



Report Reference Number: 2019/0311/FUL

To: Planning Committee
Date: 1st April 2020
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Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/0311/FUL	PARISH:	Little Fenton Parish Council
APPLICANT:	Mr Andrew Cook	VALID DATE: EXPIRY DATE:	30th April 2019 25th June 2019
PROPOSAL:	Proposed conversion of and extension to a stable/garage block to create a residential property, erection of a detached garage, erection of stables and creation of manege		
LOCATION:	The Byre Sweeming Lane Little Fenton Leeds North Yorkshire LS25 6HF		
RECOMMENDATION:	MINDED TO GRANT		

This application has been brought before Planning Committee as the proposal is contrary to the requirements of the development plan (namely Criterion 1 of Policy H12 of the Selby District Local Plan) but there are material considerations which would justify approval of the application. Furthermore, more than 10 letters of representation have been received which raise material planning considerations and Officers would otherwise determine the application contrary to these representations.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located outside the defined development limits of any settlement and is therefore located within the open countryside. The application site is wholly located within Flood Zone 2, which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.
- 1.2 The application site comprises; an existing stable/garage block constructed from brick and render walls with a pantile roof; an area of hardstanding for parking, turning and manoeuvring; an existing manege; and paddock land. To the north of the application site are existing dwellings and existing agricultural/equestrian buildings located off Sweeming Lane; while to the east, west and south of the application site are open fields.
- 1.3 In terms of whether the existing development at the site (garage/stable block and manege) are lawful or unlawful, it should be noted that planning permission was granted for the erection of a stables and garage and the creation of an arena on 09 November 2012 under planning permission reference 2012/0859/FUL. That permission granted two separate buildings of timber construction, one to be used as a stable block and one to be used as a garage block, with a manege located to the south west of those buildings. However instead, a single stable/garage block constructed from brick and render walls with a pantile roof was constructed at the site, in roughly the same location as the two buildings permitted under reference 2012/0859/FUL, and a manege was constructed in a different location to that permitted under reference 2012/0859/FUL, to the west of that building. Officers are of the view that given the differences between the permitted scheme and the constructed scheme, that the 2012/0859/FUL permission was not implemented. As such, Officers are of the view that a breach of condition has not occurred (in which case the time limit for enforcement action would have been 10 years from the date of the breach), but rather that building operations have taken place without the benefit of planning permission (in which case the time limit for enforcement action would be four years from the substantial completion of those building operations). In terms of the existing garage/stable block, given the passage of time since it was substantially completed, the unauthorised development has become lawful and immune from enforcement action. In terms of the existing manege, while this remains unlawful, the current application seeks planning permission for the relocation of the manege to a different location within the site, which if granted and implemented would rectify this breach of planning control.

The Proposal

- 1.4 The application seeks full planning permission for the conversion of and extension to an existing stable/garage block to create a residential property; the erection of a detached garage; the erection of stables; and creation of a manege (through the relocation of an existing manege).
- 1.5 The conversion of and extension to the existing stable/garage block to create a residential property would involve the erection of two modest flat roof extensions to the existing building, which would result in it having a U-shape. The first would measure 2.6 metres by 3.2 metres with a height of 2.6 metres above ground floor level; while the second would measure 9.2 metres by 3.2 metres with a height of 2.6 metres above ground floor level. Furthermore there would be the insertion of some additional openings in the south east, south west and north west elevations along

with internal alterations. The materials used in the external construction of the proposed dwelling would match those of the existing stable/garage block.

- 1.6 The proposed detached garage would be located to the north east of the existing stable/garage block which is proposed to be converted and would measure 5.1 metres by 10 metres and would have a pitched roof with eaves to a height of 2.7 metres above ground floor level and ridge to a height of 3.7 metres above ground floor level. No details have been provided regarding the materials to be used in the external construction of the proposed garage.
- 1.7 The proposed stables would be located to the south east of the existing stable/garage block which is proposed to be converted, and to the south of the proposed garage. The proposed stables would measure 11.1 metres by 11.1 metres and would have a shallow pitched roof with eaves to a height of 2.1 metres above ground floor level and ridge to a height of 2.6 metres above ground floor level. No details have been provided regarding the materials to be used in the external construction of the proposed stables.
- 1.8 The proposed manege would be located to the south east of the existing and proposed buildings and would measure 20 metres by 40 metres. The submitted sectional drawing (no. B008) demonstrates that the proposed manege would be raised from the ground by 300mm, surfaced in sand and have an approximately 1.3 metre high post and rail fence surround.

