the hierarchy.
- 5.6 The proposal would involve development on greenfield land as per the definition in the NPPF and is within the defined development limits of a DSV, as such the principle of development is supported by SP2 and SP4(A) on the site subject to normal planning considerations and the requirements of SP4 (D) of the Core Strategy. The impacts of the development in terms of in relation to highways, amenity, character and appearance of the area, nature conservation interests, design and landscaping, are considered within the later sections of this report.

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

- 5.7 Policy ENV1 requires consideration of the design and layout of schemes and their effect on the character of the area, in addition Policy SP4 of the Core Strategy considers the approach on the design of new buildings, in terms of design, materials, character of the area and landscaping.
- 5.8 In commenting on the application objectors have commented on the design of the scheme in terms of character of the area, the type of units, the height of the

proposed units and that the scheme does not accord with the Village Design Statement (VDS).

- 5.9 The application site is located within a residential area in the central part of the village. In terms of the VDS then the site lies within “Character Area 1 – Centre of Village”, an area which is acknowledge as being an area that has developed over time, with development having varied relationships to the road, being linear in character as well as including housing of varying type, size and design. The VDS does also note a limited materials palette within the character area and that development is largely two storey units.
- 5.10 The proposed development would front the road with the units all facing Main Street and having parking / garden areas to both the front and the rears so the relationship to the road and is of a linear form. It is considered that this acceptable in terms of the character defined in the VDS but also in terms of the immediate area which is not wholly within the noted VDS character area.
- 5.11 In terms of the type, size and design of the units, then not only is the area immediately surrounding the development of varying types, size and design the VDS does acknowledge that the Character Area is also varied. The units are detached, design to be two storey in appearance whilst including accommodation in the roof spaces of Plots 1 and 2 and do include elevation design features to reflect the context such as window detailing and chimneys.
- 5.12 The submitted information forming part of the application notes that materials would be brick and pantile, and the specific colours and mix can be controlled via condition.
- 5.13 In terms of landscaping and tree impacts then the site is not within a protected landscape or within a Conservation Area although there are trees subject of preservation orders within the site as noted above. The proposed scheme would not result in the loss of any trees noted as worthy of protection under the TPO and the Councils Landscape Officer has raised no objections to the scheme having considered these relationships subject to conditions relating to a finalisation of a tree protection plan and agreement of a landscaping scheme.
- 5.14 As such the scheme is considered to take account of the context and the VDS and is considered to be acceptable in terms of the character of area, in terms of its height, scale and type. It also takes full account of the landscape context and via condition materials can be secured that reflect the surrounding context. As such the proposals are considered to comply with Policy ENV1 of the Local Plan which requires proposals to provide a good quality of development which takes account of the surrounding area. In this respect the development is compatible with the Development Plan as well as Policy SP4 of the Core Strategy.

### **Impact on Residential Amenity**

- 5.15 Relevant policies in respect of the impact of the proposal on residential amenity include Policy ENV1 (1) of the Selby District Local Plan. Significant weight should be attached to Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved for all existing and future occupants of land and buildings.

- 5.16 The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties, overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.
- 5.17 It is noted that objections have been received in relation to impacts on residential amenity particularly in terms of the relationship to Northfield Court (to the north) and existing properties fronting Main Street to the east.
- 5.18 In terms of overlooking then the existing property (that is to be demolished) is two storey and overlooks the adjoining garden areas to the north and east. The proposed development will result in an increase in overlooking of these garden area, simply as a result of the increase in the number of dwellings, from 1 to 3, however it is considered that the extent of overlooking would by virtue of the siting of the units would not be so significant to warrant refusal of the scheme on overlooking grounds particularly given the orientations and internal layout. In order to ensure that there is control over alterations to the dwellings and future extensions windows, and outbuildings it is however considered appropriate to remove permitted development rights for all three plots via a condition on any consent.
- 5.19 In terms of overshadowing, then having considered not only the internal site layout plan, but also the relationships to the existing adjoining properties it is considered that there would be no impact in terms of overshadowing on the occupiers of Northfield Court (to the north) and only limited impact on those properties to the east. Again it is considered that by virtue of the siting of the units would not be so significant to warrant refusal of the scheme on overshadowing grounds.
- 5.20 In terms of the development being overbearing, then the key relationships are those of Plot 3 to the dwellings on Northfield Court and the relationship of Plot 1 to the dwellings to the east. In terms of Plot 1 then this unit is sited forward of the adjacent property, however the inter-relationship between the two properties, retained boundaries and the angle of the site means that the relationship would not result in the new dwelling being overbearing on the existing dwelling. In terms of Plot 3 then this units has a roof design which reduces the impact on the adjacent property and is also a traditional two storey unit thus its height reflects that of the adjacent property. There is also a defined boundary between the two units reducing any feeling of overbearing.
- 5.21 As such having balanced these considerations it is the view of Officers that the scheme is acceptable in terms of residential amenity in terms of both the internal layout but also the resultant relationship to surrounding properties and the scheme is thus considered acceptable in terms of residential amenity subject to the removal of permitted development rights via a suitably worded condition.

