



Meeting: **CEO URGENT DECISION SESSION - PLANNING**
Date: **WEDNESDAY, 8 APRIL 2020**
Time: **9.00 AM**
Venue: **CHIEF EXECUTIVE'S OFFICE**

Applications List

1. **Planning Applications Received (Pages 3 - 4)**
 - 1.1. **2019/0663/FUL: Fields Garden Centre, Tadcaster Road, Sherburn In Elmet (Pages 5 - 26)**
 - 1.2. **2019/1340/FULM: Brocklesby Building Products Ltd, Unit 1, Long Lane, Great Heck (Pages 27 - 48)**
 - 1.3. **2019/1172/FUL: Divisional Police Headquarters, Station Road, Tadcaster (Pages 49 - 60)**
 - 1.4. **2019/1310/FUL: Hall Farm, Butts Lane, Lumby (Pages 61 - 84)**

PLEASE NOTE: THE DECISION ON THE FOLLOWING APPLICATION (2019/0941/FULM - SELBY DISTRICT COUNCIL OLD CIVIC CENTRE, PORTHOLME ROAD, SELBY) WILL BE TAKEN BY THE HEAD OF PLANNING.

- 1.5. **2019/0941/FULM: Selby District Council - Old Civic Centre, Portholme Road, Selby (Pages 85 - 132)**

Janet Waggott

Janet Waggott, Chief Executive

Enquiries relating to this list, please contact Victoria Foreman on vforeman@selby.gov.uk or 01757 292046.

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CEO Urgent Decision Session - Planning

Planning Committees are cancelled due to the Covid19 Outbreak.

In order to continue to determine planning applications that would otherwise have been determined by the Planning Committee, the Chief Executive Officer (CEO), (or other such officer nominated in writing by her) will determine the applications using delegated urgency power, at a "CEO Urgent Decision Session – Planning". It is proposed that these be held weekly in order to continue to process applications in a timely manner.

The Planning Officer will prepare a written Officer Report (OR), that will be considered by the CEO. The list of applications to be considered at the weekly CEO Session will be published online beforehand.

The CEO will consult with the Chair and Vice of Planning Committee and have regard to their comments when taking the decision. The whole Committee will also have the opportunity to comment on the planning applications.

In the absence of a Committee meeting, it follows there is no right to speak available to the public. In order to maintain the planning process at this time, those wishing to comment on an application should submit their written representations within the statutory time limit applicable to the application in question. Information on planning applications will be available as usual on Public Access.

The CEO will be advised by the Planning Officer at the weekly CEO Urgent Decision Session – Planning of any new issues arising since the publication of the OR. If there are new material planning considerations raised, then the CEO will be advised to defer until the next CEO Urgent Decision Session – Planning, to enable an updated OR to be published if necessary.

Decisions made by the CEO will be published as delegated decisions online (in place of a Planning Committee Minute). The Notice of Decision will be issued in the usual way and published on Public Access.

Contact

Vicky Foreman – Democratic Services Officer
Email: vforeman@selby.gov.uk
Telephone: 01757 292046

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Items for CEO Urgent Decision Session – Planning

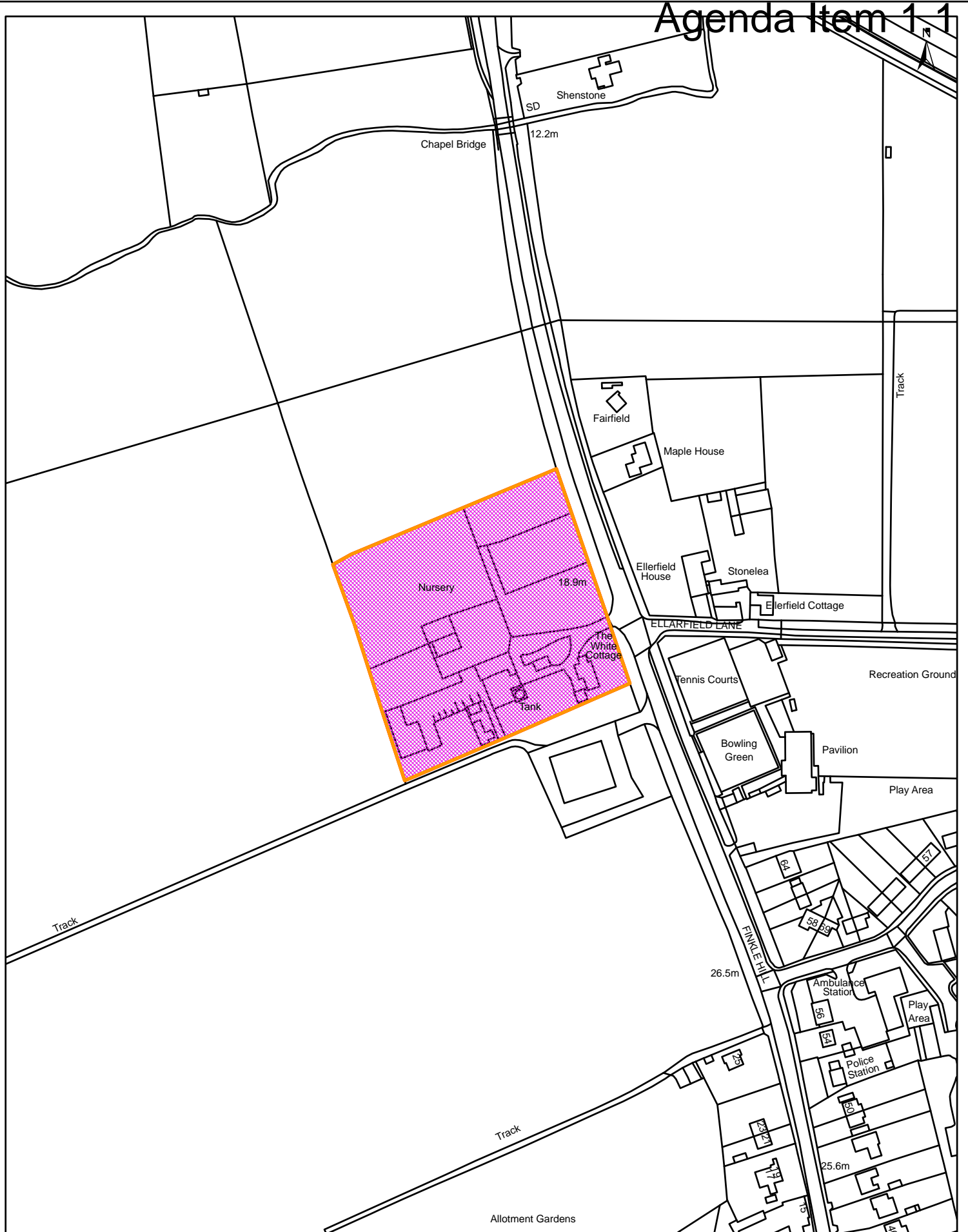
8 April 2020

Item No.	Ref	Site Address	Description	Officer	Ward	Pages
1.1	2019/0663/FUL	Fields Garden Centre, Tadcaster Road, Sherburn In Elmet	Conversion of former glass house including recladding to provide extension to tea room extending covers to 66 in total, retention of terrace and its use as outdoor seating area/plant sales area, extension to existing car park to provide overflow and formation of children’s play area	GAST	Sherburn in Elmet	5 - 26
1.2	2019/1340/FULM	Brocklesby Building Products Ltd., Unit 1, Long Lane, Great Heck	Proposed change of use of existing maintenance and vehicle processing building to include block cutting and processing, erection of 6m high cctv pole, erection of replacement dry dust silo, erect new gates, change existing fencing to concrete fencing and improve HGV parking on site by increasing the areas in which they can park on the existing site	GAST	Whitley	27 - 48
1.3	2019/1172/FUL	Divisional Police Headquarters, Station Road, Tadcaster	Proposed installation of 2.4m Securifor, heavy weldmesh panel fencing. Including pedestrian and vehicle access gates	BEHA	Tadcaster	49 - 60
1.4	2019/1310/FUL	Hall Farm, Butts Lane, Lumby	Proposed conversion of agricultural barn buildings into three residential dwellings and necessary associated operational and remedial works	CHFA	South Milford	61 - 84

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Agenda Item 1

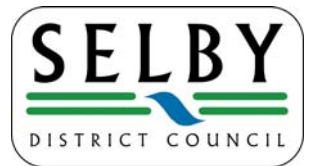
1.5	2019/0941/FULM	Selby District Council- Old Civic Centre, Portholme Road, Selby	Proposed redevelopment of site to provide 154 residential units (Use Class C3), construction of new vehicular access onto Portholme Road and laying out of open space	RELE	Selby East	85 - 132
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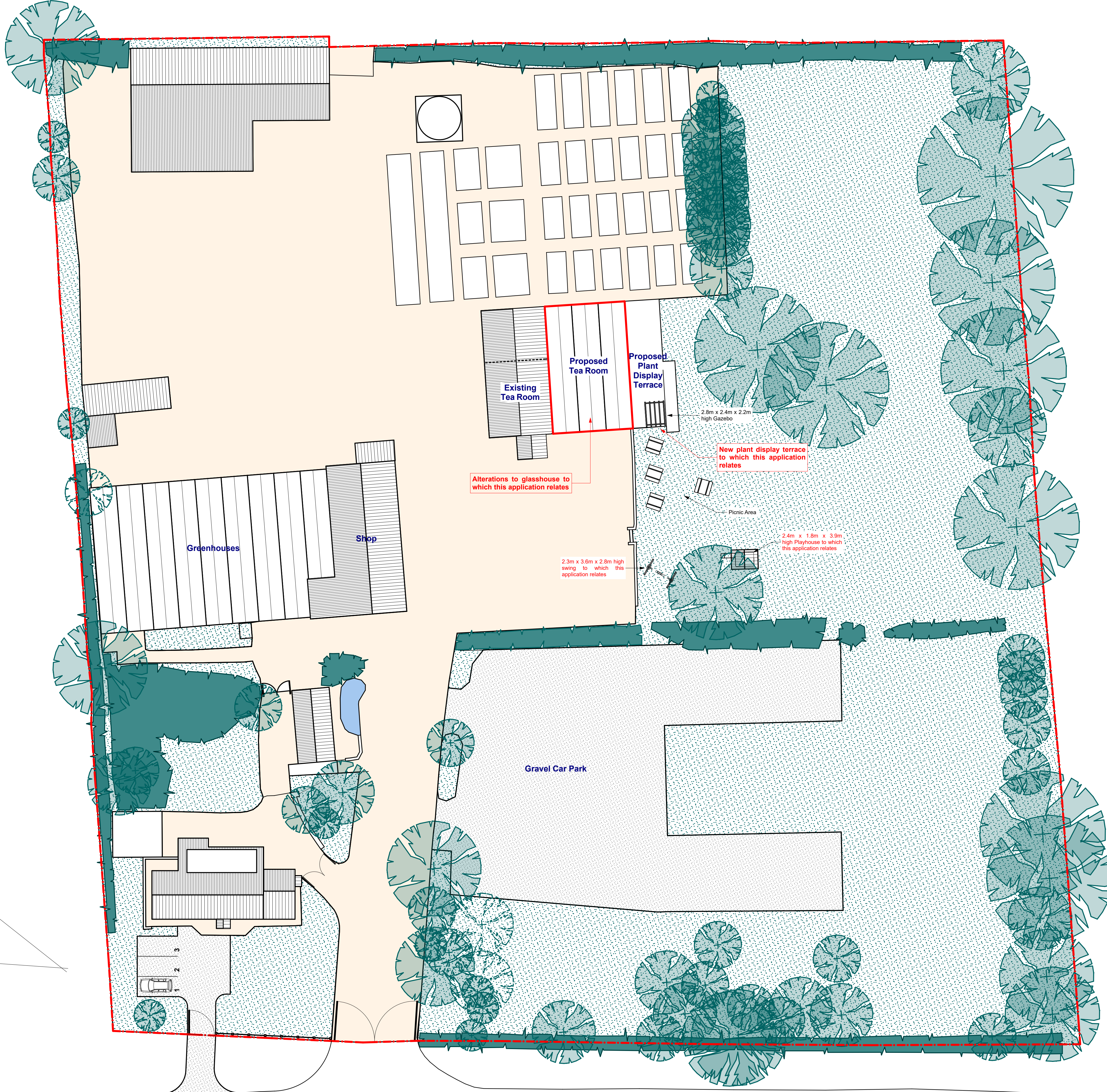
APPLICATION SITE

Fields Garden Centre, Tadcaster Road, Sherburn in Elmet
2019/0663/FUL

1:2,500



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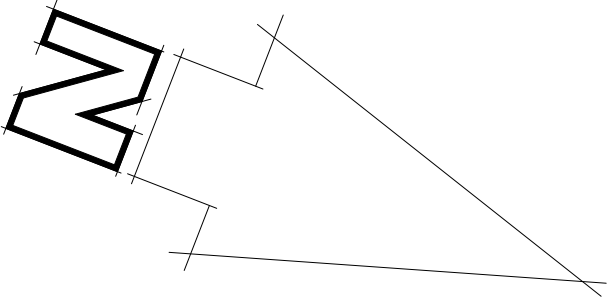


plans ahead by emapsite[™]

Prepared by: John Howlett, 13-04-2017

Site Location 1:1250

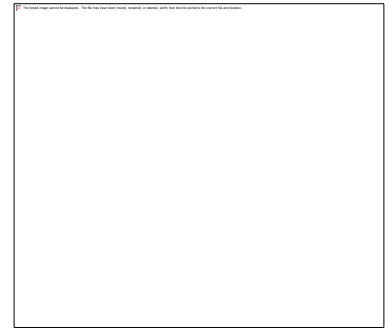
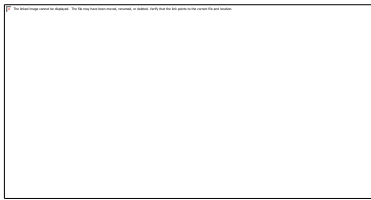
AMENDED DRAWING



D-101F	REVISION
DWG SERIES & NUMBER	
SCALE AS SHOWN	Block Plan - Site Location
DWG SCALE	DRAWING TITLE
02-19	Fields Garden Centre, Finkle Hill, Sherburn In Elmet
JOB REFERENCE	JOB TITLE

- Preliminary Issue 03-05-19
- Preliminary Issue 10-07-19
- Car park amended to as built 23-09-19
- Landscaping amended to as built 24-09-19
- Gazebo, Picnic Area and Playhouse added 14-10-19
- Annotation amended 15-10-19
- Swing added. Annotation amended 03-03-20

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Report Reference Number: 2019/0663/FUL

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

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

This application has been brought before Planning Committee as 16 letters of representation have been received which raise material planning considerations and Officers would otherwise determine the application contrary to these representations.

1. INTRODUCTION AND BACKGROUND

Site and Context

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

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

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

The Proposal

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

Hours

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

Relevant Planning History

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

Garden Centre

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

White Cottage -

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

2. CONSULTATION AND PUBLICITY

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

Neighbour and 3rd Party representations

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

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

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

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

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

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

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

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

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

2.15 Increase in covers

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

2.16 Cladding, Terrace and children's play area.

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

2.17 Impact on the Green Belt

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

2.18 Need for the Venue

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

2.19 Car Park Overflow

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

2.20 Amended scheme

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

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

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

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

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

3 SITE CONSTRAINTS

Constraints

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

4 POLICY CONSIDERATIONS

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

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

Selby District Core Strategy Local Plan

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

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

SP19 - Design Quality

Selby District Local Plan

4.7 The relevant Selby District Local Plan Policies are:

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

5 APPRAISAL

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

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

Principle of Development

Green Belt

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

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

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

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

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

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

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

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

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

Terrace and play area

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

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

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

Car Park extension

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

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

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

Tea Room extension in covers from 44 - 66

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

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

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

Impact on the Character and Form of the Locality

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

Residential Amenity

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

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

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

Highways

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

Flood Risk and Drainage

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

6 CONCLUSION

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

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

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

7 RECOMMENDATION

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

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

Proposed Floor Plans - D- 201 A

Proposed Block Plan - D-101 H

Proposed Elevations - D - 401B

Elevations swing/playhouse D-402

Reason:

For the avoidance of doubt.

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

8 Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9 Financial Issues

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

10 Background Documents

Planning Application file reference 2019/0663/FUL and associated documents.

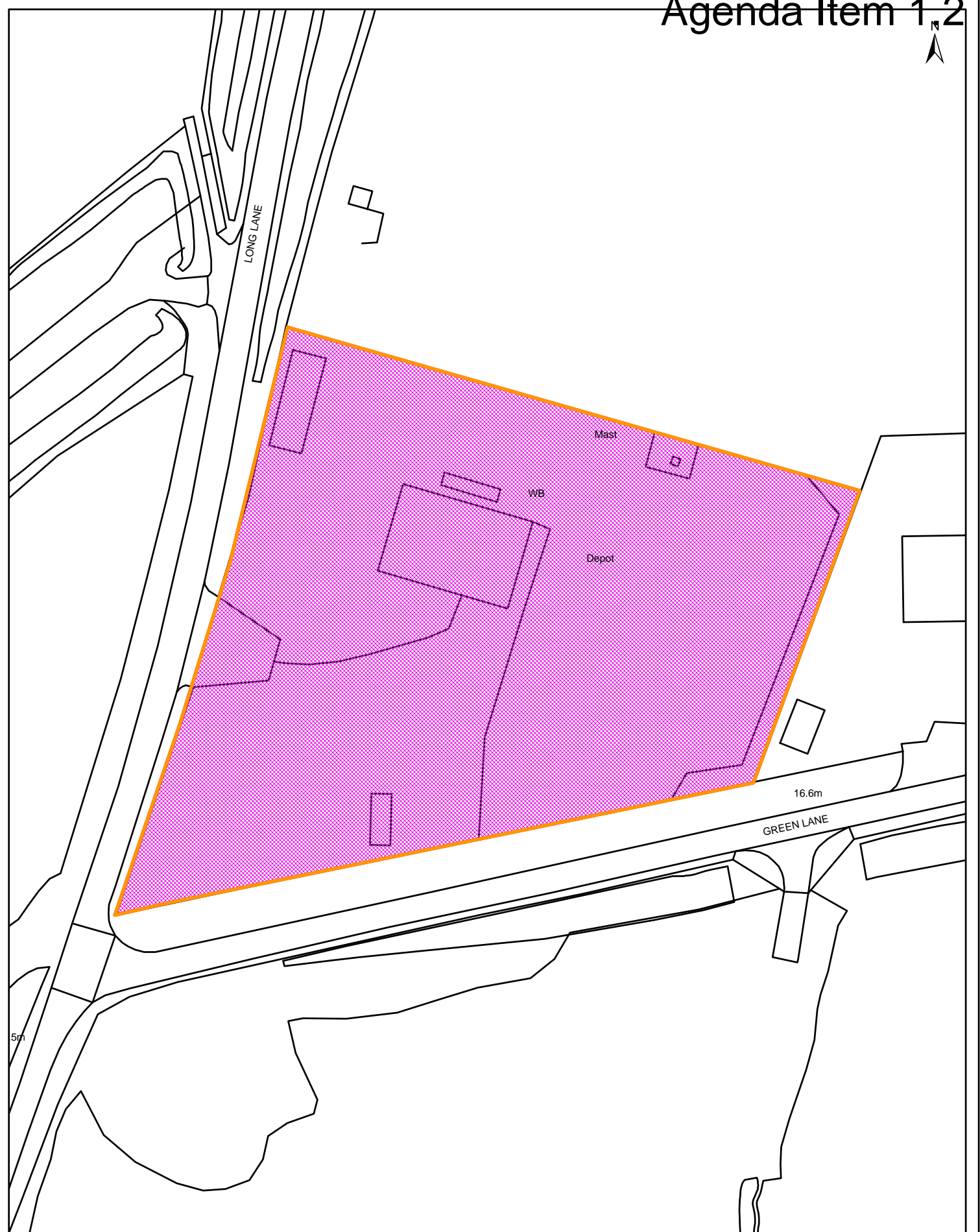
Contact Officer:

Gareth Stent (Principal Planning Officer)

gstent@selby.gov.uk

Appendices: None

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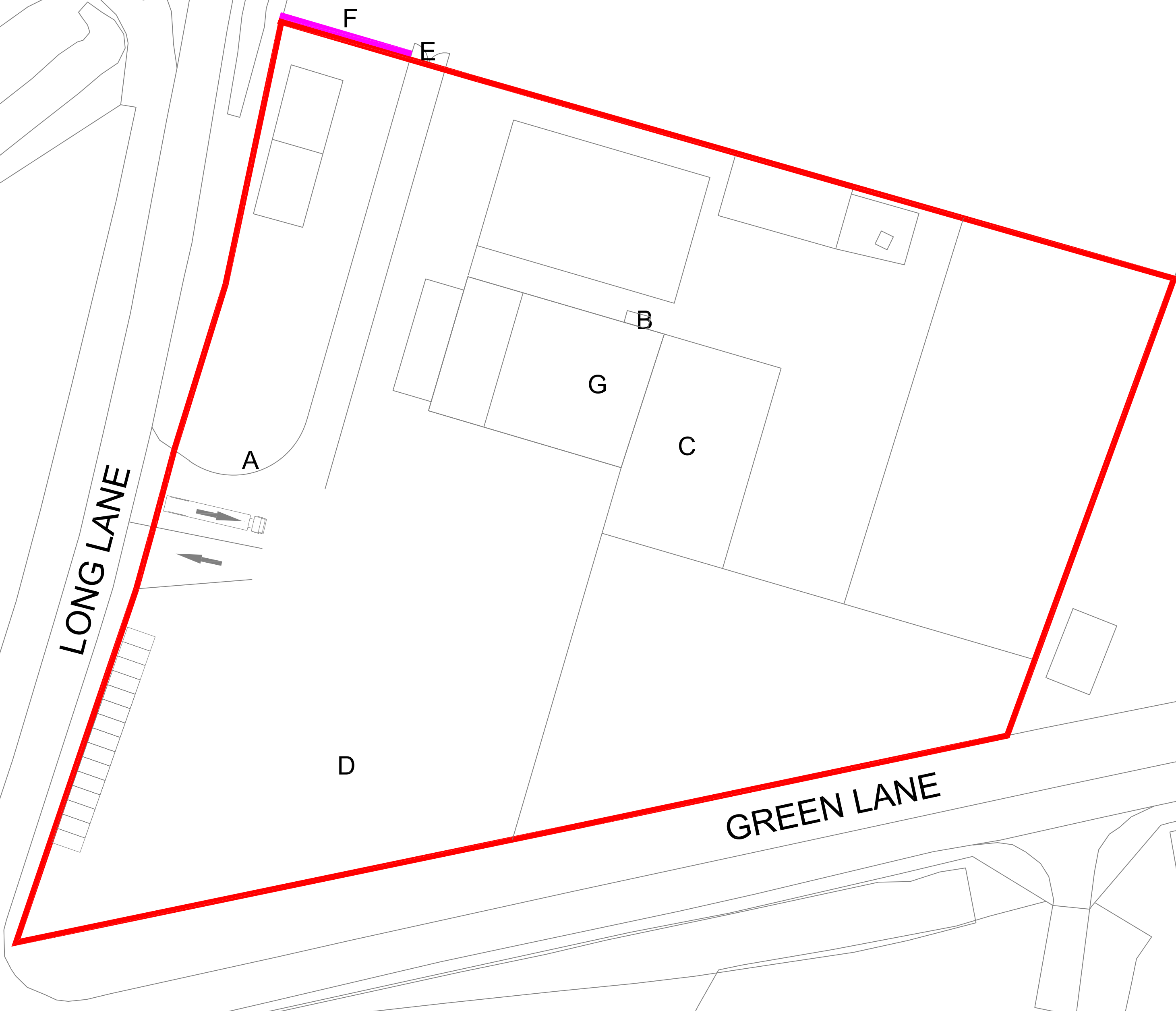


