



**Report Reference Number:** 2020/0976/FUL

**To:** Planning Committee  
**Date:** 10 March 2021  
**Author:** Gary Bell (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2020/0976/FUL	PARISH:	Brayton Parish Council
APPLICANT:	Brookfield Property (Holdings) Ltd and B & B Roper Ltd	VALID DATE: EXPIRY DATE:	15th September 2020 10th November 2020
PROPOSAL:	Erection of petrol filling station (sui generis) with ancillary retail Kiosk (Use Class E) and erection of Drive-Thru Coffee Shop (Use Class E) with associated hard and soft landscaping and access arrangements.		
LOCATION:	Land Adjacent to A63 And Bawtry Road Selby		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as the proposal is contrary to the requirements of the Development Plan. However, officers consider there are material considerations which would support the recommendation for approval.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site is located within the development limits of Selby which is identified as the District's Principal Town in the Core Strategy. The land is largely flat, has historically been used for agricultural purposes and is bounded to the south by a mature native hedgerow which returns for a short distance along Bawtry Road.
- 1.2 The site forms the southern-most part of a wider, triangular site located to the south west of the Staynor Hall residential development on the southern edge of the town. It is bounded by the A63 to the south, Bawtry Road to the west and the remainder of the site to the north is currently being developed by Lidl with the erection of a food retail unit. Dwellings on Germain Close and Ash Way, part of the Staynor Hall

estate, lie beyond the retail unit. On the opposite side of Bawtry Road is Selby Business Park, which includes small and medium sized business units, a hotel/pub and Selby Livestock Auction Market.

## **The Proposal**

- 1.3 Planning permission is sought for the erection of a petrol filling station (PFS), including car washing and electric vehicle charging facilities, with an ancillary retail kiosk along with the erection of a drive-thru coffee shop both with associated hard and soft landscaping. Access to the site will be gained from a new roundabout on Bawtry Road which has been constructed in connection with the neighbouring retail unit.

## **Relevant Planning History**

- 1.4 The following historical application is considered to be relevant to the determination of this application.

2020/0978/DOC: Discharge of conditions 12 (energy), 17 (travel plan) & 28 (archaeology) of approval 2015/1217/FUL Erection of a food retail store (Use Class A1) and construction of a roundabout and access road, parking areas and associated infrastructure: Staynor Hall Development, Bawtry Road, Selby: COND, 16-DEC-20

2020/0503/MAN2: Non-material amendment of 2015/1217/FUL Erection of a food retail store (Use Class A1) and construction of a roundabout and access road, parking areas and associated infrastructure: Staynor Hall Development, Bawtry Road, Selby: PER, 02-JUN-20

2019/0437/ADV: Advertisement consent for 2 large column mounted illuminated signs, 3 large advertisement billboard signage, 1 wall mounted logo sign, 1 poster display unit, 1 small wall mounted billboard, 1 large wall mounted billboard and 1 flag pole sign: LIDL UK GMBH, Bawtry Road, Selby: PER, 09-SEP-19

2019/0426/DOC: Discharge of conditions 10 (surface water), 13 (highway), 16 (highway condition survey), 18 (construction management plan), 19 (access), 20 (highway), 22 (parking, turning, manoeuvring, loading and unloading), 23 (noise, vibration, dust and dirt), 24 (external lighting), 26 (archaeology), 30 (surface water) and 31 (vehicle charging points) of approval 2015/1217/FUL for erection of a food retail store (Use Class A1) and construction of a roundabout and access road, parking areas and associated infrastructure: LIDL UK GMBH, Bawtry Road, Selby: COND, 26-SEP-19

2019/0098/FUL: Proposed re-alignment and extension of car park: Land Adjacent to A63 and Bawtry Road, Selby: PER, 26-SEP-19

2019/0095/MAN2: Non-material minor amendment of 2015/1217/FUL Erection of a food retail store (Use Class A1) and construction of a roundabout and access road, parking areas and associated infrastructure: Bawtry Road, Selby: PER, 26-SEP-19

2015/1272/FUL: Proposed erection of a public house with restaurant (Use Classes A3 and A4) and manager's accommodation with ancillary access, parking area and associated infrastructure: Staynor Hall Development, Bawtry Road, Selby: PER, 20-OCT-17

2015/1217/FUL: Erection of a food retail store (Use Class A1) and construction of a roundabout and access road, parking areas and associated infrastructure: Staynor Hall Development, Bawtry Road, Selby: PER, 20-OCT-17

## 2. CONSULTATION AND PUBLICITY

- 2.1 **NYCC Highways** - initially requested further information in respect of a range of matters including; road markings and signage; forward visibility and speed limits within the site; provision for pedestrians; lighting; drainage; cycle parking provision and; ground levels. Clarification was also requested regarding vehicular swept path analysis together with revisions to the submitted Transport Assessment.

