



**Report Reference Number:** 2020/0191/FUL

**To:** CEO Urgent Decision Session - Planning  
**Date:** 17 June 2020  
**Author:** Gary Bell (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0191/FUL	PARISH:	Thorganby Parish Council
APPLICANT:	Mr Chris Garland	VALID DATE:	28th February 2020
		EXPIRY DATE:	30th June 2020
PROPOSAL:	Construction of 1 No. dwelling on land to the rear of Jubilee Cottage		
LOCATION:	Jubilee Cottage 13 Main Street Thorganby York North Yorkshire YO19 6DB		
RECOMMENDATION:	REFUSE		

This application has been brought before the CEO Urgent Decision Session - Planning at the discretion of the Head of Planning.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site is located within the development limits of Thorganby, which is identified as a Secondary Village in the Core Strategy and lies within the Thorganby Conservation Area.
- 1.2 The application site comprises part of the garden to Jubilee Cottage. The existing dwelling, together with its immediate attached neighbour, is set back approximately 44 metres from Main Street.

## **The Proposal**

- 1.3 Permission is sought for the erection of a two-storey dwelling. The proposed dwelling will be set approximately 60 metres to the rear of Main Street. Whilst located to the rear, the proposed dwelling will not be directly behind Jubilee Cottage and therefore, from the street, the front of the proposed dwelling will be visible to the side of Jubilee Cottage. The dwelling is traditional in design, featuring a gabled projection to the front, and would be constructed from brick with a natural clay pantile roof, both described on the application form as “to match existing”.
- 1.4 Access to the dwelling will be via the existing driveway to Jubilee Cottage. Visibility splays of 30.5 metres to the north and 43 metres to the south are shown on the submitted plans albeit crossing land outside the control of the applicant. As a result, the applicant has submitted a revised ownership certificate (Certificate B) and served notice on the owner of the neighbouring property.
- 1.5 The proposed development is identical to that refused by Planning Committee in November 2019 (2018/1139/FUL) with the exception of the siting of the dwelling within the application site which has been moved back towards the rear boundary by 1 metre.

## **Relevant Planning History**

- 1.6 The following historical applications are considered to be relevant to the determination of this application;

2018/1139/FUL: Proposed construction of 1 No. dwelling on land to the rear of Jubilee Cottage, 13 Main Street, Thorganby, York, North Yorkshire, YO19 6DB: REF, 08-NOV-19 for the following reasons;

- 01 The site lies within the development limits of a secondary village which is a less sustainable location. The proposed development would result in backland development to the rear of other properties, and would not constitute the ‘filling of a small linear gap in an otherwise built up frontage’, or any of the other categories of development identified as acceptable in Secondary Villages in Policy SP4(a). The development is therefore contrary to Policy SP4 (a) and consequently Policy SP2A(b), of the Core Strategy.
- 02 The development is out of keeping with the character of the village by increasing the depth of built form. Furthermore, having regard to the Duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 it is not considered that the development will preserve or enhance the character or appearance of Thorganby Conservation Area. This is by virtue of the relationship of the dwelling with surrounding properties that is out of keeping with the urban grain of the area. It is not considered that the public benefits associated with the erection of the dwelling would outweigh the harm identified. As such the development is contrary to Policies SP19 of the Core Strategy, and Policy ENV25 of the Selby District Local Plan and section 16 of the NPPF.
- 03 The poor juxtaposition between the proposed dwelling and Jubilee Cottage would result in harm to the amenities of future and existing occupiers. As such the development is contrary to Policy ENV1 of the Selby District Local Plan and Section 12 of the NPPF.

The above application is now the subject of an appeal (APP/N2739/W/20/3250729).

