



Report Reference Number: 2017/0701/OUT (8/14/114A/PA)

Agenda Item No: 7.8

To: Planning Committee
Date: 10 January 2017
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Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2017/0701/OUT	PARISH:	Kelfield Parish Council
APPLICANT:	Mr R Atkinson	VALID DATE:	22 June 2017
		EXPIRY DATE:	17 August 2017
PROPOSAL:	Outline application for demolition of garage, farm buildings and glasshouse and erection of residential development (all matters reserved)		
LOCATION:	Yew Tree House Main Street Kelfield York North Yorkshire YO19 6RG		
RECOMMENDATION:	REFUSE		

This application has been brought before Planning Committee as it has been called in by Cllr Casling on the following grounds:

- The development would improve the visual appearance of Main Street at this point by filling in a large untidy gap and filling the street line with new and sympathetically designed properties.
- The proposal would provide economic, social and environmental benefits to the settlement in accordance with paragraph 7 of the NPPF.

In addition, 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 development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield,

which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside.

- 1.2 The application site comprises part of Yew Tree Farm, including the existing farm house (Yew Tree House), and the adjoining farm yard area, including four buildings: a glass and timber framed greenhouse; a single storey shed; an agricultural building; and a single storey garage.
- 1.3 To the north of the application site is agricultural land associated with Yew Tree Farm and within the same ownership as the application site. Beyond this is the Scheduled Ancient Monument of Kelfield moated site and fishpond. To the east and west of the application site is residential development to the north side of Main Street, while to the south of the application site is Main Street, with residential development to the south side of Main Street beyond.

The Proposal

- 1.4 The application seeks outline planning permission (with all matters reserved) for the erection of residential development following the demolition of the existing glasshouse, agricultural buildings and garage at the site. The existing farm house (Yew Tree House) would be retained as part of the proposals.
- 1.5 An indicative layout plan has been submitted with the application, which demonstrates how the site could be laid out to accommodate seven dwellings, in addition to the existing farm house which would be retained as part of the proposals. The indicative layout plan also demonstrates how the existing dwelling could be served from the existing access, while two further access points from Main Street could be created to serve the proposed dwellings.

Relevant Planning History

- 1.6 The following historical applications are considered to be relevant to the determination of this application.
 - An outline application (reference: 2016/0597/OUT) (with all matters reserved) for the erection of residential development following the demolition of an existing dwelling, garage, farm buildings and glasshouse was refused on 30th August 2016.

The application was refused for the following reasons:

1. The majority of the application site is located within the open countryside outside the development limits of Kelfield which is defined as a Secondary Village within the settlement hierarchy. The proposed development does not comprise any of the types of development that are acceptable in principle under Policy SP2A(c) of the Core Strategy and hence the overall Spatial Development Strategy for the District. The proposal is therefore contrary to Policy SP2A(c) and SP4 of the Core Strategy.
2. The proposed scheme is considered not to be located in a sustainable location due to the lack of facilities serving the village of Kelfield and there is an increased need for the use of a motor vehicle. The proposed scheme is

considered not to be sustainable in relation to the three dimensions to sustainable development of being of an economic, social and environmental nature. The proposed scheme therefore fails to accord with Policy SP1 and Paragraph 7 and of the NPPF.

3. The location, siting and scale of the proposal would spur out significantly into the open countryside, would not result in a natural rounding off of the settlement and does not follow the existing built form within the surrounding area. The proposal would appear as an intrusive and incongruous development, divorced from and out of character with the form and layout of this part of the village. Therefore the proposals would have a significantly harmful impact on the setting of the village and the character of the area contrary to Policies SP4 and SP19 of the Core Strategy and ENV1 of the Selby District Local Plan.
4. The proposed scheme is located 37metres north from a pond and a watered moat. There are a further three ponds within 100metres to the west of the application site. The proposed scheme fails to provide sufficient information to assess the impact of the proposal on great crested newts and any other protected species on the application site. The proposed scheme therefore fails to accord with Policy ENV1 (5) of the Local Plan, Policy SP18 of the Core Strategy and the framework within the NPPF.
5. The proposed scheme has failed to provide a mechanism to secure the contribution of onsite recreation open space and therefore fails to accord with Policy RT2 b) i) of the Selby District Local Plan.
6. The proposed scheme fails to provide sufficient information to assess the impact of the proposal on the Scheduled Monument of 'Kelfield moated site and fishpond'. The proposed scheme therefore fails to accords with Policies ENV1 and ENV28 of the Local Plan, Policies SP18 and SP19 of the Core Strategy and the NPPF.

