



**Report Reference Number:** 2019/0663/FUL

---

**To:** Planning Committee  
**Date:** 8 April 2020  
**Author:** Gareth Stent (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

---

APPLICATION NUMBER:	2019/0663/FUL	PARISH:	Sherburn In Elmet Parish Council
APPLICANT:	Mr M Bradley	VALID DATE: EXPIRY DATE:	10th July 2019 4th September 2019
PROPOSAL:	Conversion of former glass house including recladding to provide extension to tea room extending covers to 66 in total, retention of terrace and its use as outdoor seating area/plant sales area, extension to existing car park to provide overflow and formation of children's play area		
LOCATION:	Fields Garden Centre Tadcaster Road Sherburn In Elmet Leeds North Yorkshire LS25 6EJ		
RECOMMENDATION:	Grant		

This application has been brought before Planning Committee as 16 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 lies to the north of the main settlement of Sherburn and to the west of the main Tadcaster Road/Finkle Hill. The site is known as Fields Garden Centre, which has had some recent investment following a planning permission granted in 2017 and relies on plant sales, gardening related products and the cafe/tea room (known as Field Kitchen). To the north are agricultural fields, to the south is a commercial premise (landscape contractor) and opposite the site access

are a group of 5 residential dwellings on Ellerfield Lane and a tennis club. Further to the south of the site is the main residential part of the Sherburn settlement.

- 1.2 The application site itself consists of a series of single storey buildings, glass houses, existing authorised tea room, shop, storage buildings, outside storage of plants and car parking. The buildings predominantly sit towards the southern part of the site, with the nursery grounds extending to the north. The entrance to the site is wide and the frontage is landscaped. A parking area formed as part of the 2017 permission exists to the right (north) of the access.
- 1.3 A dwelling known as 'The White Cottage' sits on the southern side of the entrance and occupies a roadside position. This dwelling was originally part of the nursery and is still owned by the applicant, however, is now occupied independently following the creation of a new access under application 2018/0146/FUL.
- 1.4 The proposal has arisen as a result of an enforcement enquiry as various works were undertaken to the buildings to create an extension to the tea room. The tea room was also holding events (small number of weddings and parties in summer/autumn 2019) outside of the 2017 planning permission use restriction (i.e. operating beyond 5pm) and other development occurred including the formation of a terrace, increased parking area and formation of a children's play area. The permission now sought for these elements is therefore retrospective.

## **The Proposal**

- 1.5 The application was originally applied for to address the above matters and described as if it was a section 73 'variation of condition' application, when in fact it was a full application. The description of the proposal was later amended to better describe the application as a full and advertisement has been undertaken.
- 1.6 The 2 elements of the proposal were to increase the scale and the way in which the 'tea room' functioned through variations of conditions 3 (opening hours) & 4 (max 44 covers) of application 2017/0506/FUL. The second element concerns physical changes to the buildings and use of the outside space i.e. car park extension and play area.

## Hours

- 1.7 Condition 3 of 2017/0506/FUL limited opening hours to 08:30 to 17:00 Mon-Sat and 09:00 to 17:00 Sundays and Bank Holidays. (total 59 hours per week) The new proposals requested - Monday to Thursday 0830 to 2100 hours, Friday and Saturday 08.30 to 23.30 hours and Sunday and Bank holidays from 08.30 to 20.00 hours; (total 91.5 hours per week)
- 1.8 Due to the concerns raised over this element; this has since been removed from the proposal. The application therefore comprises of 4 elements;
  1. *Conversion of former glass house including recladding to provide extension to tearoom extending covers to 66 in total.*
  2. *Retention of terrace and its use as outdoor seating area/plant sales area.*
  3. *Extension to existing car park to provide overflow.*
  4. *Formation of children's play area.*
- 1.9 Amended plans now correctly show the development sought for retention.

## **Relevant Planning History**

- 1.10 The following historical applications are considered to be relevant to the determination of this application. The first list relates to the garden centre and the second bespoke to White Cottage.

