



To: Planning Committee
Date: 4th March 2020
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APPLICATION NUMBER:	2018/1075/FUL	PARISH:	Thorganby Parish Council
APPLICANT:	Mr F Swanborough	VALID DATE:	17th September 2018
		EXPIRY DATE:	12th November 2018
PROPOSAL:	Proposed demolition of existing farm buildings (as previously approved), the erection of 3 no. dwellings and associated works and the conversion and extension of an outbuilding to form garaging.		
LOCATION:	Yew Tree Farm Main Street Thorganby York North Yorkshire YO19 6DA		
RECOMMENDATION:	GRANTED		

This application is to be determined by the Planning Committee since it does not strictly accord with Policy SP2(C) of the Selby District Core Strategy, in that part of the proposed gardens to the new dwellings lie outside the development limits of the settlement. The site does, however, already benefit from an extant permission (2016/1233/FUL) which was for a similar development and represents a fall-back position. Since the proposal would comply with all other relevant criteria it is considered that there are material considerations which support the application therefore the recommendation is for approval.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The site is located within the historic village of Thorganby which dates back to the medieval period. The village has strong links to agriculture and still maintains its relationship with the surrounding farmland. Yew Tree Farmhouse is a Grade II Listed Building and located to the north-east of the application site. The application site is located within the curtilage of this listed building and affects the setting. The development has the potential to impact upon the significance of the designated heritage asset of the listed farmhouse and the Thorganby Conservation Area. There are modern barns located to the rear and historic outbuildings.
- 1.2 It should be noted that in 2017 an application (2016/1233/FUL) was approved for the conversion of the farmhouse into 2 dwellings and for the conversion and

demolition of the farm buildings to the rear, conversion of the roadside barn into a garage and for the erection of new dwellings to the rear of the farmhouse.

The Proposal

- 1.3 This application seeks consent for the proposed redevelopment of an existing farmstead to erect 3 No. dwellings (as previously approved). The main changes to the original scheme include the separations of the originally proposed semi-detached dwellings on site to detached dwellings and use of the frontage building as garaging.
- 1.4 It should be noted that this application was originally for the proposed demolition of existing farm buildings (as previously approved), the erection of 3 no. dwellings and associated works and the conversion an outbuilding to form a dwelling. However, following receipt of all consultation responses and discussions with the applicant and agent the proposals have been amended and reduced in scale and details amended to reduce impacts on the surrounding heritage assets.

Relevant Planning History

- 1.5 The following historical application is considered to be relevant to the determination of this application.
- 2019/0678/LBC, Listed building consent for the demolition of existing buildings and conversion of farmhouse into two dwellings (including internal and external alterations), conversion of outbuilding to form a garage and the erection of a single garage, Decision: PCO.
 - 2018/0598/FUL, Proposed erection of 1no dwelling (amendments to previously approved dwelling) Decision: PER, Decision Date 28.8.2018
 - 2016/1233/FUL, Demolition of agricultural buildings, conversion of farmhouse and barns to form 2No. dwellings and garages and erection of 4No. new dwellings, Yew Tree Farm, Main Street, Thorganby, York, North Yorkshire, YO19 6DA, Decision: PER, Decision Date: 22-FEB-17
 - 2016/1234/LBC, External and internal alterations to the listed building including new doorways and windows and internal alterations at, Yew Tree Farm, Main Street, Thorganby, York, North Yorkshire, YO19 6DA, Decision: PER, Decision Date: 22-FEB-17
 - CO/1994/0266, Listed Building consent for partial demolition of existing outbuilding (outer wall to remain) to enable erection of a new agricultural building at, Yew Tree Farm, Main Street, Thorganby, Decision: PER, Decision Date: 05-JAN-95
 - CO/1994/0265, erection of agricultural building for housing of cattle on site of dilapidated buildings at, Yew Tree Farm, Main Street, Thorganby, Decision: PER, Decision Date: 05-JAN-95

- CO/1974/01401, Erection of A Dutch Barn and general-purpose farm building in OS 223 and part OS 221 at, Street Record, Thicket Priory, Thorganby, York, North Yorkshire, Decision: PER, Decision Date: 27-NOV-74