APPLICATION SITE

Brocklesby Building Products Ltd, Unit1, Long Lane, Great Heck, 2019/1340/FULM 1:1,250



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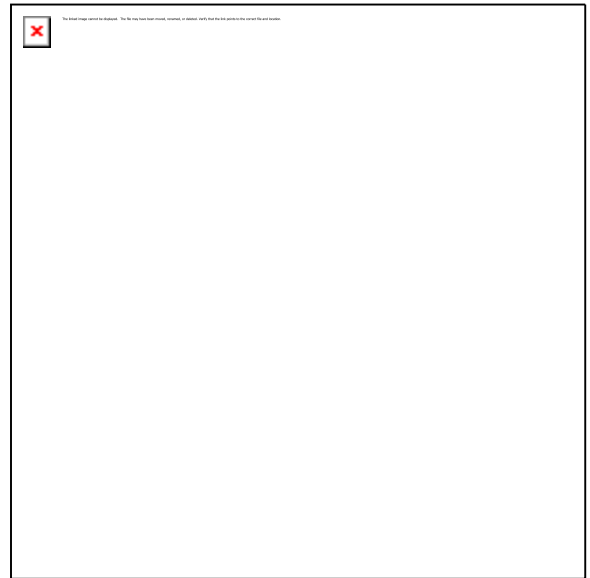
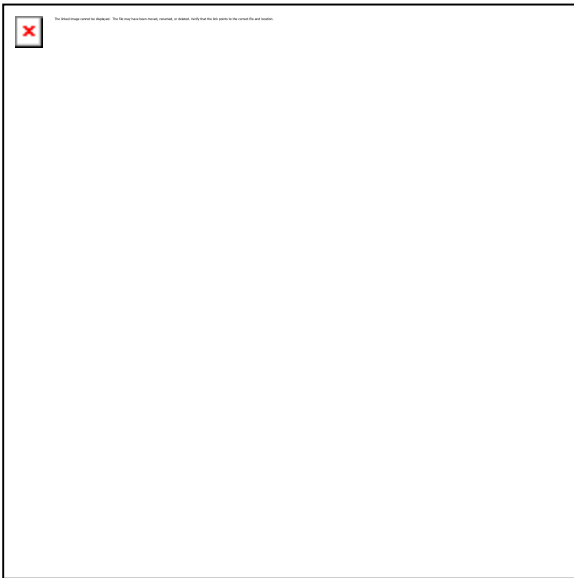


- A - CCTV AND LIGHTING POLE
- B - DUST EXTRACTION SILO
- C - HGV PARKING & STORAGE
- D - HGV PARKING & STORAGE
- E - NEW GATES TO ACCESS FIELD
- F - CONCRETE FENCE PANELS (25.5m LONG)
- G - CHANGE OF USE FROM MAINTENANCE BUILDING TO BLOCK CUTTING & PROCESSING

Drawing Title		
PROPOSED SITE PLAN GREAT HECK		
Ref:	Scale @ A2	Date
LIGH 027	1:500	DEC 2019

enquiries@marksimmondsplanningservices.co.uk
Mark Simmonds
Director
Mark Simmonds Planning Services Ltd
Mercury House
Willoughton Drive
Foxyby Lane
Gainsborough
DN21 1DY

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Report Reference Number: 2019/1340/FULM

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

APPLICATION NUMBER:	2019/1340/FULM	PARISH:	Heck Parish Council
APPLICANT:	Brocklesby Building Products Limited	VALID DATE: EXPIRY DATE:	8th January 2020 8th April 2020
PROPOSAL:	Proposed change of use of existing maintenance and vehicle processing building to include block cutting and processing, erection of 6m high cctv pole, erection of replacement dry dust silo, erect new gates, change existing fencing to concrete fencing and improve HGV parking on site by increasing the areas in which they can park on the existing site		
LOCATION:	Brocklesby Building Products Ltd Unit 1 Long Lane Great Heck Goole East Yorkshire DN14 0BT		
RECOMMENDATION:	Grant		

This application has been brought before Planning Committee as 18 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 site is located north of Green Lane, east of Long Lane and is close to the M62 motorway, which lies to the north. The nearest residential village is Great Heck which lies around 500m to the south/south west. The site is surrounded by a mixture of agricultural land and pepper potted industrial sites, set within the open countryside to the south east and south west. A similar block manufacture and processing plant exists opposite the site (Sellite).
- 1.2 The site is approximately 1.6 ha and comprises a predominantly hardsurfaced yard with a portal framed building with offices in the centre of the site, HGV parking to the south and a smaller portal framed building in the north eastern corner of the site. Access is taken from Long Lane via a large gated entrance.
- 1.3 The application site is operated by Brocklesby Building Products Ltd, which are a company specialising in the cutting, processing and distribution of concrete blocks with ancillary haulage yard. The site was effectively split by a permission in 2011 where half of the western side of the central building, along with the haulage yard were classed as Unit 1. The building in the north western corner and western side of the central building and all the yard to the east was Unit 2. The building in the north western corner of the site is rented out and is used for maintenance, storage and cutting of concrete blocks. The applicant also owns the field to the north which borders the west bound side of the M62.
- 1.4 The haulage yard is used by the current block cutting company and is rented to other HGV operators who use the site as a haulage base in association with the historical use of the site and the certificate of lawfulness issued in 2018 at appeal.
- 1.5 The application is the resubmission of application 2019/0314/FULM, which was for a similar proposal, however originally included the erection of a new mobile batching/bagging plant and biomass boiler. These elements were later removed from the proposal following concerns from nearby dwellings and the local ward member. The application was then withdrawn. This current resubmitted application doesn't include the biomass boiler or batching plant.

The Proposal

- 1.6 This application seeks to change the use of an existing maintenance building (G) to include block cutting and processing. The proposal also involves; the erection of a 6m high CCTV pole at the site entrance (A); the erection of a replacement dry dust silo at the rear of the cutting shed (B); erection of new gates so access can be maintained to the field to the north (E), the change of existing fencing on the northern boundary to concrete fencing (F) and; improved HGV parking by increasing the areas in which they can park on the existing site D). Area D will also be used for outside storage of blocks. The proposal also seeks to retain the use of the former vehicle maintenance building in the north west of the site for block cutting, which is currently rented out (H).
- 1.7 The application site has a lawful authorised sui generis haulage use and part B2 (General Industrial) and B8 (Storage & Distribution) for the handling, cutting, packaging and distribution of concrete blocks on part of the site (unit 1). This application is aimed at extending this use into the remaining eastern part of the existing building and formalising the use of the wider site (Unit 2) and introducing dust extraction measures.

Relevant Planning History

- 1.8 The site has an extensive history with the original buildings being given permission in the 1990's for a transport depot and storage building. A series of permissions then followed for new buildings and recycling uses and the buildings/site were split into Unit 1 and Unit 2.
- 1.9 A certificate of lawfulness was granted in July 2018 for the existing use of Unit 1 as a sui generis mixed use of a haulage yard and the handling, cutting, processing and distribution of concrete blocks. This was for a much-reduced site area than the current application site.
- 1.10 2004/0778 - In 2004 permission was granted for a dual use of the building: a vehicle recycling depot including the storage of cars (Unit 2) and continued use as a haulage depot (Unit 1).
- 1.11 2005/1465/TEL - Application for the erection of a 20m telecommunications pole with 3 No. antennas, transmission Dish and 6 No. equipment cabinets at Brocklesby Haulage, Approved 27-JAN-06.
- 1.12 2011/0328/FUL - Construction of a steel segmental arch building for use as maintenance workshop, Approved 02-JUN-11. Positioned against the southern boundary and never implemented.
- 1.13 2011/0677/FUL - Erection of a general-purpose commercial building, Brocklesby, Unit 1 Approved 22-AUG-11. Resubmission of 2011/0328/FUL on the south of the site and again never implemented.
- 1.14 2011/1016/COU - Change of use from a vehicle recycling depot to a recycles and vehicle recycling depot, Unit 2, Approved, Decision Date: 14-JUN-12. This was all the site which excluded unit 1 referred to in the 2017 Certificate of lawfulness 2017/0146/CPE.
- 1.15 2015/1278/FUL - Proposed change of use of land to facilitate the expansion of existing commercial uses, to include the construction of an industrial building and creation of on-site hardstanding/parking facilities, Refused 05-FEB-16 due to visual impact concerns. This was on the field to the north adjoining the M62.
- 1.16 2017/0146/CPE - Application for a lawful development certificate for the existing use of the site as B2 (General Industrial) and B8 (Storage & Distribution) for the handling, cutting, packaging and distribution of concrete blocks, Unit 1, Long Lane, Great Heck, Goole, East Yorkshire, DN14 0BT, Decision: Non-determination. Allowed at appeal APP/N2739/X/17/3182568 issued July 2018.

"No enforcement action could be taken in respect of it because the time for taking enforcement action had expired – a material change of use of part of the appeal site to a mixed use of a haulage yard and the handling, cutting, processing and distribution of concrete blocks occurred more than 10 years ago, the mixed use continued thereafter, and there is nothing to show that the use was subsequently superseded or abandoned.

(Officer note: this related to only part of the site.)

- 1.17 2019/0314/FULM - Proposed change of use of existing maintenance building to include block cutting and processing, erection of cctv pole, erection of replacement dry dust silo, erect new gates, change existing fencing to concrete fencing and improve HGV parking on site by increasing the areas in which they can park on the existing site: Withdrawn.

2. CONSULTATION AND PUBLICITY

2.1 Parish Council – Objection.

- The villages throughout the Great Heck Parish are already subjected to substantial problems from dust pollution that will be significantly aggravated with the addition of the introduction of block cutting and the provision of a dry dust silo.
- Roads in the region are already impeded by an excess of HGV vehicles accessing the many industrial facilities located in the Parish. The additional HGV's that will be the consequence of the proposed introduction of block processing and the extension of the lorry park will further compound the deterioration of access to the road network in the region.
- Surrounding villages have in recent years been subject to a plague of foul-smelling odours arising from waste dumps on the site. A site that is infested with vermin and a site that is the source of ground water pollution from the rotting of by-products of the block cutting process.
- Approval of the planning application will serve to detrimentally affect the health and quality of life of residents within the local community; noise pollution, air pollution, contamination of aquifers from waste by-products will blight the life and health of residents for years to come.

2.2 **NYCC Highways** - No objections subject to a routing agreement being given for the HGVs.

2.3 **Pland Use Planning Yorkshire Water Services Ltd** – No response received.

2.4 **Danvm Drainage Commissioners Shire Group Of IDBs** – No objections subject to advisories about surface water discharge.

2.5 **SuDS and Development Control Officer** – No response received, however the 2019/0314/FULM stated - no objections to the proposed development. The submitted drainage statement states that the proposals do not involve ground breaking and there is no proposed increase in the impermeable area at the site. A drainage condition is not required in this instance.

2.6 **Environmental Health** – No objections subject to conditions controlling the processing of dust.

2.7 **North Yorkshire Bat Group** - No response received.

2.8 **Yorkshire Wildlife Trust** - No response received.

- 2.9 **County Ecologist** – No objection subject to a condition requiring adherence to the method statement contained in Appendix C of the EclA report (LM Ecology, April 2019), which covers removal of waste piles and vegetation clearance.
- 2.10 **Highways England** – No objection.

Neighbour Summary

- 2.11 The proposal was publicised by a site notice, press notice (Pontefract and Castleford express 30th January 2020) and direct neighbour notification of residents. 18 letters of objection were received. The concerns raised were as follows:

Nuisance –noise, dust, air quality

- The proposal will increase noise and dust in the area for residents to breath in.
- Air quality has been compromised by the continued industrialisation of the surrounding area.
- The area already has air pollution from the chimney at Plasmor and do not want any additional pollution into the surrounding environment and atmosphere.
- Why has the mobile batching plant and block making been omitted from the application?
- There are already 4 major block making factories in the vicinity and we do not want another one.

Highways

- The proposal will increase traffic movements which will increase chances of speeding, accidents, damaged roads and roadsides and noise from an already overloaded road network. Residents have no respite at all from HGVs. Main Street Heck is busy enough with Plasmor and Fieldside nursery.
- Children cannot play outside or in the swing park due to the traffic also the noise and sleep deprivation as the HGV run constantly, pollution from the vehicles including dust and fumes is extremely unpleasant. Drivers exceed the speed limit and the constant worry of a fatality for a family living in and around our village. The 'C' Road is unable to cope with current traffic.
- As demonstrated by this application showing area D is to be used for lorry parking this considerably increases the available space which will result in more HGVs using the site.
- It appears other companies are using the site for HGV's.

Existing pollution - Great Heck Stink

- The landowners have still not cleared the existing 5000 tonnes of waste from the site since 2015 when it was rented to Wagstaff's. Residents are worried that the waste remaining at the site is flammable and still has potential risk but does not remain a priority for the landowner. Residents consider no new permissions should be granted until this is cleared.
- Water is already running away from the site carrying dirt debris blocking the drains under the motorway, this causes issues for safe access to the main road.

3 SITE CONSTRAINTS

Constraints

- 3.1 The site lies within open countryside.

4 POLICY CONSIDERATIONS

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

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

Selby District Core Strategy Local Plan

4.6 The relevant Core Strategy Policies are:

SP1- Presumption in Favour of Sustainable Development
SP2 - Spatial Development Strategy
SP13 - Scale and Distribution of Economic Growth
SP15 - Sustainable Development and Climate Change
SP18 - Protecting and Enhancing the Environment
SP19 - Design Quality

Selby District Local Plan

4.7 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development
ENV2 - Environmental Pollution and Contaminated Land
T1 - Development in Relation to Highway
T2 - Access to Roads
EMP9 - Expansion of Existing Employment Uses
EMP2 - Location of Economic Development

5 APPRAISAL

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

- The Principle of Development
- Design, Character, Form and Impact of Visual Amenity
- Impact on Residential Amenity
- Highways Safety
- Ecology
- Flooding and Drainage
- Other Issues

The Principle of the Development

5.2 The application site is located outside the development limits of Great Heck and within the open countryside. The site is however an established industrial site, where support is offered both nationally and locally for the continued sustainable development of such sites, particularly where new proposals utilise existing buildings as discussed below.

5.3 Paragraph 84 of the NPPF supports a prosperous rural economy, which supports the sustainable growth and expansion of all types of businesses in rural areas. It states planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent or beyond existing settlements and in locations not well served by public transport. In these circumstances it is important that development is sensitive to its surroundings and does not have an unacceptable impact on local roads.

5.4 Policy SP1 (CS) states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable

development as contained in the NPPF and sets out how this will be undertaken. Policy SP1 is therefore consistent with Paragraph 11 of the NPPF.

- 5.5 Policy SP2 (SDCS) plans for the spatial development strategy in the district and states that development in the open countryside and outside development limits shall be limited (amongst other things) to the replacement or extension of existing buildings and well-designed new buildings of an appropriate scale which would contribute toward and improve the local economy and enhance and or maintain the vitality of rural communities in accordance with policy SP13.
- 5.6 Policy SP13 of the Selby District Core Strategy (2013) provides that in rural areas, sustainable development (on both Greenfield and Previously Developed Sites) which brings sustainable economic growth through local employment opportunities or expansion of businesses and enterprises will be supported.
- 5.7 Policy SP13 (C) of the Selby District Core Strategy (2013) states that in rural areas sustainable development which brings sustainable economic growth through local employment opportunities or expansion of business will be supported including for example
1. The reuse of existing buildings and infrastructure
 2. The redevelopment of existing and former employment sites and commercial premises.
- 5.8 Policy SP 13 D) states that in all cases development should be sustainable and appropriate in scale and type to its location, not harm the character of the area and seek a good standard of amenity.
- 5.9 The site (a former transport yard) is already an established industrial use with the operator being present for 13 years. The 2018 appeal referred to in the Planning History section above confirms that part of the site already has permission for block cutting, processing, storage and distribution of blocks via a certificate of lawfulness. This relates to part of the yard area to the south of the site and the eastern most part of the of the general-purpose building on site (the certificate plan is shown within the supporting information that accompanied the application). The land excluded from this certificate forms part of this application, as the applicant plans to extend the operations, i.e. block cutting, into the western part of the former maintenance building. This will provide better working conditions and a more spacious environment for the block cutting activity. The proposal also to use the remainder of the land to the east for block storage and loading, once the waste left over by a former tenant is clear. The southern part of the site (Area D) will remain for HGV parking in association with its historical use.
- 5.10 The business is well established having operated from the site for 13 years. The eastern part of the site, which included part of the building G was previously let out to a recycling company who left in July 2015 and left large amounts of waste on the site. This is being removed under consultation with the Environment Agency and has generated significant concern in the letters of representation. The decaying matter is said to have caused the 'Great Heck stink' which residents refer to in their submissions.
- 5.11 The new CCTV pole, fencing and dust extraction system are all minor in nature and will improve operations and security for the business going forward. The dust extraction system will help to minimise nuisance and contaminants from leaving the

site so should be viewed as an enhancement of current activities. The dust extraction system will also improve the working conditions for employees of the company and ensure its continued success.

- 5.12 In terms of the HGV use, the agent has clarified that the application is to provide additional outside storage of blocks and HGV haulage facilities for the applicant's existing business, which handles concrete building blocks and which in turn are completely inert and are simply made good, packaged and shipped out by HGV to customers who are predominantly building firms involved in construction generally in the Yorkshire/Lincolnshire area but serving a wider area as needed. The remainder of the yard is rented out for HGV storage in association with its historical use.
- 5.13 In terms of Local Plan Policy (2005) Policy EMP 9 states that applications for the expansion and/or redevelopment of existing industrial and business uses outside development limits will be permitted provided that they meet the 4 criteria listed below. These will be assessed in the remainder of the report.
- 1) The proposal would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity;
 - 2) The nature and scale of the proposal would not have a significant adverse effect on the character and appearance of the area, or harm acknowledged nature conservation interests;
 - 3) The proposal would achieve a high standard of design, materials and landscaping which complements existing buildings; and
 - 4) Proposals involving expansion onto adjoining land would not result in the loss of best and most versatile agricultural land and the site would be well related to existing development and well screened and/or landscaped.
- 5.14 Policy EMP2 of the Selby District Local Plan (2005) states that new employment development will be concentrated in and around Eggborough, Selby, Sherburn in Elmet and Tadcaster. However, it also emphasises that encouragement will be given to proposals for small-scale development in villages and rural areas in support of the rural economy, which this proposal is.
- 5.15 The proposal and block processing is not reliant upon a rural location, however it is already established on the site and therefore the reconfiguration and utilisation of the remainder of the building is consistent with national and local policy in that it supports the sustainable expansion of existing rural businesses and is therefore compliant with SP1, SP2 and SP13 of the Core Strategy and Local Plan Policy EMP2 and EMP9. The next sections of this report will go on to consider what the potential impacts of the proposal will be having had regard to the policy tests set out in the development plan and the NPPF.

Design, Character, Form and Impact on Visual Amenity

- 5.16 Relevant policies in respect to design and the impacts on the character of the area include Policies ENV1 (1) and (4) and EMP9 (1) of the Selby District Local Plan, Policy SP13 and Policy SP19 of the Core Strategy.

- 5.17 Policy EMP9 of the Local Plan (2005) states that applications for the expansion and/or redevelopment of existing industrial and business uses outside development limits will be permitted provided that the scale and nature of the proposal would not have a significant adverse effect on the character and appearance of the area. Similarly Policy SP13 of the Core Strategy (2013) states that in all cases, development should be sustainable and be appropriate in scale and type to its location and not harm the character of the area.
- 5.18 In looking at the character of the area it is noted that the application site is comprised of a self-contained industrial premises. To the north of the site lies a field then the M62 motorway, across which are open, expansive views across the flat, predominantly arable landscape of the Humberhead Levels. There a number of industrial/mineral extraction facilities in the area, including the nearby Plasmor site and further afield the power stations at Drax and Eggborough. The predominant character is that of the open flat, arable landscape of the Humberhead Levels characterised by large fields interspersed by blocks of woodland. The site is partially screened from the M62 by the conifer hedge on the northern boundary.
- 5.19 The proposal would not cause any new loss to the character of the countryside as the site remains within its current boundaries. No new buildings are to be constructed, rather the buildings and land will be used differently. The southern part of the site is also screened to some degree by the existing boundary treatment and by the current building when viewed from the M62. Control over the heights of block storage are added as a condition (max 4m).
- 5.20 The application seeks permission for several new structures each of which require assessment.

CCTV (A)

- 5.21 The new CCTV unit is pole mounted and positioned on the entrance to the site to provide the entrance with coverage. The pole is relatively slim, is 6m in height and has a small domed camera on top of the pole. Whilst this will project above the existing fence line, its slender nature and position within the site means that it will have a neutral impact on the character and appearance of the countryside. Such infrastructure is commonplace on industrial sites and the applicant describes it as a necessity due to a number of recent thefts from the site.

New concrete fencing and Gates (E & F)

- 5.22 The site currently has a mixture of boundary types all of which provide different levels of security. The northern boundary is predominantly concrete panelling except for the north western corner, which is a less secure chain link fence. The proposal is to replace the existing fencing and with a 25m length of concrete fencing and gates in the north western corner of the site at 2.4m in height. The new fencing will be similar in appearance and materials to that of the remainder of the northern boundary and if reduced to 2m would be permitted development. This will provide a secure northern elevation and will not be overly visible from Long Lane as it runs at right angles to this road and is screened from the south by the existing buildings and operations ongoing on the site.
- 5.23 A new internal roadway is created leading to a 6m gateway in the northern boundary which is the same height as the fencing. This will allow access to maintain the field which is also within the applicant's ownership. The access to the

field will move marginally to the east and as a result some existing fir trees (conifers) will have to be removed as these straddle the boundary. The loss of this small section of conifers isn't significant as the majority of the northern boundary screening will remain. The conifers are not protected, nor a native British tree and therefore the loss of these trees isn't regarded as being significant. These could also be removed without the need for consent.

Dust Extraction system (B)

- 5.24 This is a 2m x 4m structure that sits to the north of the main buildings. The oblong shaped structure, whilst having a relatively small footprint, extends 8m tall. This sits above the eaves of the main building and protrudes like a chimney would. The structure sits below the ridge height of the main buildings which is 9m. Whilst being slightly irregular in its design and form, it is positioned such that it will be visible from the south due to the ridge of the main building and will be viewed against the backdrop of the main building when viewed from the north and north west. Overall, it is considered to have a relatively neutral impact on the character and form of the area.

New Parking

- 5.25 The proposal also includes a new car parking area to the south west corner of the site for staff vehicles and a new lorry parking area to the south east (area D). This has no real impact on the character of the countryside as these vehicles current park in a more haphazard manner on the site and this will formalise the parking in the interests, the applicant says, of running a safer and more orderly site. This parking of vehicles in association with the primary use wouldn't require permission in any event as the use of the land isn't changing. The extended HGV parking area does however need permission, as this reintroduces parking to the south east of the site. This area was historically used for parking in association with the transport yard use, however was replaced by the 'Wagstaff's' recycling permission in application 2011/1016/COU.
- 5.26 In assessing the changes overall, it is noted that the site does sit within an existing industrialised landscape with other premises within view of the site. The proposed improvements are well related to existing buildings and would not result in any unacceptable or material impact upon the landscape or the visual qualities of the area in accordance with Policy ENV1 (1) and (4), and ENV15 of the Selby District Local Plan, Policy SP19 of Core Strategy and national policy contained within the NPPF.