### Garden Centre

- CO/1981/25551- Erection of Implement Store, White Cottage Nurseries, Approved 13-MAY-81.
- 2017/1222/FUL - Proposed widening of part of existing internal access road, Fields Garden Centre- Approved 18-DEC-17.
- 2017/0506/FUL - Erection of extensions to existing glass houses, change of use of one retail building to tea room ancillary to the garden centre use, formation of a car park and erection of covered plant canopy, Approved: 22-SEP-17. (Delegated).
- 2017/1187/DOC - Discharge of condition 05 (landscaping and planting) of approval 2017/0506/FUL) - Approved 11-DEC-17

### White Cottage -

- CO/1975/25523 - Double Garage, White Cottage Sherburn. Approved 19-AUG-75
- CO/1975/25548 - New Crossing & Widening of Existing Entrance, at White Cottage Doncaster Road, Sherburn In Elmet, - Approved 27-AUG-75.
- CO/1976/25549 - Single Storey Extension, at White Cottage. Approved 20-DEC-76
- CO/1981/25552 - Erection of A Dormer Extension, at White Cottage Tadcaster Road, Sherburn in Elmet. Approved 25-AUG-81
- CO/1981/25550 - Erection of an Extension, at White Cottage Tadcaster Road, Sherburn In Elmet. - Approved 14-APR-8.
- CO/1996/0325 - Proposed erection of rear dormer extension to existing dwelling at White Cottage, Tadcaster Road, Sherburn in Elmet. Approved 30-MAY-96.
- 2017/0397/HPA - Proposed erection of rear dormer following removal of existing, The White Cottage. Approved 06-JUN-17
- 2018/0146/FUL - Proposed formation of means of access, at The White Cottage. Approved: 03-APR-18

## 2. CONSULTATION AND PUBLICITY

- 2.1 Designing Out Crime Officer – No objections but need to apply for a Variation of the Premises Licence.
- 2.2 Parish Council - No comment.
- 2.3 NYCC Highways Canal Rd – No objections
- 2.4 Pland Use Planning Yorkshire Water Services Ltd – No response received.
- 2.5 Selby Area Internal Drainage Board – No response received.
- 2.6 Environmental Health - 20.9.19 response: The applicant proposes to host functions including wedding events and concerns were raised that associated noise will have a detrimental impact on existing residential amenity at nearby sensitive receptors, most notably from amplified music, fixed plant, deliveries and manoeuvring vehicles. DEFRA guidance states that, where entertainment noise continues beyond 23:00hrs, the LAeq (EN) should not exceed LA90 (WEN). And the L10 (EN) should not exceed L90 (WEN) in any 1/3 octave band between 40 and 160Hz\*. Furthermore, WHO guidelines state that noise levels exceeding 45dB<sub>L</sub>max inside bedrooms will result in sleep disturbance. The applicant should undertake a Noise Impact Assessment demonstrating compliance with the above.
- 2.7 2<sup>nd</sup> response: Having considered the Noise Impact Assessment dated November 2019 (ref: YES65168N) provided by the applicant and would make the following comments/observations.
- 2.8 Background sound levels at the nearest noise sensitive receptor were recorded as low as 40dB<sub>LA90,16hr</sub> and 26dB<sub>LA90,8hr</sub> for daytime and night time hours respectively. DEFRA guidance states that, where entertainment noise continues beyond 23:00hrs, the LAeq (EN) should not exceed the LA90 (WEN). And the L10 (EN) should not exceed L90 (WEN) in any 1/3 octave band between 40 and 160Hz\*.
- 2.9 The report presents acoustic data taken from a similar wedding venue which is considered to represent the same context and I would advise that compliance with the aforementioned is unlikely, notably that the LAeq (EN) will exceed the LA90 (WEN). Furthermore, in order to ensure that the L10 (EN) does not exceed the L90 (WEN) in any 1/3 octave band between 40 and 160Hz, significant upgrades to the sound insulating properties of the building would be required with limited or no windows on the receptor-facing façade.
- 2.10 (*Officer comment – the removal of the proposed variation of the hours into the evening makes the consultation response above no longer relevant*)

### **Neighbour and 3rd Party representations**

- 2.11 The proposal was publicised by a site notice and direct neighbour notification of residents. Readvertisement was undertaken following the change of the application description (i.e. the removal of the extension to the operating hours). This expired on the 1<sup>st</sup> April 2020. A total of 16 objections were received from a mixture of

residents directly adjacent to the site and residents of outlying villages following 2 rounds of consultation.