Following the submission of additional information, the Highway Authority has no objection subject to appropriately worded planning conditions in respect of on-site lighting and works in accordance with the submitted plans and information.

- 2.2 **Parish Council** - no comments received.

- 2.3 **Yorkshire Water Services Ltd** - responded with comments and recommended conditions in order to protect the local aquatic environment, given the nature of the use, and YW infrastructure, most notably a 450mm diameter live water main that is laid within the site boundary.

- 2.4 **Selby Area Internal Drainage Board** - provided standard comments dependent upon the means of disposal of surface water and advice regarding under what circumstances separate consent would be required from the Board.

- 2.5 **Environmental Health** - initially sought a noise assessment given the likely level of vehicular movements associated with the proposed use and recommended a condition requiring details of external lighting to be submitted for approval.

Following the submission and consideration of a Noise Impact Assessment, a number of conditions are recommended regarding sound levels, delivery hours, car wash operating hours, the provision of electric vehicle re-charging units and the submission of a Construction Environmental Management Plan.

- 2.6 **Natural England** - no comments to make on this application.

- 2.7 **County Ecologist** - initially noted that the application is accompanied by a thorough Preliminary Ecological Appraisal (PEA) which identified very few ecological constraints on the application site. However, the appropriateness of particular ecological enhancements was questioned given the nature and location of the site as was the generic nature of other recommendations. Consequently, clarification as to what biodiversity enhancement measures were being planned was sought.

Following receipt of a revised PEA, and given that there are relatively few ecological constraints on the site, a more simple table of recommendations was suggested with specific reference to the provision of a sparrow nesting box and precautions to protect hedgehogs. In addition, an Informative relating to any clearance of trees, shrubs etc being undertaken outside the bird breeding season.

Following receipt of a further iteration of the PEA, provision of an appropriate scheme of landscaping was recommended in line with the submitted document.

- 2.8 **Yorkshire Wildlife Trust** - support the comments of NYCC Ecology in relation to the suitability of mitigation measures e.g. hedgehog houses, sparrow boxes, due to the proposed use of the site as a petrol station, and the need for more clarity on what the applicant is committed to implementing to demonstrate a 'measurable' net gain in biodiversity in line with current good practice.
- 2.9 **North Yorkshire Bat Group** - no comments received.
- 2.10 **Public Rights of Way Officer** - no comments received.
- 2.11 **NYCC Archaeology** - the application includes an archaeological desk based assessment prepared by the York Archaeological Trust which concludes that the site has a fairly low archaeological potential for most periods other than the Iron Age and Romano-British which has slightly higher potential. Since the desk based assessment was produced the results of archaeological monitoring to the north (Lidl site) have been made available. The results of this work were largely negative. Given the negative results of the recent archaeological work to the immediate north and the generally low potential identified in the desk based assessment there are no objections to the proposal.
- 2.12 **Environment Agency** - have reviewed the information submitted with the application and have no objection to the proposal, subject to appropriate conditions.
- 2.13 **Neighbour representations** - the application was publicised by site notice and direct notification of nearby residents as a result of which 3 letters of representation have been received. Two make comments neither objecting to or supporting the application but referring to the potential for vehicular conflict within the site, the need for measures to limit anti-social behaviour and request a limit on opening hours. The third expresses support for the proposal in providing welcome amenities close to the Staynor Hall residential development.

### **3 SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The application site is located within the development limits for Selby. It lies within Flood Zones 1, 2 and 3 (benefitting from flood defences) the latter of which has a high probability of flooding. The site does not contain any protected trees and there are no statutory or local landscape or heritage designations.