Relevant Planning History

- 1.9 The following historical applications are considered to be relevant to the determination of this application.
- 1.10 An application (reference CO/1988/1424) for the proposed conversion of an existing barn and stable to use as two dwellings was granted on 17 February 1989.
- 1.11 An application (reference CO/2002/0318) for the proposed conversion of an existing redundant barn to form 1No. dwelling was granted on 30 July 2002.
- 1.12 An application (reference CO/2003/0731) for the extension to and conversion of an existing barn to create one dwelling was granted on 08 August 2003.
- 1.13 An application (reference 2006/1141/FUL) for the proposed extension to a dwelling and two storey garage was refused on 07 December 2006.
- 1.14 An application (reference 2006/1179/FUL) for the propped erection of an agricultural barn was granted on 06 December 2006.
- 1.15 An application (reference 2007/0253/FUL) for a two storey front extension, conservatory to side and dormer to front was granted on 14 May 2007.
- 1.16 An application (reference 2012/0859/FUL) for the erection of a stables and garage and creation of an arena was granted on 09 November 2012.

2. CONSULTATION AND PUBLICITY

- 2.1 **Parish Council** – No response within statutory consultation period.

- 2.2 **NYCC Highways** – No objections.
- 2.3 **Environmental Health** - Given the close proximity of the proposed dwelling to the stables/arena, future occupants will likely experience loss of amenity, notably odour, light and noise emissions. In view of this, it is recommended that the ownership of the dwelling is formally linked to that of the stables/arena. If such a link is not agreeable then the applicant should provide further details demonstrating that future occupants will not suffer loss of amenity from odour, light and noise associated with the stables. Furthermore, the applicant proposes the installation of air source heat pumps (ASHP) within the proposed garage. ASHPs are a notorious source of noise disturbance, particularly during the quieter hours when the tone is more dominant. In view of this, and nearby sensitive receptors, it is recommended that further information is sought regarding the make/model and associated noise levels (typically found within manufacturer's literature) for further consideration.
- 2.4 **Yorkshire Water Services Ltd** – No response within statutory consultation period.
- 2.5 **Selby Area Internal Drainage Board** - If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year. If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow. If the surface water is to be discharged to any watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission and would be restricted to 1.4 litres per second per hectare or greenfield runoff. No obstructions within 7 metres of the edge of a watercourse are permitted without Consent from the IDB. If surface water or works are planned adjacent to a Main River within the Drainage District, then the Environment Agency should be contacted for any relevant Permits.
- 2.6 **The Environment Agency (Liaison Officer)** – Advised they are not required to be consulted – need to follow Standing Advice.
- Telephone conversation dated 14.01.2020: Clarified that although the Standing Advice requires ground floor levels to be a minimum of whichever is higher of: 300 millimetres (mm) above the general ground level, or 600mm above the estimated river or sea flood level; where the estimated river or sea flood level has not been modelled, the proposal would be acceptable where the ground floor levels are a minimum of 300 millimetres (mm) above the general ground level and where flood resistance measures are incorporated 300mm above ground floor level.
- 2.7 **County Ecologist** – The application is supported by an assessment of bat roost potential which is of a high standard and has been very clearly presented. The survey found that the building has negligible potential to support roosting bats, so no further surveys are required. Advice on installing a bat box in the new building has been provided in section 12 of the report. This would be an enhancement and we would not require this to be conditioned, though it could be highlighted in an Informative if appropriate.
- 2.8 **North Yorkshire Bat Group** – No response within statutory consultation period.
- 2.9 **Yorkshire Wildlife Trust** – No objection.