2.12 Residents state they did not previously object to 2017/0506/FUL on the basis of allowing local businesses to grow but have concerns over how this site has developed. The concerns are as follows;

2.13 Current breaches of the existing consent: 2017/0506/FUL.

- Use of extra building (former glass house) for tea room
- Erection of terraced area & formation of children's play area
- Additional Car Park formation within Green Belt protected land.
- Residents feel this has always been the intention of the applicant to create a venue by stealth.
- The owner is now focusing on food and drink as opposed to the sale of garden plants.

2.14 Hours of use: (officer note : this has since been omitted however included for clarity)

- The current hours were imposed to protect the residential amenity of the locality & to comply with SP19 of Selby Core Strategy & Policy ENV2 of the Local Plan. Residents have already experienced unacceptable noise level at night from events undertaken at the property & outside the agreed hours. This disturbance (noise from customers leaving, car door slamming, vehicles existing the venue) causes harm to the living conditions enjoyed by adjoining neighbours. Private Functions limited to 70 is not acceptable & not in keeping with the original Garden Centre/ Tea Room designation.
- This would turn the property primarily into a function venue, this is no longer a garden centre/tea room for locals with minimum traffic movement.
- The proposal interrupts this tranquil area on a site that had previously been in operation for many years with minimal (if any) disturbance to the environment? Where previously structures were screened.... now trees have been felled, and the site is exposed.
- Residents are not confident the proposed hours would be adhered to, with functions often going on later than planned.
- The proposal would mean additional traffic flows for 4 evenings until 9.30 and until midnight Fridays and Saturdays, allowing for staff to clean and leave. The hours are difficult to enforce and police.
- Other local premises should instead be renovated.
- Residents don't want to have to monitor proceedings in an evening and weekends as this provides an unnecessary anxiety into lives. Also no

conditions should be imposed to improve the sound insulation in the building as the use is inappropriate.

- Limiting the number of functions to 70 per year i.e. less than 2 per week is unacceptable from a residential amenity perspective. Also the fact that the premises are creating employment opportunities is irrelevant as this is not an employment site.
- This should be run as a garden centre with ancillary tea room during normal working hours.

#### 2.15 Increase in covers

- This goes against the fact that the tea room should be ancillary to the garden centre. This new proposal indicates a 50% increase in cover & within the buildings of over 150% than what was originally granted. This all goes against the parameters that were set in the original application approval where the tea room was considered appropriate for the size of the garden centre.
- The focus of the business is now catering and entertainment this is not ancillary to the garden centre. The tea room has become the primary use and a destination restaurant. This increase use all accentuates the concerns over noise and cars that residents are currently experiencing.
- The increase in covers will bring an increase in people, noise and car movements. The tea room is now becoming a destination in its own right as opposed to ancillary to the garden centre. This is contrary to Policy SP19 of the Core Strategy and Policy ENV 2 of the Selby District Local Plan.

#### 2.16 Cladding, Terrace and children's play area.

- The appearance of the building has changed immeasurably and is inappropriate development.
- The terrace and play area did not exist previously further erodes the Green Belt. It will also be used as a smoking area and by customers which will take the disturbance outside of the building.
- The previous conversion of the shop to tea room was a building of permanent and substantial construction. The reuse of a glass greenhouse cannot be considered such a building of permanence. The structure is of a simple aluminium frame and glass with an earth floor.
- The cladding and work should be removed and it either revert back to a green house or be demolished as the applicant has shown a blatant disregard to for planning policy to safeguard the Green Belt area.
- The terrace and play area are further encroaching into the Green Belt and changing the dynamics of the site.
- The play area is regularly used and children shout and scream which is wholly unacceptable.