2015/0816/OUT: Outline planning application for construction of 1no. new dwelling on land to the rear of Jubilee Cottage,13 Main Street, Thorganby, York, North Yorkshire, YO19 6DB: PER, 13-NOV-15

2007/1353/FUL: Amendment to approved application 8/12/114/PA (2007/1353/FUL) for the erection of a two-storey extension to the side and rear (roof height to be increased from that approved): Jubilee Cottage,13 Main Street, Thorganby, York, North Yorkshire, YO19 6DB: PER, 27-DEC-07

2007/0671/FUL: Erection of a two-storey extension to the side and rear and a double garage with office/ancillary accommodation: Jubilee Cottage,13 Main Street, Thorganby, York, North Yorkshire, YO19 6DB: PER, 16-AUG-07

## **2. CONSULTATION AND PUBLICITY**

### **2.1 Conservation Officer - No comments received at the time of writing the report.**

**NYCC Highways** - There are no local Highway Authority objections to the proposed development. It is noted that there has been a number of applications at this site and a reduction in the northern visibility splay was previously deemed acceptable. In response to initial concerns, the applicant has shown on site turning for vehicles associated with both the existing and proposed dwellings. It is recommended that conditions are applied in respect of the provision of visibility splays and vehicle access, parking, manoeuvring and turning areas together with an Informative regarding mud on the highway.

**Yorkshire Water Services Ltd** - No objections to the proposed development however, the site shall be developed with separate systems of drainage for foul and surface water on and off site. Conditions are recommended requiring details of proposals for the discharge of both foul and surface water.

**Ouse & Derwent Internal Drainage Board** - This application sits within the Drainage Board's district. The Board has assets in the wider area in the form of Habb Lane Drain. This watercourse is known to be subject to high flows during storm events. Firstly, the Board would remind the applicant that under the Land Drainage Act 1991 and the Boards' byelaws, the Board's prior written consent (outside of the planning process) is needed for; any connection into a Board maintained watercourse, or any ordinary watercourse in the Board's district; any discharge, or change in the rate of discharge, into a Board maintained watercourse, or any ordinary watercourse in the Board's district; works within or over a Board maintained watercourse, or any ordinary watercourse in the Board's district. With regard to Surface Water, the Board has reviewed the Drainage Statement and recommends that soakaways are first considered in accordance with the Planning Practice Guidance hierarchy for the management of surface water and sets out a number of relevant criteria. If this approach proves unsatisfactory and the applicant proceeds by way of connecting into the mains sewer, the Board asks that the applicant notes that this then discharges into the Board's maintained watercourse, Habb Lane Drain. The Board then advises on discharge rates and flow control that would be considered appropriate and seeks further information with regard to the proposed surface water storage system and evidence of storage calculations. With

regard to Foul Sewage, the Board notes that the applicant is proposing to connect into the mains sewer or use a package treatment plant or septic tank and provides comment on each of these options. Accordingly, the Board recommends a condition requiring details of a scheme for the provision of surface water drainage works to be approved and implemented before the development is brought into use.

**Contaminated Land Consultant** - The submitted Screening Assessment Form shows that the site is part of a domestic garden for the nearby residential dwelling. No past industrial activities, fuel storage or waste disposal activities have been identified onsite or nearby. The Form does not identify any significant potential contaminant sources, so no further investigation or remediation work is required. However, a condition is recommended in case unexpected contamination is detected during the development works.

**Parish Council** - Strongly object to the above planning application for the following reasons:

- 1) The previous application 2018/1139/FUL was refused by SDC for the following reasons and these still stand therefore the application should be refused:

*The site lies within the development limits of a secondary village which is a less sustainable location. The proposed development would result in backland development to the rear of other properties, and would not constitute the 'filling of a small linear gap in an otherwise built up frontage', or any of the other categories of development identified as acceptable in Secondary Villages in Policy SP4(a). The development is therefore contrary to Policy SP4 (a) and consequently Policy SP2A(b), of the Core Strategy.*

*The development is out of keeping with the character of the village by increasing the depth of built form. Furthermore, having regard to the Duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 it is not considered that the development will preserve or enhance the character or appearance of Thorganby Conservation Area. This is by virtue of the relationship of the dwelling with surrounding properties that is out of keeping with the urban grain of the area. It is not considered that the public benefits associated with the erection of the dwelling would outweigh the harm identified. As such the development is contrary to Policies SP19 of the Core Strategy, and Policy ENV25 of the Selby District Local Plan and section 16 of the NPPF.*

- 2) Foul sewage is to be connected to the main sewer which Yorkshire Water openly admit is already over capacity.
- 3) This site was not identified by SDC as an area of possible development within the village, nor is it an area denoted on the Brownfield Sites Register.
- 4) The site is not sympathetic to the local character and the surrounding developed environment (para 127(c) - NPPF)
- 5) Any decision should take into account the desirability of maintaining an area's prevailing character and setting (including residential gardens - para 122(d) – NPPF)
- 6) A recent planning application 2020/0197/FUL has been refused by SDC as it would lead to substantial harm to the significance of a designated heritage asset,

namely the Thorganby Conservation Area and the above application would also fall into this category.