2. CONSULTATION AND PUBLICITY

- 2.1. **Environmental Health** – Environmental Health have raised no objections to the proposed development.
- 2.2. **The Ouse & Derwent Internal Drainage Board** – The IDB have raised no objections subject to the following condition relating to drainage works to be agreed being attached to any permission granted. Furthermore, the following informatives have been suggested: (1) Riparian maintenance responsibility, (2) Consent – outfall and (3) Consent discharge.
- 2.3. **Natural England** – Natural England have raised no objections to the proposed development and overall consider that, the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.
- 2.4. **Parish Council** - Thorganby Parish Council have raised no objections to the proposed development.
- 2.5. **Land Use Planning Yorkshire Water Services Ltd** - Yorkshire Water have raised no objections in principle subject to the following conditions being attached to any permission granted: (1) separate systems for foul and surface water drainage, (2) No piped discharge until completion of surface water drainage, (3) Drainage works to be agreed.
- 2.6. **County Ecologist** – NYCC Ecology have raised no objections to the proposed development subject to a condition relating to surface water drainage in order to minimise the risk of pollution to the nearby ecological receptors.
- 2.7. **NYCC Highways Canal Rd** – NYCC Highways have raised no objections subject to the following conditions being attached to any permission granted: (1) Private Access/Verge Crossings: Construction Requirements, (2) Visibility Splays, (3) Provision of Approved Access: Turning and Parking Areas, (4) Garage Conversion to Habitable Room, (5) Onsite Parking, Onsite Storage and Construction Traffic During Development.

Further to this a number of informatives have been suggested, (1) separate license required for works in the highway and (2) Mud on the road.
- 2.8. **Conservation Officer** – The Conservation Officer has raised no objections to the proposals in principle. However, has raised concerns regarding details such as materials. The Conservation Officer would raise no objections subject to details of materials being secured by way of condition.
- 2.9. **The Environment Agency (Liaison Officer)** - No response received within the statutory consultation period.
- 2.10. **North Yorkshire Bat Group** – No response received within the statutory consultation period.

2.11. **Contaminated Land Consultant** – The Contaminated Land Consultant has raised no objections subject to the following conditions: (1) Investigation of land contamination, (2) Submission of a remediation scheme, (3) verification of remedial works and (4) reporting of unexpected contamination.

2.12. **Neighbour Summary** – All immediate neighbours were informed by letter and a site notice was erected. Resulting in 9 letters of objection being received raising concerns for:

- Conflicts with Green Belt Policy
- Impacts on noise
- Residential amenity
- Traffic or Highways
- Impact on the character and appearance of the area including the Thorganby Conservation Area
- Impacts on the Grade II Listed Building Yew Tree Farm
- Lack of parking
- Limited vehicular access
- Highway safety due to the proximity of the access to the bend in the highway, Main Street
- Strain on the sewerage system and increased risk of flooding due to surface water
- Lack of access to schools, shops, a post office and limited bus services.
- Limited amenity space for each plot

It is noted that a number of concerns had been raised by neighbours in relation to the original plans and drawings submitted relating to the conversion of the barn to the north west of the site to an additional dwelling. However, it should be noted that this element of the proposals has been amended to allow for the conversion to garages.

3. SITE CONSTRAINTS

Constraints

3.1. The site is in part within the open countryside without allocation.

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 Selby District Local Plan Policies are:
- ENV1 - Control of Development
 - ENV25 - Development in Conservation Areas
 - 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 Development

- Impact on the Character and Appearance of the Area
- Impact on the surrounding heritage assets
- Impact on Residential Amenity
- Nature Conservation and Protected Species
- Flood Risk and Drainage
- Highway Safety Issues
- Contaminated Land
- Affordable Housing
- Waste and Recycling Facilities

