



**Report Reference Number:** 2019/1310/FUL

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**To:** Planning Committee  
**Date:** 8 April 2020  
**Author:** Chris Fairchild (Senior Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

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APPLICATION NUMBER:	2019/1310/FUL	PARISH:	South Milford Parish Council
APPLICANT:	Mr Richard Stoker	VALID DATE: EXPIRY DATE:	17th December 2019 11th February 2020
PROPOSAL:	Proposed conversion of agricultural barn buildings into three residential dwellings and necessary associated operational and remedial works		
LOCATION:	Hall Farm Butts Lane Lumby Leeds West Yorkshire LS25 5JA		
RECOMMENDATION:	GRANT planning permission subject to the recommended conditions		

This application has been brought before Planning Committee as a departure from the development plan, namely Selby District Local Plan Policy H12.

## 1 INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The site is located mainly within the settlement limits of Lumby albeit a small part of the site lies within the open countryside. The site, along with the rest of Lumby is located entirely within the Green Belt and a Locally Important Landscape Area (LILA).

- 1.2 There are no environmental designations on or near the site, albeit the site is noted by the Local Planning Authority as being a potential source of contamination.
- 1.3 There are no statutory listed features of architectural or historical significance on or in close proximity to the site. However, the barns themselves, and several buildings surrounding the site, could be considered non-designated heritage assets.
- 1.4 The site is located within Flood Zone 1, the area at lowest risk of flooding.
- 1.5 With the exception of the farm, this area of Lumby is predominantly residential. Residential dwellings exist c. 11m to the north, c. 33m to the south, c. 17m to the east and 52m to the west. This application relates to a section of the wider existing farm which incorporates a large barn to the east and associated hardstanding.
- 1.6 The site consists of two barns, hardstanding and an open sided shed. The site is largely unused and reflects the declining use of the wider site for agricultural purposes. The barns are predominantly stone with some elevations built from brick and some rendered. The barn nearest the roadside has a tiled roof, whilst the other larger barn is covered with sheet metal.
- 1.7 This proposal follows a recent permission at the site (ref. 2018/1164/FUL) also for the conversion of the subject barns for residential use albeit for two detached dwellings (1 no. 2 bed and 1 no. 4 bed). Permission was granted in January 2019 and therefore the permission is extant and the fallback constitutes a material consideration in considering these proposals which outweighs any conflict with the development plan.

### **The Proposal**

- 1.8 Full planning permission is sought for the conversion of two existing agricultural barn buildings into three residential dwellings and creation of means of access, off-street vehicle parking, and private amenity space.
- 1.9 The barn nearest the roadside (barn 1) will be converted into a detached two-bedroom dwelling. The other barn (barn 2) will be converted into a pair of semi-detached properties; a four-bed dwelling and a three-bed dwelling.
- 1.10 The site will be accessed from the existing farm entrance onto Butts Lane, this will lead into a modified access road to the wider site which will curve southwards where an existing farm store will be demolished (already consented under 2018.0857/DEM). Each dwelling will have off-street parking for two vehicles immediately off the access road.
- 1.11 Private amenity space is provided for each dwelling, including a cycle shed and bin storage point. The amenity space is separated by 1.8m closeboarded fencing with a native hedge mix planted at either side. A 1m stone walls between the access road and the amenity space is also proposed.

### **Relevant Planning History**

- 1.12 The following historical application is considered to be relevant to the determination of this application. The following sub-sections identify which applications relate to which parts of the wider farm site.

Barn currently in-situ where access road will be located

Ref: 2018/0857/DEM  
Description: Prior notification for demolition of two portal frame modern agricultural barns and redundant stores/outbuildings  
Address: Hall Farm, Butts Lane, Lumby, Leeds, West Yorkshire, LS2 5JA  
Decision: Approved – 28 August 2018

Existing planning permission i.e. the fall-back consent

Ref: 2018/1164/FUL  
Description: Proposed conversion of agricultural barn buildings into two residential dwellings and necessary associated operational and remedial works  
Address: Hall Farm, Butts Lane, Lumby, Leeds, West Yorkshire, LS25 5JA  
Decision: Approved – 16 January 2019

Wider farm site not part of these proposals

Ref: 2018/0857/DEM  
Description: Prior notification for demolition of two portal frame modern agricultural barns and redundant stores/outbuildings  
Address: Hall Farm, Butts Lane, Lumby, Leeds, West Yorkshire, LS25 5JA  
Decision: Prior Approval Required & Granted – 28 August 2018