- 2.2 **Neighbour representations** - The application was publicised by site and press notices and direct notification of nearby residents resulting in one letter of representation being received from a neighbouring property stating that the occupier has no objection to the proposal.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The application site is located within the development limits for Thorganby and is within Thorganby Conservation Area. It lies within Flood Zone 1, which has a low probability of flooding. The site does not contain any protected trees and there are no statutory or local landscape designations. Whilst it does not lie in an area protected for nature conservation it is within the vicinity of the Lower Derwent Valley Special Protection Area, Special Area of Conservation, and Derwent Ings SSSI which lie across the road to the south east.

### **4 POLICY CONSIDERATIONS**

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

*"213...existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should*

*be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."*

### **Selby District Core Strategy Local Plan (CS)**

4.6 The relevant CS Policies are:

SP1 - Presumption in Favour of Sustainable Development  
SP2 - Spatial Development Strategy  
SP4 - Management of Residential Development in Settlements  
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 (SDLP)**

4.7 The relevant SDLP Policies are:

ENV1 - Control of Development  
ENV2 - Environmental Pollution and Contaminated Land  
ENV25 - Development in Conservation Areas  
T1 - Development in Relation to the Highway Network  
T2 - Access to Roads

## **5 APPRAISAL**

5.1 The main issues to be considered when assessing this application are:

- The Principle of the Development
- Impact on Heritage Assets
- Design and Impact on the Appearance of the Area
- Impact on Residential Amenity
- Flood Risk and Drainage
- Impact on Highway Safety
- Nature Conservation and Protected Species
- Affordable Housing

### **The Principle of the Development**

5.2 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. Paragraph 12 of the NPPF re-emphasises that the Development Plan is the statutory starting point for decision making, adding that where a planning application conflicts with an up-to-date Development Plan permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

- 5.3 The application site lies within the development limits of Thorganby which is identified as Secondary Village within the Core Strategy. Secondary Villages are described as “less sustainable or else have no opportunities for continued growth owing to a combination of flood risk and environmental constraints”. Planned growth is not considered to be appropriate although “some housing” may be permitted in defined circumstances. CS Policy SP2A(b) 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 conforms to the provisions of Policy SP4 and Policy SP10.
- 5.4 Reference to Policy SP10 relates to Rural Housing Exception sites, and from the commentary that accompanies Policy SP2, it is not intended that all housing that complies within the criteria in Policy SP4 should be limited to ‘rural affordable housing’. Policy SP4 a) states that the following type of development will be acceptable:
- “In Secondary Villages - conversions, replacement dwellings, redevelopment of previously developed land, filling of small linear gaps in otherwise built up residential frontages, and conversions/redevelopment of farmsteads.”
- 5.5 The commentary to Policy SP4 states that it provides “greater clarity about the way proposals for development on non-allocated sites will be managed, by identifying the types of residential development that will be acceptable in different settlement types”. The proposed development is clearly not a conversion or a replacement dwelling and, as the site is part of the garden to Jubilee Cottage, the land is not classed as previously developed. The application site is to the side of Jubilee Cottage, with the proposed dwelling set back behind the rear elevation of the existing house, some considerable distance from Main Street. This would result in a dwelling to the rear of existing properties and would not constitute “the filling of a small linear gap in an otherwise built up residential frontage”. The relevant frontage, in this instance, is considered as being defined by the houses to the north-east and south-west of the access to Jubilee Cottage which face Main Street and are set back between 9 and 14 metres from the road. Finally, the proposal does not involve development of a farmstead. Therefore it follows that the development does not fall within any of the categories of development identified as acceptable in Secondary Villages in Policy SP4 a) and is therefore contrary to both Policy SP4 a) and Policy SP2A (b) of the Core Strategy.