2.10 **HER Officer – Initial response dated 12.06.19:** The application site lies within an area of archaeological potential. Archaeological excavation in advance of the construction of the Assembly to Aberford pipeline in 2010 discovered Iron age/Romano-British settlement activity, nearby to the south west of the application area. The excavation revealed a large number of archaeological features which have been interpreted as part of a fairly extensive and long-lived Romano-British settlement that may have had its roots in the Iron Age. Many of the features have been dated by pottery to the later third to fourth century AD, a large assemblage of animal bone and one neo-natal human burial were also found. Therefore, there is the potential for ground disturbing works in this area to encounter archaeological remains dating from the Iron Age/Romano-British periods. It is therefore recommended that a condition requiring archaeological monitoring is attached to any planning permission granted.

Further response dated 20.11.19: The amended plans include a proposed section through the arena area and a flood risk assessment that indicates that levels will be raised rather than reduced. This reduces the physical impact of the footprint of the development on the potential archaeological remains and therefore the previous recommendation for archaeological monitoring is removed.

2.11 **National Grid** – No objections.

2.12 **Public Rights Of Way Officer** – No objections. Informative recommended regarding adjacent public rights of way.

2.13 **Contaminated Land Consultant** – No objections, subject to a condition relating to the reporting of any unexpected contamination.

2.14 **Neighbour Summary** – All immediate neighbours have been informed by neighbour notification letter, a site notice has been erected and an advert placed in the local press. Twelve letters of representation have been received from five neighbouring properties as a result of the advertisement of this application, all of which raise objections to the application. Concerns have been raised in respect of: (1) the existing stable/garage building and menege not being constructed in accordance with planning permission reference 2012/0859/FUL; (2) inaccuracies within the application documents; (3) the inappropriate nature of the proposed development within the open countryside and Green Belt; (4) the lack of infrastructure to support the proposed development; (5) the potential for the proposed development to set a precedent for further development within the settlement; (6) the building to be converted is still in use as a stable/garage and not a redundant building; (7) the unnecessary nature of the proposed development; (8) the proposal does not comply with Policy H12 of the Selby District Local Plan; (9) highway safety; (10) flood risk and drainage; (11) the potential for impact on wildlife; (12) the potential for noise from the air source heat pump to impact on the residential amenities of neighbouring properties; (13) the impact of the proposal on the environment; (14) the site having been recently on the market; and (15) that the application may have circumnavigated the planning system to get a dwelling within the open countryside.

3 SITE CONSTRAINTS

Constraints

- 3.1 The application site is located outside the defined development limits of any settlements and is therefore located within the open countryside.
- 3.2 The application site is wholly located within Flood Zone 2, which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.
- 3.3 The application site lies within an area of archaeological potential.

4 POLICY CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states *"if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise"*. This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.
- 4.2 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.3 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2023. Consultation on issues and options would take place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

"213.existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

Selby District Core Strategy Local Plan

- 4.6 The relevant Core Strategy Policies are:

SP1 – Presumption in Favour of Sustainable Development
SP2 – Spatial Development Strategy

SP5 – The Scale and Distribution of Housing
SP9 – Affordable Housing
SP15 – Sustainable Development and Climate Change
SP18 – Protecting and Enhancing the Environment
SP19 – Design Quality

Selby District Local Plan

4.7 The relevant Selby District Local Plan Policies are:

ENV1 – Control of Development
ENV2 – Environmental Pollution and Contaminated Land
ENV28 – Other Archaeological Remains
H12 – Conversion to Residential Use in the Countryside
T1 – Development in Relation to the Highway Network
T2 – Access to Roads
RT9 – Horse Related Development

5 APPRAISAL

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

- The Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage
- Impact on Archaeology
- Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing
- Other Issues

The Principle of the Development

5.2 Policy SP1 of the Core Strategy outlines that *"when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework"* and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.

5.3 The application site is located outside the defined development limits of any settlements and is therefore located within the open countryside.