### **Highways Impact**

- 5.22 Policies ENV1 (2), of the Local Plan require development to ensure that there is no detrimental impact on the existing highway network or parking arrangements. Policy T1 of the Local Plan relate to consideration of the highways impacts of development. Policy T1 notes that development should be well related to existing highways networks and will only be permitted where existing roads have adequate capacity otherwise off site highways works may be required. It is considered that these policies of the Selby District Local Plan should be given significant weight as they are broadly in accordance with the emphasis within the NPPF.

- 5.23 There are two existing vehicles accesses into the site, serving the existing dwelling from Main Street. The submitted plans show the proposed units each having an access onto Main Street, with parking and turning provision also being provided within each plot. Two speed surveys have been undertaken in support of the application and the submitted plans show visibility splays for each units, confirm that the verge details will be constructed to highways standards, that all parking areas are outside the visibility spays and that railings will be used to define the frontage to the site to maintain the visibility splays.
- 5.24 In commenting on the application Objectors have raised concerns about highways safety at both the construction stage and once the dwellings are occupied. In addition concerns have been raised on the impacts on pedestrians and the amenity of occupiers opposite the application site in terms of increased vehicle movements from the site as a result of the increase in the number of dwellings. In addition concerns have been raised in terms of mud on the road during the construction phase.
- 5.25 In terms of the noted concern that the construction stage will increase mud on the road, then it is not within the remit of planning to address such issues, and this would be a matter for the Highways Authority should there be an issue on the adopted highway as a result of the construction.
- 5.26 As part of the negotiations on the application NYCC Highways Officers did request an additional traffic speed survey be undertaken, alongside confirmation on visibility spays and revisions to the scheme to ensure car parking and turning provision was appropriate. As a result they have no objections subject to conditions which have been confirmed as acceptable to the applicants as a pre-commencement condition and it has also been confirmed that the visibility splays can be attained within land in the applicants control or highways land.
- 5.27 In terms of the impact on occupiers as a result of increased vehicle movements then environmental health have raised no concerns on this and in any instance the scale of the development would not result in an increase in traffic so significant to warrant a refusal on these grounds particularly given the sites location in the central part of the settlement which will have an existing level of activity.
- 5.28 It is considered that in the context of no objections from NYCC Highways that there is no detrimental impact on the existing highway network and it would not create conditions prejudicial to highways safety to warrant refusal on highways grounds and as such the scheme accords with ENV1 (2) of the Local Plan.

### **Flood Risk and Drainage**

- 5.29 The application site is located within Flood Zone 2 which has a medium probability of flooding. Relevant policies in respect to drainage, climate change and flood risk include Policy ENV1(3) of the Local Plan and Policies SP15 and SP16 of the Core Strategy.
- 5.30 Objectors have noted concerns in terms of the drainage impacts of the development in terms of infrastructure capacity and the sites location within Flood Zone 2.
- 5.31 Consultations have been undertaken on the application with Yorkshire Water, the Environment Agency and the Internal Drainage Board, whose comments are all

noted earlier in the report with no objections being lodged. In commenting the Environment Agency has referred Local Planning Authorities to standing advice and the IDB have noted a number of comments as set out earlier in the report.