### **Impact on Heritage Assets**

- 5.6 The site lies within Thorganby Conservation Area. Paragraph 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 includes a general duty that “special attention shall be paid to the desirability of preserving or enhancing the character and appearance of the Conservation Area”. Relevant policies in respect to the impact of development in conservation areas include SDLP Policy ENV25, CS Policies SP18 and SP19 and chapter 16 of the NPPF.
- 5.7 The character of the village is mainly derived from its predominantly linear layout and the brick materials used in its buildings. Whilst in places there is no strong building line, with some housing set close to the back of the highway and others with a generous front garden, the linear nature of the village and the grouping of buildings as one passes through the village has been described as ‘three beads on a string’. The NPPF, at paragraph 189, requires that applicants describe the significance of any heritage asset affected. A short Heritage Statement submitted

with the application concludes that the development will not impact on any listed buildings or areas of archaeological sensitivity and that the proposal has taken account of the character of Thorganby Conservation Area.

- 5.8 Notwithstanding the assertion made in the submitted Heritage Statement, the location of Jubilee Cottage and the attached neighbouring dwelling, being set back from Main Street, is at odds with the strong linear character of the village. It is considered that the proposal, by virtue of its location, would have a harmful impact on the character and form of the village by introducing a further property set well away from Main Street. This harm amounts to less than substantial harm to the heritage asset.
- 5.9 Having regard to the duty under the Planning (Listed Buildings and Conservation Areas) Act 1990 and the requirements of relevant development plan policies it is considered that the development will not preserve the character and appearance of the Conservation Area and will result in less than substantial harm to the significance of the heritage asset. In such circumstances, paragraph 196 of the NPPF states that harm should “be weighed against the public benefits of the proposal”. It is not considered that any public benefit arising from the provision of a single dwelling is sufficient to outweigh the harm arising. It is considered therefore that the proposal is contrary to the requirements of CS policies SP18 and SP19, SDLP Policy ENV25 and chapter 16 of the NPPF.

### **Design and Impact on the Appearance of the Area**

- 5.10 During consideration of the previous application (2018/1139/FUL), officers raised concern that the design of the dwelling was inappropriate and out of keeping with this part of the conservation area. This original design included an overly large front extension together with a hipped roof. Following discussions with officers, revised plans were received that reduced the length of the front extension, revised the design to a gable to accord with the immediate neighbouring dwellings, and showed a traditional wet verge, reclaimed bricks and traditional window proportions. The plans submitted with the current application have repeated the revised design which is considered to result in a dwelling that relates well in terms of scale, proportion and detailing to the surrounding properties found in the area.
- 5.11 It is therefore concluded that the dwelling will result in a good design that respects the character of the area and as such the proposal accords with SDLP Policy ENV1(1) and (4), CS Policy SP19 and chapter 12 of the NPPF in relation to achieving well designed places.

### **Impact on Residential Amenity**

- 5.12 The proposed dwelling, being located in part of the existing garden of Jubilee Cottage and set back behind its rear elevation, will inevitably impact on the existing amenities of the occupiers of Jubilee Cottage. Both properties would be provided with adequate rear gardens in terms of area. However, the rear and side elevations of Jubilee Cottage contain numerous windows at both ground and first floor levels serving primary living rooms and bedrooms. The front elevation of the proposed house has 2 windows at first floor level serving a landing and a bedroom and the side elevation facing over the garden of Jubilee Cottage contains a further window to the bedroom together with a ground floor window to a store. Consequently, whilst some of the views afforded will be at more oblique angles, overlooking of the rear garden of Jubilee Cottage and the intervisibility between windows will result in harm



to the amenity of current and future occupants by reason of overlooking and loss of privacy.