5.4 Policy SP2A (c) of the Core Strategy states that *"Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances."*

Conversion of and Extension to an Existing Stable/Garage Block to Create a Residential Property and Erection of a Detached Garage

- 5.5 Policy H12 of the Selby District Local Plan specifically relates to conversion of rural buildings to residential use in the countryside and sets out that such proposals would be acceptable in principle subject to a number of criteria.
- 5.6 Criterion (1) of Policy H12 allows proposals for the conversion of rural buildings to residential uses provided *“it can be demonstrated that the building, or its location, is unsuited to business use or that there is no demand for buildings for those purposes in the immediate locality”*. The proposal does not meet this criteria and is therefore contrary to the requirements of the development plan. However, the approach taken by Policy SP2A(c) is significantly different to that taken in Policy H12 as it does not require the more onerous tests set out in H12(1), with SP2A(c) merely expressing a preference for employment uses where proposals involve the re-use of a building. It is therefore considered that Policy H12 of the Selby District Local Plan should be given limited weight due to the conflict between the requirements of Criterion (1) of the policy and the less onerous approach set out in the Core Strategy.
- 5.7 Notwithstanding the above, Criterion (3) and (4) of Policy H12 require that *“the building is structurally sound and capable of re-use without substantial rebuilding”* and *“the proposed re-use or adaptation will generally take place within the fabric of the building and not require extensive alteration, rebuilding and/or extension”*.
- 5.8 In terms of Criterion (3), the existing building is less than 10 years old and is constructed from blockwork, brick and render walls with a pantile roof. It was clear from the site visit that the building was structurally sound and capable of re-use without substantial rebuilding. Thus it is considered that the proposal would comply with Criterion (3) of Policy H12.
- 5.9 In terms of Criterion (4), the proposals would involve the erection of two modest flat roof extensions to the existing building, which would result in it having a U-shape. The first would measure 2.6 metres by 3.2 metres with a height of 2.6 metres above ground floor level; while the second would measure 9.2 metres by 3.2 metres with a height of 2.6 metres above ground floor level. The proposed extensions would result in a 31% increase in the floor space of the building and a 17.5% increase in the volume of the building, which is not considered to be extensive. Furthermore there would be the insertion of some additional openings in the south east, south west and north west elevations along with internal alterations, which again are not considered to be extensive. On this basis, it is considered that the proposal would comply with Criterion (4) of Policy H12.
- 5.10 The remaining criteria of Policy H12 relate to the impacts of the proposed conversion and extension and will therefore be assessed later in this report.
- 5.11 The proposed detached garage would be located to the north east of the proposed dwelling and would measure 5.1 metres by 10 metres and would have a pitched roof with eaves to a height of 2.7 metres above ground floor level and ridge to a height of 3.7 metres above ground floor level. It would be reasonable to allow a residential property to have the benefit of a detached garage, even when located within an open countryside location – indeed permitted development rights allow for such outbuildings incidental to the enjoyment of a dwellinghouse in principle (subject to certain size criteria). Thus the principle of the proposed erection of a

detached garage within the application site is considered to be acceptable in principle.

Erection of Stables and Creation of a Manege

- 5.12 Policy RT9 of the Selby District Local Plan specifically relates to horse related development and sets out that such proposals would be acceptable in principle subject to a number of criteria which will be assessed later in this report.

Conclusion on the Principle of the Development

- 5.13 Having regard to the above, it is considered that the proposed development involving the conversion of and extension to an existing stable/garage block to create a residential property, the erection of a detached garage, the erection of stables, and the creation of a manege would be acceptable in principle and in accordance with Policies SP1 and SP2 of the Core Strategy and Policies H12 (3) and (4) and RT9 of the Selby District Local Plan.