### **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 took place early in 2020. There are therefore no emerging policies at this stage so no weight can be attached to emerging local plan policies.
- 4.4 The National Planning Policy Framework (February 2019) (NPPF) replaced the July 2018 NPPF, first published in March 2012. The NPPF does not change the status of an up to date development plan and where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 4.5 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -

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

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

- 4.6 The relevant CS Policies are:

SP1 - Presumption in Favour of Sustainable Development  
SP2 - Spatial Development Strategy  
SP13 - Scale and Distribution of Economic Growth  
SP14 - Town Centre and Local Services  
SP15 - Sustainable Development and Climate Change  
SP16 - Improving Resource Efficiency  
SP18 - Protecting and Enhancing the Environment  
SP19 - Design Quality

### **Selby District Local Plan (SDLP)**

- 4.7 The relevant SDLP Policies are:

ENV1 - Control of Development  
ENV2 - Environmental Pollution and Contaminated Land  
ENV28 - Other Archaeological Remains  
EMP2 - Location of Economic Development  
EMP6 - Employment Development within Development Limits  
BRAY/2 - Employment Allocation  
T1 - Development in Relation to Highway  
T2 - Access to Roads  
S3 - Local Shops

## 5 APPRAISAL

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

- The Principle of the Development
- Design and Impact on the Appearance of the Area
- Impact on Highway Safety
- Impact on Residential Amenity
- Flood Risk and Drainage
- Nature Conservation

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

5.2 CS Policy SP1 states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Paragraph 12 of the NPPF re-emphasises that the Development Plan is the statutory starting point for decision making, adding that where a planning application conflicts with an up-to-date Development Plan permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

5.3 The application site lies within the development limits of Selby which is identified as the District's Principal Town within the Core Strategy, being the main focus for housing, employment, shopping, leisure, health and cultural facilities. Selby is described as "the most sustainable settlement within the District" and consequently CS Policy SP2A (a) states that "Selby as the Principal Town will be the focus for new housing, employment, retail, commercial, and leisure facilities".

5.4 SDLP Policy EMP2 states that new employment development will be concentrated in and around Selby and allocates the application site as BRAY/2 for industrial/business development. CS Policy SP13 seeks to safeguard allocated employment sites unless it can be demonstrated that there is "no reasonable prospect of a site being used for that purpose". In late 2017 the Council, in considering an application for developing a public house on the site (2015/1272/FUL), accepted that the site had been undeveloped since it was last used for agriculture despite the long-standing allocation for industrial/business development. It was also noted that planning permission had been granted for well in excess of the requirement of 37 - 52 hectares of land identified in the Core Strategy for employment use and further permissions have been granted since 2017.

5.5 CS Policy SP14 supports local shops and services by promoting the establishment of new facilities to serve the day-to-day needs of existing communities. The uses proposed will undoubtedly serve the extensive residential area to the north and the business uses found across Bawtry Road, albeit the location alongside the Selby By-pass will also lead to use by passing customers.

5.6 The planning permission for the public house expired in October 2020 but there is no reason to believe that the site has become any more attractive for industrial/business development in recent years. Indeed, the permission granted on

the remainder of the allocated site for a retail food store has been implemented and the store is now nearing completion meaning something other than a complimentary use, such as proposed in this application, is highly unlikely to be brought forward. The agent for the application has argued that the proposed uses fall into the recently introduced Use Class E (Commercial, Business and Service) and thereby accords with the SDLP allocation however, officers do not concur with this assertion as fuel stations and food and drink outlets where consumption is mostly undertaken off the premises are both specifically excluded from Class E and are treated as 'Sui generis'.

- 5.7 It is considered that the proposal is in accordance with CS policies SP1, SP2 A, SP13 B.2 and SP14. The planning history, and specifically the Council's previous decision to grant permission for a public house on the site, and the length of time the site has remained vacant are considered to represent material considerations which outweigh the lack of compliance with SDLP policies EMP2 and BRAY/2 such that the proposal is considered to be acceptable in principle.