Impact on Residential Amenity

- 5.27 Objectors have raised concerns that the proposal is likely to generate increased noise, odours and disturbance which would be detrimental to those nearby residential properties. Policy ENV2 of the Selby District Local Plan (2005) states that proposals which would give rise to, or would be affected by, unacceptable levels of noise, nuisance, contamination or other environmental pollution including groundwater pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme. Other relevant policies in respect to impacts on residential amenity include Policies ENV1 (1) and ENV3 of the Local Plan and Policy SP13 of the Core Strategy (2013).

- 5.28 In respect to the NPPF it is noted that one of the Core Principles of the framework is to always seek to secure a good standard of amenity. Therefore, the key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking, overshadowing and overbearing to neighbouring residential properties and whether their amenity would be affected by virtue of noise, odour or dust.
- 5.29 The nearest residential property is 500 metres to the north and south of the proposed application site. It is not considered that the proposal would have any implications of overlooking, overbearing, or overshadowing on this residential property given the relative separation distance and that the M62 also separates the application site from residential properties to the north.
- 5.30 The Lead Officer-Environmental Health has been consulted on the proposals and raised no objection. The officer noted that the cutting of blocks already occurs on site and that it's known to be a dusty operation and the blocks arrive on site in a dusty condition. Also that the dust that will be extracted during the cutting process will be fine and easily entered into the atmosphere. It is, therefore, essential that the dust handling system is enclosed at all points once the dust has been extracted during the unwrapping and cutting process.
- 5.31 The applicants have also previously clarified that 'processing' consists of "bringing the blocks to the yard via LGV delivery then off loaded and stacked into rows ready for cutting. Then they are taken by fork lift inside the cutting shed all strapping and packaging removed and then loaded onto a multi cut saw which cuts them into the specified sizes and then re-strapped and packaged and then taken back outside some are stacked until required by customers and others loaded immediately onto trailers to be delivered to our customers."
- 5.32 Having considered the information provided, no objections were raised by the Environmental Health officer providing a condition was imposed that seeks to ensure that the system installed is fit for purpose and is regularly maintained with the necessary alarms and filters working. This is imposed as a suggested condition.
- 5.33 For the reasons outlined it is considered that the proposals, subject to conditions attached to any permission granted, would not result in any significant detrimental impact on residential amenity and that the proposal would be in accordance with Policies ENV1, ENV2 and ENV3 of the Selby District Local Plan (2005), Policies SP13 and SP19 of the Selby District Core Strategy Local Plan (2013) and the NPPF.

Highways Safety

- 5.34 Relevant policies in respect to highway safety and capacity include Policies ENV1(2), EMP9 (1), T1 and T2 of the Selby District Local Plan and criteria (c) and (d) of Policy SP19 of the Core Strategy. These Development Plan policies should be afforded substantial weight as they are broadly consistent with the aims of the NPPF para 109 which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.
- 5.35 Objectors have raised concerns in relation to the impact of the proposals on highway safety. There have been strong concerns particularly in regard to the potential increase in HGVs as a result of the proposal.

- 5.36 The access to the site remains unchanged, however the intensity and the use will increase as the block processing and storage will filter into the land not covered by the certificate of lawfulness thus increasing the capacity of the business. These movements will however replace that of the former recycling permission on the eastern part of the site, where vehicle movements would have occurred in association with the former use. Also the entire site was once a haulage yard, however the eastern part was lost as a haulage yard by the 2011/1016/COU permission. This proposal aims at reintroducing this use in part of the Area identified as area D on the submitted site plan. The haulage yard is used by the Brocklesby's and is also rented out to other operators under the historical permission. The applicant has confirmed how the site is run i.e.
- 5.37 "The yard has always been a transport depot and they have rented areas to other companies long term and since then have rented out the top shed to Rodger Petch transport, six spaces to Bimson haulage and Andrew dean haulage who they rented 5 spaces to has now bought his own premises (he parks his trucks near Pollington now and has to travel through heck to get there) whereas when he parked them in their yard he never went through heck. None of the companies who park in their yard turn left when leaving their depot. Our client's trucks are the only trucks which do go through Heck as they have to travel through to get to Celcon."
- 5.38 North Yorkshire County Council Highways have raised no objections to the application, however, have requested a condition covering routing agreement for HGVs. This is added as a condition however officers note this is only relevant to the extended area to the east within the area marked D as the part of the site either operates under a historical permission or through the certificate issued where this issue wasn't controlled. The above condition will give residents some comfort knowing that HGVs routing can be controlled to ensure they do not pass through the village.
- 5.39 Given the above it is considered that there is sufficient information to assess the potential impacts of the proposal on highway safety in respect to the requirements of Policies ENV1 (2), EMP9 (1) T1 and T2 of the Selby District Local Plan and Policies SP13 and SP19 of the Selby District Core Strategy Local Plan (2013).

Impact on Ecology

- 5.40 Protected Species include those protected under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017. The presence of protected species is a material planning consideration. Relevant policies relating to nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 of the Core Strategy.
- 5.41 The proposal was accompanied by an Ecological Impact Assessment (EclA) by LM Ecology dated April 2019. This noted that the site, given its industrial nature and hard surfaced areas, had little ecological value. An assessment of the site for amphibians, reptiles and nesting birds was undertaken. The report noted that there will be some loss of fir trees from the northern boundary. These are of little ecological value and would not result in any net loss to diversity. The appraisal produced method statements for each element of the permission, which if adhered to would ensure the ecological value of the site isn't compromised.
- 5.42 The NYCC Ecologist has been consulted on the application and raised no objections. The ecologist recognised this is a working industrial site and there are

very few ecological concerns. There is a low risk that reptiles or amphibians might be present in piles of rubble, which would be cleared as part of the proposed development and any pruning or removal of conifers on the site boundary needs to be undertaken with due care to avoid nesting birds. A condition was recommended requiring adherence to the method statement contained in Appendix C of the EclA report (LM Ecology, April 2019), which covers removal of waste piles and vegetation clearance should be adhered to. On this basis, it is considered that the proposal would not harm any known nature conservation interests or protected species and would therefore meet the relevant requirements of Policy SP18 of the Core Strategy, Policy ENV1 of the Local Plan and Section 11 of the NPPF in this regard.

Flooding and Drainage

- 5.43 Relevant policies in respect to flood risk, drainage and climate change include Policy ENV1 (3) of the Selby District Local Plan, and Policies SP15 and SP16 of the Core Strategy. Section 14 of the NPPF deals with flood risk, drainage and climate change.
- 5.44 The whole of the application site is located within Flood Zone 1 which is at the lowest risk of flooding. No sequential or exception test is necessary. The industrial use is regarded as 'less vulnerable' as per the Environment Agency's Table 2 on the vulnerability classification of different land uses. The proposed application site exceeds 1ha in size and therefore should have been accompanied by a Flood Risk Assessment, however this wasn't provided. Instead a drainage statement was supplied, which describes that the existing site is entirely impermeably surfaced and the site will remain structurally unchanged. The proposed works will not increase the sites impermeable area and the existing surfaces are not proposed to be changed. As a result, the surface water runoff from the site will not be increased and the flood risk vulnerability from the proposed operations will not be increased.
- 5.45 Local residents have raised concerns in regard to drainage in the area with the dust running from the site into drains clogging up the route under the motorway. This however is a network management issue and is an existing situation that is unlikely to be intensified by the proposal, especially given the new dust extraction system being proposed.
- 5.46 The Internal Drainage Board have been consulted on the drainage proposals, with no objections being received. Likewise, the LLFA Officer raised no issues (taken from the 2019/0314/FULM application) given the drainage situation isn't to change as a result of this proposal. The proposed development raises no opportunities for renewable energy. Therefore the proposed scheme is considered to be acceptable in terms of flood risk, drainage and climate change and therefore accords with Policies SP15, SP16 of the Core Strategy and Local Plan Policy ENV1 (3).

Other Issues

- 5.46 Most issues raised by the local community are dealt with in the appropriate sections above, however much of the concern also relates to the ongoing investigations about the waste left on the applicant's land by a former tenant. Residents feel no new permission should be given until this is resolved. This however cannot be a consideration or prejudice the determination of this current application. The waste is being gradually removed (130 tonnes removed in early March 2020) through

consultation with the Environment Agency and licensing regimes and will in time be completely removed.

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 acceptable. The applicant has removed the matters which generated the most concern to local residents at the time of the 2019/0314/FULM application i.e. the biomass boiler and mobile batching plant.
- 6.2 The principle of the development is considered acceptable given it represents the growth and expansion of an established local business in the countryside as supported by the NPPF. The proposals will facilitate a more effective and secure site, which will not have a significant impact on the character of the area.
- 6.3 In addition, the proposal will cause no significant harm to the living conditions of neighbouring occupiers. Furthermore, the proposals are considered to be acceptable in respect of flood risk, drainage, highway safety and nature conservation. The proposal is therefore considered to be acceptable in accordance with Policies SP1, SP2, SP13, SP15, SP18 and SP19 of the Core Strategy, Policies ENV1, ENV 2, T1 and T2 of the Selby and District Local Plan and the NPPF.

7 RECOMMENDATION

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 not be carried out otherwise in complete accordance with the approved plans and specifications.

Existing Site Plan LIGH 017

Existing Floor Plan LIGH 021

Proposed site plan LIGH 027 (Amended – dated March 2020)

Proposed elevations LIGH 026

Existing Elevations LIGH 019

Drainage Statement Dec 2019

Fence and Gate Elevations LIGH 029

Extraction system layout QN-3164-001 - Rev A- 23.1.20

CCTV details - HIK Vision system (Pole mounted 4m Max height)

Location Plan LIGH013

Lawful development certificate Plan LIGH 029 March 2020

Reason:

To ensure that no departure is made from the details approved and that the whole of the development is carried out, in order to ensure the development accords with Policy ENV1.

3. The dust silo hereby permitted shall operate in the following ways as per the details supplied:
 - 1) The dust silo shall feed to an enclosed screw conveyor feeding to an enclosed skip. Once full the skip shall be sealed before movement either on or off site.
 - 2) The dust silo and attached screw conveyor shall be fitted with high level alarms and an automatic cut off to prevent overfilling.
 - 3) The air filtration system shall ensure that the dust level in the emitted air is less than 10mg/m³ of dust.
 - 4) The extraction system shall ensure that fugitive dust emissions are removed from the air inside the shed.

Reason:

In the interests of maintaining the air quality for the workforce and maintaining the amenities of surrounding land uses with regards to air pollutants leaving the site.

4. The development hereby approved shall be carried out in accordance with method statement contained in Appendix C of the EclA report (LM Ecology, April 2019), which covers removal of waste piles and vegetation clearance.

Reason:

To ensure compliance with the Wildlife & Countryside Act 1981 and policies ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy.

5. Any outside storage of blocks shall not be stacked or deposited on the site above a height of 4 metres measured from ground level.

Reason:

In the interests preserving the character and appearance of the area in accordance with Policies ENV1 (1), (4) and EMP9 (1) of the Selby District Local Plan, Policy SP13 of the Core Strategy (2013).

6. No part of the development shall come in to use until details of the routes to be used by HCV traffic have been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Highway Authority. Thereafter the approved routes shall be used by all vehicles connected with the site.

Reason

In accordance with policies ENV1(2), EMP9 (1), T1 and T2 of the Selby District Local Plan and in the interests of highway safety and the general amenity.

8 Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9 Financial Issues

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

10 Background Documents

Planning Application file reference 2019/1340/FULM and associated documents.

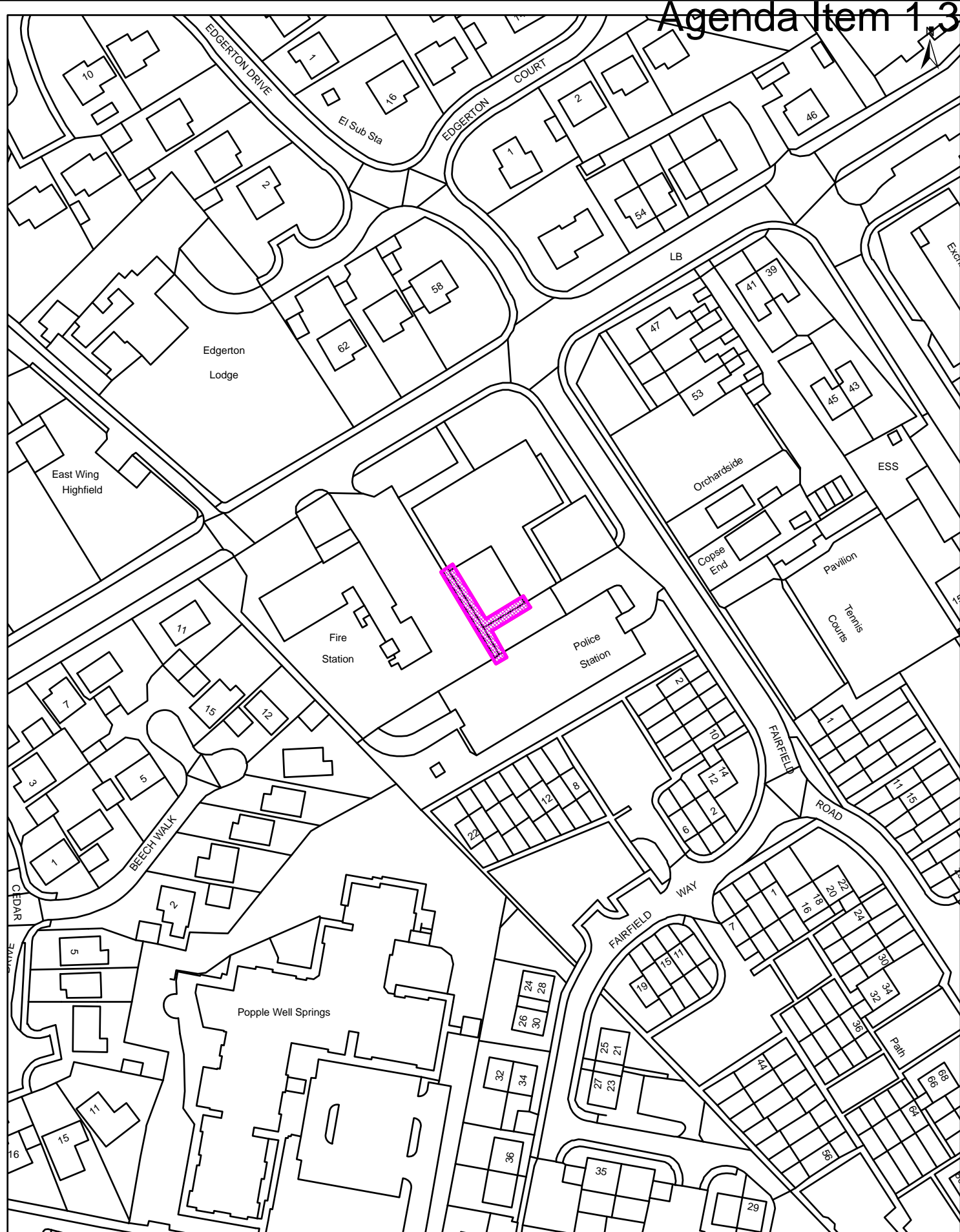
Contact Officer:

Gareth Stent (Principal Planning Officer)

gstent@selby.gov.uk

Appendices: None

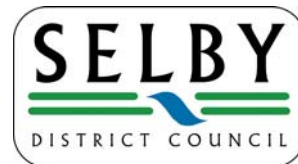
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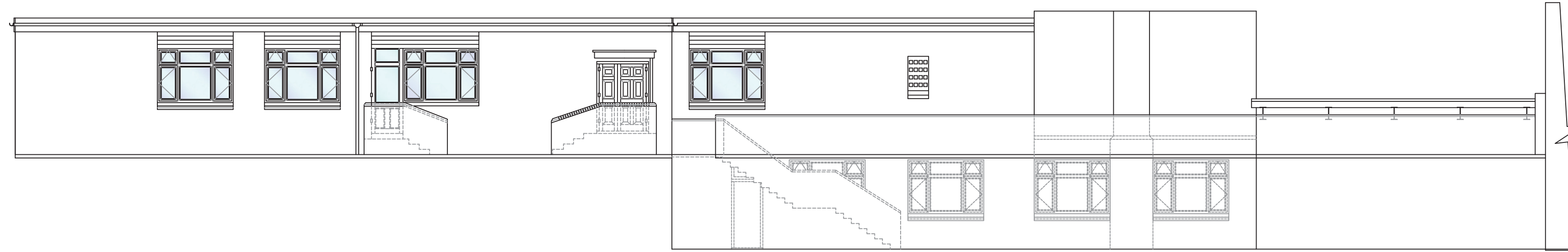
APPLICATION SITE

Divisional Police Headquarters, Station Road, Tadcaster
2019/1172/FUL

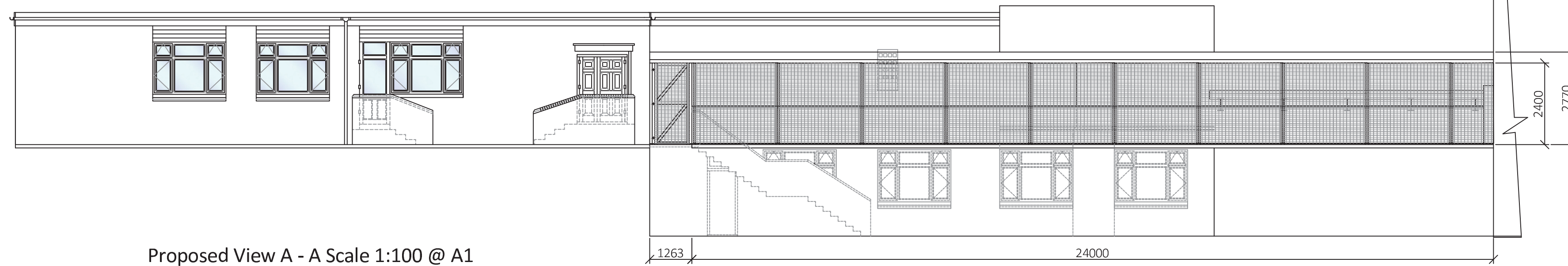
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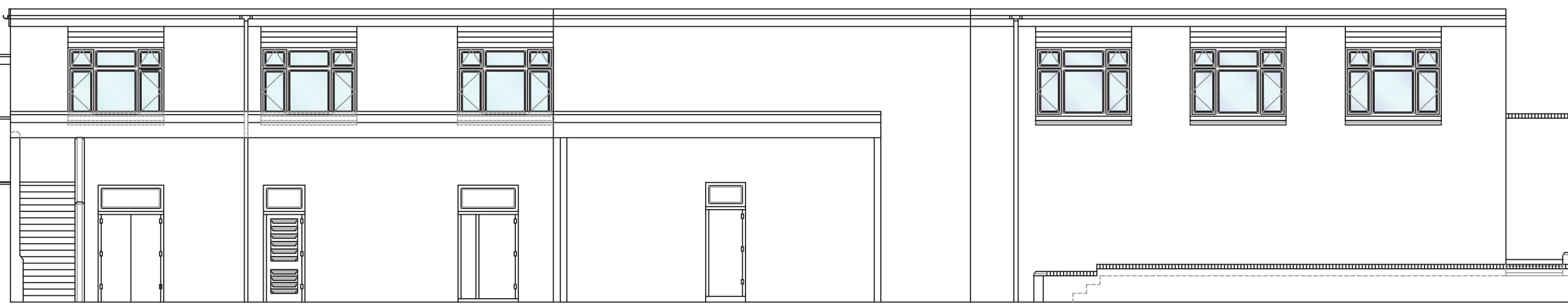
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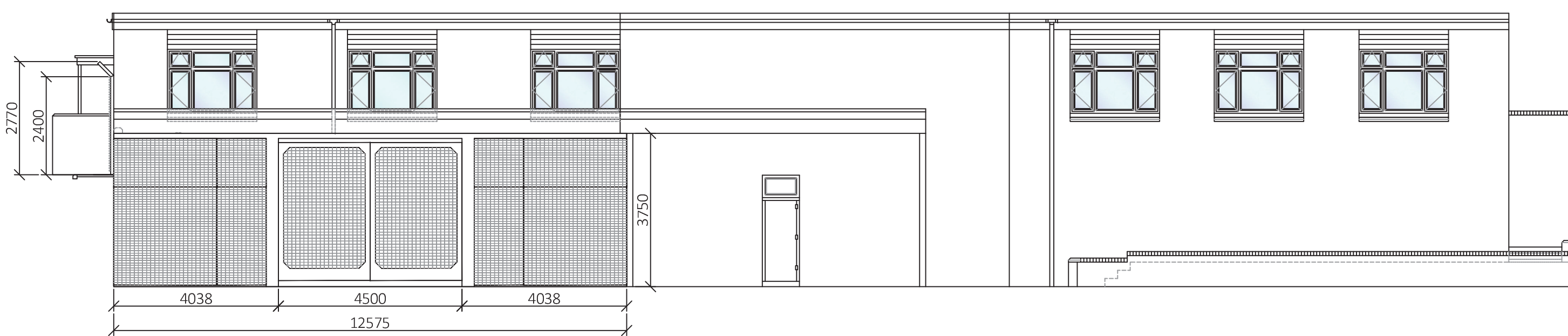
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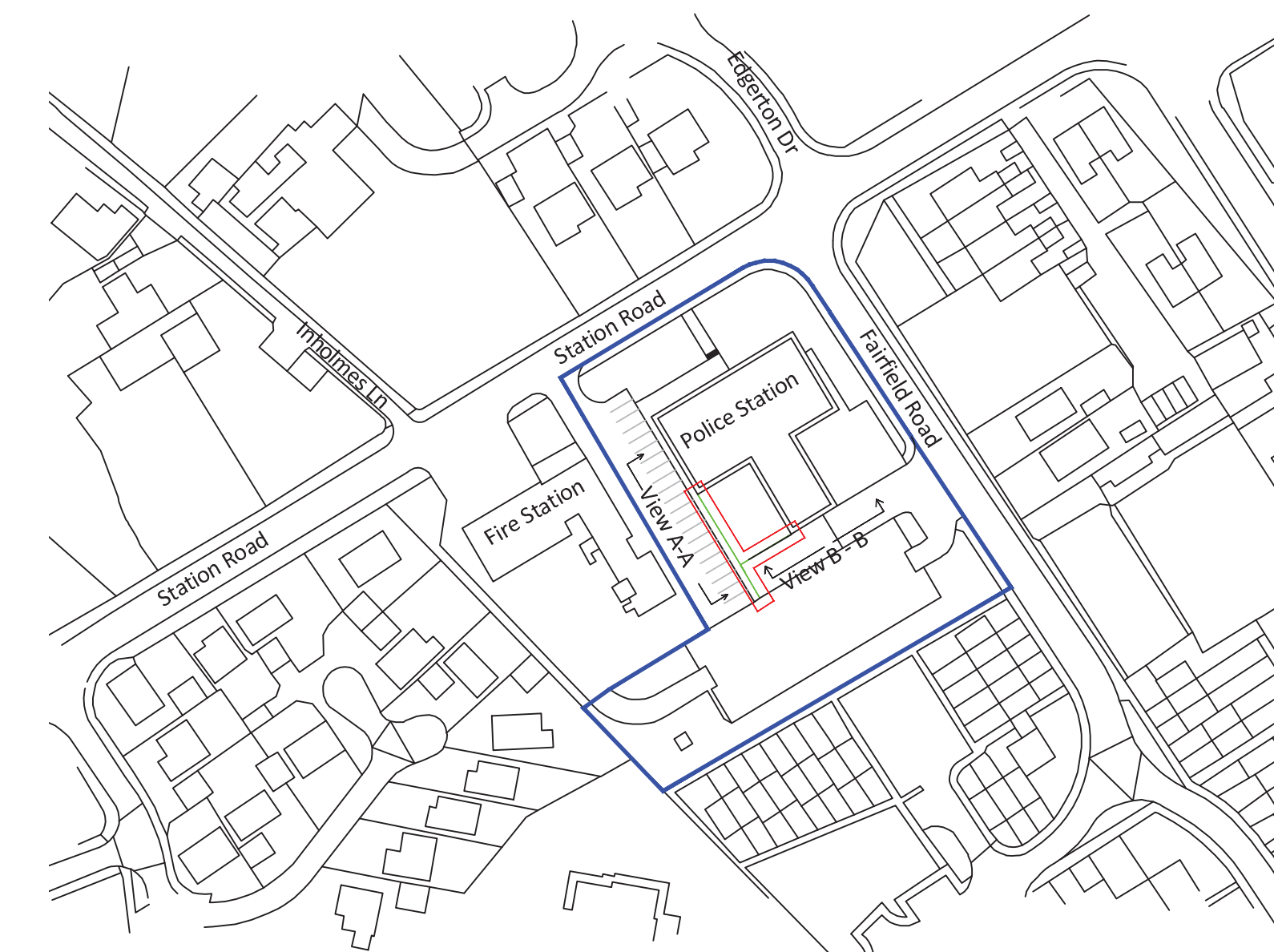
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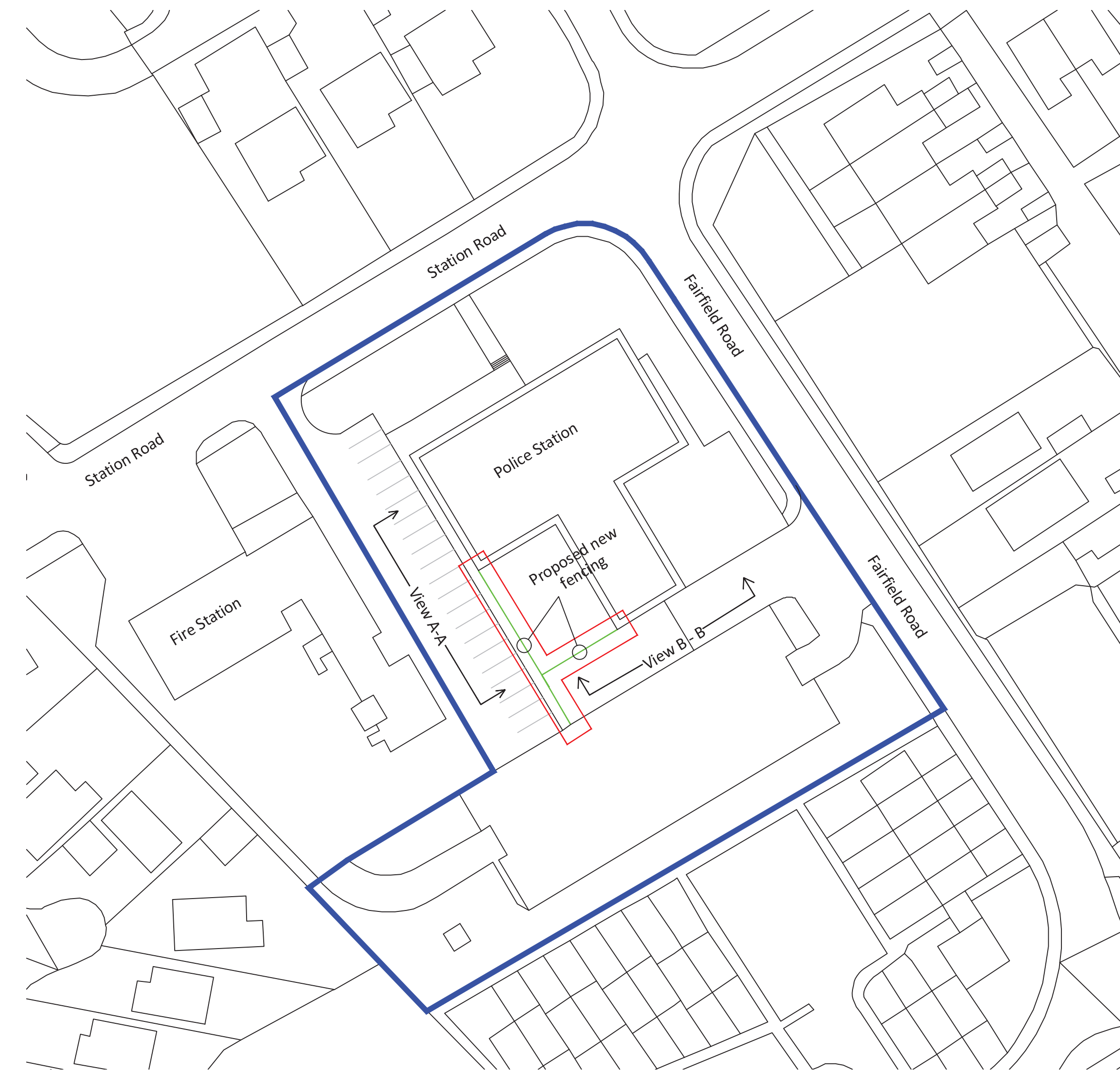
Existing View B - B Scale 1:100 @ A1