Ref: 2019/0657/ATD  
Description: Prior notification for the change of use of agricultural building to 2 dwellings (Use Class C3) and associated operational development  
Address: Hall Farm, Butts Lane, Lumby, Leeds, West Yorkshire, LS25 5JA  
Decision: Approved – 21 August 2019

Ref: 2019/1263/ATD  
Description: Prior notification for the change of use of agricultural building to 3 dwellings (Use Class C3) and associated operational development  
Address: Hall Farm, Butts Lane, Lumby, Leeds, West Yorkshire, LS25 5JA  
Decision: Prior Approval Required & Granted – 24 January 2020

## **2 CONSULTATION AND PUBLICITY**

### **Yorkshire Water**

- 2.1 No objection in principle to the proposed drainage, although note the details shown does not constitute approval for adoption or diversion purposes – if this is required the applicants should contact Yorkshire Water directly.

### **North Yorkshire County Council Ecology**

- 2.2 The submitted bat survey is acceptable and demonstrates the impact to bats can be suitably mitigated. We recommend a Condition that work is undertaken in compliance with the mitigation measures outlined in paragraphs 29 to 31 of the bat survey report.

- 2.3 The survey also demonstrated a number of birds nested in the barns, including Swallow and House Sparrow. The applicant will need to explain how they will offset the loss of nesting habitat, e.g. by providing suitable nest boxes. This could be agreed via prior to commencement conditions.

### **Highways**

- 2.4 No objection subject to inclusion of conditions: (1) the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority; (2) details of vehicular and cycle parking – taking account of under provision of parking for the four bedroom unit; (3) access, parking, manoeuvring and turning areas being built out prior to occupation, and; (4) full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway.

### **Contamination Officer**

- 2.5 The contamination officer is content with the findings of the submitted Phase I Survey and proposed further investigative works. As such, the officer recommends the following conditions: (1) Phase II survey; (2) submission of remediation scheme; (3) verification of remediation works, and; (4) reporting of unexpected contamination.

### **Environmental Health**

- 2.6 No objections, although an informative in relation to the proposed foul drainage system will require both consent under the building regulations and from the Environment Agency.

### **Planning Policy**

- 2.7 The re-use of the barns is considered acceptable in principle. The Case Officer will need to consider whether the scheme proposes any new built elements which could have the potential to detract from the openness of this part of the Green Belt.

### **Parish Council**

- 2.8 Following consultation, no response was received.

### **Landscape Officer**

- 2.9 Following consultation, no response was received.

### **Internal Drainage Board**

- 2.10 Following consultation, no response was received.

### **North Yorkshire Bat Group**

- 2.11 Following consultation, no response was received.

### **Yorkshire Wildlife Trust**

2.12 Following consultation, no response was received.

### **Publicity**

2.13 The application was advertised via site notice, neighbour letters and a Press notice. One response was received from a member of the public requesting the impact of drainage from the site be fully considered.

## **3 POLICY CONSIDERATIONS**

3.1 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 National Planning Policy Framework (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.

3.2 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.

3.3 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 concluded early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.

3.4 In February 2019 a revised 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.

3.5 Annex 1 of the 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**

3.6 The relevant Core Strategy Policies are:

- SP1 Presumption in Favour of Sustainable Development
- SP2 Spatial Development Strategy
- SP3 Green Belt
- SP9 Affordable Housing
- SP18 Protecting and Enhancing the Environment

SP19 Design Quality

## **Selby District Local Plan**

3.7 The relevant SDLP Policies are:

T1	Development in Relation to the Highway network
T2	Access to Roads
ENV1	Control of Development
ENV2	Environmental Pollution and Contaminated Land
ENV15	Conservation and Enhancement of Locally Important Landscape Areas
H12	Conversion to residential use in the Countryside

## **4 APPRAISAL**

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

1. Green Belt
2. Principle of Development
3. Conservation & Historic Environment
4. Suitability for re-use
5. Extent of Alterations
6. Landscape & Character
7. Environmental Health
8. Access & Highway Safety
9. Residential Amenity
10. Ground Conditions
11. Affordable Housing
12. Impact on Nature Conservation
13. Flood Risk

4.2 It should be noted that the site benefits from an extant planning permission ref. 2018/1164/FUL permitted in January 2019 for the conversion of both barns and the development of the site's curtilage for domestic purposes. Officers consider this constitutes a realistic fall-back and therefore carries significant weight in considering the acceptability of these broadly similar proposals.