This application is currently at appeal, with a hearing due to take place on 17 and 18 January 2018.

2. CONSULTATION AND PUBLICITY

(All immediate neighbours were informed by letter, a site notice was erected and statutory consultees notified)

- 2.1 **Parish Council** – No objections, but raise the following matters: 1) The two new accesses onto Main Street could have an adverse impact on road safety; 2) Separate access to plot three seems unnecessary; 3) Adequate off-street car parking should be provided within the site to accommodate all new properties.
- 2.2 **NYCC Highways** – No objections at the outline stage, subject to ten conditions relating to: detailed plans of road and footway layout; construction of roads and footways prior to the occupation of the dwellings; discharge of surface water; the construction requirements of private access/verge crossings; visibility splays; pedestrian visibility splays (individual dwellings); details of access, turning and parking; the provision of approved access, turning and parking areas; the conversion of garages into habitable accommodation; and on-site parking on-site storage and construction traffic during development.

- 2.3 **Ouse and Derwent Internal Drainage Board** – No objections at the outline stage, subject to four conditions relating to: drainage works to be agreed prior to the commencement of development; evidence of existing surface water discharge; surface water to adjacent watercourse; and testing for the effectiveness of soakaways.
- 2.4 **Yorkshire Water** – No objections at the outline stage, subject to two conditions relating to: no building or other obstruction being located over or within 3.5 metres of the centre line of the public sewer running through the site; and no piped discharge of surface water from the application site until works to provide a satisfactory outfall have been completed in accordance with submitted and approved details.
- 2.5 **Contaminated Land Consultant** – No objections, subject to conditions relating to: investigation of land contamination; submission of a remediation scheme; verification of remedial works; and reporting of unexpected contamination.
- 2.6 **Environmental Health** – No objections.
- 2.7 **Natural England** – No comment.
- 2.8 **North Yorkshire Bat Group** - No response within statutory consultation period.
- 2.9 **Historic England** – No comment.
- 2.10 **Conservation Officer** – No objections at this stage.

The retention of the existing farm house (Yew Tree House) is fully supported. The revised indicative layout is more reflective of the agricultural and rural character of Kelfield and would blend in easier with the existing townscape. It is advised that proposed new properties are constructed using materials to match those found in the local area and that the scale, form and proportions of the new properties reflect traditional buildings.

In terms of the impact of the proposals on the Scheduled Ancient Monument, the proposals would impact upon the setting of the designated heritage asset. However, if the development is well designed, respects the historic street pattern of Kelfield and contains dwellings which reflect the existing character of Kelfield, the impact could be mitigated.

- 2.11 **HER Officer** – No objections at this stage, subject to a condition requiring a scheme of archaeological mitigation recording to be undertaken in response to the ground disturbing works associated with the proposal.
- 2.12 **Development Policy** – Comments provided in respect of: the Council's five year housing land supply; the principle of the development; previous levels of growth and the scale of the proposal; and the relation of the proposal to the development limit boundary.
- 2.13 **Waste and Recycling Officer** – No comment.
- 2.14 **Public Rights of Way Officer** - No response within statutory consultation period.

- 2.15 **Neighbour Comments** – Twenty four letters of support, seven letters of objection and one neutral letter have been received as a result of the advertisement of the application. Objectors have raised concerns in respect of the principle of the development outside the defined development limits of a Secondary Village, the impact on heritage assets, the impact on residential amenity, the impact on highway safety and flood risk and drainage.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The development limit boundary runs through the application site such that the application site is located part within the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside.
- 3.2 The application site is located within the setting of the Scheduled Ancient Monument of Kelfield moated site and fishpond.
- 3.3 The application site comprises potentially contaminated land resulting from agriculture/nurseries.
- 3.4 The application site is located within Flood Zone 1, which has a low probability of flooding.