- 5.32 In terms of the drainage approach for the site then the application form confirms that the site will utilise mains systems for both surface water and foul sewerage. The application is supported by a Flood Risk Assessment (FRA) which considers possible implications for the development and defines mitigation accordingly. The application is also accompanied by the sequential test within the submitted FRA which considers other sites within the settlement in the context of the Council's Guidance Note on applying the Sequential Test. The FRA concludes there are no other available sites at a lower flood risk and that the development of the site can be developed subject to finished floor levels 300mm above the surrounding ground level and that the site is registered for the government flood warning system.
- 5.33 In terms of the comments of the IDB then the application forms confirm use of mains systems and as such the comments are noted but as a mains connections are being used there is no need for a condition on the matters noted by the IDB.
- 5.34 In terms of climate change then the Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate meet 8 criteria set out within the policy. Having had regard to the nature and scale of the proposal, it is considered that its ability to contribute towards reducing carbon emissions, or scope to be resilient to the effects of climate change is so limited that it would not be necessary and, or appropriate to require the proposals to meet the requirements of criteria of SP15 (B) of the Core Strategy. Therefore having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.
- 5.35 It is considered that subject to the implementation in accordance with the submitted mitigation within the FRA (increase in finished floors levels by 300m above existing ground level and registering for Flood Alert service) the scheme is considered to acceptable and accord with the noted Policies of the Local Plan and Core Strategy and the NPPF.

### **Ecology and Protected Species**

- 5.36 Policy ENV1(5) states that proposals should not harm acknowledged nature conservation interests, or result in the loss of open space of recreation or amenity value, or which is intrinsically important to the character of the area. These policies should be given significant weight as they are consistent with the NPPF.
- 5.37 Objectors in commenting on the application have raised concerns in terms of the loss of habitats.
- 5.38 The application is accompanied by Ecological Impact Assessment (EIA) dated April 2019 prepared by MAB Environment and Ecology Ltd which assesses protected species and, considered statutory and non-statutory protected sites and assessed the habitat on site through a data assessment and an extended Phase 1 Habitat Survey. It includes a series of recommendations including hedgerow retention / replacement, tree replacement, use of reasonable measures to protect great crested newts, installation of bird boxes, works outside breeding season in terms of demolition and clearance of vegetation and the installation of bat boxes.

- 5.39 Since the application was submitted and the EIA undertaken the scheme has evolved and a large number of trees within the site are now shown as being retained which clearly was not envisaged when the EIA was initially undertaken nor when the application was first submitted to the Council.
- 5.40 In any instance the recommendation and mitigation noted in the EIA have been considered by the County Ecologist and they have confirmed that they have no objections to the scheme noting that the scheme should be progressed in accordance with the recommendations of the report at Sections 9 and 10 accordingly. In addition as noted above a landscaping scheme for the site will be required taking account of the recommendations of the noted Report.
- 5.41 On balance it is considered that the Applicants have demonstrated to the satisfaction of the consultees that the impacts on protected species and habitats are acceptable subject to the noted conditions.

### **Land Contamination**

- 5.42 Relevant policies in respect of land contamination include Policy ENV2 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy.
- 5.43 The application is supported by a Phase 1 Desk Top Study – Preliminary Environmental Risk Assessment. The Council's Contaminated Land Consultant has been consulted on this application and has advised that the report provides a good overview of the site history, setting and potential to be affected by contamination. As such it is recommended that no further investigation is required and a condition relating to "unexpected contamination" would be sufficient in case of the occurrence of unexpected contamination during the development works.
- 5.44 Subject to the aforementioned condition, it is considered that the proposal would be acceptable in respect of land contamination and is, therefore, in accordance with Policy ENV2 of the Selby District Local Plan and Policy SP19 of the Core Strategy.