The 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 Paragraph 14 of the NPPF.
- 5.3. The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Thorganby, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits and is therefore located within the open countryside. A proposed site plan (drawing on. 2018 29 01 A) has been submitted with the application, which shows the proposed dwellings to be wholly within the defined development limits of Thorganby.
- 5.4. Policy SP2A (a) of the Core Strategy states "The majority of new development will be directed to the towns and more sustainable villages depending on their future role as employment, retail and service centres, the level of local housing need, and particular environmental, flood risk and infrastructure constraints". Further, the policy states "Designated Service Villages have some scope for additional residential and small-scale employment growth to support rural sustainability and in the case of Barlby/Osgodby, Brayton and Thorpe Willoughby to complement growth in Selby. Proposals for development on non-allocated sites must meet the requirements of Policy SP4".
- 5.5. Policy SP4(a) of the Core Strategy states that "in order to ensure that development on non-allocated sites contributes to sustainable development and the continued evolution of viable communities, the following types of residential development will be acceptable in principle within Development Limits." In Secondary Villages this includes, "conversions, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built up residential frontages, and conversion/redevelopment of farmsteads." Furthermore, Policy SP4 (d) of the Core Strategy states that "appropriate scale will be assessed in relation to the density, character and form of the local area and should be appropriate to the role and function of the settlement within the hierarchy".
- 5.6. Policy SP2A (c) of the Core Strategy states that "Development in the Countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate

scale, which would contribute towards and improve the local economy and communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances". The policy then goes on to require development on non-allocated sites to meet the requirements of Policy SP4 of the Core Strategy.

- 5.7. The proposed scheme is a full application for the proposed demolition of existing farm buildings (as previously approved), the erection of 3 dwellings and the conversion and extension of an outbuilding to form garaging. It is noted that this application relates to a previously approved extant permission reference, 2016/1233/FUL for the demolition of agricultural buildings, conversion of farmhouse and barns to form 2No. dwellings and garages and erection of 4No. new dwellings. Therefore, the application site benefits from a fall-back position of an existing consent.
- 5.8. With regards to the compliance with the above policies, Policy SP4 allows for the conversion/ redevelopment of farmsteads. This is the redevelopment of a farmstead as Yew Tree Farm was formally used as a piggery thus is considered as the redevelopment of a farmstead in line compliance with Policy SP4 (a) and is therefore acceptable in principle. Whilst the proposals are acceptable in principle, they are still required to meet the policy test set in criteria (c) and (d) of Policy SP4 concerning amenity, character, design and scale and all other relevant local and national policy tests.
- 5.9. The impact on acknowledged interests against the above policy tests is considered in the following parts of the report.

Impact on the Character and Appearance of the Area

- 5.10. Relevant policies in respect to layout, appearance, landscaping, scale and design and the impact on the character and form of the area are Policies ENV1 and ENV21 (a) of the Selby District Local Plan and Policies SP18 and SP19 of the Core Strategy. Relevant policies within the NPPF, which relate to general design principles, include paragraphs 53, 124, 127, 128, 130 and 131.
- 5.11. The surrounding area consists of a mixture of house types and houses of differing ages. Most dwellings front the highway, Main Street, and are of a traditional design and appearance. It is however noted that there are a number of less traditional back land developments, within the vicinity of the application site, which includes several dwellings of a more modern design. Though it is noted that there are limited views of these from the highway.
- 5.12. The essential significance of the area and the Conservation Area around Yew Tree Farmhouse stems from the particular configuration of buildings: the large farmhouse occupying its prominent position on Main Street, with a range of outbuildings to the rear and the side. At one time it can be supposed that all of these outbuildings would all have been architecturally subordinate, and some still are. But, typical of many farms, a range of much larger buildings have appeared over time, responding to evolving farming practices. These would be cleared away through implementation of the extant consent (2016/1233/FUL) and replaced with four dwellings, much smaller in scale. It is not explicit in the officer report at the time, but the principle underpinning that application seems to be the creation of something that, in part at least, would appear to be a conversion of an historic farmyard. That is certainly the approach adopted for

Plot 1, the subject of the current application, which has the appearance of a converted barn.