- 5.13 It is considered that overshadowing of Jubilee Cottage will be limited due to the location of the proposed dwelling which is to the north-west of the existing house. However, by virtue of the same location in close proximity to the common boundary, the side elevation of the proposed dwelling will appear overbearing from the garden of Jubilee Cottage and the proposed dwelling will appear visually prominent resulting in harm to the outlook from Jubilee Cottage.
- 5.14 There will be vehicular movements associated with the proposed dwelling in close proximity to Jubilee Cottage, but given the scale of the development it is not considered that this will have a significant adverse impact. Turning of vehicles for both properties will require a degree of mutual cooperation between the occupiers of the two dwellings given the somewhat constrained area available at the head of the access drive.
- 5.15 In relation to the likely impact of the proposed dwelling on other neighbouring properties, the relationship and orientation in relation to 14 Main Street is such that any impact will be negligible. Furthermore, there is a separation distance of approximately 40 metres between the front of the proposed dwelling and the rear of the nearest neighbour to the south east, The Old Vicarage, and as such there will be little impact on their existing amenities. Whilst vehicle movements on the access track which runs immediately to the side of The Old Vicarage will increase, the additional impact of such movements is not considered to be so significant as to warrant a reason for refusal given the track already serves Jubilee Cottage.
- 5.16 It is therefore considered that, given the location of the proposed dwelling and the resulting juxtaposition with Jubilee Cottage, the proposed development will have an adverse impact on the residential amenity of the applicant's existing dwelling. As such, the application is contrary to the requirements of SDLP Policy ENV1 (1) and chapter 12 of the NPPF.

### **Flood Risk and Drainage**

- 5.17 The submitted plan shows that foul water will discharge to a sewage treatment tank or septic tank, with surface water to an attenuation tank or a soakaway. Yorkshire Water have advised that they consider the drainage proposals to be generally acceptable albeit they clarify that the public sewer network serving Thorganby is vacuum driven and capacity is limited. Conditions are recommended requiring details of separate drainage systems to be agreed prior to any development should permission be granted. The Internal Drainage Board has provided comments regarding various ways in which surface water could be discharged, preferring soakaway, and recommends a condition requiring details to be agreed prior to any development.
- 5.18 In terms of flood risk, the site lies within Flood Zone 1 which has a low probability of flooding and no concerns arise as a result of the development proposed. Therefore having had regard to Policy SP15 (B) it is considered that, subject to appropriately worded planning conditions, the proposal is acceptable.

## **Impact on Highway Safety**

- 5.19 The proposed development will utilise the existing access to Jubilee Cottage. The access is considered to be wide enough to accommodate vehicular movements associated with both properties. The submitted plans originally indicated the provision of two parking spaces to the front of the proposed dwelling. During consideration of the application, the Highway Officer requested details of vehicle turning for both the proposed and the existing dwellings. Accordingly, the applicant submitted a revised plan to which the Highway Officer raised no objection. Whilst the available visibility splays would pass over land that is not in the applicant's control, appropriate notice has been served on the relevant landowner. The northern visibility splay is less than normally required but has previously been accepted by the Highway Authority and there is no Highway Authority objection subject to conditions. Should permission be granted however, it would be necessary to protect the splay through a legal agreement.
- 5.20 Subject to appropriately worded conditions and the completion of a legal agreement, it is considered that the proposal would not result in a detrimental impact on highway safety in accordance with SDLP policies ENV1 (2), T1 and T2, CS Policy SP19 and the advice contained within the NPPF.

## **Nature Conservation and Protected Species**

- 5.21 The site does not lie within a protected area for ecology. Nevertheless, it is within proximity of a number of European designated sites which are afforded protection under the Conservation of Habitats and Species Regulations 2017. This includes the Lower Derwent Valley Special Protection Area, the Lower Derwent Valley SAC and Skipwith Common Special Area of Conservation. The Lower Derwent Valley SAC and SPA are also listed as the Lower Derwent Valley Ramsar site and is notified at a national level as Derwent Ings and the River Derwent Sites of Special Scientific Interest. Under Article 6(3) of the Habitats Directive (92/43/EEC), an appropriate assessment is required where a proposed development is likely to have a significant effect upon a European site. Regulations 61 and 62 of the Habitat Regulations relate to the assessment of proposals in proximity of European designated sites. The stages of the Habitat Regulations Assessment are sequential and it is only necessary to proceed to the next stage if likely significant effects cannot be ruled out. The application has previously been screened on this basis, taking account of the location of this site and the nature and scale of the proposed development in relation to the Lower Derwent Valley Special Protection Area, Special Area of Conservation, Ramsar site and component Sites of Special Scientific Interest. Taking account both of direct impact and indirect effects (e.g. noise, lighting, dust) it is not considered that there will be any significant adverse effects on the features for which the Lower Derwent Valley is designated. As no likely significant effect is expected, no further assessment is required. Foul water discharge should be of a sufficient standard so as not to impair surface water quality in any receiving watercourse.
- 5.22 Mature hedgerow trees exist on the north-eastern boundary of the plot. In considering the previous, very similar application, the County Ecologist considered that the trees could be used by bats and Barn Owls and any significant cut back should not occur until appropriate surveys had been undertaken. However, the applicant advised that any work would take place outside the bird nesting season and tree protection would be carried out. On that basis it was considered that suitably worded planning conditions and an informative would adequately protect