National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)

- 3.5 The NPPF introduces, in paragraph 14, a presumption in favour of sustainable development, stating "At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking". National Planning Practice Guidance (NPPG) adds further context to the National Planning Policy Framework ("NPPF") and it is intended that the two documents should be read together.
- 3.6 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. 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.

Selby District Core Strategy Local Plan

- 3.7 The relevant Core Strategy Policies are:

- SP1 – Presumption in Favour of Sustainable Development
- SP2 – Spatial Development Strategy
- SP4 – Management of Residential Development within Settlements
- SP5 – The Scale and Distribution of Housing
- SP9 – Affordable Housing
- SP15 – Sustainable Development and Climate Change
- SP16 – Improving Resource Efficiency
- SP18 – Protecting and Enhancing the Environment
- SP19 – Design Quality

Selby District Local Plan

3.8 As the Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, applications should be determined in accordance with the guidance in Paragraph 215 of the NPPF which states " In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans 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)".

3.9 The relevant Selby District Local Plan Policies are:

- ENV1 - Control of Development
- ENV2 - Environmental Pollution and Contaminated Land
- ENV27 – Scheduled Ancient Monuments and Important Archaeological Sites
- RT2 - Open Space Requirements for New Residential Development
- CS6 - Developer Contributions to Infrastructure and Community Facilities
- T1 - Development in Relation to the Highway Network
- T2 - Access to Roads

Other Policies and Guidance

3.10 Affordable Housing Supplementary Planning Document

3.11 Developer Contributions Supplementary Planning Document

4. APPRAISAL

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

- The Principle of the Development
- Impact on Heritage Assets
- Impact on Archaeology
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk and Drainage
- Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing
- Recreational Open Space
- Education and Healthcare, Waste and Recycling

The Principle of the Development

- 4.2 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.
- 4.3 Policy SP1 is therefore consistent with the guidance in Paragraph 14 of the NPPF.
- 4.4 The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside.
- 4.5 Policy SP2A (b) of the Core Strategy states that "Limited amounts of residential development may be absorbed inside Development Limits of Secondary Villages where it will enhance or maintain the vitality of rural communities and which conform to the provisions of Policy SP4 and Policy SP10". Policy SP4 (a) of the Core Strategy states that, in Secondary Villages, "conversions, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built up residential frontages, and conversion/ redevelopment of farmsteads" will be acceptable in principle. Policy SP4 (b) of the Core Strategy states that proposals for the conversion and/or redevelopment of farmsteads to residential use within development limits will be treated on their merits.
- 4.6 An indicative layout plan has been submitted with the application, which demonstrates how the site could accommodate up to seven dwellings, in addition to the existing farm house which would be retained as part of the proposals. On the indicative layout plan, only plots 2 and 3 would be located within the defined development limits of Kelfield. These two units on their own would constitute "filling of small linear gaps in otherwise built up residential frontages" as they would front Main Street and are located within a small gap between the existing farm house (Yew Tree House) to the east and a terrace of dwellings to the west. The part of the development located within the defined development limits of Kelfield would also amount to the "redevelopment of a farmstead". However, the remainder of the application site projects a substantial distance to the north beyond the frontage development within the open countryside. As such, the application site would not constitute "filling of small linear gaps in otherwise built up residential frontages" or the "redevelopment of a farmstead" wholly within the defined development limits. The proposal would therefore not meet Policies SP2A (b) and SP4 of the Core Strategy.
- 4.7 Moreover, Policy SP2A (c) of the Core Strategy states that "Development in the Countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances".

- 4.8 The proposal would not accord with Policy SP2A(c) as it is not for rural affordable housing need and there are no special circumstances. The application should therefore be refused unless material considerations indicate otherwise.
- 4.9 At the time of writing this report, the Council can confirm that they have a five year housing land supply. The fact of having a five year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.
- 4.10 The NPPF is a material consideration and this is predicated on the principle that sustainable development is about positive growth and states that the Planning System should contribute to the achievement of sustainable development, with particular emphasis on boosting significantly the supply of housing. Paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.