Proposed View B - B Scale 1:100 @ A1



Scale 1:1250



Scale: 1:500

Property Address

Tadcaster Police Station
Station Road
Tadcaster
LS24 9JR

NOTES

View A - A
Erect 24 meters of green RAL6005 colour coated "358" mesh fencing 2.4 meters high plus a 45 degree extension taking the total height of the fence to 2.77m. 4mm diameter wires, fixed with clips and bolts to SHS posts fixed to face of existing concrete wall at 2.5 meters centre.

Supply and fix single leaf gate 1.0 meter wide, 2.4 meters high, infill to match fencing. Locking mechanism is to be a mechanical code lock. SHS gate post fixed to existing concrete surface.


View B - B
Erect 12.75 meters of green RAL6005 colour coated "358" mesh fencing 3.75 meters high. 4mm diameter wires, fixed with clips and bolts to SHS posts. Fence to have a 4m wide gate opening and 2 No. colour coated automatic cantilever sliding gates 2 meters wide 3.75m high.

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A	20/12/19	Annotated drawing	DS
A	20/12/19	Added scales to drawing	DS
REV	DATE	DESCRIPTION	BY

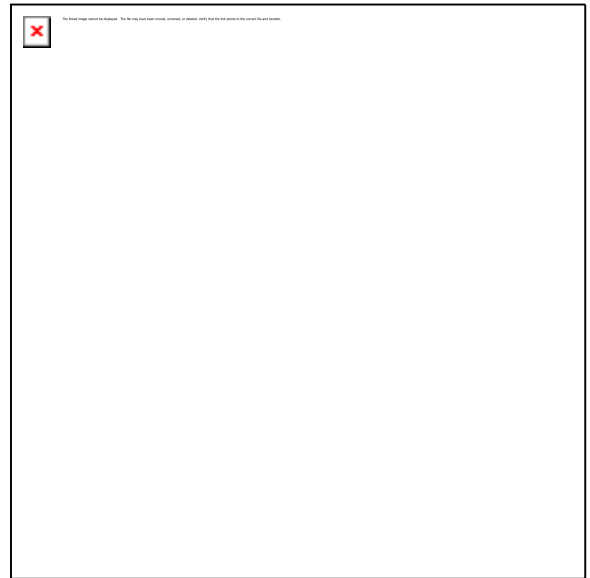
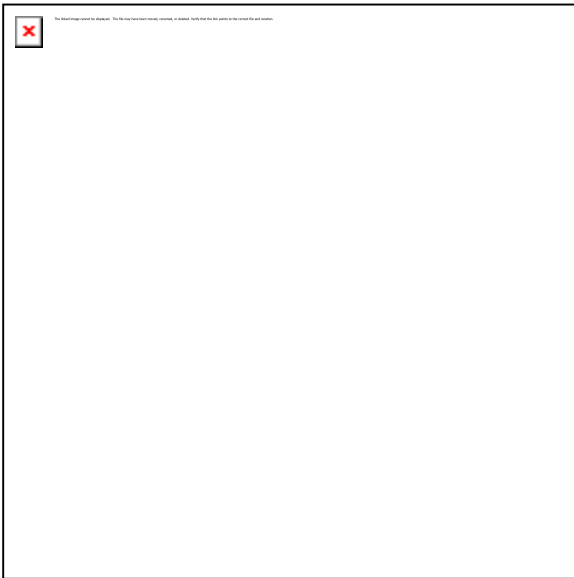
Title
Site plan and elevations

Project
Installation of security fencing

Site No 50267
Date December 2019
Scales 1:100 1:500 1:1250 @A1
Client North Yorkshire Police
Drawn By DS
Checked By -
NYP Contact Dan Howes
Mobile

 NORTH YORKSHIRE POLICE
ESTATES DEPARTMENT
ALVERTON COURT
CROSBY ROAD
NORTHALLERTON
NORTH YORKSHIRE
DL16 1BF
TEL

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Report Reference Number: 2019/1172/FUL

To: Planning Committee
Date: 8 April 2020
Author: Bethany Harrison (Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2019/1172/FUL	PARISH:	Tadcaster Town Council
APPLICANT:	North Yorkshire Police HQ	VALID DATE: EXPIRY DATE:	23rd December 2019 17th February 2020 (ext of time requested)
PROPOSAL:	Proposed installation of 2.4m Securifor, heavy weldmesh panel fencing. Including pedestrian and vehicle access gates		
LOCATION:	Divisional Police Headquarters Station Road Tadcaster LS24 9JR		
RECOMMENDATION:	APPROVE		

This application has been brought before Planning Committee as 14 letters of representation have been received which raise material planning considerations and Officers would otherwise determine the application contrary to these representations.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The application site is located within the defined development limits for Tadcaster on Station Road.
- 1.2 The site is bordered by residential dwellings to the east and south and the fire station to the west with Station Road running to the north of the station. The public entrance to the police station is to the west of the station, with car parking on this side as well as on the east.

The Proposal

- 1.3 The application seeks consent for the erection of a 2.4 metre “Securifor” fence to the western elevation of the station, with a pedestrian and vehicle access gate.
- 1.4 The proposed fence would be 2.4 metres high and would enclose an area on the west elevation of the building, spanning approximately 25 metres along the building. It would have a pedestrian access gate and would be made of 2D mesh steel fencing painted in RAL6005 (Moss Green) and would have concrete filled foundations at a width of 400mm and a depth of 600mm. It would have a boxed push-pad for emergency exits and would otherwise be accessed using a ‘Maglock’ internal locking system. The proposed will not include any scheme of landscaping.
- 1.5 The applicants have advised that the objective of the proposal is to provide better security for the Tadcaster Police station. The scheme will ensure new fencing would secure the stairway leading into the station’s lower ground floor which currently un-enclosed and would enclose an area to secure armoured vehicles overnight.

Relevant Planning History

- 1.6 There are no historical applications considered to be relevant to the determination of this application.

2. CONSULTATION AND PUBLICITY

- 2.1 **NYCC Highways** – No objection
- 2.2 **Tadcaster Town Council** – No objection
- 2.3 **Neighbour Summary** – All immediate neighbours were informed by letter and a site notice was posted on 21st January 2020.

This resulted in 14 letters objections from occupants of Fairfield Way and Fairfield Road which are situated to the south of the police station. Their comments can be summarised as follows:

- Will result in congestion accessing the site
- Construction stage will add to traffic in the area and result in noise impacts
- Potential loss of parking provision on site leading to further overflow onto the residential development
- Will impact on the visual amenity as a result of the height of the fence
- Will result in noise from cars waiting to enter the site and from the gates opening and closing

3 SITE CONSTRAINTS

Constraints

- 3.1 The application site is within the defined development limits for Tadcaster and is located within an urban area. The site does not contain any protected trees, is outside the Conservation Area and there are no listed buildings that are affected.

4 POLICY CONSIDERATIONS

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

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

Selby District Core Strategy Local Plan

- 4.6 The relevant Core Strategy Policies are:
- SP1 - Presumption in Favour of Sustainable Development
 - SP19 - Design Quality

Selby District Local Plan

- 4.7 The relevant Selby District Local Plan Policies are:
- ENV1 - Control of Development
 - T2 – Access to Roads

5 APPRAISAL

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

- Principle of the Development
- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety

Principle of the Development

- 5.2 The application site is located within the defined development limits of Tadcaster, which is a Local Service Centre as identified in the Core Strategy. The proposal is for the erection of a security fence to the west elevation of the police station to a height of 2.4 metres.
- 5.3 There is nothing in the Development Plan or the NPPF to identify this type of development as being unsustainable or preclude in principle development of this type in this location.

Design and Impact on the Character and Appearance of the Area

- 5.3 Policy ENV1 of the Selby District Local Plan and SP19 of the Core Strategy require that consideration is given to the impact of a development on the character and appearance of an area. Significant weight must be given to these policies as they are broadly consistent with the aims set out within Section 12 of the NPPF, which seeks to create high quality buildings and places.
- 5.4 The application site comprises of the Police Station on Station Road, Tadcaster. The local area is predominantly residential in nature as the station is bordered by residential dwellings to the east, south and west and is bordered by the main road to the north.
- 5.5 The application as submitted would enclose an area of the west elevation of the police station. The fence to this elevation would be 2.4 metres high. The materials to be used are a metal mesh fence painted moss green (RAL 6005), joined with bolts and set in a concrete foundation.
- 5.6 In commenting on the application then neighbours have raised concerns regarding the height of the fence and the visual impact.
- 5.7 The proposed fence would be partially visible from the streetscene on Station Road, however the view from the street would be mostly obscured by the trees lining the street. In addition, the visual intrusiveness of the proposed is also minimised by the choice of a green colour for the fence, which would be less prominent than black or silver against the street.
- 5.8 The proposed fence would have a greater visual impact than the existing concrete boundary wall, which is approximately 1 metre in height which the proposed fence would replace.
- 5.9 On balance it is considered that the proposed fencing would not impact on the character of the area or the visual amenity to an extent to warrant refusal of the scheme particularly given that it is not within a Conservation Area or in close proximity to any listed buildings or any other designated heritage assets.
- 5.10 It is therefore considered that, as the fence is being erected by North Yorkshire Police in the interest of public safety to make the site more secure, the public

benefit would outweigh any harm caused, although the neighbouring occupants raise valid planning concerns with regard to this application and effect it would have on the character and appearance of the surrounding area. Therefore the scheme is considered acceptable.

- 5.11 As such, having regard to the above, it is considered that the proposal is acceptable and would not have a significant or detrimental impact on the character and appearance of the area. The proposal is therefore considered acceptable in accordance with Policy ENV1 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within Section 12 of the NPPF.

Impact on Residential Amenity

- 5.12 Policy ENV1 of the Selby District Local Plan requires that consideration is given to the impact of a development on residential amenity. Significant weight must be given to these policies as they are broadly consistent with the aims set out within Section 12 of the NPPF, which seeks to create high quality buildings and places.
- 5.13 The key considerations in respect of residential amenity for a development of this nature are the impact on amenity by virtue of design and siting, and the potential for impacts on amenity as a result of the change in access arrangements through the introduction of a gate which will necessitate a change in the movement of vehicles.
- 5.15 Objectors to this application raised concerns regarding noise of cars waiting at the gate as well as the gate itself closing. Environmental health have now been consulted on this matter as a result of these comments and have advised that no objection would be raised to the proposed on the grounds of noise. It is therefore considered that the noise which would be created by the cars waiting at the gate and the movement of the gate mechanisms would not be so harmful to the residential amenity of residents as to warrant refusal.
- 5.16 In terms of the design and siting of the fence, at 2.4 metres in height, it is considered to be appropriate for the context and would not so significantly impact on the visual amenity of residents so as to warrant refusal due to its siting on the west elevation and lower ground floor of the police station. Because of this, the proposed would not be visible from the dwellings to the east or south of the building, and would be set an appropriate distance away from those to the west. The view of residents to the west would also be partly obscured by the presence of the neighbouring fire station, which sits at the west side of the police station.
- 5.17 It is also considered that as the separation distances of approximately 50 metres to the west, 65 metres to the east and 30 metres to the south sit between the proposed fence and gate and any neighbouring properties although there would be a change in the characteristic of vehicle movements (vehicles would need to stop to enter the site unlike at present) this change has to be considered in the context of the sites location within the urban area and the public benefit of ensuring that the site is secure. On balance it is considered that the impact on residential amenity would be minimal and there is a clear benefit from securing the site.
- 5.18 As such, with the views of the neighbouring occupants taken into account with regards to their amenity, the scheme is not considered to result in an impact on residential amenity that would warrant refusal,, and thus it is considered to accord with Policy ENV1 of the Selby District Council Local Plan.

Impact on Highway Safety

- 5.19 Policy ENV1 of the Selby District Local Plan requires that consideration is given to the impact of a development in terms of highways.
- 5.20 NYCC Highways have reviewed the application and have raised no objections to the application, nor have they requested any conditions be added to the consent.
- 5.21 Neighbouring occupants have raised concerns regarding the change in the nature of how vehicles park on the site, arguing that there would be an increase in vehicles waiting at the proposed gate and congestion on the surrounding roads that would be caused by this. However, it is considered that due to the modest scale of the development in relation to the site, which would sit within the site at lower ground level and the nature in which it will be used, for armoured vehicles and not for all vehicles parking on site, the level of congestion and change in some parking arrangements will not have an adverse effect on highway safety and the levels of congestion around the site will not be significantly increased.
- 5.22 As such, it is considered that the proposal would not lead to adverse highway conditions in this locality. As such, the proposal is considered to accord with Policies ENV1 (2) of the Local Plan and paragraph 108 of the NPPF which emphasises the importance of safe and suitable access to a site being achieved for all users.

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 proposed development is acceptable and in accordance with Policies ENV1 of the Selby District Local Plan, Policies SP1 and SP19 of the Core Strategy and the advice contained within the NPPF.

7 RECOMMENDATION

This application is recommended to be GRANTED subject to the following conditions:

01. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

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

- 50267 A – Location, Layout, Elevations – received 23/12/19

Reason:

For the avoidance of doubt.

03. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as stated on the application form, received by the Local Planning Authority on 11th November 2019. Only the approved materials shall be utilised.

Reason

For the avoidance of doubt.

8 Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9 Financial Issues

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

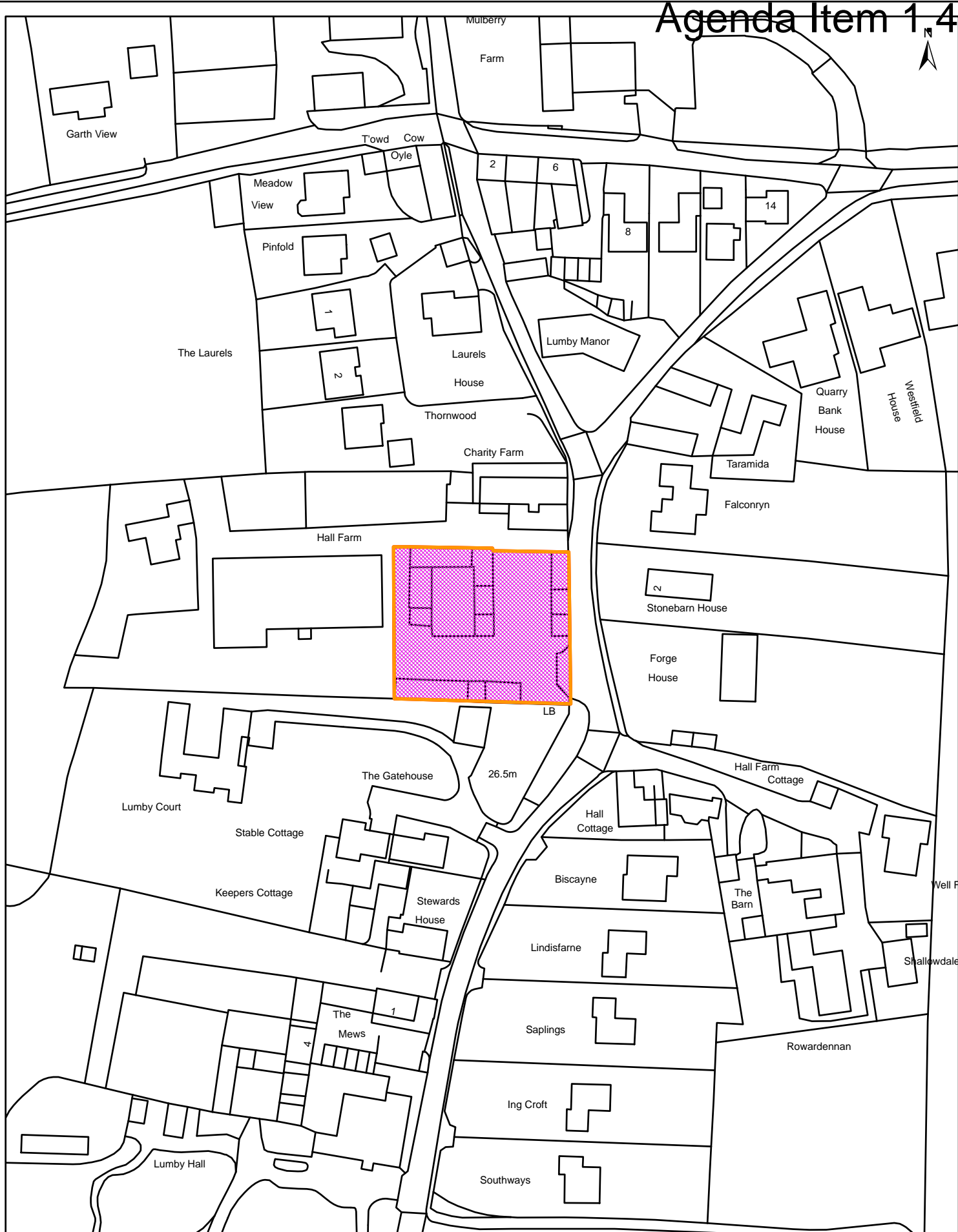
10 Background Documents

Planning Application file reference 2019/1172/FUL and associated documents.