### **Construction Stage Impacts**

- 5.45 Policy ENV1 (1) requires that the District Council take account of "The effect upon... the amenity of adjoining occupiers". It is considered that policy ENV1 (1) of the Selby District Local Plan should be given significant weight as one of the core principles of the NPPF is to ensure that a good standard of residential amenity is achieved in accordance with the emphasis within the NPPF. In addition, Policy ENV2A states that "Proposals for development which would give rise to, or would be affected by, unacceptable levels of noise, nuisance, contamination or other environmental pollution including groundwater pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme"
- 5.46 In commenting on the application objectors have raised concerns at the impacts of the development at the construction phase, both in terms of noise and highways.
- 5.47 As noted above the Council's Environmental Health Officers have been consulted on the application and they have advised that they do not consider that the scheme would have any adverse effects on surrounding property and local amenities once operational. They have however noted possible "effects on residents of the existing residential properties surrounding the development site during demolition and

construction” as such they have outlined support for the use of a condition requiring submission and agreement of a “Demolition and Construction and Environmental Management Plan (DEMP/CEMP)”, noting that this should outline controls and procedures to be followed during demolition and construction to control noise, dust and vibration emissions from the site alongside working hours and times of large deliveries to the site.

- 5.48 Such conditions are not usually utilised on developments under 10 units in scale, so minor developments, and any issues could be addressed through statutory nuisance procedures by the Environmental Health. The proposed use of such a pre-commencement condition has been discussed with the Applicants Agent (who have confirmed agreement accordingly) and on balance it is considered that in this instance given the sites location such a condition is appropriate.
- 5.49 In this context scheme is considered acceptable and construction impacts mitigated.

### **Affordable Housing**

- 5.50 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.
- 5.51 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”*.
- 5.52 The application proposes the creation of three dwellings 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.

### **Other matters arising from Consultations**

- 5.53 In commenting on the application objectors have noted that it is considered that the site should be kept as a single dwelling, or be used for highways improvements or utilised as a village green space. These alternative uses are not before the Planning Authority and as such options are not material considerations in the determination of this application.
- 5.54 In commenting on the application neighbours have questioned land ownership noting that there is a lack of clarity on the boundary between the application site and 1 Northfield Court. The landownership has been verified with the Applicant and it is understood that the red line is accurate.



- 5.55 Comments made on the application reference the “Church Fenton Neighbourhood Plan”. Although the NP has been subject of a pre-submission consultation the Plan has not been submitted to the Council for Consultation. However in any instance, this document is an emerging and although approaching the pre-submission consultation stage it has not progressed to a stage that it forms part of the Development Plan under Section 38(6) of the Planning and Compulsory Purchase Act 2004 as such it affords very limited weight on the consideration of this application. Having considered these matters Officers do not consider that the scheme is unacceptable.
- 5.56 In commenting on the application objectors have requested that the Planning Committee visit the site prior to making a decision on the application, this is a matter for Members in considering the application and this Report.

## **6 CONCLUSION**

- 6.1 The scheme is for the demolition of an existing dwelling and redevelopment of the site for 3 dwellings. On balance it is considered that the scheme is acceptable subject to conditions and informatives having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations.

## **7 RECOMMENDATION**

This application is recommended to be GRANTED subject to the following conditions and informatives:

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

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

02. The development hereby permitted shall be carried out in accordance with the following approved plans and documents, notwithstanding the details in the application form:

- Location Plan (Ref S/YTA 01-005)
- Block Plan – Existing (Ref S/YTA 01-001)
- Topographical Plan (Ref S/YTA 61-006)
- Proposed Block Plan (Ref S/YTA 01-002 Rev C)
- Floor Plans and Elevations (Ref - S/YTA 01-003 Rec D)
- Proposed Street Elevation and Parking Arrangements (ref S/YTA 01-061 Rev C)

Reason: For the avoidance of doubt.

03. No development shall commence above slab level until a sample panel of the proposed materials mix to be used in the construction of all of the external surfaces and boundary walls shall have been prepared on site for inspection and approved in writing by the Local Planning Authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including any roofing, cladding or render) to be used in the development. The development shall be constructed in accordance with the approved sample.

Reason : In the interest of design quality.

04. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the accesses to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements
- a. The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E5.
  - b. Any gates or barriers shall be erected a minimum distance of 6 metres back from the carriageway of the existing highway and shall not be able to swing over the existing or proposed highway.
  - c. Provision should be made to prevent surface water from the site discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.

All works shall accord with the approved details agreed in writing by the Local Planning Authority.

Reason :In accordance with Policy ENV1 of the Selby District Local Plan and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

- 05 No part of the development shall be brought into use until the existing access on to Main Street has been permanently closed off and the highway restored. These works shall be in accordance with details which have been approved in writing by the Local Planning Authority in consultation with the Highway Authority. No new access shall be created.