- 5.13. The extant consent represents a realistic “fall-back” for the site owners as all the necessary conditions have been discharged and the proposal has been recently part implemented. This therefore, weighs heavily in the planning balance as there is a realistic likelihood that this would be completed. It should be noted that the key difference in the proposed scheme and that which was permitted under 2016/1233/FUL in 2017, is that the semi-detached dwellings to the south of the site have been split into two detached dwellings and the frontage plot now used as garaging.
- 5.14. In terms of the design, careful attention has been given to the design and siting of the dwellings. It is noted that detail of the proposed materials was provided with the original plans and drawings. However, following amendments to scheme and consideration for the character and appearance of the area, it is considered reasonable to request materials to be agreed via condition.
- 5.15. Subject to aforementioned conditions, it is therefore considered that the proposal is acceptable and would not have a significant or detrimental impact on the character and appearance of the area. Therefore, having had regard to Policies ENV1(1), (4) and (5) of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy and paragraphs 124, 127, 128, 130 and 131 of the NPPF.

Impact on the surrounding heritage assets

- 5.16. The application site within the Thorganby Conservation Area and it also abuts (and is within the curtilage of) Yew Tree Farmhouse, which is a Grade II Listed Building.
- 5.17. When considering proposals which affect Conservation Areas regard should be made to S72 (1) of the Planning (Listed Building and Conservation Area Act) and S66 (1) of the Town and Country Planning Act 1990, which states that with respect to any buildings or other land in a Conservation Area, of any powers, under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
- 5.18. It is noted that Section 16 of the Act states that in considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. However, this is an application for full planning permission and the listed building consent is to be determined under application reference, 2019/0678/LBC.
- 5.19. Relevant policies in respect to the impact of development on the Thorganby Conservation Area and the character and form of the area include Policy ENV1 (1), (4) and (5) and ENV25 of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy.

- 5.20. Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF. However, less weight should be given to policy ENV25 as it does not accord with the approach taken within the NPPF in relation to the emphasis on significance and on weighing harm to significance against other considerations, depending on whether there is substantial harm or less than substantial harm.
- 5.21. Relevant policies within the NPPF, which relate to development within a Conservation Area and the significance of the setting of the adjoining listed building, include paragraphs 189, 190, 191, 192, 193 and 194. It is noted that there is no Conservation Area Appraisal for Thorganby.
- 5.22. This application is a resubmission of a previously approved scheme. A number of revised plans have been submitted during the consideration of the application, predominantly for larger buildings on the site.
- 5.23. With regards to the general layout of the proposed scheme, the retention of the central farmyard area is supported as this reflects the historic farm use of the site. It also allows for a breathing space and a visible gap between the Listed Building and the new development.
- 5.24. In respect of the new dwellings, the current scheme shows two new dwellings plot 4 and plot 5 set in a line to the rear of the existing roadside outbuilding. The two dwellings have been positioned with a gap between them. A gap has also been shown between the roadside outbuilding and the new garage. The materials on the new dwellings are shown to have black plastic half round rainwater goods. It is noted that, the proposed window designs are different to those approved in 2016. Concerns have been raised regarding the materials and details of openings. However, this can be addressed through a suitably worded condition. The Conservation Officer has advised that, the doors should be vertical boarded doors which are ledged, battened and braced.
- 5.25. In respect of the formal gate posts and gates, these have been proposed at both ends of the site, these will be formed of masonry piers with brick corbel and artstone pier cap with a 1.2m timber post and rail fence and timber gate.
- 5.26. In respect of the garage block, specifically the materials, it is noted on plan WG664-15 that the roof material will be Panne S Imerys red clay pantile and that angular artstone ridge tiles would be used. In reviewing this, the Conservation Officer considers that the materials proposed materials would be inappropriate and the existing pantiles must be reused if the alternatively the new materials should match the existing i.e. natural clay. The use of artstone is not acceptable on or near a listed building and would not be the traditional material for the ridge of a pantile roof.
- 5.27. Comments were sought from the Conservation Officer who does not object to the proposals in principle. But has raised concerns in respect of materials and detailing of openings due to the sensitive location of the site. However, a number of conditions have been suggested which would address these concerns. These relate to:
- Windows to be constructed of timber and to be flush fitting.
 - Doors to be timber and vertical boarded doors to be ledged battened and braced.

- Rainwater Goods to be black painted metal (cast iron was noted on the 2016 application).
- Wall and roof materials to be submitted as samples – window surrounds not to be artstone.
- Pantiles on roadside outbuilding (curtilage listed building) to be retained and reused.
- Ridge tiles to be clay ridge tiles to be agreed. They shall not be artstone ridges.
- Materials for gate posts to be brick and natural stone. They shall not have artstone caps.