### 2.17 Impact on the Green Belt

- There has already been too much work at the site taking down trees and bushes to make way for the commercial venture spoiling this rural part of the village.

### 2.18 Need for the Venue

- No requirement for the need for the venue, Sherburn already has several social and commercial venue facilities. The proposal will alter the ebb and flow of day time customers.

### 2.19 Car Park Overflow

- The car park has since been extended without permission and changed the character of this former paddock area. The additional hours will mean the temporary nature of the use will increase and be more of a permanent nature and not maintain the openness of the Green Belt.
- This regularly used and encourages a constant stream of car doors banging causing harm to the living conditions of neighbours opposite. Despite its more temporary appearance on plan this still means cars are parked in rows and they are parked more intensively and across the whole of the site to the northern boundary. This creates a visual line of cars which is harmful to visual amenity of dwellings opposite.
- Residents request replanting of trees and shrubs on the boundary to help screen the site and help with noise and prevent views of a commercial car park.

### 2.20 Amended scheme

- Granting permission to this scheme will provide greater leverage for the applicant in achieving their overall aim as outlined in their original application and weaken the council's ability to control what is permitted on the site going forward. This is a staged approach where the variation of the hours will be reapplied for.

### 16 letters of support were received from the two rounds of consultation

2.21 These were predominantly from local residents, local businesses, sports teams, gymnastic clubs, Scout leaders, primary schools etc that all use the facility. The support is as follows:

- Fields Garden Centre is very accommodating with friendly staff and high quality food. The premises are creating economic growth and social inclusion, for instance the premises recently employed a local man with Down's syndrome through the Workfit programme.

- The facility provides a meeting place for local organised groups, in particular the local University of the Third Age (U3A), an organisation developed to improve the quality of life for the older members of society who may otherwise become lonely or reclusive. The organisation offers over sixty different groups to partake in. These groups vary from Arts, Crafts, Fitness and other interests.
- Fields Café provides us with a meeting place and several groups use it as it is only a short walk or cycle ride from the centre of the village. The café has access facilities so everyone can use the facilities. There is also a children's play area allowing young mums and families to meet up too.
- Due to its location on the edge of the village, surrounded by green space and away from other businesses and industry, this is an ideal safe relaxing place to spend an hour or two.
- There is plenty of off-road parking for cars and bicycles and a wide access drive off the main road so road users do not suffer the inconvenience of roadside parking.
- Welcome the facility being opening in an evening as it has a great atmosphere being open later in the evening.
- The Fields Kitchen is an excellent place for a young family for a meal. There is ample parking in a safe and secure area, with easy access to clean and well sized baby changing facilities. The food is outstanding, and the play area and space they offer for young children, both indoors and outdoors, is a huge advantage.
- The space is vital for the community: there is nowhere that offers the same good quality food and safe, welcoming space for mothers and babies/small children. An extension can only be a benefit to the community.
- The facility is used by local businesses for meetings, interviews and networking events due to the informal relaxed atmosphere. It's an asset to the village. The settlement is growing and needs the services and infrastructure to cope with demand and continue to make it an attractive place to live.
- The previous owners put no investment into the premises and it was an eyesore to the village. Then premises attract customers from all over the district.
- The facility started with 4 staff and now employs around 20 local employees. The premises also promote local businesses in the craft arena.
- Other local sports club use fields for annual presentation evenings, the premises support local charities and sponsor local football teams as well as making the use of the car park available. It's now a hub where people eat drink and socialise.

### **3 SITE CONSTRAINTS**

## **Constraints**

- 3.1 The site lies within the Green Belt and a Locally Important Landscape Area.