Design and Impact on the Character and Appearance of the Area

- 5.14 The application site comprises an existing stable/garage block constructed from blockwork, brick and render walls with a pantile roof; an area of hardstanding for parking, turning and manoeuvring; an existing manege; and paddock land. To the north of the application site are existing dwellings and existing agricultural/equestrian buildings located off Sweeming Lane; while to the east, west and south of the application site are open fields.
- 5.15 In terms of the conversion of and extension to the existing stable/garage block to form a residential property, it should be noted that the existing building already has a very domestic appearance rather than being a traditional rural building. The proposed alterations to the building including the insertion of some additional openings in the south east, south west and north west elevations would be in-keeping with the existing building and would not have any significant adverse impact on the character and appearance of the area. Furthermore, the proposed extensions would be modest in size and scale, constructed of materials to match the existing building and although flat roofed, would not appear unduly out of character with the existing building, given its design, and thus, on balance, would not have any significant or detrimental impact on the character and appearance of the area.
- 5.16 In terms of the proposed detached garage, this would be modest in size and scale and would have a simple form. No details have been provided regarding the materials to be used in the external construction of the proposed garage, however, a condition could be attached to any planning permission granted regarding materials to ensure the proposed detached garage would be in-keeping with the character and appearance of the area and would not have any adverse impact on the character and appearance of the area.
- 5.17 In terms of the proposed stables, the submitted drawings demonstrate that the proposed building would be of an appropriate size and scale for its intended end use. No details have been provided regarding the materials to be used in the external construction of the proposed stables, however, a condition could be attached to any planning permission granted regarding materials to ensure the proposed stables would be in-keeping with the character and appearance of the

area and would not have any adverse impact on the character and appearance of the area. The proposed manege, given its size, scale and design, would blend into the rural environment and would be surrounded by post and rail fencing typical of rural areas, thus would not have any adverse impact on the character and appearance of the area.

- 5.18 Subject to the aforementioned conditions, the proposed development would be in accordance with Policies ENV1 (1) and (4) H12 (5) and RT9 (1) of the Selby District Local Plan, Policy SP19 of Core Strategy and national policy contained within the NPPF.

Impact on Residential Amenity

- 5.19 To the north of the application site are existing neighbouring dwellings.
- 5.20 Given the nature of the proposals, the separation distances to neighbouring residential properties and the size, scale, siting and design of the proposed development, it is not considered that the proposals would result in any significant adverse effects in terms of overshadowing, oppression or overlooking so as to have to have any significant adverse effects on any neighbouring residential properties in these respects.
- 5.21 In terms of the potential for noise and disturbance, the Council's Environmental Health Officer (EHO) has been consulted on the proposals. They have advised that given the close proximity of the proposed dwelling to the stables/manege, future occupants would likely experience a loss of amenity, notably from odour, light and noise emissions. In view of this the EHO recommends that the ownership of the proposed dwelling is linked to that of the stables/manege. This is considered reasonable and necessary and can be secured by way of condition. In terms of whether adequate provision would be made for the storage and disposal of soiled bedding material, no objections have been raised by the EHO to the information submitted. The EHO does however raise concerns regarding the potential for the air source heat pumps to be installed in the proposed garage to result in noise disturbance to neighbouring residential properties and recommends that further information is sought regarding the make/model and associated noise levels associated with the air source heat pumps. It would be considered reasonable and necessary to secure the provision of these details prior to the installation of any air source heat pumps into the development in the interests of the residential amenities of neighbouring residential properties.
- 5.22 Policy RT9 (3) of the Selby District Local Plan requires "*adequate provision is made for the storage and disposal of soiled bedding material and applicants [to] demonstrate that suitable arrangements are to be made for this purpose*". No such details have been submitted as part of the application, however, it would be considered reasonable and necessary for this to be conditioned as part of any planning permission granted to ensure the proposals comply with criteria 3 of Policy RT9 of the Selby District Local Plan.
- 5.23 Subject to the aforementioned conditions, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policies ENV1 (1), H12 (5), RT9 (3) of the Selby District Local Plan and national policy contained within the NPPF.

Impact on Highway Safety

- 5.24 The proposed development would be served from an existing vehicular access.
- 5.25 NYCC Highways have been consulted on the proposals and have not raised any objections.
- 5.26 Having regard to the above, it is considered that the proposal would be acceptable in terms of highway safety in accordance with Policies ENV1 (2), H12 (7), RT9 (4), T1 and T2 of the Selby District Local Plan and national policy contained within the NPPF.