ecology interests. The applicant has again confirmed that the trees are to be retained and only lightly trimmed. It is still considered that appropriate conditions (including for the provision of Owl/bat boxes as a means of providing for biodiversity enhancement) and informatives could be attached to any grant of planning permission such that the proposal could be considered to be in accordance with CS Policy SP18 3(b) and (c), and paragraphs 170 and 175 of the NPPF.

### **Affordable Housing**

- 5.23 CS Policy SP9 and the accompanying Affordable Housing 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. However, the subsequent publication of the NPPF 2018 and 2019 is a material consideration. The NPPF states in 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)”. In the light of this it is not considered that affordable housing contributions should be sought on this application.

## **6 CONCLUSION**

- 6.1 Having had regard to the development plan, all other relevant local and national policy, consultation responses and all other material planning considerations, it is considered that the proposal is unacceptable in principle being contrary to CS policies SP2 and SP4. Furthermore, it is considered that the proposal will harm the character and appearance of the Thorganby Conservation Area such that the proposal is also considered to be contrary to the requirements of CS policies SP18 and SP19, SDLP Policy ENV25 and chapter 16 of the NPPF. Finally, given the location of the proposed dwelling and the resulting relationship with Jubilee Cottage, the proposed development will have an adverse impact on the residential amenity of both the existing and proposed dwellings. As such, the application is contrary to the requirements of SDLP Policy ENV1 (1) and chapter 12 of the NPPF.
- 6.2 The proposal is considered to be acceptable in respect of detailed design, flood risk, drainage, highway safety, nature conservation and affordable housing but this does not outweigh the conflict with development plan policies regarding the principle of development and the identified harm to both heritage and residential amenity.

## **7 RECOMMENDATION**

This application is recommended to be Refused for the following reasons;

1. The site lies within the development limits of a secondary village which is a less sustainable location. The proposed development would result in backland development to the rear of other properties, and would not constitute the ‘filling of a small linear gap in an otherwise built up frontage’, or any of the other categories of development identified as acceptable in Secondary Villages in Policy SP4(a). The development is therefore contrary to Policy SP4 (a) and consequently Policy SP2A(b), of the Core Strategy.
2. The development is out of keeping with the character of the village by increasing the depth of built form. Furthermore, having regard to the Duty under section 72 of

the Planning (Listed Buildings and Conservation Areas) Act 1990 it is not considered that the development will preserve or enhance the character or appearance of Thorganby Conservation Area. This is by virtue of the relationship of the dwelling with surrounding properties that is out of keeping with the urban grain of the area. It is not considered that the public benefits associated with the erection of the dwelling would outweigh the harm identified. As such the development is contrary to Policies SP18 and SP19 of the Core Strategy, Policy ENV25 of the Selby District Local Plan and chapter 16 of the NPPF.

3. The poor juxtaposition between the proposed dwelling and Jubilee Cottage would result in harm to the amenities of future and existing occupiers by reason of overlooking, loss of privacy and overbearing. As such the development is contrary to Policy ENV1 of the Selby District Local Plan and chapter 12 of the NPPF.

## **8 Legal Issues**

### **8.1 Planning Acts**

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

### **8.2 Human Rights Act 1998**

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

### **8.3 Equality Act 2010**

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

## **9 Financial Issues**

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

## **10 Background Documents**

Planning Application file reference 2020/0191/FUL and associated documents.

**Contact Officer:** Gary Bell, Principal Planning Officer  
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**Appendices:** None