Sustainability of the Development

- 4.11 In respect of sustainability, the site is located part within and part outside the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, where there is scope for limited amounts of residential development to be absorbed inside development limits of Secondary Villages.
- 4.12 The village of Kelfield has not been considered as part of Background Paper 5, Sustainability Assessment of Rural Settlements, Revised July 2008. This is because Kelfield is not considered to be a sustainable settlement due to its lack of local services, such as a primary school, general store, post office and doctor's surgery, which would serve the day-to-day needs of its residents and its limited access to public transport. This means that residents would be heavily dependent on the use of a private car to satisfy their day-to-day needs.

Settlement Strategy, Previous Levels of Growth and the Scale of the Proposal

- 4.13 The location of the development proposal would undermine the spatial strategy for the district as set out in the Core Strategy, in particular the settlement hierarchy set out at policy SP2. The focus on Selby as a Principal Town and on Tadcaster and Sherburn-in-Elmet as Local Service Centres would not be supported by further development taking place outside of the development limits at a 'fourth tier' level (secondary villages) settlement in the hierarchy. The strategy and hierarchy aims to support and deliver economic, regeneration, social and environmental objectives for the district and was assessed as a sustainable option through the adoption of the Strategy.
- 4.14 Policy SP5 of the Core Strategy designates levels of growth to each of the 3 main towns, the group of Designated Service Villages and the group of Secondary Villages based on their infrastructure capacity and sustainability. This policy set a minimum target of 170 for Secondary Villages as a whole, this target was to be met from existing commitments only. Data taken from the 2017-2022 Five Year Housing Land Supply Report – 30th September 2017 update (which uses a base data of the 30th of September 2017) shows that this minimum target has already been

substantially exceeded, with 321 homes built or with permission since the start of the plan period in April 2011.

- 4.15 Secondary Villages have exceeded their minimum target by more than 3 times. Of concern to the delivery of the District's spatial strategy is that this has occurred only 6 years into the Core Strategy plan period, with 10 years of the plan period still remaining.
- 4.16 This disproportionate level of growth in the Secondary Villages, in the fourth tier for sustainability in the Councils settlement hierarchy, undermines the Council's spatial strategy, which directs the majority of development to the Principal Town of Selby, the Local Service Centres and the Designated Service Villages.
- 4.17 Notwithstanding this level of growth in the Secondary Villages as a whole, Policies SP2 and SP4 of the Core Strategy do allow for a limited amount of housing growth within the Secondary Villages. However, the scale of this development, at up to 7 dwellings, is clearly well in excess of this limited scale of development that can be sustainably supported by a Secondary Village and is expected by Policies SP2 and SP4 of the Core Strategy.

Impact on Heritage Assets

- 4.18 The application site is located within the historic village of Kelfield and within the setting of the Scheduled Ancient Monument of Kelfield moated site and fishpond to the north.
- 4.19 The application has been supported by a Design and Access Statement, which incorporates a Heritage Statement. The statement acknowledges that the proposal has the potential to affect heritage assets, namely the non-designated heritage asset of the existing farm house (Yew Tree House) and the designated heritage asset of the Scheduled Ancient Monument of Kelfield moated site and fishpond to the north. In terms of the impact of the proposals on the Scheduled Ancient Monument, the statement sets out that it is not visible in private views from the site or public views from the Main Street, due to intervening buildings, hedgerows and tree cover. The statement also sets out that the separation distance between the application site and the Scheduled Ancient Monument would be 35-40 metres. The statement concludes that having regard to the above factors, the proposal would have significantly less than substantial harm on the setting of the Scheduled Ancient Monument. In terms of the impact of the proposals on the existing farm house, the statement sets out that the applicants do not consider that building to be of historic interest. The statement sets out that the building is constructed of local brick similar to many of the traditional houses in Kelfield and the wider area and considers there are other better maintained examples of this style of dwelling elsewhere. The statement also sets out that the existing farm house has undergone various modernisations and therefore retains little of its original internal features. It is the applicant's opinion that refurbishing the dwelling to bring it to a good standard would not be viable, however, no further information has been provided in terms of viability. The statement concludes that despite the above factors, the existing farm house would be retained as part of the proposals at the request of the Local Planning Authority.
- 4.20 The application has been assessed by the Council's Conservation Officer. The comments of the Council's Conservation Officer are noted and agreed. In terms of