## **4 POLICY CONSIDERATIONS**

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

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

### **Selby District Core Strategy Local Plan**

- 4.6 **The relevant Core Strategy Policies are:**

SP1	-	Presumption in Favour of Sustainable Development
SP2	-	Spatial Development Strategy
SP3	-	Green Belt
SP13	-	Scale and Distribution of Economic Growth
SP14	-	Town Centre and Local Services
SP15	-	Sustainable Development and Climate Change
SP18	-	Protecting and Enhancing the Environment

SP19 - Design Quality

## **Selby District Local Plan**

### **4.7 The relevant Selby District Local Plan Policies are:**

ENV1 - Control of Development  
ENV2 - Environmental Pollution and Contaminated Land  
ENV15 - Locally Important Landscaped Area  
T1 - Development in Relation to Highway  
T2 - Access to Roads  
S3 - Local Shops  
RT10 - Proposals for tourist attractions

## **5 APPRAISAL**

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

- Principle of development – Including Green Belt considerations
- Impact on the Character and Form of the Locality
- Residential Amenity
- Highways
- Flood Risk and Drainage

### **Principle of Development**

#### Green Belt

### **5.2 The application site is located within the Green Belt as such, national guidance contained within the NPPF paragraphs 143 - 146 and Policies SP2 (d) and SP3 of the Core Strategy are relevant. The decision-making process when considering proposals for development in the Green Belt is in three stages, and is as follows:**

- a. It must be determined whether the development is appropriate development in the Green Belt. The NPPF and Local Plan set out the categories of appropriate development.
- b. If the development is appropriate, the application should be determined on its own merits unless there is demonstrable harm to interests of acknowledged importance, other than the preservation of the Green Belt itself.
- c. If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which outweigh the presumption against it.

### **5.3 Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.**

### **5.4 Paragraph 145 of the NPPF states Local Planning Authorities should regard the construction of new buildings as inappropriate in the Green Belt. However, exceptions to this include:**

*c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*

- 5.5 Paragraph 146 of the NPPF notes certain other forms of development are also not inappropriate development in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. These include;

*d) the re-use of buildings provided that the buildings are of permanent and substantial construction;*

#### Change of use of the green house for a tea room extension

- 5.6 The proposal includes what is described as the 'conversion of former glass house to provide an extension to the tea room'. The change of use also involves the recladding of the former green house.
- 5.7 The greenhouse is a relatively substantial metal sectional frame structure. The glass has been removed and replaced by a composite insulated material that slides into the reveals of the metal structure. This gives the building better insulation properties and has enabled the internal works to be fitted, which include new internal toilets, doors and flooring. Windows and doors have also been added into the new walling material. The form, height and massing of the building remains the same.
- 5.8 Conversions are appropriate development in the Green Belt as per NPPF paragraph 146 d) and the current proposal should be viewed in the same way the original change of use from shop to café was considered in 2017.
- 5.9 This element of the proposal would involve the re-use of a building which is considered to be of permanent and substantial construction and would preserve the openness of the Green Belt, thus this element of the proposals is considered to be appropriate development within the Green Belt in accordance with Policies SP2 and SP3 of the Core Strategy and national policy contained within the NPPF (specifically paragraph 146). The buildings form, massing and structure remain the same, however it is acknowledged that the converted greenhouse does have some greater visual presence due to the external cladding. The proposal does not encroach further into the Green Belt as the building sits comfortably within the confines of the site.
- 5.10 The tea room extension therefore cuts across several elements of national policy in terms of its appropriateness and officers are satisfied that it can be regarded as the re use of a building that are of permanent and substantial construction in accordance with NPPF 146 (d) and is therefore appropriate development in the Green Belt. The works are minor in terms of the wider context of the site, the external recladding causes no significant harm to the character of the Green Belt setting and no loss in openness.

#### Terrace and play area

- 5.11 The play area has been formed on a grassed area leading from the terrace with picnic tables, a wooden playhouse and swing for children to enjoy. This is regarded as a 'material change of use' of part of the site and acceptable under the provisions

of paragraph 146 e), which states certain other forms of development including material changes in the use of land are not inappropriate provided they preserve openness. The play area is an ancillary use to the tea room and will only be used when the tea room is open and in times of good weather and is wholly within the confines of the existing site. The low key nature of the use and sympathetic wooden play structures are considered to preserve openness.