Contact Officer: Bethany Harrison (Planning Officer)

Appendices: None

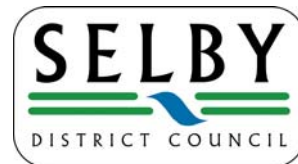
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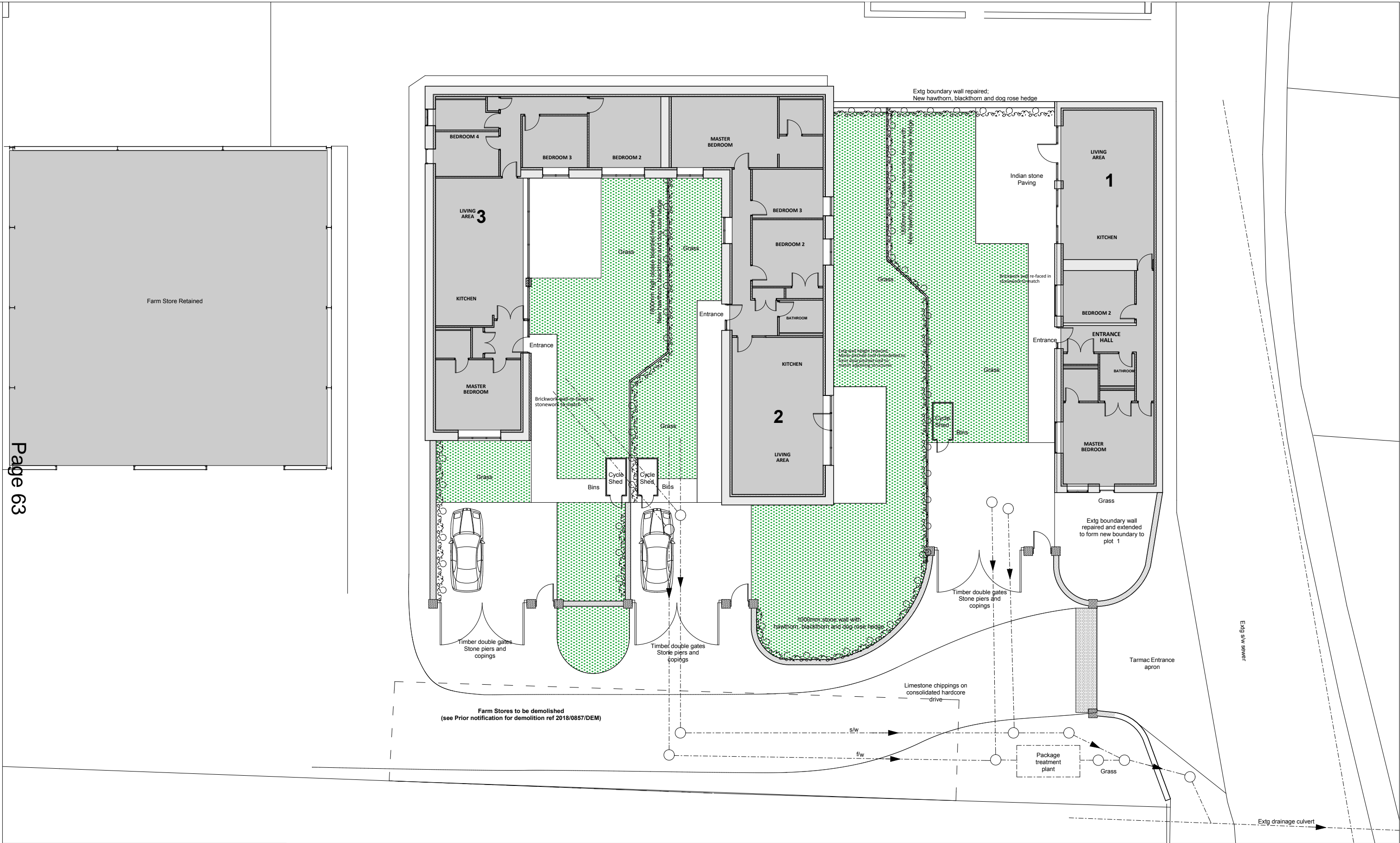
APPLICATION SITE

Hall Farm, Butts Lane, Lumby
2019/1310/FUL

1:1,250

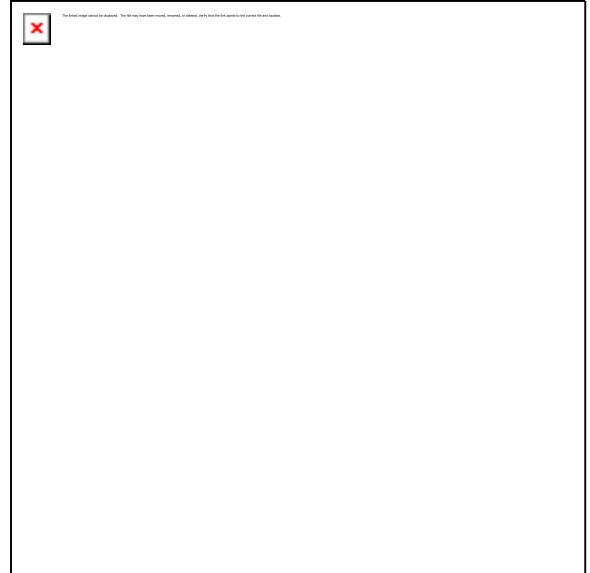
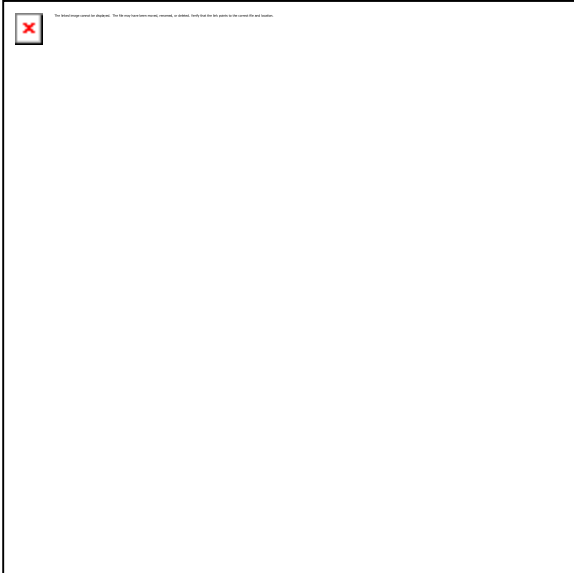


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<p>DWP Dryden Wilkinson Partnership Ltd Architectural Design Consultants Building Surveyors Norwood Barn, Norwood Farm, Lower Norwood Road, Norwood, Leeds LS21 2RA enquiries@dwp-partners.co.uk 01943 466249</p>	NOTES	AMENDMENTS	CLIENT :	Scale : 1:200 @ A3	JOB NO. LDS 2472
		A 02.12.19 Redesigned for new planning application	Richard Stoker	Date : Nov 2019	DWG. NO. LDS 2472/B1-2/002
			JOB :	Rev Date : 02.12.19	Drawn by : SW Rev : A
			Hall Farm, Butts Lane, Lumbly LS25 5JA	DWG :	Proposed Site Plan
				STATUS: PLANNING	

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Report Reference Number: 2019/1310/FUL

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

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

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) 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
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.

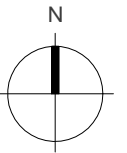
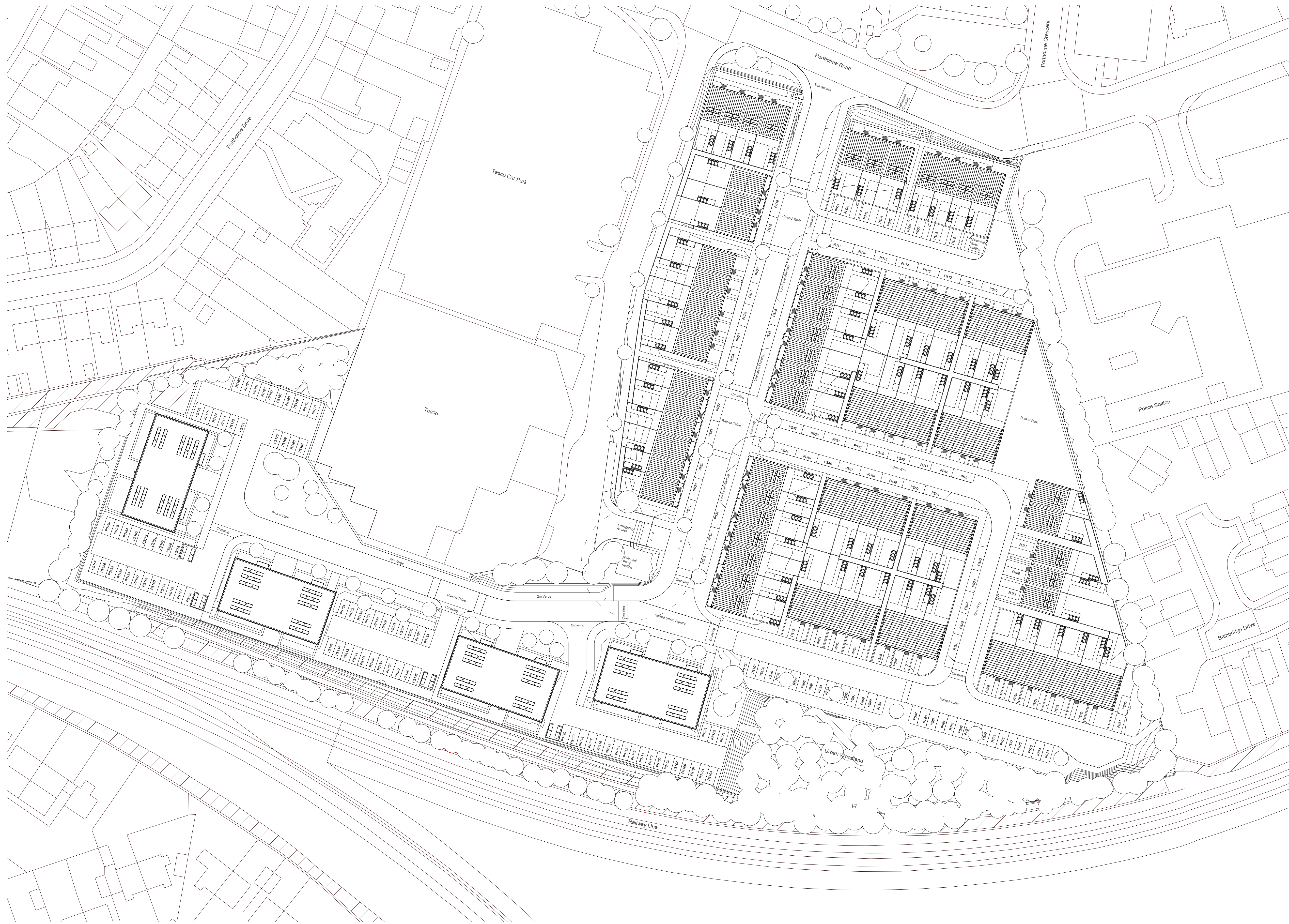
9 BACKGROUND DOCUMENTS

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

Contact Officer: Chris Fairchild, Senior Planning Officer

Appendices: None

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**AMENDED
DRAWING**

Mix	
1 Bed Apartment	- 16
2 Bed Apartment	- 60
2 Bed House	- 38
3 Bed House	- 40
Total	- 154

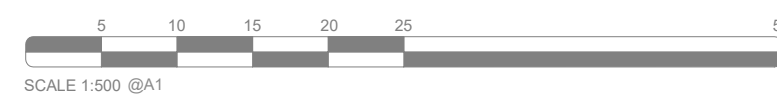
Parking	
Total	- 186 spaces

NOTE:
Please Refer to:
Design & Access Statement - For vision, design approach and detailed design.
0008 4023 LGMH - For house type plan
0008 1110 LGMH - For typical apartment block plan
0008 1120 LGMH - For typical house block plan

Tree location is indicative. Please refer to arboriculture survey and landscape masterplan for more information.

Photovoltaic panels are indicative.

REV	DATE	CURRENT REVISION
16	24/07/2019	For information
17	05/08/2019	
18	06/08/2019	
19	14/08/2019	
20	21/08/2019	
21	22/08/2019	
22	27/08/2019	
23	28/08/2019	
24	18/09/2019	
25	12/11/2019	
26	12/12/2019	



Drawing not to be scaled.
All dimensions to be verified on site before commencing work.
Any discrepancies to be reported to designers.
To be read in conjunction with relevant information.
All building works is to comply with the current Building Regulations and British Standards.
Drawings provided for information only and should not be used for construction.

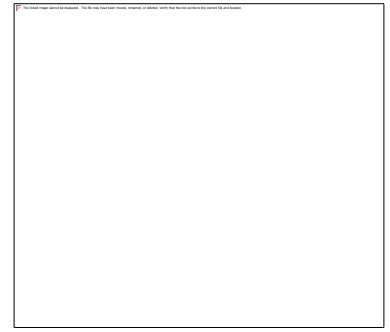
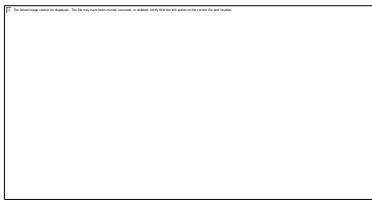
To inform site development layout for the purposes of planning only and it should not be used for construction.



PROJECT 0008
SHEET No. 4020
ORIGINATOR LGMH
SHEET NAME Proposed Site Plan
AUTHOR MB **CHECKER** JM
CURRENT REVISION 26

0008_LGMH_05_ZZ_DR_A_4020
DATE CREATED: 13/10/2019 10:08:05
STATUS: 26 - FOR APPROVAL

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Report Reference Number: 2019/0941/FULM

To: Planning Committee
Date: 8 April 2020
Author: Rebecca Leggott, Senior Planning Officer
Lead Officer: Ruth Hardingham, Planning Development Manager

APPLICATION NUMBER:	2019/0941/FULM	PARISH:	Selby Town Council
APPLICANT:	Legal & General Modular Homes	VALID DATE: EXPIRY DATE:	27th September 2019 27th December 2019
PROPOSAL:	Proposed redevelopment of site to provide 154 residential units (Use Class C3), construction of new vehicular access onto Portholme Road and laying out of open space		
LOCATION:	Selby District Council - Old Civic Centre Portholme Road Selby YO8 4SB		
RECOMMENDATION:	APPROVE subject to the completion of a Section 106 Agreement		

This application has been brought before Planning Committee as Selby District Council is a landowner for part of the site.

1. INTRODUCTION AND BACKGROUND

- 1.1. The application site is located within the defined development limits of Selby, which is a Principle Town as defined within the Core Strategy. The application site is located within an urban setting on brownfield land with, Selby town centre to the north, residential dwellings to the east, the railway to the south and residential dwellings to the west. Further to this, the application site is located within Flood Zone 2, as confirmed by the Environment Agency.
- 1.2. The application site contains the former Civic Centre building, with a large area of car parking located to the south. The former Selby District Council Depot building is located to the rear of the Tesco superstore, in the south west corner of the site. To the east of the site, is a former North Yorkshire Police building, which is now vacant. Residential development is located to the east and west, with the site boarded by the railway line to the south. It is also noted that the site at present remains vacant.

- 1.3. There are no statutory national or local landscape or wildlife designations covering the application site. Though it is noted that the application site would be within proximity to the Selby Town Conservation Area and the Selby Town Archaeological Consultation Zone. In addition, the application site is located within the setting of the Grade I Listed Building, Church of St Mary and St Germain (Selby Abbey).
- 1.4. In landscape character terms the surrounding area is of an urban context. Though it is noted that there are a number of trees on site and a wet woodland to the South.

The Proposal

- 1.5. The development for which permission is being sought is a residential development of 154 dwellings providing the, construction of new vehicular access onto Portholme Road and laying out of open space.
- 1.6. All existing buildings on site are to be demolished under planning application reference, 2019/1100/DEM for the prior notification for proposed demolition of old Civic Centre, depot and associated outbuildings. It is noted that the demolition works have commenced.
- 1.7. The application is accompanied by the following documents.
 - Application Forms and Ownership Certificates.
 - Location Plan.
 - Site/Block Plan.
 - Proposed Elevations.
 - Proposed Floor Plans.
 - Proposed Site Sections, Finished Floor and Site Levels.
 - Roof Plan.
 - Design and Access Statement.
 - Planning Statement, including Planning Application summary and Heads of Terms.
 - Affordable Housing Statement.
 - Economic Statement.
 - Flood Risk Assessment, including Drainage Strategy details.
 - Initial Ecology Report.
 - Initial Air Quality Assessment.
 - Initial Noise Report.
 - Initial Transport Assessment.
 - Initial Travel Plan.
 - Geotechnical and Geo-Environmental Desk Study.
 - Heritage Assessment.
 - Landscape and Visual Impact Assessment.
 - Statement of Community Involvement.
 - Topographical Survey; and
 - Arboricultural Report & Impact Assessment.
- 1.8. Since the application was first received, the following have also been received.
 - Bat Report, received 4th October 2019
 - Transport Assessment, received 15th October 2019

- Travel Plan, received 15th October 2019
- Air Quality Assessment, received 30th October 2019
- Viability Report and Covering Letter, received 31st October 2019
- Updated Ecology Report, received, 12th November 2019
- Amended landscaping arrangement plans, received 22nd November 2019
- Letter response to Biodiversity net gains comments, dated 28th November 2019
- Letter response to Yorkshire Water comments and suggested conditions, dated 28th November 2019.
- Letter response to NYCC Highway comments, received 4th December 2019
- Letter response to Network Rail comments, received 4th December 2019. Includes the following documents:
 - Drainage ditch maintenance strategy.
 - Basic Topographical and Underground Utilities Survey Ref. GR/2375 Rev 0.
 - CCTV Drainage and Utilities Survey Ref. 27069 A0-P1; and
 - CCTV Drainage and Utilities Survey Ref. 27069 A0-P2.
- Letter response to drainage comments, received 4th December 2019. Includes the following documents:
 - Drainage ditch maintenance strategy.
 - Basic Topographical and Underground Utilities Survey Ref. GR/2375 Rev 0.
 - CCTV Drainage and Utilities Survey Ref. 27069 A0-P1; and
 - CCTV Drainage and Utilities Survey Ref. 27069 A0-P2.
- Letter response to Environmental Health comments and suggested conditions, dated, 5th December 2019.
- Details in response to LLFA comments, received 6th January 2020. Includes the following documents:
 - Proposed Drainage Network
 - Flood Flow Routing
 - SW Micro Drainage Results
- Letter response to NYCC Highways and further justifications dated, 10th March 2020.
- Updated Travel Plan received, 17th March 2020.
- Updated Design and Access Statement dated, 17th March 2020
- Updated Flood Risk Assessment dated 17th March 2020

Relevant Planning History

- 1.9. The following historical applications are relevant to the determination of this application.
- 2019/1100/DEM, Prior notification for proposed demolition of old Civic Centre, depot and associated outbuildings, at Selby District Council, Civic Centre, Portholme Road, Selby, YO8 4BS, Decision: PER Decision Date: 15-NOV-19
 - 2019/0838/SCN, EIA Screening opinion request for demolition of two buildings and construction of a residential development of up to 165 modular homes, at Selby District Council, Civic Centre, Portholme Road, Selby, YO8 4BS, Decision: PER Decision Date: 08-NOV-19

- 2018/1126/FUL, Retrospective planning permission for 2 portacabins on the site next to Tesco Selby Superstore at, Tesco Supermarket, Portholme Road, Selby, YO8 4QQ, Decision: PER, Decision Date: 11-JUN-19
- 2013/0291/FUL, Extension of time application of approval 2009/0724/FUL for the erection of replacement store with associated car parking, landscaping and ancillary works following demolition of council depot and existing store at, Tesco Supermarket, Portholme Road, Selby, YO8 4QQ, Decision: PER, Decision Date: 19-DEC-13
- 2012/0276/DPC, Discharge of condition 12 (tanks and pipe works) of approval 2011/0243/FUL (8/19/107BD/PA) for a replacement store with petrol filling station and associated works including demolition works at, Tesco Supermarket, Portholme Road, Selby, YO8 4QQ, Decision: COND, Decision Date: 18-MAY-12
- 2012/0604/COU, Change of use of former Civic Centre car park to public pay and display car park at, Selby District Council - Old Civic Centre, Portholme Road, Selby, YO8 4SB, Decision: PER, Decision Date: 23-AUG-12
- 2011/0243/FUL, Planning permission for replacement store with associated petrol filling station, access works, landscaping, car parking and servicing including demolition of existing store, Civic Centre and council depot at, Tesco Supermarket, Portholme Road, Selby, YO8 4QQ, Decision: PER, Decision Date: 04-OCT-11
- 2007/1223/FUL, Renewal of previous approval 8/19/107AS/PA, for provision of temporary offices, toilets and staff mess room at Selby District Council Stores, Portholme Road, Selby, North Yorkshire, YO8 4QH, Decision: PER, Decision Date: 18-APR-08
- CO/2004/1019, Proposed renewal of previous approval 8/19/107AN/PA dated 25/07/2004 for the provision of temporary offices, toilets and staff messroom at, Selby District Council Store, Portholme Road, Selby, North Yorkshire, Decision: PER, Decision Date: 05-NOV-04
- CO/2001/1105, Proposed steel container to be used as a store on land at, Selby District Council Store, Portholme Road, Selby, North Yorkshire, Decision: PER, Decision Date: 20-FEB-02
- CO/2001/0635, Proposed renewal of planning permission 8/19/107AF/PA dated 1st October 1998 for the provision of temporary offices, toilets and staff messroom at, Selby District Council Store, Portholme Road, Selby, North Yorkshire, Decision: PER, Decision Date: 30-JUL-01
- CO/2000/0579, Installation of 2x300mm microwave antenna and 4xpole antenna on existing radio mast on, Radio Mast Rear of Council Offices, Portholme Road, Selby, North Yorkshire, YO8 4QH, Decision: PER, Decision Date: 10-AUG-00
- CO/1999/602, Retrospective application for retention of 7 lighting columns (being 2 pairs of floodlights on 10m high columns) within car park at, Civic Centre, Portholme Road, Selby, North Yorkshire, YO8 4SB, Decision: PER, Decision Date: 27-SEP-99

- CO/1998/0662, Proposed renewal of planning permission 8/19/107ad/pa dated 3 July 1995 for the provision of temporary offices, toilets and staff messroom at, Selby District Council Store, Portholme Road, Selby, North Yorkshire, Decision: PER, CASA Decision Date: 01-OCT-98
- CO/1995/0410, Proposed renewal of Planning Permission 8/19/107AB/PA dated 25th August 1992 for the provision of temporary office, toilets and staff messroom at, Selby District Council Store, Portholme Road, Selby, North Yorkshire, Decision: PER, Decision Date: 03-JUL-95
- CO/1992/0455, Proposed erection of temporary office, toilets and staff messroom in accordance with Minute 169 of the Policy and Finance Committee dated 9 June 1992 at, Selby District Council Store, Portholme Road, Selby, North Yorkshire, Decision: PER, Date: 25-AUG-92
- CO/1989/0576, Proposed erection of a single storey building and erection of sixteen aerials on existing tower at Civic Centre, Portholme Road, Selby, North Yorkshire, YO8 4SB, Decision: PER, Decision Date: 19-JAN-90
- CO/1989/0575, Proposed display of non- illuminated sign board at Selby District Council Stores, Portholme Road, Selby, North Yorkshire, YO8 4QH, Decision: PER, Decision Date: 06-APR-89
- CO/1987/0448, Erection of a chemical store, for the storage of Ministry of Agriculture approved herbicides and insecticides in accordance with Regulation Four at Selby District Council Store, Portholme Road, Selby, North Yorkshire, Decision: PER, Decision Date: 27-JAN-88
- CO/1987/0013, Proposed erection of Police radio mast and equipment building, to replace existing Selby District Council mast on land adjacent to, Civic Centre, Portholme Road, Selby, North Yorkshire, YO8 4SB, Decision: PER, Decision Date: 22-JUL-87
- CO/1986/0492, Proposed change of house types on Plots 25-34 and 36-48 at, Brayton Ash, Portholme Road, Selby, Decision: PER, Decision Date: 23-MAY-86
- CO/1985/0356, Erection of prefabricated building on prepared base for storage purposes at Civic Centre, Portholme Road, Selby, North Yorkshire, YO8 4SB, Decision: PER, Decision Date: 01-APR-85
- CO/1980/06122, Display of A Non-Illuminated Sign on East Elevation at New Depot Portholme Road, Selby, Decision: PER, Decision Date: 09-APR-80
- CO/1979/06113, Construction of A Temporary Access Road, Portholme Road, Selby, Decision: PER, Decision Date: 18-APR-79
- CO/1979/06111, Council Depot to Include Stores Offices Working Compound & Petrol Etc at, Portholme Road, Selby, Decision: PER, Decision Date: 07-MAR-79

- CO/1979/06112, Erection of A Temporary Building for Garaging of Council Vehicles & Storage at, Portholme Road, Selby, Decision: PER, Decision Date: 04-APR-79
- CO/1979/06114, Erection of A Temporary Site Notice Board, at New Depot Portholme Road, Selby, Decision: PER, Decision Date: 13-JUN-79
- CO/1979/06117, Temporary Staff Accommodation at, New Depot Site Portholme Road, Selby, Decision: PER, Decision Date: 10-OCT-79
- CO/1978/08134, Change of use of disused railway sidings and marshalling yard to temporary car and lorry park at Portholme Road at Street Record, Bainbridge Drive, Selby, Decision: PER, Date: 07-JUN-78
- CO/1977/06092, Erection of A 120ft Single Tubular Mast at Selby D C Headquarters Portholme Road, Selby, Decision: PER, Decision Date: 05-JAN-77
- CO/1975/06070, Erection of Headquarters Building & Associated Facilities & Caretakers House at, Portholme Road, Selby, Decision: PER, Decision Date: 30-JUL-75
- New Depot Portholme Road, Selby, Decision: PER, Decision Date: 13-JUN-79

2. CONSULTATION AND PUBLICITY

- 2.1. **North Yorkshire Fire & Rescue Service** – Have raised no objections to the proposed development and have stated that they will comment on the application further when the building control body submit a statutory Building Regulations consultation. However, have commented that, is it noted that the Typical Upper Floor Plan shows bedrooms as inner rooms which would not comply with building regulations if this floor plan is used.
- 2.2 **NYCC Flood Risk Management** – No objections following the submission a proposed drainage network plan and surface water micro drainage details. The information submitted is sufficient to demonstrate that there is a viable scheme for draining the site in accordance with National and Local Planning Policy. Conditions requiring a detailed drainage scheme and a maintenance regime are suggested.
- 2.2. **Urban Designer** – The Urban Design Officer provided comments on the 11th October which in summary raise issues with: Layout; Scale of Flats; Landscape & Trees; Minimal Outdoor Amenity Space; Setting of Flats; Relationships to Adjoining Sites; and Security.
- 2.3. **Landscape Consultant** – The Landscape Architect provided comments on the 31st October 2019. In summary the landscape architect ‘objects’ to the proposed development, as the proposals do not sufficiently demonstrate that landscape and visual effects are within acceptable limits and with a suitably designed layout and landscape masterplan. The Landscape Architect has stated that further information and amendments to the scheme could be provided to overcome the objection. In summary the suggested amendments include, a reduced density of housing on site, increased green open space, retention the existing trees along the frontage of the site adjacent Portholme Road, submission of a landscape masterplan and

strategy to evidence the proposals and a long terms maintenance and management plan for all landscaping on site.