the assessment of significance, the Council's Conservation Officer sets out "Kelfield is considered to be an historic settlement, it is mentioned in the Domesday Survey of 1086 as Chelchefelt and its layout is considered to have existed since to this period with a main street with long plots to either side. To the north of the application site is Kelfield Moated site and fishpond which dates from the 13th Century. The application site contains the 19th Century farm house and 20th Century farm buildings to the rear. Through the application process, the property, Yew Tree House has been identified as a non-designated heritage asset. A non-designated heritage asset can be a building, monument, site, place, area or landscape identified as having a degree of significance. It is considered that this building has architectural value in terms of its aesthetic value, it has a positive external appearance which contributes to the street scene and adds to the character of Kelfield. With regards to the setting of the nearby designated heritage assets, the NPPF states that setting contributes to significance and setting does not depend on views only. The heritage statement within the design and access statement focusses purely on the views and the distance between the application site and the scheduled monument. There may be an historical relationship between the application site and the scheduled monument." In terms of impact assessment, the Council's Conservation Officer notes that the application seeks outline planning permission for residential development with all matters reserved. In terms of the potential impact of the proposals on the Scheduled Ancient Monument of Kelfield moated site and fishpond to the north, the Council's Conservation Officer notes that the proposed development would impact on the setting of the designated heritage asset. However, they conclude that if the development is well designed, respects the historic street pattern of Kelfield and contains dwelling which reflect the existing character of Kelfield, the impact could be mitigated. In terms of the existing farm house (Yew Tree House), the retention of this non-designated heritage asset is fully supported from a Conservation perspective. Furthermore, the Council's Conservation Officer notes that the revised indicative layout is more reflective of the agricultural and rural character of Kelfield and would blend in with the existing townscape. Going forward, the Council's Conservation Officer advises that any proposed new properties at the site should be constructed using materials to match those found in the local area and the scale, form and proportions of any new properties should reflect traditional buildings.

- 4.21 Having regard to the above, it is considered that an appropriate layout, appearance, scale and landscaping of the proposed dwellings could be achieved at the reserved matters stage, which would not result in any substantial harm to any designated or non-designated heritage assets in accordance with Policy ENV27 of the Selby District Local Plan, Policies SP18 and SP19 of the Core Strategy and the advice contained within the NPPF.

Impact on Archaeology

- 4.22 NYCC Heritage Services have been consulted on the proposals and have advised that the application site is located within the historic village of Kelfield. The settlement is mentioned in the Domesday Book of 1086 meaning that it existed prior to the Norman Conquest. Kelfield owes much of its current layout and character to Norman planning following the Conquest. The core of the village takes the traditional form of a Main Street with property plots on either side. These will have been in semi-continuous occupation for over 1000 years. These plots take the traditional form of long rear garths and terminate at a consistent rear boundary or back lane. The application site occupies the location of several medieval property

plots. NYCC Heritage Services conclude that it is unlikely for the proposals to have a significant impact on archaeological deposits, although there is some potential for damage to medieval features, particularly in less disturbed areas of the site. Therefore NYCC Heritage Services raise no objections to the proposals in terms of their impact on archaeology, subject to a condition requiring a scheme of archaeological mitigation recording is undertaken in response to the ground disturbing works associated with the proposal.