5.28. In considering the above suggested conditions, given a separate application would be required for listed building consent for the heritage assets on site, it is not considered reasonable to condition this level of detail for rainwater goods. However, a condition requesting external materials including walls, roofing, mortar joints, windows and doors could be attached to this application.

5.29. Overall, it is considered that through good design and high-quality development and conditioning the materials there would be limited harm to the surrounding heritage assets. It is considered that the limited harm would be outweighed by the limited public benefits of additional housing and redevelopment of the farmstead.

5.30. Therefore, having had regard to Policies ENV1(1), (4) and (5) and ENV25 of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy and the NPPF it is considered that the proposals are acceptable.

Impact on Residential Amenity

5.31. Relevant policies in respect of the impact of the proposal on residential amenity include Policy ENV1 (1) of the Selby District Local Plan. This is 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.

5.32. The key considerations in respect of residential amenity are 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.

5.33. The objections from neighbouring properties which relate to the impact the proposal will have are noted in respect of limited amenity spaces for plots and noise impacts. No concerns were raised over noise from the environmental health officer with regards noise from the construction phase of the development.

5.34. With regards to the overall layout of the site, the design and siting of the units, results in satisfactory aspect and separation distances between dwellings, which reflect the rural character and layout, so as to ensure that the proposals would not result in a significant detrimental impact through overlooking, overshadowing, loss of light or the creation of an oppressive outlook for neighbouring residential properties. In addition, the scheme provides for an appropriate level of private amenity space for each unit.

- 5.35. It is therefore concluded that the proposal would be acceptable in respect to its impacts on residential amenity and would therefore be in accordance with Policy ENV1(1) of the Local Plan and policies contained within the NPPF.

Nature Conservation and Protected Species

- 5.36. Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 170, 172 and 175 of the NPPF.
- 5.37. In respect to impacts of development proposals on protected species planning policy and guidance is provided by the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2017 (as amended) and the NPPF. The presence of a protected species is a material planning consideration. In addition, Policy ENV1(5) require proposals not to harm acknowledged nature conservation interests.
- 5.38. The application site is within proximity of a number of European designated sites which are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the Habitat Regulations). These are: Skipwith Common Special Area of Conservation (SAC), River Derwent SAC and the Lower Derwent Valley SAC and Special Protection Area (SPA) which are European Sites. The Lower Derwent Valley SAC and SPA are also listed as the Lower Derwent Valley Ramsar site and is notified at a national level as Derwent Ings and the River Derwent Sites of Special Scientific Interest (SSSIs). Skipwith Common SAC is also listed as Skipwith Common SSSI. However, the application site is not designated itself as a formal or informal site for nature conservation and therefore an assessment is not required in accordance with the Habitat Regulations.
- 5.39. The application is accompanied with an Ecological Assessment which has considered the impact from the development on wildlife including great crested newts, bats, birds, hedges and woodland. Addition information has also been sought in respect of surface water drainage in order to minimise the risk of pollution to the surrounding ecological receptors. Having sought advice from NYCC Ecology it is considered that the information provided is sufficient and there are no objections subject to securing mitigation measures and drainage details by way of condition.
- 5.40. Subject to aforementioned conditions and having had regard to all the ecological issues associated with the proposal, is concluded that the proposal is acceptable and that the proposal is in accordance with Policy SP18 of the Core Strategy and ENV1(5) of the Local Plan and paragraphs 170, 172 and 175 the NPPF.

Flood Risk and Drainage

- 5.41. Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account of flood risk, drainage, climate change and energy efficiency within the design.