- 2.4. **Housing Strategy/Rural Enabler** - The Housing Strategy Officer has raised no objections to the proposals in principle. However, has raised concerns in respect of affordable housing. In summary, the tenure of all 47 of the proposed affordable units on site is intended to be Shared Ownership and a mix of 1, 2 and 3 bed houses and apartments. The Housing Strategy Officer has stated that, this would not conform to current policy which expects a tenure split of 30 - 50% intermediate tenure (which does include shared ownership) and 50 - 70% social/affordable rent. The Housing Strategy Officer has requested that information is provided as to why Affordable Rented units were not considered as part of the Affordable Housing mix. In addition, an affordable housing plan should be submitted to ensure that all affordable housing units adhere to National Space standard, are not grouped or clustered together and are built to the same high standard of design and amenity as market housing.

Furthermore, the Housing Strategy Officer has advised that the developer should make early contact with a partner RP for the affordable homes in order to confirm that the number, size and type of units are acceptable to them; please refer to Selby DC'S Affordable Housing SPD for a list of all our RP partners. It is crucial that a S106 Agreement is entered into at the earliest opportunity and an affordable housing plan is submitted.

- 2.5. **Environmental Health** - The Environmental Health Officer provided a response on the 18th October 2019. In summary the EHO states that insufficient information has been provided. In considering this, the following additional information has been requested, a complete Air Quality Assessment, a complete Acoustic Assessment Report, a Construction Environmental Management Plan (CEMP).
- 2.6. **Designing Out Crime Officer** – The Designing Out Crime Officer has raised no objections to the proposed development following additional information being provided to clarify initial concerns raised in respect of the design of the proposed development.
- 2.7. **Selby Area Internal Drainage Board** – The IDB have raised no objections to the proposed development subject to the standard conditions and informatives as follows: (1) Soakaways, (2) Mains sewers, (3) Discharge into an IDB water course, (4) no obstruction within 7 metres of an IDB water course and (5) works adjacent to a main river.
- 2.8. **SuDS and Development Control Officer** – No response received within the statutory time period.
- 2.9. **Conservation Officer** – The Conservation Officer provided comments verbally in that there are objections to the proposed development.
- 2.10. **Natural England** - Natural England has no comments to make on this application.
- 2.11. **North Yorkshire Bat Group** – No response received within the statutory time period.
- 2.12. **Yorkshire Wildlife Trust** - The Yorkshire Wildlife Trust have raised an objection in respect of the proposed works to the natural woodland to the south of the site.

However, the Trust asks if this area of woodland could be retained and incorporated into the site, to act as a natural visible and audible buffer zone between the new development and the train tracks, and to maintain a wildlife corridor. It would appear to be difficult for the developer to comply with any obligation to support the National Planning Policy Framework re sustainable development and providing an over-all net gain for the site without this measure being implemented. This is despite the suggested mitigation to the loss of these ancient tress with re-planting of new saplings at a ratio of 3 to 1, due to the time lapse before these trees would become established.

- 2.13. **County Ecologist** – NYCC Ecology have raised concerns that the proposals fail to provide a net gain of biodiversity on site. However, NYCC Ecology has suggested that this could be mitigated through a scheme of offsite compensation.
- 2.14. **Stephanie Porter Vale of York CCG** – No response received within the statutory time period.
- 2.15. **Public Rights of Way Officer** - No response received within the statutory time period.
- 2.16. **Education Directorate North Yorkshire County Council** – The Education Directorate have raised no objections to the principle of the development. However, have requested that contributions be made in respect of education in the area to the impacts on school places the proposed development will have.
- 2.17. **HER Officer** - The Principle Archaeologist has raised no objections to the proposed development.
- 2.18. **Development Policy** – The Principle Planning Policy Officer has raised no objections to the proposed development.
- 2.19. **Tony Rivero, Senior Town Planner LNE Network Rail** – Network Rail have raised several objections to the proposed development. In summary Network Rail object to surface water run off being directed towards the railway. Furthermore, Network Rail have requested that no drainage proposals to be within 20 metres of the Network Rail boundary. Additional, exclusion zones are provided in respect of Network Rail assets within the site. Further to this, Network rail have provided comments on safe working within the site and concerns for impacts on excavations/ earth works within the site impacting on subsidence along the railway network. Comments have also been provided in respect of Security of Mutual Boundary's, Armco Safety Barriers, Fencing, Method Statements/Fail Safe/Possessions, Demolition, Vibro-impact Machinery Scaffolding, Encroachment, Noise/Soundproofing, Trees/Shrubs/Landscaping and Lighting, all of which could be secured by way of condition.
- 2.20. **The Environment Agency (Liaison Officer)** – The Environment Agency have raised no objections to the proposed development. Subject to compliance with the EA's Standing Advice and also the details provided in respect of site levels and the flood resilience strategy, which can be secured by way of condition.
- 2.21. **Waste and Recycling Officer** – The Waste and Recycling Officer has raised no objections to the development in principle. However, has raised concerns for bin stores being located to the rear of properties and the distance to the front of the properties, limited access to bins due to on street parking. Larger bins and bin

stores should be provided for the apartment blocks of which the developer will be required to pay for. Further to this, following the submission of amended plans the Waste and Recycling Officer has raised no objections as a result of the road network being privately maintained subject to a legal agreement relating to liability.

- 2.22. **Yorkshire Water** - Yorkshire Water have raised no objections subject to the following conditions being attached to any permission granted: (1) No building or other obstruction including landscape features shall be located over or within 3.5 (three point five) metres either side of the centre line of the public sewer, (2) The site shall be developed with separate systems of drainage for foul and surface water on and off site, (3) Oil, petrol and grit interceptor, (4) Details of surface water drainage works. Furthermore, several informatives have been suggested relating to, altering/ diverting public sewers, surface water run-off from parking, and surface water disposal
- 2.23. **Contaminated Land Consultant** – The Contaminated Land Consultant has raised no objections to the proposed development subject to the following conditions being attached to any permission granted: (1) Investigation of Land Contamination, (2) Submission of a remediation Scheme, (3) Verification of Remedial Works, and (4) Reporting of Unexpected Contamination.
- 2.24. **Parish Council** - Selby Town Council objects to this application due to concerns at the loss of a significant number of semi-mature trees and consequential effect on the environment and ecology. Also, the removal of a significant amount of green space. Selby Town Council also has concerns for traffic generation in excess of capacity of local road network.
- 2.25. **North Yorkshire Highways and Transportation North Yorkshire** – NYCC Highways have raised objections to the proposed scheme as the proposals would not accord with the Local Highway Authorities Policy and Guidance. Following further work and discussions with the applicant, agent and NYCC Highways amendments have been made to the road layout and further to this, the scheme is now being progressed with the access and roads remaining as unadopted highway.
- 2.26. It is noted that following the recommendation the applicant would therefore seek to retain the private status of the site and maintain through a third-party company. It is acknowledged that this then alters the nature of the site. The LHA therefore no longer has to consider whether parking provision within the publicly maintainable highway is appropriate and the remaining key issue therefore is the suitability of the parking provision within the site, in terms of its adequacy to allow for demand and not impact on areas of publicly maintainable highway outside of the site, and also to advise the LPA of the level, which the LHA considers would not promote errant driver behaviour and therefore reduce safety within, and in proximity to, the site. The design guidance, however, remains relevant as it is on the basis of this that the parking guidance is offered and it would be good practice for all residential sites to be constructed in a manner suitable to adoption, even if the intent is that it retains its private status, for the amenity and safety benefits of its residents.
- 2.27. Whilst it is therefore agreed that the site is atypical, the NYCC standard, based on observed parking behaviour in North Yorkshire, with an additional quotient applied to represent the net loss of occasional use on-street parking for visitors and deliveries, based on the net loss of available space due to the positioning of parking bays in the site, nevertheless remains the most reliable and considered

indicator of car parking provision required. This guidance, coupled with an understanding of the demographic and employment patterns in Selby District, is the basis for the recommendation of refusal.

2.28. However, NYCC Highways have advised a number of conditions should the application be progressed towards an approval:

- Detailed Plans of Road and Footway Layout
- Construction of Roads and Footways Prior to Occupation of Dwellings
- Discharge of Surface Water
- Permanent Site Construction Access
- Closing of Existing Access
- Visibility Splays
- Pedestrian Visibility Splays
- Approval of Details for Works in the Highway
- Completion of Works in the Highway
- Provision of Approved Access, Turning and Parking Areas
- Parking for Dwellings
- Highway Condition Survey
- Travel Plans
- Construction Phase Management Plan

2.28 **Portholme Church** – Portholme Church welcomes and supports the redevelopment of this site for housing and the demolition of the Old Civic Centre. However, Portholme Church have raised concerns for the following:

- The impact noise and vibration will have on units close to the railway
- Loss of green space
- Increased traffic and impact on the junction of Portholme Road and Portholme Crescent.
- Highway safety in respect of visibility splay and moving the pedestrian crossing further east and the impact of subsequent queuing traffic past the Portholme Road and Portholme Crescent Junction.

Portholme Church have however suggested that other traffic calming measures could be incorporated as part of this development or by NYCC Highways separately.

2.29 **Highway Consultant** – The highway consultant has raised no objections to the proposed development in respect of parking arrangements, specifically the number of parking spaces provided on site. Furthermore, following receipt of additional information by way of road safety audits the highway consultants have raised no objections to the proposals in respect of highway safety. Therefore, the highway consultants have confirmed the acceptability of the scheme on highway grounds subject to conditions relating to:

- Detailed Plans of Road and Footway Layout
- Construction of Roads and Footways Prior to Occupation of Dwellings
- Permanent Site Construction Access
- Closing of Existing Access
- Visibility Splays
- Pedestrian Visibility Splays

- Approval of Details for Works in the Highway
- Completion of Works in the Highway
- Provision of Approved Access, Turning and Parking Areas
- Parking for Dwellings
- Construction Phase Management Plan

2.30 **Neighbour Summary** – All immediate neighbours were informed by letter; a site notice was erected, and an advert placed in the local press. This has resulted in 5 letters of objection and 1 letter of support to date. In summary the letters of objection raise concerns for the following:

- High density of housing on site
- Increased traffic
- Poor air quality
- Lack of parking
- Poor of public transport in Selby
- Lack of open space
- Lack of consideration for climate change due to the felling of trees
- Increased pressure on local infrastructure and public services such as schools and the doctors
- Overlooking, lack of privacy, loss of light
- Light pollution
- Security risks to neighbouring properties to the east
- Insufficient surface water drainage and flood risk
- Lack of access and consideration for the dykes to the south of the site required to reduce flood risk for the existing surrounding properties
- The height, design and siting of the apartment blocks

It is also noted that several comments were made in relation to the proposals causing the devaluation of the existing surrounding properties. However, it should be noted that this is not a material planning consideration.

3. **SITE CONSTRAINTS**

Constraints

- 3.1. The application site is located within the defined development limits of Selby, which is a Principle Town as identified within the Core Strategy. Further to this, the site is brownfield land within an urban setting.
- 3.2. There are no statutory national or local landscape or wildlife designations covering the application site. Though it is noted that the application site would be within proximity to the Selby Town Conservation Area and the Selby Town Archaeological Consultation Zone. In addition, the application site is located within the setting of the Grade I Listed, Church of St Mary and St Germain (Selby Abbey).
- 3.3. The site is located within Flood Zone 2 which has a medium probability of flooding. The sites former uses linking to the railway and the old Selby District Council Depot is likely to have given rise to some ground contamination.

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 Core Strategy Policies are:
 - SP1 - Presumption in Favour of Sustainable Development
 - SP2 - Spatial Development Strategy
 - SP4 – Management of Residential Development in Settlements
 - SP5 - The Scale and Distribution of Housing
 - SP8 - Housing Mix
 - 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 Selby District Local Plan Policies are:

- ENV1 - Control of Development
- ENV2 - Environmental Pollution and Contaminated Land
- ENV25 – Control of Development in Conservation Areas
- H2B – Housing Density
- T1 - Development in Relation to Highway
- T2 - Access to Roads
- RT1 - Protection of Existing Recreational Open Space
- RT2 – Open space requirements

4.8. **Other Policies/ Guidance:**

- Affordable Housing Supplementary Planning Document, 2013
- Developer Contributions Supplementary Planning Document March 200

5. APPRAISAL

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

- Principle of Development
- Impact on the Character and Appearance of the Area
- Impact on the Surrounding Heritage Assets
- Impact on Residential Amenity
- Impact on Highway Safety
- Flood Risk, Drainage and Climate Change
- Impact on Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing
- Recreational Open Space
- Education, Health Care, Waste and Recycling
- Other Matters

Principle of Development

5.2. The application site is located within the defined development limits of Selby, which is a Principle Town as identified in the Core Strategy and is part located within Flood Zone 1 and part located within Flood Zone 2. The application site is located within proximity to the Selby Town Conservation Area and within the setting of several listed buildings.

5.3. Policy SP1 of the Selby District Core Strategy Local Plan (2013) outlines that "when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework" and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF and should be afforded significant weight.

5.4. The application site is situated within the defined Development Limits of Selby, which as the Principal Town is the focus for new housing, employment, retail, commercial and leisure facilities. The proposal is therefore in accordance with Policy SP2A (a) of the Core Strategy.

- 5.5. Policy SP4(a) states that "in order to ensure that development on non-allocated sites contributes to sustainable development and the continued evolution of viable communities, the following types of residential development will be acceptable in principle within Development Limits" in different settlement types, adding that in respect of Selby this includes, "Conversions, replacement dwellings, redevelopment of previously developed land and appropriate scale development on greenfield land (including garden land and conversion/ redevelopment of farmsteads)."
- 5.6. NPPF paragraph 118(c) states that decisions should, "give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land."
- 5.7. As the proposal involves the, creation of a new residential development consisting of a mix of apartments and dwelling houses and associated infrastructure within development limits it would comply with Policy SP4 (a) and therefore would be acceptable in principle. However, proposals that are acceptable in principle are still required to meet the policy test set in criteria (c) and (d) of Policy SP4 and all other relevant local and national policy tests.
- 5.8. The impact on acknowledged interests against the above policy tests is considered in the following parts of the report, including the issue of scale.

Impact on the Character and Appearance of the Area

- 5.9. SDLP Policy ENV1 requires the effect of new development on the character of the area and the standard of design in relation to the site and its surroundings to be considered when considering proposals for new development. Similarly, CS Policy SP19 expects new development to have regard to the local character, identity and context of its surroundings. Paragraph 127 of the NPPF states that, planning decisions should ensure that development; is visually attractive as a result of layout and landscaping; sympathetic to local character, while not preventing change, and establish a sense of place.
- 5.10. The application is accompanied by a Design and Access Statement, which assesses the site context and characteristics which then inform the overall principles for the site development. Further to this, a Landscape Appraisal has been submitted, which assess the site context in respect of the urban setting and green infrastructure in and around the site.
- 5.11. It is noted that the proposals would remove most trees on site including those along the frontage of the site. However, it is noted that this is due to the need for site clearance in order to raise site levels to address issues with flood risk and drainage.
- 5.12. Having sought specialist advice from the Landscape Architect at North Yorkshire County Council, it is considered that, the proposal would have the potential to impact on the townscape. It is noted that the application is accompanied by a Landscape Appraisal including a masterplan.
- 5.13. Following discussions, the Landscape Architect has raised objections to the proposed development in respect of the significant visual impacts on the character and appearance of the area, due to the removal of the trees on site and insufficient

green infrastructure throughout the site. However, the developer does not require formal consent from the council in order to remove these trees nor are they protected. Furthermore, these trees are required to be removed to allow the site levels to be increased to reduce flood risk. It is considered reasonable to attach a condition requesting a further scheme of landscaping to be submitted, to allow for an acceptable scheme to be agreed.

- 5.14. In terms of design, having sought specialist advice from the Council's Urban Designer, issues have been raised in respect of layout; scale of flats; landscape & trees; minimal outdoor amenity space; setting of flats; relationships to adjoining sites; and security. Whilst the comments made by the Council's Urban Designer have been noted officers do not consider that the above would have any significant adverse impacts which would warrant refusal of the scheme.
- 5.15. Whilst the above concerns have been noted, it is considered that these are subjective. Officers consider that the scheme provides new opportunities for creating well designed relatively high-density development with an urban layout which still provides an attractive scheme through the its layout, landscape, including street trees, lighting, street furniture and materials.
- 5.16. Overall, in considering the proposed scheme officers consider that the proposals include innovative designs which promote high levels of sustainability and help raise the standard of design in and around Portholme Road and the area of Selby.
- 5.17. Great weight will be given to proposals of such high design quality subject to the proposals fitting in with the overall form and layout of their surroundings. In addition, the proposals should aim to create high quality buildings and places which improve the character and quality of the area and the way it functions through landscape and urban design.
- 5.18. Subject to aforementioned condition, it is concluded that the design and the effect of the proposal upon the character of the area would be acceptable and in accordance with SDLP Policy ENV1 and CS Policy SP19 and national policy contained in the NPPF.

Impact on the Surrounding Heritage Assets

- 5.19. The application site is located within proximity to the Selby Town Conservation Area. When considering proposals which affect the setting of Conservation Areas regard should be made to Policy ENV1 (1), (4) and (5) and ENV25 of the Selby District Local Plan, and Policies SP18 and SP19 of the Core Strategy.
- 5.20. Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF. However, less weight should be given to Policy ENV25, as it does not accord with the approach taken within the NPPF in relation to the emphasis on significance and on weighing harm to significance against other considerations, depending on whether there is substantial harm or less than substantial harm.
- 5.21. Relevant policies within the NPPF, which relate to development within a Conservation Area, include, 189, 190, 191,192 193, 194 and 196. Paragraph 190 of the NPPF requires that LPA's should identify and assess the significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset. Paragraph 192 of the NPPF advises what

the LPA should take into account when determining applications and of particular note to this the LPA's should take into account in any decision the desirability of new development making a positive contribution to local character and local distinctiveness.

- 5.22. Paragraph 193 of the NPPF requires that, "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance." Further to this Paragraph 194 of the NPPF requires that, "Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification...."
- 5.23. At para 196 the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposals.
- 5.24. It is noted that a Heritage Assessment has been submitted. It is noted that this assesses the proposed scheme in respect of the surrounding heritage assets such as the Selby Town Conservation area and other surrounding listed buildings including the Grade I Listed, Church of St Mary and St Germain (Selby Abbey).
- 5.25. Having sought specialist advice from the Council's Conservation Officer, in giving great weight to the surrounding heritage assets and a review of the heritage assessment, it is considered that the proposed scheme would not harm the surrounding heritage assets.
- 5.26. In considering all of the above, the proposed development is acceptable in respect of impacts on the surrounding heritage assets. Therefore, the proposed development would comply with CS19 and SDLP ENV25 and paragraphs 196 of the NPPF.

Impact on Residential Amenity

- 5.27. SDLP Policy ENV1 requires a good standard of layout and design and that the effect of new development upon the amenity of adjoining occupiers to be taken into account. Paragraph 127 of the NPPF similarly seeks to ensure that developments; are attractive and welcoming places to live as a result of layout, building types and landscaping.
- 5.28. The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighboring properties, overshadowing of neighboring properties would occur from the size, scale and massing of the development proposed.
- 5.29. Having considered the proposed site plan, proposed floor plans and elevations, the proposals are in close proximity to surrounding residential development to the east and west of the site. However, in considering any impacts of overlooking and overshadowing of neighboring properties, given the separation distances and the orientation of the properties. It is not considered that there would be any significant adverse impact on overlooking or overshadowing. It is noted that a number of concerns had been raised by neighbors regarding the apartment blocks to the

south east of the site. Having reviewed these carefully, due to the separation distances involved and given the apartment block along the eastern boundary of the site would not have its main orientation facing towards neighboring properties it is not considered that this would pose any significant adverse impacts on residential amenity.

- 5.30. Furthermore, proposed dwellings provide an appropriate level of private amenity space and suitable boundary treatments between existing and proposed dwellings.
- 5.31. In respect of noise and air quality, it is noted that a number of documents have been submitted including: Air Quality Assessment and an initial Noise Assessment.
- 5.32. In consulting Environmental Health they have raised no objections subject to a number of conditions relating to, (1) the submission of an emissions statement, (2) a scheme for protecting the proposed noise sensitive development from noise and (3) a Construction Environmental Management Plan (CEMP). It is noted that following discussions regarding air quality as it is intended that electric vehicle charging will be incorporated on site as confirmed by the applicant and agent this may be used as a mitigation measure within the emissions statement.
- 5.33. Subject to aforementioned conditions, the proposed development is acceptable in respect of the impacts on residential amenity. Therefore, the proposed development would comply with SDLP Policy ENV1 and paragraph 127, 181 of the NPPF.