### **Green Belt**

#### Context

4.3 CS Policy SP1 states 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. CS Policy SP1 is therefore consistent with national policy set out in the NPPF.

4.4 CS Policy SP2A(d) states that within the Green Belt development must conform to CS Policy SP3 and national Green Belt policies. Paragraph 143 of the NPPF states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. CS Policy SP3B echoes the NPPF in that planning permission will not be granted for 'inappropriate'

development unless the applicant has demonstrated that 'very special circumstances' (VSC) exist to justify why permission should be granted.

- 4.5 NPPF Paragraph 133 states: the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 134 sets out the five purposes the Green Belt serves. Paragraph 144 of the NPPF states local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.
- 4.6 Paragraphs 145 & 146 of the NPPF sets out which forms of development are not considered inappropriate development in the Green Belt. As per Paragraph 145(c) the alteration of existing buildings that does not result in disproportionate additions over and above the size of the original building is not considered inappropriate. The development of domestic curtilage for residential dwellings is not however listed as an exception and therefore is considered harmful to the Green Belt unless VSC exist.

### Assessment

- 4.7 Whilst the proposals include minor changes to the roofline of the barns, there are no extensions or additions and therefore, in accordance with NPPF Paragraph 145, this element of the proposals does not constitute inappropriate development in Green Belt terms.
- 4.8 However, the development of domestic curtilage is not listed as an exception to inappropriate development and as such it will be necessary to demonstrate VSC for this element of the proposals. It will also be necessary to consider whether this element of the proposals preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
- 4.9 The site benefits from a fallback consent and establishes the form of development that is considered acceptable on the site. The fallback consent is extant, there is no reason presented by the applicants or considered by the applicants as to why this permission could not be implemented: as such the fallback has a realistic prospect of being implemented and is considered valid. Officers consider the existence of a valid fallback carries full weight in determining potential harm. The weight is so significant that officers consider it constitutes VSC.
- 4.10 In terms of impact upon openness, the current proposals do not include any additional elements that materially differ from the previously approved proposals. Officers consider that in respect of this enclosed site there will be minimal impact upon the openness of the Green Belt and those external works within the curtilage of development are remediable. Therefore, it is considered that the proposals would not cause a significant adverse impact on the openness.
- 4.11 The proposals do not conflict with the purposes of the Green Belt.
- 4.12 In summary, the conversion to residential use is appropriate development in Green Belt terms whilst the development of domestic gardens is not. The proposed curtilage development is not materially different from the fallback position and this constitutes VSC, there is no material difference on the impact on openness and these revised proposals remain acceptable from an openness perspective. The proposals comply with the purposes of the Green Belt. Therefore, taking all these

points into consideration the proposals are acceptable from a Green Belt perspective.

## **Principle of Development**

### Context

- 4.13 The majority of the site sits within the development boundaries of Lumby with a limited area of curtilage development sitting outside. In such circumstances, the principle of residential development should be assessed on the basis the site is outside of settlement boundaries and therefore within the open countryside.
- 4.14 CS Policy SP2 controls the location of future development within the District and directs the majority of new development to existing settlements. SDLP Policy H12 controls proposals for the conversion of rural buildings to residential use in the countryside (outside defined Development Limits) and stipulates the criteria in which conversions will be permitted, where relevant – which in this instance is criteria 1 to 7 and these are considered in greater detail below. H12(8) relates to part-residential/part-business and is not applicable.
- 4.15 SDLP Policy H12(1) allows the conversion of rural buildings to residential use in the countryside where:

*“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”*

### Assessment

- 4.16 The site has historically been used for the operation of, and ancillary storage for, the wider farm use. However, in recent years, farming at the site has declined and the barns have become increasingly redundant. Planning permission has already been granted for either the demolition or conversion of every building on site. Officers consider there is no realistic prospect that the farm use will continue in light of this coordinated and sustained approach to redevelop the site.
- 4.17 It is officers’ opinion that no viable future for business purposes exist and that the proposals would comply with SDLP Policy H12(1). However, no evidence has been submitted to support this position and the proposals are therefore a departure from the development plan. Officers acknowledge that a fallback position exists for residential planning permission further compounding the unlikelihood of business use at the site.
- 4.18 Therefore, given the fallback position and officers’ opinion that the site is not suited for business purposes, it is considered that the proposals are acceptable in principle subject to satisfaction of the remaining relevant criteria of SDLP Policy H12 which are considered in detail below.