- 5.42. It is noted that in complying with the 2013 Building Regulations standards, the development will achieve compliance with criteria (a) to (b) of Policy SP15(B) and criterion (c) of Policy SP16 of the Core Strategy. It is also considered that, taking into account the size, scale and nature of the proposal it would be not necessary or appropriate for the proposal to meet the other requirements of these policies.
- 5.43. The submitted Flood Risk Assessment (FRA) identifies that the application site is mostly located within Flood Zone 1 with garden areas located within flood Zone 2. The residential use of the site is classified as being 'more vulnerable'.
- 5.44. 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, but where development is necessary, making it safe without increasing flood risk elsewhere. Local Plans should be supported by Strategic Flood Risk Assessment and develop policies to manage flood risk from all sources, taking account of advice from the Environment Agency and other relevant flood risk management bodies, such as lead local flood authorities and internal drainage boards. Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change."
- 5.45. 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."
- 5.46. The application proposes the demolition of existing farm buildings (as previously approved) and the erection of 3 dwellings part within Flood Zone 2. Given the application involves new build dwellings; the sequential test must be applied.
- 5.47. The proposed scheme would be located within the defined development limits of Thorganby and, therefore, having regard to the guidance note on the sequential test published by Selby District Council in October 2019 the geographical coverage area for the sequential test would be Thorganby.
- 5.48. In considering this, there are no other reasonably available sites within Thorganby which would fit the proposals on and be within an area of equal or low risk of flooding. Therefore, it is considered that the Sequential Test has been passed. No exception test is required given the classification of the use i.e. 'more vulnerable' as per table 3 of the NPPF. The site also has an extant permission for the same number of dwellings which is a material planning consideration. Furthermore, it should be noted that the exception test is not required in this instance.
- 5.49. In respect to the disposal of foul and surface water it is noted that it is the applicant's intention to dispose both to the mains. In considering this, Yorkshire Water and IDB have been consulted and have not raised objections subject to the attachment of a number of conditions.

- 5.50. Based on the above, the proposals would be considered to be acceptable in terms of drainage and flood risk and therefore accords with Policies SP15, SP16, SP19 of the Core Strategy, and paragraphs 158, 159 and 160 of the NPPF.

Highway Safety Issues

- 5.51. Policy in respect of highway safety and capacity is provided by Policies ENV1 (2), T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF. The policies of the Local Plan referred to above should be afforded significant weight as they do not conflict with the NPPF.
- 5.52. The application site has two established vehicular entrances, one serving the farmhouse and the other serving the farm buildings and through road to fields beyond. Each plot would have on-site parking and garage conversions provide site parking. NYCC Highways have assessed the application and raise no objection subject to conditions.
- 5.53. It is therefore considered that the scheme is acceptable and in accordance with policies ENV1(2), T1 and T2 of the Local Plan, Policy SP19 of the Core Strategy and Paragraph 39 of the NPPF with respect to the impacts on the highway network subject to conditions.

Land Contamination

- 5.54. 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.
- 5.55. The application is supported by a Phase 1 Geo-environmental Appraisal. Having sought comments from the Contaminated Land consultant, they have confirmed that the information provided is sufficient. However, it has been advised that a condition be attached relating to unexpected contamination.
- 5.56. 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, Policy SP19 of the Core Strategy and paragraphs 118, 170, 178 and 179 of the NPPF.

Affordable Housing

- 5.57. Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District.
- 5.58. Policy SP9 outlines that for schemes of less than 10 units or less than 0.3ha a fixed sum will be sought to provide affordable housing within the District. The Policy notes that the target contribution will be equivalent to the provision of up to 10% affordable units. The calculation of the extent of this contribution is set out within the Affordable Housing Supplementary Planning Document which was adopted on 25 February 2014.

- 5.59. However, in the context of the West Berkshire decision it is considered that there is a material consideration of substantial weight which outweighs the policy requirement for the commuted sum. Officers therefore recommend that, having had regard to Policy SP9 and the PPG, on balance, the application is acceptable without a contribution for affordable housing.

Waste and Recycling Facilities

- 5.60. With respect to Waste and Recycling, a contribution for such provision would not be required for a scheme of this scale. However, there are areas where bin storage could be provided in the application site and collection would not be any more problematic than for other residents of Simpsons Yard.

6. CONCLUSION

- 6.1. Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the principle of the proposed development is acceptable and the proposed development would not have a detrimental effect on the character and appearance of the area, the residential amenity of the occupants of neighbouring properties, highway safety, flood risk and drainage. The application is therefore considered to be compliant with Policies ENV1, ENV2, T1 and T2 of the Selby District Local Plan, Policies SP1, SP2, SP4, SP15, SP18 and SP19 of the Core Strategy and the NPPF.