Design and Impact on the Character and Appearance of the Area

- 4.23 The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside.
- 4.24 The application site comprises part of Yew Tree Farm, including the existing farm house (Yew Tree House), and the adjoining farm yard area, including four buildings: a glass and timber framed greenhouse; a single storey shed; an agricultural building; and a single storey garage.
- 4.25 To the north of the application site is agricultural land associated with Yew Tree Farm and within the same ownership as the application site. Beyond this is the Scheduled Ancient Monument of Kelfield moated site and fishpond. To the east and west of the application site is residential development to the north side of Main Street, while to the south of the application site is Main Street, with residential development to the south side of Main Street beyond. Residential properties within the immediate vicinity of the application site comprise a mixture of two storey terraced, semi-detached and detached dwellings. Furthermore, materials used on residential properties within the vicinity of the application site vary, but predominantly consist of a mixture of red brick and rendered properties with pantile roof tiles of varying colours.
- 4.26 The application seeks outline planning permission for residential development with all matters reserved. Notwithstanding this, an indicative layout plan has been submitted with the application, which demonstrates how the site could accommodate up to seven dwellings, in addition to the existing farm house which would be retained as part of the proposals. The indicative layout shows infill development to the front of the site, a range of linked dwellings resembling converted farm buildings to the rear of the site, with a detached farmhouse on the footprint of the existing glasshouse to the rear of the site.
- 4.27 Having had regard to the indicative layout plan and the surrounding context it is considered that an appropriate appearance, scale and landscaping of the proposed dwellings could be achieved at reserved matters stage to ensure that the proposed development would not have a significant adverse impact on the character and appearance of the area.
- 4.28 Notwithstanding the above in terms of the appearance, scale and landscaping of the proposed dwellings, in terms of the layout of the proposed dwellings, the proposal would inevitably result in backland development, which would not follow the existing linear pattern of built form to the north side of Main Street and would project significantly from the dwellings fronting the north side of Main Street. Furthermore,

the layout of the proposed dwellings would encroach out into the open countryside, would not result in a natural rounding off of the settlement and would not have an appropriate relationship to the existing development to the North side of Main Street. It is therefore considered that an appropriate layout of the proposed dwellings could not be achieved at the reserved matters stage without having a significant adverse impact on the character and appearance of the area.

- 4.29 Having regard to the above, while it is considered that an appropriate appearance, scale and landscaping of the proposed dwellings could be achieved at the reserved matters stage, which would not result in any significant adverse impact on the character and appearance of the area, it is not considered that an appropriate layout of the proposed dwelling could be achieved at the reserved matters stage, without having a significant adverse impact on the character and appearance of the area. The proposal would therefore be contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF.

Impact on Residential Amenity

- 4.30 An indicative layout plan has been submitted with the application, which demonstrates how the site could accommodate up to seven dwellings, in addition to the existing farm house which would be retained as part of the proposals. The layout, scale, appearance and landscaping of the dwellings is reserved for subsequent approval at the reserved matters stage, however, having regard to the indicative layout plan it is considered that an appropriate scheme could be achieved at the reserved matters stage to ensure that no significant adverse effects of overlooking, overshadowing or oppression between the proposed dwellings and for the existing dwellings surrounding the application site.
- 4.31 Furthermore, the Environmental Health Officer raises no objections to the proposal in terms of noise and disturbance.
- 4.32 Having regard to the above, it is considered that an appropriate scheme could be achieved at the reserved matters stage, which would not result in any significant detrimental impacts on the residential amenities of the occupiers of the existing or proposed dwellings in accordance with Policy ENV1(1) of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Highway Safety

- 4.33 The application seeks outline planning permission for residential development with all matters reserved. An indicative layout plan has been submitted with the application, which demonstrates that the existing dwelling could be served from the existing access, while two further access points from Main Street could be created to serve the proposed dwellings.
- 4.34 The comments of the Parish Council and neighbouring properties have been noted regarding the impact of the proposal on highway safety. However, NYCC Highways have been consulted on the proposals and have advised that they have no objections to the proposals at the outline stage, subject to ten conditions relating to: detailed plans of road and footway layout; construction of roads and footways prior to the occupation of the dwellings; discharge of surface water; the construction requirements of private access/verge crossings; visibility splays; pedestrian visibility

splays (individual dwellings); details of access, turning and parking; the provision of approved access, turning and parking areas; the conversion of garages into habitable accommodation; and on-site parking on-site storage and construction traffic during development.

- 4.35 Subject to the aforementioned conditions, it is considered that an appropriate scheme could be achieved at the reserved matters stage which would be acceptable in terms of highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and the advice contained within the NPPF.