## **Conservation & Historic Environment**

### Context

4.19 There are no statutory listed features of architectural or historical significance on or in proximity to the site. However, the barns themselves and several buildings surrounding the site could be considered non-designated heritage assets owing to their age and their historical role in the evolution of Lumby.

4.20 SDLP Policy H12(2) allows the conversion of rural buildings to residential use in the countryside where:

*“The proposal would provide the best reasonable means of conserving a building of architectural or historic interest and would not damage the fabric and character of the building”*

4.21 Paragraph 197 of the NPPF requires the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. Paragraph 197 makes clear a balanced judgement should be made on the scale of any harm or loss and the significance of the heritage asset.

#### Assessment

4.22 The buildings are of historic character and could be considered non-designated heritage assets. Officers consider that given the unlikelihood of them being reused for their intended purposes, the proposals represent the best reasonable means of securing their conservation. Officers also consider that the proposals ensure as much historic fabric has been retained as possible in a proportionate manner compared to their significance and complies with H12(2) and Paragraph 197 of the NPPF.

#### **Suitability for re-use**

##### Context

4.23 SDLP Policy H12(3) allows the conversion of rural buildings to residential use in the countryside where:

*“The building is structurally sound and capable of re-use without substantial rebuilding”*

##### Assessment

4.24 The application is supported by a building survey that demonstrates that, on the whole, the barns are capable of being converted without substantial rebuilding works. The survey does identify that some elements of the barns, particularly the rear elevation of Barn 1, need some more significant intervention, Officers are satisfied with these findings and consider the proposals comply with SDLP Policy H12(3).

#### **Extent of Alterations**

##### Context

4.25 SDLP Policy H12(4) allows the conversion of rural buildings to residential use in the countryside where:

*“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;”*

### Assessment

- 4.26 The proposed conversion of the buildings does not extend beyond the elevations of the existing building. The proposals do include adjustments to the roof line of Barn 2, however these are not considered to constitute “extensive” alterations. As such the proposals are considered to be in line with SDLP Policy H12(4) and therefore the proposals satisfy this element.

### **Landscape & Character**

#### Context

- 4.27 SDLP Policy H12(5) allows the conversion of rural buildings to residential use in the countryside where:

*“The conversion of the building and ancillary works, such as the creation of a residential curtilage and the provision of satisfactory access and parking arrangements, would not have a significant adverse effect on the character or appearance of the area or the surrounding countryside”*

- 4.28 CS Policy SP18 seeks to safeguard and, where possible, enhance the historic and natural environment. Within the LILA, SDLP Policy ENV15 gives priority to the conservation and enhancement of the character and quality of the landscape with particular attention to be paid to the design, layout, landscaping of development and the use of materials in order to minimise its impact and to enhance the traditional character of buildings and landscape in the area.
- 4.29 CS Policy SP19 expects development to achieve high quality design and have regard to the local character, identity and context of its surroundings including the open countryside. CS SP19 goes on to set out key requirements (a to l) that development should meet where relevant, these include: (a) making the best, most efficient use of land without compromising local distinctiveness, character and form, and, (b) positively contributing to an area’s identity and heritage in terms of scale, density and layout.

### Assessment

- 4.30 Lumby is largely a residential village, residential properties and their domestic curtilages border the site to the north, south and east. To the west is the residual farm but immediately after that is a further residential property and curtilage. Officers consider that changing the existing farmyard setting to residential curtilage, which has already been permitted, is not incongruous with the character of Lumby nor the countryside or wider LILA. The proposals therefore comply with SDLP Policies H12(5) & ENV15, as well as CS Policies SP18 & 19.

### **Environmental Health**

#### Context

- 4.31 SDLP Policy H12(6) allows the conversion of rural buildings to residential use in the countryside where:

*“The building is not in close proximity to intensive livestock units or industrial uses which would be likely to result in a poor level of amenity for occupiers of the dwelling”*

#### Assessment

- 4.32 The proposed residential dwellings will be in proximity to buildings shown on the submitted plans as “retained farm buildings”, however, as per the planning history section, these retained buildings have consent for either demolition or conversion to residential use. The relationship between the site and residual farmstead has not been raised as a concern of Environmental Health officers. Furthermore, planning permission already exists that demonstrates the relationship between barn 2 and the farm building is acceptable – these proposals do not change this relationship. Therefore, officers consider the proposals comply with SDLP Policy H12(6).