Flood Risk and Drainage

- 5.27 The application site is wholly located within Flood Zone 2, which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year.
- 5.28 Paragraph 155 of the NPPF states *“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere”*.
- 5.29 Paragraph 158 of the NPPF states *“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”*.
- 5.30 Paragraph 159 of the NPPF states *“If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance”*.
- 5.31 Paragraph 164 of the NPPF states *“Applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 50”*.
- 5.32 The Council has produced a guidance note on the application of the sequential test within Selby District – “Selby District Council Flood Risk Sequential Test Developer Guidance Note” dated October 2019. Having regard to the national policy contained within the NPPF and the advice contained within the Guidance Note, the sequential test would not be required for the conversion of or an extension to the existing stable/garage block to form a residential property, as this would involve a change of use. Nevertheless, the sequential test would be required for the other aspects of the proposal including the erection of a detached garage, the erection of stables and creation of a manege. In terms of the application to the sequential test to these aspects of the proposed development, given the nature of the proposed

development involving horse related development and an ancillary residential building, it would be considered reasonable to narrow down the geographical coverage area for the sequential test to the land within the applicant's ownership.

- 5.33 A site specific flood risk assessment and a sequential test have been submitted with the application.
- 5.34 The submitted sequential test sets out *“The development is within the boundary of the site which is completely owned by the applicant. In addition, the development is positioned at the highest point of the site, thus locating the barn, garage and arena to the other part of the site would increase flood risk. The development therefore passes the sequential test”*. The submitted sequential test has not been carried out in accordance with national policy contained within the NPPF or the advice contained within the Council's Guidance Note. Notwithstanding this, Officers have undertaken the sequential test on the required parts of the proposed development (the erection of a detached garage, the erection of stables and creation of a manege) in accordance with the national policy contained within the NPPF and the advice contained within the Council's Guidance Note, using the geographical coverage area of the land within the applicants ownership. All of the land within the applicant's ownership is located within Flood Zone 2, aside from a very small pocket to the south west of the application site, which would not be of sufficient size to accommodate the proposed development. As such, the proposed development (the erection of a detached garage, the erection of stables and creation of a manege) is considered to be acceptable in terms of passing the sequential test. As the proposed development is not classified as being 'highly vulnerable' the exception test is not required in this instance.
- 5.35 The submitted site specific flood risk assessment has been undertaken by the applicant. The Environment Agency have been consulted on the site specific flood risk assessment and have advised that they are not required to be consulted on the proposal given the flood zone and the vulnerability of the proposed development and that instead the Local Planning Authority need to follow the Standing Advice. The Standing Advice relates to surface water management, access and evacuation and floor levels. Officers are seeking further advice from the Environment Agency to confirm whether the proposal complies with the Standing Advice, as it is not clear in this instance. Members will be updated on this issue at Planning Committee.
- 5.36 In terms of drainage, the submitted application form sets out that surface water would be disposed of via an existing watercourse, while foul sewerage would be disposed of via an unknown means. The submitted site specific flood risk assessment sets out that surface water would be disposed of via existing drains and foul water would be disposed of via septic tank. The Selby Area Internal Drainage Board and Yorkshire Water have been consulted on the proposals. The Selby Area Internal Drainage Board have advised that if the surface water is to be discharged to any watercourse within the Drainage District, separate consent from the Board would be required in addition to planning permission and would be restricted to 1.4 litres per second per hectare or greenfield runoff. Alternatively, if the surface water is to be directed to a mains sewer system the Board would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow. Yorkshire Water have not raised any objections to the proposals. In terms of the discharge of foul water to a septic tank, an informative should be attached to any planning permission granted to draw the attention of the applicant to the information provided on the Environment Agency website, <https://www.gov.uk/guidance/general-binding-rules-small-sewage->

discharge-to-surfacewater. This information states *"If you have a septic tank that discharges directly to a surface water you will need to replace or upgrade your treatment system by 1 January 2020"*. Hence depending on the outlet for the water from the system the applicant may want to consider a package treatment plant.

- 5.37 It is considered that the proposals are acceptable in respect to drainage in accordance with Policy SP15 of the Core Strategy, Policy RT9 (2) of the Selby District Local Plan and national policy contained within the NPPF.