7. RECOMMENDATION

- 7.1. This application is recommended to be GRANTED subject to the following conditions:

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

Reason:

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

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

- Proposed Site Plan - WG664 - 03 M
 - Plot 4 - Floor Plans and Elevations - WG664 - 06 J
 - Plot 5 - Floor Plans and Elevations - WG664 - 07 G
 - Proposed Garaging P4 and P5 - WG664 – 15
 - Existing Site Plan - WG664 – 02
 - Existing Agricultural Building – WG664 - 09
-
- Technical note 001a – Control of Runoff from Proposed Development (Ecology)
 - EWE/2483/01 – SW Drainage Layout (Ecology)
 - Mitigation Measures set out within Section 10 of the Ecological Assessment, November 2018.

Reason:

For the avoidance of doubt.

03. Prior to works being carried out above slab level the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved by the Local Planning Authority. This should include details of mortar joints, external wall and roofing and all openings.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 and ENV25 of the Selby District Local Plan.

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 details of the accesses shall have been approved in writing by the Local Planning Authority in consultation with the Highway Authority.
 - B. The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number E2 or E7.
 - C. 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.
 - D. Provision should be made to prevent surface water from the site/plot discharging onto the existing or proposed highway in accordance with the specification of the Local Highway Authority.

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

Reason:

In accordance with policies T1 and T2 of the Selby 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. 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 45 metres measured along the northern vehicle track and the southern centre line 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 policies T1 and T2 of the Selby 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.

06. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved have been constructed in accordance with the submitted drawing (Reference WG664 - 03 M). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In accordance with policies T1 and T2 of the Selby 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.

07. 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 policies T1 and T2 of the Selby Local Plan and to ensure a satisfactory means of off- street accommodation for vehicles generated by occupiers of the dwellings and visitors to it in the interests of highway safety and the general amenity of the development.

08. There shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the construction on the site until proposals have been submitted to and approved in writing by the Local Planning Authority for the provision of:

- a. on-site parking capable of accommodating all staff and sub-contractors' vehicles clear of the public highway
- b. on-site materials storage area capable of accommodating all materials required for the operation of the site.

The approved areas shall be kept available for their intended use at all times that construction works are in operation.

Reason:

In accordance with policies T1 and T2 of the Selby 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.

09. None of the dwellings hereby permitted shall be first occupied until the sewage disposal / surface water drainage works have been completed in accordance with the submitted and approved plans.

Reason:

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

10. The development hereby permitted shall be carried out in accordance with the Ecological Mitigation Measures contained within Section 10 of the Ecological Assessment, November 2018.

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 2017.

11. No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- A site investigation scheme, based on the desk study to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- The results of the site investigation and the detailed risk assessment referred to in and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The strategy shall be implemented as approved. Any amendments to the above components or the strategy shall be approved in writing by 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.

12. No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

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.

13. 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.

14. 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.

INFORMATIVE(S):

HIGHWAYS:

You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North

Yorkshire County Council, the Highway Authority, is available at the County Council's offices. You are also advised that any activity on the development site that results in the deposit of soil, mud or other debris onto the highway will leave you liable for a range of offences under the Highways Act 1980 and Road Traffic Act 1988. Precautions should be taken to prevent such occurrences.

ECOLOGY:

Should any Newts and/or protected species be encountered during the removal of any existing hard surface area or the construction of the proposed development advice in terms of mitigation measures should be sought from a qualified Ecologist.

CONSENT – GENERAL:

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

CONSENT – OUTFALL:

Any new outfall to a watercourse requires the prior written consent of the IDB under the terms of the Land Drainage Act. 1991 and should be constructed to the satisfaction of the IDB.

CONSENT – DISCHARGE:

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

THE COAL AUTHORITY:

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property-specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

8. Legal Issues

8.1. Planning Acts

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

8.2. Human Rights Act 1998

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

8.3. Equality Act 2010

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

9. Financial Issues

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

10. Background Documents

Planning Application file reference 2018/1075/FUL and associated documents.

Contact Officer: Rebecca Leggott (Senior Planning Officer)

Appendices: None