### **Access & Highway Safety**

#### Context

- 4.33 SDLP Policy H12(7) allows the conversion of rural buildings to residential use in the countryside where:

*“The proposal would not create conditions prejudicial to highway safety...”*

- 4.34 SDLP Policy T1 stipulates development will only be permitted where existing roads have adequate capacity and can safely serve the development, unless appropriate off-site highway improvements are undertaken by the developer.
- 4.35 SDLP Policy T2 only allows for a new access or the intensification of the use of an existing access will be permitted provided where (1) there would be no detriment to highway safety; and 2) the access can be created in a location and to a standard acceptable to the highway authority.
- 4.36 Paragraph 109 of the NPPF states that planning applications should only be refused where there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

#### Assessment

- 4.37 The proposals have been considered by the Local Highway Authority who have found the proposals to be acceptable from a highway safety perspective – subject to the inclusion of conditions. Officers consider the conditions are appropriate and agree that subject to their inclusion the proposals are acceptable from a highway safety perspective and comply with SDLP Policies T1 & T2 and NPPF Paragraph 109.

### **Residential Amenity**

#### Context

4.38 SDLP Policy H12(7) allows the conversion of rural buildings to residential use in the countryside where:

*“The proposal would not create conditions... which would have a significant adverse effect on local amenity...”*

4.39 SDLP Policy ENV1 provides eight broad aspirations that are taken into account when achieving “good quality development”. ENV1(1) requires “the effect upon the character of the area or the amenity of adjoining occupiers” to be taken into consideration.

#### Assessment

4.40 The rear elevations of both barns (north elevations) are c.11m from the elevation of the dwelling to the north. However, the proposals do not introduce any new windows to these elevations and there is no impact from overlooking. The relationship between other wider residential dwellings to the east and south is also considered acceptable.

4.41 In terms of amenity for future residents, officers consider the private amenity space is proportionate to the size of the dwellings and is considered to be acceptable. The internal courtyard is c.10m wide and is separated by tall boundary treatments, furthermore the relationship of the rooms of each dwelling is circulation space to living space so no intrusion will occur. The distance between barn 1 and barn 2 is c.12m, whilst there are habitable rooms looking onto bedrooms it is considered the boundary treatments combined with the distance will ensure a suitable relationship.

4.42 Officers consider the proposals to provide a suitable relationship with existing dwellings and will allow for suitable amenity for future residents. As such, the proposals comply with SDLP Policies H12 and ENV1.

### **Ground Conditions**

#### Context

4.43 SDLP Policy ENV2A states development that would be affected by unacceptable levels of noise, nuisance, contamination or other environmental pollution will be refused unless satisfactorily remediated or prevented. CS Policy SP19(k) seeks to prevent development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water, light or noise pollution or land instability.

4.44 NPPF Paragraph 178 requires planning decisions to ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination, be remediated (where appropriate) to an appropriate standard, and be subject to site investigation undertaken by competent persons.

#### Assessment

4.45 The Contamination Officer is content with the findings of the submitted Phase I Survey and proposed further investigative works. As such, the officer recommends the following conditions: (1) Phase II survey; (2) submission of remediation scheme;

(3) verification of remediation works, and; (4) reporting of unexpected contamination. Officers consider that subject to inclusion of these recommendations development of the site is appropriate in relation to ground conditions and complies with CS Policy SP18 and NPPF Paragraph 178.

## **Affordable Housing**

### Context

- 4.46 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.
- 4.47 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".

### Assessment

- 4.48 The application proposes the creation of three dwellings on a site which has an area of less than 0.5 hectares, such that the proposal is not considered to be major development as defined in Annex 2 of the NPPF. It is therefore considered that having had regard to Policy SP9 of the Core Strategy, the Affordable Housing SPD and national policy contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

## **Impact on Nature Conservation**

### Context

- 4.49 Relevant policies in respect of nature conservation and protected species include CS Policy SP18 of the Core Strategy. CS Policy SP18 seeks to safeguard and, where possible, enhancing the natural environment. This is achieved through effective stewardship by (inter-alia) safeguarding protected sites from inappropriate development, and, ensuring development seeks to produce a net gain in biodiversity.
- 4.50 NPPF Paragraph 170(d) seeks for planning decisions to contribute to and enhance the natural environment by minimising impacts and providing net gains for biodiversity.