- 5.12 The terrace is bolted onto the eastern side of the tea room extension and provides an area of outside seating and a place where plant sales can occur. This structure is elevated from ground and provides a ramped access. The terrace is regarded as a structure and paragraph 145 c) of the NPPF allows for extension or alteration of a building provided that it does not result in a disproportionate addition over and above the size of the original building. The structure is small scale and creates very little harm to openness by virtue of its height and open nature. The terrace is also used for plant sales which is an ancillary use to the wider horticultural use of the site which is again an appropriate form of development within the Green Belt as per paragraph 145 a) of the NFFP i.e. 'buildings for agriculture and forestry'.

#### Car Park extension

- 5.13 The 2017 proposal permitted a car park extension for 49 no spaces for visitors and staff parking. This was justified on the basis that the existing hard surface around the shop couldn't be used due to the conflict of vehicles and customers accessing the shop and tea room.
- 5.14 The land prior to its being a car park was an open grassed area and involved a degree of engineering work to make the ground conditions suitable for use as a car park using gravel. The car park in the 2017 approval was justified on the basis that the NPPF states certain other forms of development are also not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. This includes engineering operations.
- 5.15 It was considered that the proposed car park, creating a gravel hardstanding would fall under this exception and is therefore not inappropriate development in the Green Belt. In terms of the use of the land for parking the 2017 report considered the use of the land to be temporary (i.e. only when the garden centre was open) and would not lead to a material depletion of the Green Belt's openness or conflict with the purposes of including land within it. It is however acknowledged that the intensification of the use of the site, i.e. more covers will mean the overflow car park is used more regularly.
- 5.16 The current extension to the car park to provide an overflow should be considered in the same way i.e. material change in the use of the land and appropriate under paragraph 146 e). In terms of its impact on openness the car park is a less engineered area with two rows of hard surface extending east from the current fully gravelled car park. The applicants state this is only intended to be used when the tea room is open and when the existing car park is full, so is expected to remain unused for significant periods. This limits the impact on openness as does the lightly engineered surfacing and arrangement. The objectors however state this is regularly used and cars loosely park beyond the surfaced area shown on plan and up to the northern boundary. This is said to create a visual row of cars that is harmful to the Green Belt. To limit cars spreading into the paddock area, the plans have been amended D-101H, which shows the area fenced, thus concentrating the

cars to the designated area shown on plan. A condition is recommended that ensures the paddock to the north is fenced within 3 months of the planning approval.

- 5.17 The car park when viewed from the highway will be viewed against the backdrop of the existing buildings and still sits comfortably within the confines of the existing site. The frontage landscaping also helps to limit full views into the site, thus openness is preserved.

#### Tea Room extension in covers from 44 - 66

- 5.18 Policy SP14 states that local shopping facilities will be maintained and enhanced by supporting local shops and services, including village shops and services, by resisting the loss of existing facilities and promoting the establishment of new facilities to serve the day-to-day needs of existing communities and the planned growth of communities.
- 5.19 Policy S3(A) of the Local Plan states outside defined shopping and commercial centres, proposals for local shops (Class A1) and commercial premises such as financial and professional services, public houses, cafes, restaurants and takeaways (Class A2 and A3) will be permitted provided that six criteria are met.
- 5.20 Criteria 1 relates to the proposal being located within defined development limits. The proposed extension is located outside development limits, however significant weight is given to the current use of the adjoining building which is already a café with 44 covers permitted. This would simply extend an already permitted use.
- 5.21 Criteria 2 requires the proposal to serve a purely local function or that there is a demonstrable need for the particular outlet in the locality (although the NPPF does not require this approach and is therefore afforded less weight). The centre of Sherburn is located some 480m to the south of the site where there are cafes and public houses serving the local population. The current tea room already attracts visitors from the town centre but most likely with garden centres, the footfall would result from visitors primarily coming to purchase plants and garden paraphernalia, who then have refreshments.
- 5.22 Obviously the bigger the facility (66 covers) the more likely it is to attract more none 'plant purchasing' customers. It is also clear from the letters of support that the tea room operates as a dual function and is a valued offering to the local community as it offers a different type of café/day time social meeting space for small groups, which is not considered to raise adverse Policy issues. This is like many garden centres across the UK, which have evolved and have taken advantage of the leisure and café industry. The key element here that it is an existing garden centre, which is the primary function and the tea room is still ancillary to this serving a local need.
- 5.23 Criteria 3 requires the scale of provision to be appropriate to the locality. The permitted tea room showed circa 11 tables which could accommodate 44 customers. These were tightly squashed into the tea room. The actual space is used differently with the entrance more spaced and the new unauthorised extension used for additional table capacity. The proposal is to seat a maximum of 66 customers and creates a more spacious dining environment. The proposed