Reason : In accordance with Policy ENV1 of the Selby District Local Plan and in the interests of highway safety.

- 06 There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility of 39 metres measured along both vehicle track lines of the major road Main Street from a point measured 2 metres down the centre line of the access road. The eye height will be 1.05 metres and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In accordance with Policy ENV1 of the Selby District Local Plan and in the interests of highway safety.

- 07 There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until visibility splays providing clear visibility of 2 metres x 2 metres measured down each side of the access and the back edge of the footway of the major road have been provided. The eye height will be 1.05 metre and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason In accordance with ENV1 of the Selby District Local Plan and the interests of road safety to provide drivers of vehicles using the access and

other users of the public highway with adequate inter-visibility commensurate with the traffic flows and road conditions.

- 08 No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas hereby approved have been constructed in accordance with the submitted drawing (Reference Drawing number S/YTA 01 - 002 Rev C). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times

Reason : In accordance with Policy ENV1 of the Selby District Local Plan and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development

- 09 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 or any subsequent Order, the garage(s) shall not be converted into domestic accommodation without the granting of an appropriate planning permission.

Reason : In accordance with Policy ENV1 of the Selby District Local Plan and to ensure the retention of adequate and satisfactory provision of off-street accommodation for vehicles generated by occupiers of the dwelling and visitors to it, in the interest of safety and the general amenity the development.

10. No development approved by this permission shall be commenced until the Local Planning Authority has approved a Construction Management Plan. The scheme shall then be implemented in accordance with the agreed CMP.

Reason: In accordance with Policies ENV1 of the Selby District Local Plan and in the interest of amenity and to ensure a satisfactory means of highway safety access in the interests of vehicle and pedestrian safety and convenience.

11. The development hereby permitted must be carried out in accordance with the mitigation measures contained within Section 9 and 10 of the Ecological Impact Assessment dated April 2019.

Reason: In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, The Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010.

12. The development shall be carried out in accordance with the mitigation measures noted within the submitted Flood Risk Report. These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants

13. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree / root protection plan) and the appropriate working methods (the Arboricultural Method Statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: 2012 Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved and maintained until the scheme is completed.

Reason: To protect existing trees on the site during construction

14. Notwithstanding the detail shown on Plan S/YTA/01/061 Revision C no development shall commence above slab level until a full detailed landscaping / planting scheme and boundary / fencing details has been submitted and agreed with the Local Planning Authority. The scheme shall include:-

- Details of the species, location, planting density and stock size in respect of all tree and shrub planting
- Details of the measures for the management and maintenance of the approved landscaping

All planting, seeding or turfing comprised in the approved plan shall be carried out in the first planting and seeding seasons following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner. Any trees which die, are removed or become seriously damaged or diseased within the first five years shall be replaced in the next planting season with others of similar size and species.

Reason: In order to ensure for the preservation and planting of trees and landscaping in accordance with s.197 of the Act and in order to comply with saved Policy ENV1 of the Selby District Local Plan.

15. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

16. Notwithstanding the provisions of Class A to Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) no extensions, garages, outbuildings or other structures shall be erected, nor new windows, doors or other openings inserted other than those hereby approved, without the prior written consent of the Local Planning Authority.

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

## **Informatives**

01. NPPF – The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.
02. The applicant/occupants should phone Floodline on 0345 988 1188 to register for Floodline Warnings Direct, or visit <https://flood-warninginformation.service.gov.uk/warnings>. It is a free service that provides flood warnings direct by telephone and mobile. It also gives practical advice on preparing for a flood, and what to do if one happens. By providing an advanced warning, it will allow protection measures to be implemented such as moving high value goods to an elevated level as well as evacuating people off site.
03. A that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The ‘Specification for Housing an Industrial Estate Roads and Private Street Works’ published by North Yorkshire County Council, the Highway Authority, is available at the County Council’s offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in Condition 04.
04. Condition 5 – Highways - These works shall include, where appropriate, replacing kerbs, footways, cycleways and verges to the proper line and level.

## **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 2019/0513/FUL and associated documents.

**Contact Officer: Yvonne Naylor (Principal Planning Officer)**

**Appendices: None**