### Assessment

- 4.51 The proposals are accompanied by a bat roost potential assessment and subsequent emergence survey. North Yorkshire County Council Ecology Officers have considered the reports and agree with the findings i.e. that bats and birds make use of the barns, and in line with these findings consider mitigations to both bats and birds are necessary. Officers consider that subject to appropriately worded conditions the impact upon nature conservation is acceptable and complies with CS Policy SP18 and NPPF Paragraph 170(d).

### **Flood Risk & Drainage**

#### Context

- 4.52 The site sits within Flood Zone 1, the area at lowest risk of flood risk. CS Policy SP15A(d) seeks to ensure that development in areas of flood risk is avoided wherever possible through the application of the sequential test and exception test (if necessary). This policy is inline with NPPF Paragraph 155 which seeks to direct development away from areas at highest risk.

#### Assessment

- 4.53 The site is within Flood Zone 1 and has a site area of less than 1ha, as such no flood risk assessment has been provided or is necessary. The proposals are located within the area of lowest risk and therefore comply with CS Policy SP15 and NPPF Paragraph 155.
- 4.54 Concerns have been raised from the public in relation to the proposed drainage system. Yorkshire Water have confirmed there are no issues with the proposed foul drainage arrangements subject to the satisfaction of the comments on adoption of sewers where relevant. Officers consider on this basis that the proposals provide an acceptable form of foul drainage.
- 4.55 The site will decrease the total amount of hardstanding and will reduce surface water run-off rates. However, it is considered appropriate that conditions are included to ensure surface water from the site does not discharge on to the highway. Subject to satisfaction of these conditions officers consider the proposals are acceptable from a surface water drainage perspective.

## **5 CONCLUSION**

- 5.1 Full planning permission is sought for the conversion of two barns to three dwellings and associated curtilage development. This application follows a scheme consented in January 2019 for a similar development albeit for two dwellings.
- 5.2 The site is mainly within the settlement boundary with a very small part being outside the defined development limits and is considered as being within the countryside. The site is also washed over by both the Green Belt and LILA designations. There are no environmental designations on or adjacent the site but the barns and buildings surrounding the site are considered to represent non-designated heritage assets. The site is within Flood Zone 1.

- 5.3 Being a conversion within the countryside, the key policies are CS Policy SP2 and SDLP Policy H12. In addition to wider development considerations, these policies seek a preference that buildings be re-used for employment purposes and be capable of re-use.
- 5.4 The application is not supported by evidence that demonstrates the building cannot be re-used for employment but, given the site characteristics, officers are minded that business re-use is not a viable option for the site. A buildings survey has been submitted that demonstrates, on balance, the barns are capable of being converted without substantial rebuilding work. As such, subject to the wider development management considerations of SDLP Policy H12, the principle is considered acceptable.
- 5.5 Officers have considered the proposals against all material considerations that arise from the development, including the relevant criteria of SDLP Policy H12. This report demonstrates that the proposals overcome each of these issues including through the use of conditions where appropriate.
- 5.6 Officers consider that the scheme is acceptable in its own right and that this is compounded by the existence of a material fallback of the extant planning permission for a similar scheme. As such officers recommend planning permission be granted subject to the conditions and informatives listed below.

## **6 RECOMMENDATION**

- 6.1 This application is recommended to be GRANTED subject to the following conditions:
1. 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.

2. The development hereby permitted shall be carried out in accordance with the plans, drawings and documents listed below:
  - LDS 2472/B1-2/002 Rev. A – Proposed Site Plan;
  - LDS 2472/B1-2/101 Rev. B – Existing & Proposed Floor Plans Barn 1;
  - LDS 2472/B1-2/103 Rev. B – Proposed Floor Plan Barn 2;
  - LDS 2472/B1-2/202 – Barn 1 Proposed Elevations;
  - LDS 2472/B1-2/204 – Barn 2 Proposed Elevations (North & South);
  - LDS 2472/B1-2/205 – Barn 2 Proposed Elevations (East & West);
  - LDS 2472/B1-2/206 – Proposed Elevations – Inner Courtyard Barn 2;
  - Bat Emergence Survey ref. R-3612-02 (September 2018); and
  - Preliminary Investigation Report ref. D8935/01 (13.08.18).