Impact on Archaeology

- 5.38 The application site lies within an area of archaeological potential, therefore NYCC Archaeology have been consulted on the application.
- 5.39 NYCC Archaeology have advised that archaeological excavation in advance of the construction of the Assembly to Aberford pipeline in 2010 discovered Iron age/Romano-British settlement activity, nearby to the south west of the application area. The excavation revealed a large number of archaeological features which have been interpreted as part of a fairly extensive and long-lived Romano-British settlement that may have had its roots in the Iron Age. Many of the features have been dated by pottery to the later third to fourth century AD, a large assemblage of animal bone and one neo-natal human burial were also found.
- 5.40 In their initial response to the application, NYCC Archaeology advised that as there is the potential for ground disturbing works in this area to encounter archaeological remains dating from the Iron Age/Romano-British periods, a condition should be attached to any planning permission granted requiring archaeological monitoring. However, further information was submitted during the course of the application, which demonstrated that the proposals would not result in significant ground disturbing works, which would reduce the physical impact of the footprint of the development on the potential archaeological remains. Therefore NYCC Archaeology advised that their previous request for a condition relating to archaeological monitoring could be removed.
- 5.41 Having regard to the above, it is considered that the proposals would not harm any archaeological remains and is therefore in accordance with Policy ENV28 of the Selby District Local Plan and national policy contained within the NPPF.

Nature Conservation and Protected Species

- 5.42 Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2017. The presence of protected species is a material planning consideration.
- 5.43 The application has been supported by a Bat Scoping Survey undertaken by John Gardner ARPS, dated 5th March 2019. The Survey concludes that the site has negligible roosting value for bats and sets out that no further activity surveys are required. NYCC Ecology have been consulted on the application and have reviewed the application documents in full, including the Bat Scoping Survey. NYCC Ecology have advised that the application has been supported by an assessment of bat roost potential which is of a high standard and has been very clearly presented. The survey has found that the site has negligible potential to support roosting bats and so no further surveys are required. This is accepted. Section 12 of the Survey provides advice on installing a bat box within the newly extended building, which

would be an enhancement. This would not be required to be conditioned, but an informative could be included on any planning permission granted to highlight the potential for ecological enhancement.

- 5.44 Having regard to the above, it is considered that the proposals would not harm any acknowledged nature conservation interests or protected species and is therefore in accordance with Policies ENV1 (5) and RT9 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, national policy contained within the NPPF, the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2017.

Land Contamination

- 5.45 The application has been supported by a planning application form and a contaminated land screening assessment form. The planning application form sets out that the proposed use would not be particularly vulnerable to the presence of contamination, but as the proposed use of the site would partly be for residential purposes, it is considered that the proposed use would be vulnerable to the presence of contamination.
- 5.46 The submitted information has been reviewed by the Council's Contaminated Land Consultant who has advised that the submitted contaminated land screening assessment form does not identify any significant potential contaminant sources, so no further investigation or remediation work is required. The Council's Contaminated Land Consultant therefore advises that there are no objections to the proposed development subject to a condition relating to the reporting of any unexpected contamination.
- 5.47 Subject to the aforementioned condition, it is considered that the proposal would be acceptable in respect of land contamination in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and national policy contained within the NPPF.

Affordable Housing

- 5.48 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.
- 5.49 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"*.
- 5.50 The application proposes the creation of one dwelling on a site which has an area of less than 0.5 hectares, such that the proposal is not considered to be major development as defined in Annex 2 of the NPPF. It is therefore considered that

having had regard to Policy SP9 of the Core Strategy, the Affordable Housing SPD and national policy contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

Other Issues

- 5.51 It is noted that some of the neighbouring properties have made reference to the application site being located within the Green Belt. For clarity, the application site is not located within the Green Belt, but is instead located within the open countryside and the proposals have been assessed as such.

6 CONCLUSION

- 6.1 The application seeks full planning permission for; the conversion of and extension to an existing stable/garage block to create a residential property; the erection of a detached garage; the erection of stables; and creation of a manege (through the relocation of an existing manege).
- 6.2 The proposed development is considered to be acceptable in principle in accordance with Policies SP1 and SP2 of the Core Strategy and Policies H12(3) and (4) and RT9 of the Selby District Local Plan. Policy H12(1) of the Selby District Local Plan is given limited weight as the approach taken by Policy SP2A(c) is significantly different to that taken in Policy H12 as it does not require the more onerous tests set out in H12(1).
- 6.3 Furthermore, having assessed the proposals against the relevant policies, it is considered that the proposals are acceptable in respect of their design and impact on the character and appearance of the area, impact on residential amenity, impact on highway safety, drainage, impact on archaeology, nature conservation and protected species, land contamination and affordable housing.
- 6.4 In regards to flood risk, Officers are seeking further advice from the Environment Agency to confirm that the proposal complies with the Standing Advice. Members will be updated on this issue at Planning Committee.