Flood Risk and Drainage

- 4.36 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 4.37 In terms of drainage, the submitted application form sets out that surface water would be disposed of via an existing watercourse, but does not set out how foul drainage would be disposed of. The Ouse and Derwent Internal Drainage Board and Yorkshire Water have been consulted on the proposals.
- 4.38 The Ouse and Derwent Drainage Board note that the applicants intend for surface water be disposed of via an existing watercourse, but note that no further details have been provided regarding the nature and location of the relevant watercourse. The Board advise that their preference would be to see the use of sustainable methods of surface water disposal, wherever possible, retaining the water on site. The Board notes that historically some elements of the site have been drained to a soakaway and would therefore recommend that this option be investigated for the proposed development. Should infiltration prove to be unsatisfactory for the proposed development and the applicant propose to use a discharge to a watercourse (directly or indirectly) as the method of surface water disposal, the applicant would need to demonstrate that the site already drains to that facility. Further, where discharge to a watercourse is to be used, the Board would seek that run-off from the site be constrained and that the discharge from the development is attenuated to 70% of the pre-development rate (based on 140 l/s/ha for proven connected, impermeable areas and 1.4 l/s/ha for Greenfield areas). With storage calculations to accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm event. All calculations should include a 20% allowance for climate change. Having regard to the above, the Board have no objections to the proposal at the outline stage subject to four conditions relating to: drainage works to be agreed prior to the commencement of development; evidence of existing surface water discharge; surface water to adjacent watercourse; and testing for the effectiveness of soakaways.
- 4.39 Yorkshire Water note that a 400mm surface water sewer runs through the site, but raise no objections at the outline stage, subject to two conditions relating to: no building or other obstruction being located over or within 3.5 metres of the centre line of the public sewer running through the site; and no piped discharge of surface water from the application site until works to provide a satisfactory outfall have been completed in accordance with submitted and approved details.

Nature Conservation and Protected Species

- 4.40 An Extended Phase 1 Habitat Survey undertaken by Wold Ecology Ltd, dated January 2017, has been submitted with the application. The survey concludes that a great crested newt population is present within 500m of the application site; 500m being the range that great crested newts may travel to a terrestrial habitat and /or other aquatic breeding site. The survey sets out that the terrestrial habitat within the application site is excellent for great crested newts as it provides daytime refugia, foraging area, hibernation areas and dispersal route ways. As such, the survey sets out that in order to comply with the requirements of the latest Natural England guidance, a presence or absence survey of all accessible watercourses within 500m of the application site must be undertaken. The survey should comprise four survey site visits during the period mid-March to mid-June, with at least two site visits during the period between mid-April to mid-May. As the extended phase 1 survey was undertaken outside this specific time period, a great crested newt presence/absence survey has not been completed.
- 4.41 The applicants have been advised that a presence or absence survey of all accessible watercourses within 500m of the application site must be undertaken at the outline application stage. However, the applicants have not submitted such a survey and consider such a survey could be conditioned and undertaken at a later stage.
- 4.42 In this respect, it is noted that the species protection provisions of the Habitats Regulations contain three "derogation tests" which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which could harm a European Protected Species. For development activities this licence is normally obtained after planning permission has been obtained. The three tests are that:
- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
 - there must be no satisfactory alternative; and
 - favourable conservation status of the species must be maintained.
- 4.43 *Woolley v Cheshire East Borough* makes it clear that, notwithstanding the licensing regime, a Local Planning Authority must also address these three tests when deciding whether to grant planning permission for a development which could harm a European Protected Species. A Local Planning Authority, failing to do so, would be in breach of Regulation 3(4) of the 1994 Regulations, which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions. Natural England consider it essential that appropriate survey information supports a planning application prior to determination and do not regard the conditioning of ecological surveys to a planning consent as an appropriate use of planning conditions.
- 4.44 Having regard to the above, in the absence of a presence or absence survey of all accessible watercourses within 500m of the application site, there is insufficient information for the Local Planning Authority to assess the impact of the proposed development on European Protected Species (specifically great crested newts). The proposal is therefore contrary to Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, the advice contained within the NPPF and The Conservation of Habitats and Species Regulations 2010.