increase in café space is considered small scale when compared with the wider use of the site and other horticultural and retail uses within the site.

- 5.24 Criteria 4 (Highway safety), 5 (Parking) and 6 (Residential amenity and character) of Policy S3 of Selby Local Plan are considered further below.
- 5.25 The NPPF paragraphs 85 to 90 set out the approach to ensuring the vitality of town centres and supports economic development of areas. The proposal would develop a well-used facility on the edge of Sherburn and given the historic nature of the site for use as a garden centre with shop, the enlarged tea room would be a complementary facility on the site and considered acceptable in this location. The applicant also suggests the increased trade from the tea room attracts many visitors, which is essential for the viability of the business. Local Plan Policies S3, SP14 and RT10 and Section 6 of the NPPF when taken as a whole, support the rural economy and this business would accord with the principles of these Policies.

### **Impact on the Character and Form of the Locality**

- 5.26 Policy ENV 1 states proposals for development will be permitted provided a good quality of development would be achieved. The policy indicates several criteria of relevance which includes, taking account of the character of the area, the amenity of adjoining occupiers, layout design, materials and landscaping.
- 5.27 The application site is set back from the roadside and has a landscaped frontage. There are numerous buildings on the site which are used for storage, growing, plant sales, tea room and ancillary retail purposes to support the garden centre. The proposed greenhouse conversion would be of a scale and external finish that would be sympathetic with its surroundings. The main massing of the buildings remains the same and the proposals will not negatively expand the built form.
- 5.27 The proposed car park extension would occupy an area of the site that is near the roadside and a natural extension to the current car park which is screened to some degree. The proposed play area is largely an open grassed area and the timber structures enhance the space, which will for most part remain unused and retain its open Green Belt feel. The proposals will sit comfortably within the existing site and not change the overall character and nature of the existing business.
- 5.28 As such it is considered that the proposal would not adversely affect the character or appearance of the area. It is also acknowledged that the site lies within a Locally Important Landscaped Area and for the same reasons this area would remain unchanged as a result with the proposal located on an existing garden centre site contained within its own perimeter. The proposal would therefore accord with Policies ENV1, S3(A) and ENV15 of Selby District Local Plan.

### **Residential Amenity**

- 5.29 One of the Core Principles of the NPPF is to always seek to ensure a good standard of amenity for all existing and future occupants of land and buildings is achieved. Policies ENV1 1) and S3(A) (6) of the Local Plan requires proposals not to have a significant adverse effect on residential amenity.
- 5.30 The site is situated within its own established site boundaries with a dwellinghouse situated in the south east corner, which is owned by the applicant. There are no houses in close proximity that would be adversely affected by this proposal. The

mainstay of the concern in the representations was from the residents opposite the site due to the proposed alteration to the operation hours of the tea room, as the unauthorised functions were said to have caused nuisance. This element has been removed from the scheme and the operation hours imposed on the 2017 are reiterated i.e. 5pm close. This overcomes the concerns to the application raised by Environmental Health.

- 5.31 Finally it is acknowledged that the increase in covers (44-66) may attract more visitors to the site, however this isn't considered to cause a detrimental impact on the living conditions of neighbouring occupiers if these are restricted to daytime movements, particularly given the flow of existing customers and background traffic noise levels.
- 5.32 Therefore the proposal is not considered to harm residential amenity, subject to conditions to control opening hours. The proposal would accord with Policies ENV1 and S3A of Selby District Local Plan and Policies SP13 of Selby Core Strategy.