### **REASON:**

For the avoidance of doubt.

3. Prior to any works related to the fabric of the barns, a bat box shall be installed in accordance with paragraphs 29 of the bat survey report (Brooks Ecological, Bat emergence survey – Hall Farm, Lumby dated September 2019).

REASON:

In order to protect and enhance biodiversity.

4. No external lighting is permissible until details are submitted and approved by the Local Authority. Any lighting shall need to demonstrate that light spill will be minimised since illumination of these areas could prejudice their use by bats. Measures to minimise impacts shall be minimised by measures including (Stone, E.L. 2013):
  - Use of narrow spectrum lights with no UV or warm white light;
  - Direct lighting downwards;
  - Use of low level lighting (e.g. 2m high lighting columns);
  - Use of hoods and cowls to direct lighting onto required areas and not onto adjacent habitats;
  - Restrict hours of light.

The approved measures shall be retained thereafter.

REASON:

In order to protect and enhance biodiversity.

5. Prior to any works related to the fabric of the barns, details of Swallow and House Sparrow mitigation shall be submitted to the Local Planning Authority in writing for approval. The approved mitigation will be installed in accordance with a timescale to first be agreed by officers and retained thereafter.

REASON:

In order to protect and enhance biodiversity.

6. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site until the access(es) to the site have been set out and constructed in accordance with the published Specification of the Highway Authority and the following requirements:
  - a. The crossing of the highway verge and/or footway shall be constructed in accordance with the approved details and/or Standard Detail number A2.

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

REASON

In accordance with SDLP Policy T1 and to ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

7. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works hereby permitted until full details of the following have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority:
  - a. vehicular and cycle parking

#### REASON

In accordance with SDLP Policy T1 and to ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development.

8. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas shown on approved plans under Condition 2:
  - a. are available for use
  - b. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times

#### REASON

In accordance with SDLP Policy T1 and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

9. There shall be no access or egress by any vehicles between the highway and the application site until full details of any measures required to prevent surface water from non-highway areas discharging on to the existing or proposed highway together with a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall be implemented in accordance with the approved details and programme.

#### REASON

In accordance with policy number and in the interests of highway safety.

10. Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
  - I. a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
  - II. an assessment of the potential risks to:

- human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- III. an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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.

11. Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

REASON:

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

12. Prior to first occupation or use, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and 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.

13. 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.

#### Informatives

1. The developer should also note that the site drainage details submitted have not been approved for the purposes of adoption or diversion. If the developer wishes to have the sewers included in a sewer adoption/diversion agreement with Yorkshire Water (under Sections 104 and 185 of the Water Industry Act 1991), they should contact our Developer Services Team (tel 0345 120 84 82, email: [technical.sewerage@yorkshirewater.co.uk](mailto:technical.sewerage@yorkshirewater.co.uk) ) at the earliest opportunity. Sewers intended for adoption and diversion should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition, as supplemented by Yorkshire Water's requirements.
2. You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in Condition 6.
3. The proposals shall cater for all types of vehicles that will use the site. The parking standards are set out in the North Yorkshire County Council publication 'Transport Issues and Development – A Guide' available at [www.northyorks.gov.uk](http://www.northyorks.gov.uk)
4. The installation of a new foul drainage system will require building regulation approval in addition to appropriate consent to discharge issued by the Environment Agency. You may wish to consult the Environment Agency to ensure that the necessary consent will be granted.
5. Any works associated with development that will disturb, modify or result in permanent loss of bat roost/s will require a Natural England EPS development licence. The licence will be obtained from Natural England following their approval before any of the following associated works commence:
  - Bat exclusion
  - Roof stripping and subsequent re-roofing
  - Erection of scaffolding

- Pointing of brickwork
- New windows and doors
- Internal renovations

Following the issue of the Natural England EPS development licence, works shall be undertaken in strict accordance with the approved measures for the duration of development.

## **7 LEGAL ISSUES**

### **Planning Acts**

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

### **Human Rights Act 1998**

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

### **Equality Act 2010**

7.3 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.

## **8 FINANCIAL ISSUES**

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

## **9 BACKGROUND DOCUMENTS**

9.1 Planning Application file reference 2019/1310/FUL and associated documents.

**Contact Officer:** Chris Fairchild, Senior Planning Officer

**Appendices:** None