Impact on Highway Safety

- 5.34. SDLP Policy T1 requires new development to be well related to the existing highway network and Policy T2 states that development resulting in the intensification of the use of an existing access will be supported provided there would be no detriment to highway safety. The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 5.35. It is proposed that the existing access to the Civic Centre site will be closed and a new access created where the pelican crossing is currently located. It is noted that an emergency access is located along the western boundary of the site onto the Tesco access road.
- 5.36. It is noted that the Transport Assessment and Travel Plan have been submitted albeit not part of the original suite of documents.
- 5.37. North Yorkshire County Council Highways have been consulted on the proposed development. NYCC Highways have raised objections to the proposed scheme as the proposals would not accord with the Local Highway Authorities Policy and Guidance. However, following further work and discussions with the applicant, agent and NYCC Highways amendments have been made to the road layout and further to this the scheme is now being progressed as unadopted highway.
- 5.38. Therefore, the most up to date set of comments from NYCC Highways in respect of the amended scheme raise objections in respect of parking issues which subsequently impact on the use of the highway within the site, including *“the obstruction of cars parked in spaces by delivery and service vehicles, for which*

there is no considered parking quotient, to difficulties with refuse collection and lighting, given there is no clear route from households and footpaths to the carriageway and the positioning of lighting... and moving of waste would be problematic.” However, it is noted that all other issues are no longer within the remit of the Local Highway Authority, given the layout of the site is not to be adopted and will therefore be privately maintained.

- 5.39. The issues with parking relates to the suitability of the parking provision within the site, in terms of its adequacy to allow for demand and not impact on areas of publicly maintainable highway outside of the site, and also to advise the LPA of the level which the LHA considers would not promote errant driver behavior and therefore reduce safety within, and in proximity to, the site.
- 5.40. Further to this, it is noted that NYCC Highways are content with trips to be associated with the proposed use, following additional information by way of a sensitivity test without the netted off trips. A Road Safety Audit has also been carried out which NYCC Highways had confirmed is acceptable in respect of the layout of the main access for the site though this is to be signed of outside of the planning process.
- 5.41. Whilst it is noted that, the scheme no longer includes any area of adopted highway maintainable at the public expense and would be maintained by a private maintenance company, NYCC Highways are objecting to the proposed development on the basis of parking. Given the unique nature of the scheme and private highway network, further advice has been sought from an independent highway consultant in order to confirm that the proposed private scheme is acceptable in highway safety terms.
- 5.42. In summary this advice recommends that further information is provided in respect of highway safety. This includes road safety audits for the internal layout of the scheme and again for the main access of the site on to the public highway. Following discussions with the applicant and agent this additional information has been provided which confirms the acceptability of the scheme in respect of highway safety. It should be noted that, this information was submitted for review to the independent highway consultants who have confirmed that sufficient information has now been submitted in order to confirm that the scheme is acceptable in terms of highway safety.
- 5.43. Therefore, it is considered that the scheme is acceptable in respect of highway safety subject to conditions relating to:
- Detailed Plans of Road and Footway Layout
 - Construction of Roads and Footways Prior to Occupation of Dwellings
 - Permanent Site Construction Access
 - Closing of Existing Access
 - Visibility Splays
 - Pedestrian Visibility Splays
 - Approval of Details for Works in the Highway
 - Completion of Works in the Highway
 - Provision of Approved Access, Turning and Parking Areas
 - Parking for Dwellings
 - Construction Phase Management Plan

- 5.44. It should be noted that the following conditions have not been included in the conditions list:
- Discharge of Surface Water – This is covered by the overall drainage strategy conditions.
 - Highway Condition Survey – This is not considered reasonable or necessary.
 - Travel Plans – A travel plan has been submitted and considered reasonable to condition compliance with this.
- 5.45. Further to the above, officers acknowledge that this scheme aims to create a high-quality development that is not dominated by the road network. By providing a lower level of parking and increased street trees acknowledging reduced car ownership, traffic movements and landscaping as an opportunity to work to mitigate the effects on decreasing pollution and greenhouse gases. This is considered to carry great weight in the planning balance.
- 5.46. Furthermore, it is considered reasonable to secure the maintenance of all aspects of the private highway network via a S106 agreement.
- 5.47. Subject to aforementioned conditions the proposed scheme is considered to be acceptable on balance and in accordance with policies ENV1(2), T1 and T2 of the Local Plan, Policy SP19 of the Core Strategy and Paragraph 39 of the NPPF with respect to the impacts on the highway network.

Flood Risk, Drainage and Climate Change

- 5.48. SDLP Policy ENV1 requires account to be taken of the capacity of local services and infrastructure and CS Policy SP19 seeks to prevent development from contributing to or being put at risk from water pollution.
- 5.49. The Environment Agency flood map for planning shows that the majority of the site is located within Flood Zone 2, with parts within Flood Zone 1, and the site, therefore, has a medium risk of flooding from rivers. The mapping for surface water shows the proposed development is within a very low risk area for surface water flooding with only depressions within the site having a low risk.
- 5.50. Paragraph 155 of the NPPF states that “Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.”
- 5.51. Paragraph 158 of the NPPF states that “The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.” For individual planning applications where there has been no sequential testing of the allocations in the development plan, or where the use of the site being proposed is not in accordance with the development plan, the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed.

- 5.52. The Council's Flood Risk Sequential Test Developer Guidance Note - October 2019 states that, when applying the sequential test, proposals on sites where previously developed land (PDL) accounts for 50% or more of their area should only be compared against other previously developed sites (50%+ of their area) within the development limits of the same settlement. This is because it is not the intention of the Council to use the sequential test to reallocate development from PDL to greenfield sites. The majority of land within the Development Limits for Selby falls within Flood Zone 2 and 3 and the application site represents the only available site for 154 dwellings. As such, the site is considered to pass the sequential test.
- 5.53. The application has been supported by a flood risk assessment which recognises the risk of flooding from river as medium and assesses the site for all other sources of flooding as low or negligible. The document goes on to recommend appropriate mitigation measures which include; finished floor levels to the properties to be raised a minimum of 300mm above the 1 in 100 year flood level; ground floors to comprise solid concrete slabs or beam and block with screed construction, and; incoming electricity supplies to be raised above ground floor level. Further to this, the document goes on to refer to a lower finished floor level of 6.3 metres (AOD). This lower finished floor level would also be subject to the measures as set out in the Floor Resistance and Resilience Strategy document submitted.
- 5.54. Following consultation with the Environment Agency, it is confirmed that the rear apartments should be set at a finished floor level of no lower than 6.8m AOD due to ground floor sleeping accommodation and the dwellings should be set at a finished floor level of between 6.3 meters and 6.5 meters AOD as they have no ground floor sleeping accommodation. Following discussions with the applicant, agent and EA, it is considered reasonable to attach a compliance condition stating the residential units with ground floor sleeping accommodation should be set no lower than 6.8 meters AOD. Furthermore, those units with no ground floor sleeping accommodation to be set no lower than 6.3 meters AOD and to comply with the measures as set out within the flood resistance and resilience strategy submitted.
- 5.55. Foul water is proposed to be discharged to the public sewer network on the site. Furthermore, Surface water is proposed to be discharged via sustainable urban drainage systems.
- 5.56. It is noted from the consultation responses that, there are a number of comments from Yorkshire Water, Network Rail and the LLFA.
- 5.57. In respect of Yorkshire Water, there are no objections subject to conditions, which are considered reasonable. Furthermore, it is noted that the proposals would involve the diversion of the water course which runs through the site. However, this would be considered by Yorkshire Water separately.
- 5.58. In respect of Network Rail concerns have been raised in respect of surface water outfall towards the railway. A number of conditions and informatives have been advised in order alleviate these concerns. A response has been provided by the planning agent, which provides further drainage details for assurances for Network Rail and agreement to the conditions and informatives has been provided.
- 5.59. In respect of the LLFA the applicant provided a detailed Drainage Network Plan and micro drainage surface water details, which were considered by the LLFA officer who was satisfied that the information provided demonstrates that there is a

viable scheme for draining the site in accordance with National and Local Planning Policy. Further detailed drainage design details will be required at the discharge of conditions stage, and therefore two conditions were recommended covering the need for detailed drainage and secondly a suitable maintenance scheme for the proposed SuDS drainage arrangement.

- 5.60. The IDB however have raised no objections subject to a number of standard conditions.
- 5.61. In considering all of the above the proposals are acceptable in respect of drainage and flood risk and therefore accords with policies SP15, SP16, SP19 of the Core Strategy, and paragraphs, 158, 159 and 160 of the NPPF.

Impact on Nature Conservation and Protected Species

- 5.62. SDLP Policy ENV1 states that proposals should not harm acknowledged nature conservation interests and CS Policy SP18 seeks to safeguard the natural environment and increasing biodiversity. These policies are consistent with NPPF paragraphs 170 and 175, which seek to protect and enhance sites of biodiversity value.
- 5.63. Paragraph 170(d) of the NPPF expresses support for, “minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.” However, it is also noted that paragraph 170(f) of the NPPF is relevant in respect of contaminated land. These expresses support for, “remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.”
- 5.64. Paragraph 175(a) of the NPPF states that, “...if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused...”
- 5.65. Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.
- 5.66. Whilst the application site is not designated for nature conservation, or in close proximity to a designated site, a Preliminary Ecological Appraisal was submitted with the application.
- 5.67. Comments have been sought from NYCC Ecology and comments have been provided in respect of net gain in terms of biodiversity. The Ecologist has raised concerns that there is not a 10% net gain on site. Further information was also requested and subsequently provided in terms of details of the assessment of the existing wet woodland on site and grass land and details of site habitat creation, other neutral grass land and an updated landscape plan to be provided.
- 5.68. From a review of the submitted information it is considered that there is a biodiversity net loss of 0.42% on site. Officers consider that as there is no reference to a requirement for net gain in the NPPF and as the net loss is marginal, therefore this would not have significant adverse impacts overall in respect of ecology and would not warrant refusal of the application.

- 5.69. On balance it is not considered that the proposals would have a significant adverse impact on ecology. It is considered reasonable to attach a condition controlling compliance with the plans and documents provided in respect of ecology and mitigation measures which would ensure the proposed development would be acceptable.
- 5.70. Subject to aforementioned conditions, the proposed development is acceptable on balance in respect of nature conservation and protected species. Therefore, the proposed scheme is in accordance with SDLP Policy ENV1, CS SP18 and paragraphs 170 and 175 of the NPPF.

Land Contamination

- 5.71. Policy ENV2 states development which would give rise to or would be affected by unacceptable levels of noise nuisance, contamination or other environmental pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme. Paragraph 178 of the NPPF states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.
- 5.72. The application has been accompanied by a Geotechnical and Geo- Environmental Desk Study. In summary this concludes that further site investigation would be required. Furthermore, a number of mitigation measures have been suggested within the report.
- 5.73. The Contaminated Land Consultant has been consulted who has raised no objections to the proposed development subject to a number of standard conditions relating to, (1) Investigation of Land Contamination, (2) Submission of a remediation Scheme, (3) Verification of Remedial Works, and (4) Reporting of Unexpected Contamination.
- 5.74. Subject to aforementioned conditions, the proposed development is acceptable in respect of contaminated land. Therefore, the proposed scheme is in accordance with SDLP Policy ENV2 and paragraphs 170(f), 178 and 180 of the NPPF.

Affordable Housing

- 5.75. Core Strategy Policy SP8 sets out the housing mix policy context for the District. Policy SP8 requires that all proposals for housing must contribute to the creation of mixed communities by ensuring that the types and sizes of dwellings provided reflect the demand and profile of households evidenced from the most recent strategic housing market assessment and robust housing needs surveys whilst having regard to the existing mix of housing in the locality.
- 5.76. Core Strategy Policy SP9 and the accompanying Affordable Housing SPD sets out the affordable housing policy context for the District. Policy SP9 outlines that, that the Council will seek to achieve up to 40% on-site affordable housing provision on all market housing sites at or above the threshold of 10 dwellings (or sites of 0.3ha or more). Commuted sums will not normally be accepted. The actual amount of affordable housing to be provided will be a matter for negotiation at the time the planning application is submitted, having regard to any abnormal costs, economic viability and other requirements associated with the development.

- 5.77. However, paragraph 63 of the NPPF states that “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”. The proportionate amount is defined as the gross floorspace of the existing buildings.
- 5.78. The national policy is a clear incentive for brownfield development on sites containing vacant buildings as is the case with the application site and is a significant material consideration when considering the provision of affordable housing and the Council must have regard to the intention of the national policy. The approach effectively applies a ‘credit’ to be applied against the normal affordable housing contribution calculation. Any increase in floorspace over and above that existing will be subject to the normal contribution calculation.
- 5.79. The majority of dwellings proposed by the application are 1 or 2 bedrooms properties (75%), with the overall development mix proposed as follows:
- 1 bed flat = 12 units (8%)
 - 2 bed flat = 64 units (42%)
 - 3 bed house = 38 units (25%)
 - 4 bed house = 40 units (26%)
- 5.80. In considering whether the mix of dwelling sizes is appropriate, consideration has been given to the Council’s latest Strategic Housing Market Assessment (SHMA). The modelling outputs provide an estimate of the proportion of homes of different sizes that are needed and are identified as follows:

Need to different types and sizes of homes (SHMA, 2019):

	Affordable rented	Low cost home ownership	Market housing
1 bed	25-30%	10-15%	0-5%
2 bed	35-40%	40-45%	25-30%
3 bed	25-30%	35-40%	45-50%
4 + bed	5-10%	5-10%	20-25%

- 5.81. When considering the information above against individual development proposals, regard should be had to the nature of the development site and character of the area, and to up-to-date evidence of need as well as the existing mix and turnover of properties at the local level.
- 5.82. The latest Authorities Monitoring Report (2017/18) provides up-to-date data on the size of dwellings delivered since the beginning of the plan period and this information (below) indicates the supply of dwelling has been skewed towards larger properties (3 and 4+ bedroom dwellings).

Net Housing Completions by Bedroom Number (April 2011 – March 2018) (AMR 2017/2018):

Number of beds	% of total dwellings completed
1 bed	3%
2 bed	20%
3 bed	37%

4+ bed	40%
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- 5.83. On this basis, and given the site is located close to Selby Town Centre in a highly sustainable location, it is considered that the proposed mix of dwellings is broadly acceptable and that the site is appropriate for higher density development, such as that proposed. As such the scheme is considered to provide an appropriate type of accommodation in this location and is therefore considered to be in compliance with Core Strategy Policy SP8.
- 5.84. However, having had regard to any abnormal costs, economic viability and other requirements associated with the development, the viability study submitted by the applicant's states that 8 affordable units (5%) can be provided on site. Following commissioning an independent viability report this states that, 21 on- site affordable dwellings can be provided equating to 13.64%. Following negotiations with the applicants the council was able to ascertain agreement to 18 on- site affordable dwellings, equating to 12%. Where it is noted that this is significantly lower than 40%, given the site constraints it is considered that this is reasonable.
- 5.85. Furthermore, it is considered reasonable to secure affordable housing by a S106 agreement.
- 5.86. However, it is noted that an appropriate agreement will be secured at the time of granting planning consent to secure the long-term future of affordable housing.

Recreational Open Space

- 5.87. Policy in respect of the provision of recreational open space is provided by SDLP Policy RT2, this requires that proposals for new development comprising 5 or more dwellings will provide recreation open space at a rate of 60 sq. m per dwelling. For schemes of 50 dwellings or more, provision within the site will normally be required.
- 5.88. Furthermore, CS policies SP12 and SP19 together with the Developer Contributions Supplementary Planning Document (SPD). Paragraph 96 of the NPPF states that access to open spaces and opportunities for physical activity are important.
- 5.89. Policy RT2 (b) states that the following options would be available subject to negotiation and the existing level of provision in the locality.
- provide open space within the site;
 - provide open space within the locality;
 - provide open space elsewhere;
 - where it is not practical or not deemed desirable for developers to make provision within the site the district council may accept a financial contribution to enable provision to be made elsewhere.
- 5.90. The submitted layout plan, as revised, incorporates on-site recreational open space as part of the development. The SPD and policy requirement is for 60sqm per dwelling to be provided on site which, in this case, would equate to 9,240sqm or 0.924 hectares. The open space element of the development amounts to 4606sqm or 0.4606 hectares and includes a pocket parks and a wet woodland area with a board walk.

- 5.91. While it is noted that the proposal does not meet the required provisions for space having carefully considered the viability reports and given the proposed scheme is adjacent to a large open recreational open space. It is considered that the provisions for open space onsite are acceptable.
- 5.92. Furthermore, it is considered reasonable to request details of the open spaces and a management plan via condition and also to be secured by a S106 agreement.
- 5.93. In considering all of the above the scheme is acceptable in respect of recreational open space within the site and therefore the scheme is considered acceptable in respect of SDLP Policy RT2.

Other Matters

- 5.94. CS Policy SP15 states that schemes should aim to improve energy efficiency, minimise energy consumption, incorporate sustainable construction techniques and include new tree and hedge planting. CS Policy SP16 requires residential schemes of 10 dwellings or more to provide a minimum of 10% of energy requirements from renewable, low carbon or decentralised sources. Subject to a planning condition seeking details of the way in which the requirements for 10% of energy to be sourced as set out in Policy16, the development is considered to be in accordance with CS Policies SP15 and SP16.
- 5.95. Whilst the adopted Developer Contributions Supplementary Planning Document includes provision for education and health care facilities, these types of infrastructure appear on the Council's published Regulation 123 List which gives details of infrastructure projects intended to be funded through the Community Infrastructure Levy (CIL) such that contributions are not sought through Section 106 Agreement. In changes to the Community Infrastructure Regulations brought into force in September 2019, Regulation 123 has been omitted but with no further guidance on the status of Regulation 123 lists prior to the introduction of an Infrastructure Funding Statement which the Council will now need to consider through the local plan process.
- 5.96. It is considered that the Council's Regulation 123 List should remain in force and guide decisions as to how CIL is applied and whether S106 contributions meet the legislative tests set out in Regulation 122. It will be difficult to show that a S106 payment meets the Regulation 122 tests if CIL could potentially fund the same piece of infrastructure as currently indicated in the Council's 123 List.
- 5.97. While it is noted that North Yorkshire County Council's Children and Young Peoples' Service has requested contributions of £115,566 given Selby District Council's published updated approach to CIL. Officers would not be able to request this separately through a S106 agreement as it is considered that the CIL contributions would be used for this purpose.
- 5.98. The Community Infrastructure Levy (CIL) has been introduced and this is a material consideration in determining the current application. As the current application is a full planning application, CIL must be applied to it and this means that money would be collected towards education, health care, infrastructure etc at the rate of £10 per sq metre.
- 5.99. On all schemes that would result in 4 or more new residential units, the Council seeks to ensure that, prior to the occupation of any dwelling, storage bins and

boxes for waste and recycling are provided. This provision is in line with SDLP Policy ENV1(3) and can be secured through the Section 106.

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 principle of the proposed development is acceptable and the proposed development would not have a detrimental impact on the character and appearance of the area or the surrounding Heritage Assets, the residential amenity of the occupants of neighbouring properties, flood risk, drainage and climate change, nature conservation and protected species, land contamination, affordable housing, recreational open space, education, health care, waste and recycling.
- 6.2. Whilst it is noted that there is an objection from the Local Highway Authority as the scheme will be unadopted and having sought independent highway advice it is considered that the scheme is acceptable in highway safety terms. Furthermore, in applying the planning balance, the benefits of the proposed scheme would outweigh all other issues. Therefore, the proposals are on balance considered acceptable.
- 6.3. The application is therefore considered to be compliant with the NPPF and the following SDC policies:
- SP1 - Presumption in Favour of Sustainable Development
 - SP2 - Spatial Development Strategy
 - SP4 – Management of Residential Development in Settlements
 - SP5 - The Scale and Distribution of Housing
 - SP8 - Housing Mix
 - SP9 - Affordable Housing
 - SP15 - Sustainable Development and Climate Change
 - SP16 - Improving Resource Efficiency
 - SP18 - Protecting and Enhancing the Environment
 - SP19 - Design Quality
 - ENV1 - Control of Development
 - ENV2 - Environmental Pollution and Contaminated Land
 - ENV25 – Control of Development in Conservation Areas
 - H2B – Housing Density
 - T1 - Development in Relation to Highway
 - T2 - Access to Roads
 - RT1 - Protection of Existing Recreational Open Space
 - RT2 – Open space requirements

7. RECOMMENDATION

- 7.1. This application is recommended to be APPROVED subject to the prior completion of a Section 106 Agreement relating to affordable housing; maintenance and management of open space; maintenance and management of highways; and highway improvement works; and subject to the following conditions and informatives:

01. The development for which permission is hereby granted shall be begun within a period of 3 years from the date of this permission.

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

02. The development hereby approved shall be carried out in accordance with the below listed plans and drawings:

- Site Location Plan 0008-LGMH-00-ZZ-DR-A-4000
- Existing Site Plans 0008-LGMH-00-ZZ-DR-A-4001
- Proposed Site Plans 0008-LGMH-00-ZZ-DR-A-4020
- Proposed House Type 01 - Floor Plans 0008-LGMH-00-ZZ-DR-A-1010
- Proposed House Type 02 - Floor Plans 0008-LGMH-00-ZZ-DR-A-1020
- Proposed House Type 03 - Floor Plans 0008-LGMH-00-ZZ-DR-A-1030
- Proposed Apartment Type 01 Typical Floor Plans 0008-LGMH-00-ZZ-DR-A-1090
- Proposed Apartment Type 02 Typical Floor Plans 0008-LGMH-00-ZZ-DR-A-1100
- Proposed Typical Apartment Block Plans 0008-LGMH-00-GF-DR-A-1110
- Proposed Typical House Block Plan 0008-LGMH-00-ZZ-DR-A-1120
- Proposed House Block 01 - Elevations 0008-LGMH-00-EL-DR-A-2010
- Proposed House Block 02 - Elevations 0008-LGMH-00-EL-DR-A-2020
- Proposed House Block 03 - Elevations 0008-LGMH-00-EL-DR-A-2030
- Proposed House Block 04 - Elevations 0008-LGMH-00-EL-DR-A-2040
- Proposed House Block 05 - Elevations 0008-LGMH-00-EL-DR-A-2050
- Proposed House Block 06 - Elevations 0008-LGMH-00-EL-DR-A-2060
- Proposed House Block 07 - Elevations 0008-LGMH-00-EL-DR-A-2070
- Proposed House Block 08 - Elevations 0008-LGMH-00-EL-DR-A-2080
- Proposed Apartment Block 01 - Elevations 0008-LGMH-00-EL-DR-A-2090
- Proposed Apartment Block 02 - Elevations 0008-LGMH-00-EL-DR-A-2120
- Proposed House Type Legend 0008-LGMH-00-ZZ-DR-A-4023
- Proposed Site Plan - Plot Numbers 0008-LGMH-00-ZZ-DR-A-4028
- Proposed Drainage Network for Planning 267600-00 SW-ARP-ZZ-XX-DR-D-1841 P03

Other plans and documents:

- Bat Report, received 4th October 2019
- Transport Assessment, received 15th October 2019
- Air Quality Assessment, received 30th October 2019
- Viability Report and Covering Letter, received 31st October 2019
- Updated Ecology Report, received, 12th November 2019
- Letter response to Network Rail comments, received 4th December 2019. Includes the following documents:
 - Drainage ditch maintenance strategy.
 - Basic Topographical and Underground Utilities Survey Ref. GR/2375 Rev 0.
 - CCTV Drainage and Utilities Survey Ref. 27069 A0-P1; and
 - CCTV Drainage and Utilities Survey Ref. 27069 A0-P2.
- Letter response to drainage comments, received 4th December 2019. Includes the following documents:

- Drainage ditch maintenance strategy.
- Basic Topographical and Underground Utilities Survey Ref. GR/2375 Rev 0.
- CCTV Drainage and Utilities Survey Ref. 27069 A0-P1; and
- CCTV Drainage and Utilities Survey Ref. 27069 A0-P2.
- Details in response to LLFA comments, received 6th January 2020. Includes the following documents:
 - Proposed Drainage Network
 - Flood Flow Routing
 - SW Micro Drainage Results
- Letter response to NYCC Highways and further justifications dated, 10th March 2020.
- Updated Travel Plan received, 17th March 2020.
- Updated Design and Access Statement dated, 17th March 2020
- Updated Flood Risk Assessment dated 17th March 2020

Reason:

For the avoidance of doubt.