7 RECOMMENDATION

This application is recommended to be minded to GRANT subject to confirmation that the proposals comply with the Environment Agency's Standing Advice Note, following the expiry of the consultation period and subject no new issues being raised and subject 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:

B001A – Existing Location Plan

B002 F – Proposed Block Plan and Boundary Lines

B003 E – Proposed Boundary Lines
B004 – Existing Plans and Elevations
B005 B - Proposed Plans
B006 B - Proposed Elevations
B007 – Proposed Garage Plans
B008 – Proposed Stable and Arena Plans
B009 A - Access from Highway

Reason:

For the avoidance of doubt.

03. The materials to be used in the construction of the external surfaces of the proposed extensions hereby permitted to the existing stable/garage block to be converted to a residential property shall match those of the existing building in colour and texture.

Reason:

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

04. No development above foundation level shall commence until details of the materials to be used in the construction of the exterior walls and roof(s) of the proposed garage have been submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

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

05. No development above foundation level shall commence until details of the materials to be used in the construction of the exterior walls and roof(s) of the proposed stables have been submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

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

06. 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 any other structures shall be erected, nor new windows, doors or other openings inserted other than those hereby approved.

Reason:

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

07. The stables and manege hereby permitted shall not be used for commercial horse breeding, riding or boarding activities and shall only be used for private use in association with the residential property hereby permitted.

Reason:

In the interests of residential amenity and in order to protect the openness of the countryside in accordance with Policies ENV1 and RT9 of the Selby District Local Plan and national policy contained within the NPPF.

08. Prior to the installation of any air source heat pumps in the buildings hereby permitted, details of noise attenuation shall be submitted to and approved in writing by the Local Planning Authority. The air source heat pumps shall thereafter be installed in full accordance with the agreed scheme and maintained as such throughout the lifetime of the development.

Reason:

In the interests of residential amenity having had regard to Policy ENV1 of the Selby District Local Plan and national policy contained within the NPPF.

09. Prior to the stables hereby permitted being brought into use, details regarding the storage and disposal of soiled bedding material shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the development shall be carried out in accordance with the submitted details.

Reason:

In the interests of residential amenity having had regard to Policies ENV1 and RT9 (3) of the Selby District Local Plan and national policy contained within the NPPF.

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

Reason:

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

INFORMATIVE:

The attention of the applicant to the information provided on the Environment Agency website, <https://www.gov.uk/guidance/general-binding-rules-small-sewage-discharge-to-surfacewater>. This information states *"If you have a septic tank that discharges directly to a surface water you will need to replace or upgrade your treatment system by 1 January 2020"*. Hence depending on the outlet for the water from the system the applicant may want to consider a package treatment plant.

INFORMATIVE:

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.

INFORMATIVE:

The applicant's attention is drawn to the mitigation and compensation measures contained in Section 12 of the Bat Scoping Survey undertaken by John Gardner ARPS, dated 5th March 2019, which states "*In order to comply with planning policy guidelines which state that developments should aim to increase a site's potential for wildlife, an artificial roost should be incorporated into the proposed new extension, ideally on the west or south elevation. This should be in the form of an enclosed bat house, such as an Ibstock bat house or a Schwegler 1FR bat tube which can be covered by the external render. All bat houses should be located high up (around or above 4m) and away from windows*".

INFORMATIVE:

This grant of planning permission does not include the provision of any outdoor lighting. Should the applicant wish to erect any outdoor lighting in the future, this would need to be subject to a further application for planning permission.

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 2019/0311/FUL and associated documents.

Contact Officer: Jenny Tyreman (Senior Planning Officer)

Appendices: None