Land Contamination

- 4.45 The application is supported by a Contamination Statement prepared by MM Planning. This has been assessed by the Council's Contaminated Land Consultant who raises no objections to the proposals at this stage, subject to five conditions relating to the investigation of land contamination, the submission of a remediation scheme, verification of remedial works and reporting of unexpected contamination. This is to ensure that as a minimum, a Phase 1 Desk Study is completed prior to the re-development of the site, since it has been used for agriculture and horticulture for a significant period of time, with the possibility of pesticides and other potentially contaminating substances being present on the site. Agricultural buildings have also been identified on site, which have the potential to have stored machinery, equipment and chemicals which have the potential to introduce contamination to the site.
- 4.46 Subject to the aforementioned conditions, 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 the advice contained within the NPPF.

Affordable Housing

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

Recreational Open Space

- 4.48 In respect of contributions towards recreational open space, these policies should be afforded limited weight due to their conflict with the CIL. It is considered that no direct contribution is required due to the adoption of the CIL.

Waste and Recycling

- 4.49 For developments of 4 or more dwellings developers must provide waste and recycling provision at their own cost and as such should the application be approved a condition could be imposed to secure a scheme for the provision of waste and recycling.

Legal Issues

4.51 Planning Acts

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

4.52 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.

4.53 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.

Financial Issues

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

5. CONCLUSION

5.1 The application seeks outline planning permission (with all matters reserved) for the erection of residential development following the demolition of the existing glasshouse, agricultural buildings and garage at the site. The existing farm house (Yew Tree House) would be retained as part of the proposals.

5.2 The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside. The proposal would not constitute any of the types of development that area acceptable in principle under Policies SP2 or SP4 of the Core Strategy. The proposal is therefore contrary to Policies SP2 and SP4 of the Core Strategy and hence the overall Spatial Development Strategy for the District.

5.3 In terms of the layout of the proposed dwellings, the proposal would inevitably result in backland development, which would not follow the existing linear pattern of built form to the north side of Main Street and would project significantly from the dwellings fronting the north side of Main Street. Furthermore, the layout of the proposed dwellings would encroach out into the open countryside, would not result in a natural rounding off of the settlement and would not have an appropriate relationship to the existing development to the North side of Main Street. It is therefore considered that an appropriate layout of the proposed dwellings could not be achieved at the reserved matters stage without having a significant adverse impact on the character and appearance of the area. The proposal would therefore be contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF.

5.4 In the absence of a presence or absence survey of all accessible watercourses within 500m of the application site, there is insufficient information for the Local Planning Authority to assess the impact of the proposed development on European Protected Species (specifically great crested newts). The proposal is therefore contrary to Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, the advice contained within the NPPF and the advice contained within the NPPF and The Conservation of Habitats and Species Regulations 2010.

6. RECOMMENDATION

This application is recommended to be REFUSED for the following reasons:

01. The development limit boundary runs through the application site, such that the application site is located part within the defined development limits of Kelfield, which is a Secondary Village as identified within the Core Strategy, and is part located outside the defined development limits of Kelfield and is therefore located within the open countryside. The proposal would not constitute any of the types of development that are acceptable in principle and is therefore contrary to Policies SP2 and SP4 of the Core Strategy and hence the overall Spatial Development Strategy for the District.
02. The proposal would inevitably result in backland development, which would not follow the existing linear pattern of built form to the north side of Main Street and would project significantly from the dwellings fronting the north side of Main Street. Furthermore, the layout of the proposed dwellings would encroach out into the open countryside, would not result in a natural rounding off of the settlement and would not have an appropriate relationship to the existing development to the North side of Main Street. It is therefore considered that an appropriate layout of the proposed dwellings could not be achieved at the reserved matters stage without having a significant adverse impact on the character and appearance of the area. The proposal is therefore be contrary to Policy ENV1 (1) and (4) of the Selby District Local Plan, Policy SP19 of Core Strategy and the advice contained within the NPPF.
03. In the absence of a presence or absence survey of all accessible watercourses within 500m of the application site, there is insufficient information for the Local Planning Authority to assess the impact of the proposed development on European Protected Species (specifically great crested newts). The proposal is therefore contrary to Policy ENV1 (5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, the advice contained within the NPPF and the advice contained within the NPPF and The Conservation of Habitats and Species Regulations 2010.

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Appendices:

None.