03. Notwithstanding condition 02. the development hereby approved must be undertaken in accordance with the Design and Access Statement submitted to and approved by the Local Planning Authority dated (17/03/2020).

Reason:

For the avoidance of doubt

04. Prior to the commencement of works above foundation level the details of the landscaping of the site required to be submitted and approved by the local planning authority. This shall include details of:

- a scheme for the laying out as of amenity areas including, open spaces and play areas.
- Boundary treatments
- Hard and Soft Landscaping Arrangements
- a scheme for the laying out of open spa including open spaces and play area and that land shall not thereafter be used for any purpose other than as an amenity area.

Reason:

To ensure that the amenities of adjacent land/buildings and occupiers are retained prior to the commencement of the construction of development.

05. Prior to the commencement of work above foundation level, details of the materials to be used in the construction of the exterior walls and roof(s) of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

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

06. Prior to the commencement of works above foundation level an emission mitigation statement shall be submitted to and approved by the Local Planning

Authority. The statement shall include damage cost calculation undertaken in relation to the operation of the site and detail emission mitigation measures proposed for the site. An estimate shall be made of the impact that any proposed mitigation measures will have on emissions (i.e. mitigated mass of pollutant) and the financial costs of the mitigation measure to the developer. The statement shall confirm the timeframe and any phasing of the proposed mitigation, and detail of any 'residual' emissions and damage costs likely to remain after all proposed mitigation measures have been applied. The development shall be carried out in accordance with the approved details.

Reason:

To protect an AQMA from emissions to air in accordance with local and national policy.

07. Prior to the commencement of works above foundation level a written scheme for protecting the proposed noise sensitive development from noise has been submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the noise level in the gardens of the proposed properties shall not exceed 50 dB LAeq (16 hour) between 0700 hours and 2300 hours and all works which form part of this scheme shall be completed before any part of the development is occupied. The scheme shall ensure that the building envelope of each plot is constructed to provide sound attenuation against external noise. The internal noise levels achieved should not exceed 35 dB LAeq (16 hour) inside the dwelling between 0700 hours and 2300 hours and 30 dB LAeq (8 hour) and 45 dB LAm_{ax} in the bedrooms between 2300 and 0700 hours. This standard of insulation shall be achieved with adequate ventilation provided. All works which form part of the scheme shall be completed before any part of the development is occupied. The works provided as part of the approved scheme shall be permanently retained and maintained as such except as may be agreed in writing by the Local Planning Authority. The aforementioned written scheme shall demonstrate that the noise levels specified will be achieved.

Reason:

To protect residential amenity from noise impact for future occupants in accordance with local and national policy.

08. Demolition or construction works shall take place only between 7.30 to 17.30 on Monday – Friday and 8.00 to 14.00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.

Reason:

To ensure that the amenities of adjacent land/buildings and occupiers are retained prior to the commencement of the construction of development.

09. The commencement of the development shall not take place until there has been submitted to, approved in writing by, and deposited with the Local Planning Authority a Construction Environmental Management Plan (CEMP). The Plan shall include details of how noise, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. The construction of the Development shall be completed in accordance with the approved Plan unless any variation has been approved in writing by Local Planning Authority. The plan shall include details of monitoring to be undertaken

to demonstrate that the mitigation measures are sufficient and being employed as detailed. The Statement shall include but not be limited to:

- The parking of vehicles of site operatives and visitors.
- Hours of construction working
- loading and unloading of plant and materials.
- storage of plant and materials used in constructing the development.
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- wheel washing facilities.
- measures to control the emission of dust and dirt during construction.
- a scheme for recycling/disposing of waste resulting from demolition and construction works.
- delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason:

To ensure that the amenities of adjacent land/buildings and occupiers are retained prior to the commencement of the construction of development.

10. There shall be no piling for foundations on the site until a schedule of works identifying those plots affected and setting out mitigation measures to protect residents from noise, dust and vibration has been submitted to and approved in writing by the local planning authority. The proposals shall thereafter be carried out in accordance with the approved scheme.

Reason:

In the interest of protecting residential amenity in accordance with Policies ENV1 and ENV2 of the Local Plan.

11. No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- A site investigation scheme, based on the desk study to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- The results of the site investigation and the detailed risk assessment referred to in and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The strategy shall be implemented as approved. Any amendments to the above components or the strategy shall be approved in writing by 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.

12. No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

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.

13. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, 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.

14. No building or other obstruction including landscape features shall be located over or within 3.5 (three point five) metres either side of the centre line of the public sewer. If the required stand -off distance is to be achieved via diversion or closure of the sewer, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken.

Reason:

In order to allow sufficient access for maintenance and repair work at all times and to prevent the increased risk of flooding; to ensure the future maintenance of the sustainable drainage system, to improve and protect water quality and improve habitat and amenity, in accordance with policy.

15. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason:

In the interest of satisfactory and sustainable drainage, in accordance with policy.

16. Surface water run-off from hardstanding (equal to or greater than 800 square metres) and/or communal car parking area (s) of more than 50 spaces must pass through an oil, petrol and grit interceptor/separator, prior to any discharge to an existing or prospectively adoptable sewer.

Reason:

In order to prevent pollution of the aquatic environment and protect the public sewer network and the interest of satisfactory and sustainable drainage, in accordance with policy.

17. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to: -

- a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical.
- b) evidence of existing positive drainage to public sewer and the current points of connection; and
- c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1-year storm event, to allow for climate change.

Reason:

To ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage.

18. No development shall take place until a suitable maintenance of the proposed SuDS drainage scheme arrangement has been demonstrated to the local planning authority. Details with regard to the maintenance and management of the approved scheme to include; drawings showing any surface water assets to be vested with the statutory undertaker/highway authority and subsequently maintained at their expense, and/or any other arrangements to secure the operation of the approved drainage scheme/sustainable urban drainage systems throughout the lifetime of the development.

Reason: To prevent the increased risk of flooding and to ensure the future maintenance of the sustainable drainage system.

19. Development shall not commence until a scheme detailing the detailed drainage design for the surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme to be submitted shall

demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance (or any subsequent update or replacement for that document). The scheme shall detail phasing of the development and phasing of drainage provision, where appropriate. Principles of sustainable urban drainage shall be employed wherever possible. The works shall be implemented in accordance with the approved phasing. No part or phase of the development shall be brought into use until the drainage works approved for that part or phase has been completed. Note that further restrictions on surface water management may be imposed by Yorkshire Water, Local Highways Authority and the Local Planning Authority.

Reason: To ensure the provision of adequate and sustainable means of drainage in the interests of amenity and flood risk.

20. The finished floor levels of the residential units with ground floor sleeping accommodation shall be set no lower than 0.3 metres above Ordnance Datum (AOD) adjacent ground level thus giving a height of 6.8 metres AOD. The finished floor levels of the residential units without ground floor sleeping accommodation shall be set no lower than 6.3 metres AOD and shall incorporate the measures as set out within the Flood Resistance and Resilience Strategy (document number, NPD01-LGMH-XX-XX-RP-Z-0001).

Reason:

In the interests of flood risk and flood risk reduction and in order to comply with the advice contained within the NPPF and NPPG.

21. No development shall commence above slab level until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include:

- a. Indications of all existing trees and hedgerows on the land
- b. Identify those to be retained and set out measures for their protection throughout the course of development
- c. Details of the species, location, planting density and stock size on planting of all trees and shrub planting
- d. Details of the measures for the management and maintenance of the approved landscaping
- e. Details of landscaping and trees to be located within 10 metres of the network rail boundary and in accordance with their guidance.

Reason:

In the interests of visual amenity and railway safety and in order to comply with PolicySP19 of the CS and Policy ENV1 of Selby District Local Plan.

22. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner. Any trees which die, are removed or become seriously damaged or diseased within the first five years shall be replaced in the next planting season with others of similar size and species.

Reason:

In the interests of visual amenity and in order to comply with PolicySP19 of the CS and Policy ENV1 of Selby District Local Plan.

- 23.No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree / root protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: 2012 Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved and maintained until the scheme is completed.

Reason:

This is a pre commencement condition in order to ensure for the preservation and planting of trees in accordance with s.197 of the Act and in order to comply with saved Policy ENV1 of the Selby District Local Plan.

- 24.Before the development is first occupied or brought into use a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.

Reason:

To ensure appropriate management and maintenance of all landscaped areas in the interests of visual amenity and in order to comply with Policy SP19 of the CS and Policy ENV1 of Selby District Local Plan.

- 25.The development hereby permitted must be carried out in accordance with the mitigation measures contained within section (5) of the Ecology Report dated (November 2019).

Reason:

In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1(5) of the Selby District Local Plan, Policy SP18 of the CS, The Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010.

- 26.In the event that protected species are discovered on the application site upon commencement of the approved development, which were not previously identified, it must be reported in writing immediately to the Local Planning Authority. A protected species survey and assessment must be undertaken and where mitigation is necessary, a mitigation scheme must be prepared, which is subject to approval in writing of the Local Planning Authority.

Reason:

In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1(5) of the Selby District Local Plan, Policy SP18 of the CS, The Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010.

- 27.No dwelling shall be occupied until a scheme of detail to reduce the carbon emissions of the predicted energy use of the proposed development by at least

10% shall be submitted to and approved in writing by the Local Planning Authority. This shall include details and a timetable of how this is to be achieved and details of any physical works on site. The approved details shall be implemented in accordance with the approved details and timetable and retained as operational thereafter.

Reason:

In the interest of sustainability, to minimise the development's impact and to accord with Policies SP15 and SP18 of the CS.

28. No development shall take place until details of measures to facilitate the provision of high-speed broadband for the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to occupation of each dwelling.

Reason: In the interests of providing a sustainable form of development and economic growth and in order to ensure compliance with paragraph 112 of the National Planning Policy Framework and Policy SP12 of the adopted CS.

29. No dwelling shall be occupied until a scheme for the installation of a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) has been submitted to and approved by the Local Planning Authority. The scheme shall confirm provision for its future maintenance and renewal and installation method to ensure Network Rail's existing fencing/ wall is not removed or damaged.

Reason:

To ensure railway safety is maintained at all times in accordance with guidance from Network Rail.

30. Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority in consultation with the railway undertaker prior to the commencement of such works and the works shall only be carried out in accordance with the approved method statement.

Reason:

To ensure railway safety is maintained at all times in accordance with guidance from Network Rail.

31. Prior to the commencement of works above foundation level a scheme of proposed highway lighting within the site shall be submitted to and approved by the Local Planning Authority. Details should include the location and colour of lights. Any proposed lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Thereafter, the development shall be constructed in accordance with the approved scheme of lighting.

Reason:

In the interests of highway safety and railway safety.

32. Prior to the occupation of the dwellings hereby permitted a scheme for the provision of waste and recycling containers shall be submitted and approved in writing by the local planning authority and the agreed scheme thereafter carried

out in its entirety. The scheme shall also include provision for bin presentation points to serve those properties accessed by way of a private drive.

Reason:

In accordance with Plan Policy ENV1 and to provide for waste disposal in the interests of the general amenity of the area.

33. There shall be no excavation or other groundworks, except for investigative works or the depositing of material on the site, until the following drawings and details have been submitted to and approved in writing by the Local Planning Authority:

(1) Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:

- (a) the proposed highway layout including the highway boundary
- (b) dimensions of any carriageway, cycleway, footway, and verges
- (c) visibility splays
- (d) the proposed buildings and site layout, including levels
- (e) accesses and driveways
- (g) lining and signing
- (h) traffic calming measures

(i) all types of surfacing (including tactiles), kerbing and edging.

(2) Longitudinal sections to a scale of not less than 1:500 horizontal and not less than 1:50 vertical along the centre line of each proposed road showing:

- (a) the existing ground level
- (b) the proposed road channel and centre line levels
- (c) full details of surface water drainage proposals.

(3) Full highway construction details including:

- (a) typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
- (b) when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
- (c) kerb and edging construction details
- (d) typical drainage construction details.

(4) Details of the method and means of surface water disposal.

(5) Details of all proposed street lighting.

(6) Drawings for the proposed new roads and footways/footpaths giving all relevant dimensions for their setting out including reference dimensions to existing features.

(7) Full working drawings for any structures which affect or form part of the highway network.

(8) A programme for completing the works.

The development shall only be carried out in full compliance with the approved drawings and details unless agreed otherwise in writing by the Local Planning Authority.

Reason:

To secure an appropriate highway constructed to a safe standard in the interests of highway safety and the amenity and convenience of highway users.

34. No dwelling to which this planning permission relates shall be occupied until the carriageway and any footway/footpath from which it gains access is constructed to binber course macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

The completion of all road works, including any phasing, shall be in accordance with a programme approved in writing with the Local Planning Authority before the first dwelling of the development is occupied.

Reason:

To ensure safe and appropriate access and egress to the dwellings, in the interests of highway safety and the convenience of prospective residents.

35. There shall be no movement by construction or other vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until that part of the access extending 30 metres into the site from the carriageway of the existing highway has been made up and surfaced in accordance with the approved details. All works shall accord with the approved details unless otherwise approved in writing by the Local Planning Authority. Any damage during use of the access until the completion of all the permanent works shall be repaired immediately.

Reason:

To ensure a satisfactory means of access to the site from the public highway in the interests of vehicle and pedestrian safety and convenience.

36. No part of the development shall be brought into use until the existing accesses onto Portholme Road and onto the access road to the west of the site has been permanently closed off and the highway and road restored. These works shall be in accordance with details which have been approved in writing by the Local Planning Authority in consultation with the Highway Authority. No new access shall be created without the written approval of the Local Planning Authority in consultation with the Highway Authority. These works shall include, where appropriate, replacing kerbs, footways, cycleways and verges to the proper line and level.

Reason:

In the interests of highway safety.

37. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until splays are provided giving clear visibility in accordance with DMRB, measured along both channel lines of the major road Portholme Road from a point measured 2.4m down the centre line of the access road. The eye height will be 1.05m and the object height shall be 0.6m. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In the interests of road safety.

38. There shall be no access or egress by any vehicles between the highway and the application site (except for the purposes of constructing the initial site access) until visibility splays providing clear visibility of 2 metres x 2 metres measured down each side of the access and the back edge of the footway of the major road have been provided. The eye height will be 1.05 metre and the object height shall be 0.6 metres. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In the interests of road safety to provide drivers of vehicles using the access and other users of the public highway with adequate inter-visibility commensurate with the traffic flows and road conditions.

39. There shall be no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until
- (i) The details of the required highway improvement works, listed below, have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

(ii) An independent Stage 2 Safety Audit has been carried out in accordance with HD19/03 - Road Safety Audit or any superseding regulations.

(iii) A programme for the completion of the proposed works has been submitted.

The required highway improvements shall include:

- a. Provision of a new junction with Portholme Road
- b. Provision of a controlled pedestrian crossing of Portholme Road

Reason

To ensure that the details are satisfactory in the interests of the safety and convenience of highway users.

40. The development shall not be brought into use until the following highway works have been constructed in accordance with the details approved in writing by the Local Planning Authority under condition (36). The required highway improvements shall include:

- a. Provision of a new junction with Portholme Road
- b. Provision of a controlled pedestrian crossing of Portholme Road

Reason

In the interests of the safety and convenience of highway users.

41. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved under condition number (36):

- (i) have been constructed in accordance with the approved submitted drawing

(ii) are available for use unless otherwise approved in writing by the Local Planning Authority.

Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

42.No dwelling shall be occupied until the related parking facilities have been constructed in accordance with the approved drawing. Once created these parking areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

To provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interest of safety and the general amenity of the development.

43.No development for any phase of the development shall commence until a Construction Management Plan for that phase has been submitted to and approved in writing by the local planning authority. Construction of the permitted development shall be undertaken in accordance with the approved plan. The Plan shall include, but not be limited, to arrangements for the following in respect of each phase of the works:

- Protection of carriageway and footway users at all times during construction;
- Details of site working hours;
- erection and maintenance of hoardings including security fencing and scaffolding on/over the footway & carriageway and facilities for public viewing where appropriate;
- protection of contractors working adjacent to the highway;
- measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;
- storage of plant and materials used in constructing the development;
- details of wheel washing facilities to ensure that mud and debris is not spread onto the adjacent public highway;
- an undertaking that there shall be no burning of materials on site at any time during construction;
- Removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works;
- traffic Management Plans for all phases of the works;
- details of external lighting equipment;
- the parking of contractors' site operatives and visitor's vehicles;
- a detailed method statement and programme for the building works,
- details of the responsible person (site manager/office) who can be contacted in the event of a complaint, and;
- a communication plan.

Reason for Condition:

In the interest of public safety and amenity

INFORMATIVES:

INFORMATIVE:

The Local Planning Authority worked positively and proactively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.

HIGHWAYS:

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 this condition.

There must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the Highway Authority.

ECOLOGY:

Should any Newts and/or protected species be encountered during the removal of any existing hard surface area or the construction of the proposed development advice in terms of mitigation measures should be sought from a qualified Ecologist.

Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. In addition, certain species such as the Barn Owl are included in Schedule 1 of the Act and are protected against disturbance while nesting and when they have dependent young. Offences against birds listed in Schedule 1 of the Wildlife and Countryside Act are subject to special penalties. An up-to-date list of the species in Schedule 1 is available from Natural England
<http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/speciallyprotectedbirds.aspx>.

Further information on wildlife legislation relating to birds can be found at www.rspb.org.uk/images/WBATL_tcm9-132998.pdf.

CONSENT – GENERAL:

Under the terms of the Land Drainage Act. 1991 and the IDB's Byelaws, the prior written consent of the Board is required for any proposed works or structures in, under, over or within 9 metres of the top of the bank of any watercourse.

CONSENT – OUTFALL:

Any new outfall to a watercourse requires the prior written consent of the IDB under the terms of the Land Drainage Act. 1991 and should be constructed to the satisfaction of the IDB.

CONSENT – DISCHARGE:

Under the IDB's Byelaws the written consent of the IDB is required prior to any discharge into any watercourse within the IDB's District.

DRAINAGE:

As an informative, the proposal includes oversized pipes greater than 900mm in diameter. NYCC does not currently adopt roads with oversized pipes exceeding 900mm in diameter. The applicant should liaise with NYCC Highways at the earliest opportunity should they want the estate roads adopted.

COAL:

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

NETWORK RAIL- Fail Safe Use of Crane and Plant:

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

NETWORK RAIL - Method Statements/Fail Safe/Possessions:

Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally, if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

NETWORK RAIL – Demolition and refurbishment:

Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.

NETWORK RAIL – Earth Works and Excavations:

Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rails infrastructure or railway land.

NETWORK RAIL- Security of Mutual Boundary:

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager. Armco Safety Barriers an Armco or similar barrier should be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. Network Rail's existing fencing / wall must not be removed or damaged. Given the considerable number of vehicle movements likely provision should be made at each turning area/roadway/car parking area adjacent to the railway. This is in accord with the new guidance for road/rail vehicle incursion NR/LV/CIV/00012 following on from DfT advice issued in 2003, now updated to include risk of incursion from private land/roadways.

NETWORK RAIL- Demolition and refurbishment works:

No development shall take place until details of all demolition, any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.

NETWORK RAIL – Scaffolding:

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

NETWORK RAIL – Encroachments:

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail airspace and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or airspace is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

NETWORK RAIL – Trees and shrubs:

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's

boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

a. Acceptable:

Birch (*Betula*), Crab Apple (*Malus Sylvestris*), Field Maple (*Acer Campestre*), Bird Cherry (*Prunus Padus*), Wild Pear (*Pyrus Communis*), Fir Trees – Pines (*Pinus*), Hawthorne (*Cretaeagus*), Mountain Ash – Whitebeams (*Sorbus*), False Acacia (*Robinia*), Willow Shrubs (Shrubby *Salix*), Thuja Plicatata “Zebrina”

b. Not Acceptable:

Acer (*Acer pseudoplatanus*), Aspen – Poplar (*Populus*), Small-leaved Lime (*Tilia Cordata*), Sycamore – Norway Maple (*Acer*), Horse Chestnut (*Aesculus Hippocastanum*), Sweet Chestnut (*Castanea Sativa*), Ash (*Fraxinus excelsior*), Black poplar (*Populus nigra* var, *betulifolia*), Lombardy Poplar (*Populus nigra* var, *italica*), Large-leaved lime (*Tilia platyphyllos*), Common lime (*Tilia x europea*)

8 Legal Issues

8.1 Planning Acts

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

8.2 Human Rights Act 1998

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

8.3 Equality Act 2010

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

9 Financial Issues

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

10 Background Documents

Planning Application file reference **2019/0941/FULM** and associated documents.

Contact Officer:

Rebecca Leggott, Senior Planning Officer

rleggott@selby.gov.uk

Appendices: None

Glossary of Planning Terms

Community Infrastructure Levy (CIL):

The Community Infrastructure Levy is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010.

Curtilage:

The curtilage is defined as the area of land attached to a building.

Environmental Impact Assessment (EIA):

Environmental impact assessment is the formal process used to predict the environmental consequences (positive or negative) of a plan, policy, program, or project prior to the decision to move forward with the proposed action. The requirements for, contents of and how a local planning should process an EIA is set out in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

National Planning Policy Framework (NPPF):

The National Planning Policy Framework was published on 27 March 2012 and sets out Government planning policies for England and how these are expected to be applied.

Permitted Development (PD) Rights

Permitted development rights allow householders and a wide range of other parties to improve and extend their homes/ businesses and land without the need to seek a specific planning permission where that would be out of proportion with the impact of works carried out. Many garages, conservatories and extensions to dwellings constitute permitted development. This depends on their size and relationship to the boundaries of the property.

Previously Developed Land (PDL)

Previously developed land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings), and associated fixed surface infrastructure. The definition covers the curtilage of the development. Previously developed land may occur in both built-up and rural settings.

Planning Practice Guidance (PPG)

The Planning Practice Guidance sets out Government planning guidance on a range of topics. It is available on line and is frequently updated.

Recreational Open Space (ROS)

Open space, which includes all open space of public value, can take many forms, from formal sports pitches to open areas within a development, linear corridors and country parks. It can provide health and recreation benefits to people living and working nearby; have an ecological value and contribute to green infrastructure.

Section 106 Agreement

Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as s106 agreements, are a mechanism which make a development proposal acceptable in planning terms, that would not otherwise be acceptable. They can be used to secure on-site and off-site affordable housing provision, recreational open space, health, highway improvements and community facilities.

Site of Importance for Nature Conservation

Site of Nature Conservation Interest (SNCI), Site of Importance for Nature Conservation (SINC) and regionally important geological sites (RIGS) are designations used by local authorities in England for sites of substantive local nature conservation and geological value.

Site of Special Scientific Interest (SSI)

Sites of special scientific interest (SSSIs) are protected by law to conserve their wildlife or geology. Natural England can identify and designate land as an SSSI. They are of national importance.

Scheduled Ancient Monument (SAM):

Ancient monuments are structures of special historic interest or significance, and range from earthworks to ruins to buried remains. Many of them are scheduled as nationally important archaeological sites. Applications for Scheduled Monument Consent (SMC) may be required by the Department for Culture, Media and Sport. It is an offence to damage a scheduled monument.

Supplementary Planning Document (SPD)

Supplementary Planning Documents are non-statutory planning documents prepared by the Council in consultation with the local community, for example the Affordable Housing SPD, Developer Contributions SPD.

Tree Preservation Order (TPO):

A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the cutting down, topping, lopping, uprooting, wilful damage, wilful destruction of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed.

Village Design Statements (VDS)

A VDS is a document that describes the distinctive characteristics of the locality, and provides design guidance to influence future development and improve the physical qualities of the area.