### **Highways**

- 5.33 The application site has an established access taken off Finkle Hill and there is adequate space within the site to accommodate deliveries. The proposal includes the formation of a car park extension. This will be used as an overspill and isn't surfaced in the same way as the main car park. The overspill will only be used when necessary and mean cars can safely be parked within the site as opposed to spilling out onto the adjacent highway.
- 5.34 NYCC Highways have considered the parking provision and have raised no objection or suggested conditions to be imposed on the development. As such, it is considered that the proposal is acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Local Plan and the advice contained within the NPPF.

### **Flood Risk and Drainage**

- 5.35 The application site lies within Flood Zone 1 as noted in the Environment Agency's flood mapping with a low risk of flooding. There is no requirement for a sequential or exception test to be undertaken as a result and the proposal is considered to not contribute to flooding elsewhere.
- 5.36 The conversion will utilise the existing drainage system employed for the green houses and the level of impermeable surface will remain the same. The car park extension is made from permeable material so will naturally drain and the children's play area will remain grassed. Therefore no further drainage detail is required. As such it is considered that the proposal would be acceptable with respect to Policies SP15 and SP19 of the Core Strategy and the NPPF.

## **6 CONCLUSION**

- 6.1 The proposed development is considered not to be inappropriate development in the Green Belt, would not result in adverse depletion of the openness of the Green Belt and would not conflict with the purposes for including land in the Green Belt.
- 6.2 The amended proposal is considered to be acceptable in principal, will develop a well-used facility for the village, help maintain local employment and the overall

viability of the garden centre. The proposal is not considered to have a detrimental impact on the character and form of the area, residential amenity, highways and flood risk.

- 6.3 The proposal is therefore in accordance with policies SP1, SP2, SP3, SP13, SP14, SP15, SP18 and SP19 of the Core Strategy and Local Plan Policies ENV 1, ENV 2, ENV 15, T1, T2 S3 and RT10 and guidance within sections 123 of the NPPF.

## **7 RECOMMENDATION**

This application is recommended to be Granted subject to the following conditions;

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

Proposed Floor Plans - D- 201 A

Proposed Block Plan - D-101 H

Proposed Elevations - D - 401B

Elevations swing/playhouse D-402

Reason:

For the avoidance of doubt.

02. The proposed tea room hereby approved shall not be operated on the premises except between the hours of 08:30am to 17:00pm Monday to Saturday and 09:00 to 17:00pm Sundays and Bank and Public Holidays.

Reason:

To protect the residential amenity of the locality and in order to comply with Policy SP19 of Selby Core Strategy and Policy ENV2 of Selby District Local Plan.

03. The tea room hereby permitted shall not operate in excess of 66 covers at any one time.

Reason:

In the interests of residential amenity in accordance with Policy ENV1 of Selby District Local Plan.

04. Within 3 months of the date of this planning permission, the approved fence, which is to separate the overflow car park from the paddock area as shown on the approved block plan D-101H, shall be erected in its entirety in accordance with the details shown on that plan. The fence should be retained for the lifetime of the development.

Reason:

In order to prevent cars from dispersing into the paddock area, which is considered harmful to the openness of the Green Belt and character of the wider area in accordance with Policy ENV1 of Selby District Local Plan and SP 3 of the Core Strategy.

05. No parking of vehicles should occur on the land outside the designated parking area as shown on block plan D-101H.

Reason:

In order to prevent cars from dispersing into the paddock area, which is considered harmful to the openness of the Green Belt and character of the wider area in accordance with Policy ENV1 of Selby District Local Plan and SP 3 of the Core Strategy.

## **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 2019/0663/FUL and associated documents.

### **Contact Officer:**

Gareth Stent (Principal Planning Officer)

[gstent@selby.gov.uk](mailto:gstent@selby.gov.uk)

**Appendices:** None