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

- 5.8 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 taken into account 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. SDLP Policy BRAY/2 seeks a high quality of development in terms of form, design and landscaping. Paragraph 127 of the NPPF states that planning decisions should ensure that developments; are visually attractive as a result of layout and landscaping; sympathetic to local character, while not preventing change, and; establish a sense of place.
- 5.9 The application site comprises 0.62ha of undeveloped land located to the immediate south of a Lidl foodstore development which itself is nearing completion and beyond which to the north is the Staynor Hall residential area. The land to the west, across Bawtry Road is commercial in nature and south eastern boundary of the site is marked by established planting beyond which is the A63 Selby by-pass.
- 5.10 By its very nature, the proposed development is somewhat functional in form. The proposed PFS would be a modern, eight-pump facility offering a range of services for the motorist, including car cleaning and air & water facilities. The forecourt of the PFS would be sheltered by a steel canopy, underlit by LED lighting. The proposed retail kiosk would be finished in render, timber cladding and dark framed glazing. The kiosk would offer a selection of mainly convenience goods as an ancillary offer to the main use as well as providing wider customer facilities including toilets and an ATM facility. External plant and refuse bins associated with the PFS are to be located within an open roofed external component of the retail kiosk building. Associated car wash and jet wash bays will be constructed with steel frames and glazed or aluminium cladding sheets.
- 5.11 The drive-thru coffee shop will be of a complementary design to the PFS retail kiosk, incorporating similar materials and aluminium-framed glazing. A serving window is to be provided as part of the drive-thru bay. The roof of the coffee shop slopes gently downwards from front to back comprising a dark grey plastisol coated roof system.

- 5.12 Space remains within the site for landscaping at the entrance of the site, as well as to the south west of the PFS and north east of the coffee shop. The submitted documentation suggests these areas will be seeded / turfed and planted up, subject to a future design. Notwithstanding this statement, the details of new landscaping should be the subject of a planning condition. The application is also accompanied by a Tree Survey and a Woodland Management Plan which suggest that those “green areas at the fringes of the site” are to be retained, with some selective tree thinning as part of a programme of managed maintenance. However, the vast majority of the existing tree cover found on the southern and western boundaries of the site lies outside of the application boundary on highway land and, as such, any works will require the approval of the County Council in its capacity as Highway Authority. There is no reason to believe that the existing tree cover will be lost and will continue to screen and filter views of the development from the south.
- 5.13 From the residential dwellings to the north, which are in excess of 120 metres away and at a higher level, the site will be visible but with the larger Lidl store being the dominant building in what will appear as an almost entirely commercial scene. The proposed development will be seen as a complimentary element to the Lidl store and one which completes development of the site up to the major network of roads to the south and west.
- 5.14 In conclusion, the proposals for a PFS and drive-thru coffee shop are considered to be visually acceptable and would not detract from the character or visual amenity of the surrounding area. The proposed development is therefore considered to be in accordance with SDLP Policies ENV1 and BRAY/2, CS Policy SP19 and national policy contained in the NPPF.

### **Impact on Highway Safety**

- 5.15 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 guidelines in SDLP Policy BRAY/2 similarly require access to be taken from Bawtry Road. 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.
- 5.16 The application was accompanied by a Transport Assessment which, whilst recognising that traffic associated with the proposed development would be higher than for the previously approved public house, concluded that the new roundabout on Bawtry Road would operate below “practical capacity threshold levels”. This assessment included traffic associated with the Lidl store which also takes access from the roundabout arm serving the application site.
- 5.17 The Highway Authority was consulted and requested further information on a range of matters regarding the site layout and, particularly, the submitted Transport Assessment which it was considered did not provide a robust enough assessment of the impact of the proposal on the roads immediately adjacent to the site. Further information and evidence was submitted which concluded that the weekday PM period provides the highest background traffic flow levels and that the level of new traffic generated by the proposed development and impacting on the A63/Bawtry Road roundabout will not be significant. The Highway Authority raised no further objection.



- 5.18 It is considered therefore that the proposal is acceptable and in accordance with SDLP policies T1, T2 and BRAY/2 and also national policy contained in the NPPF.

### **Impact on Residential Amenity**

- 5.19 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. SDLP Policy ENV2 requires noise or other pollution to be mediated or prevented.
- 5.20 The development of an untidy and derelict site (showing signs of use during the construction of the Lidl building) will have a positive effect on the appearance of the local area to the benefit of general amenity. The nearest residential properties are some 120 metres to the north of the adjacent Lidl foodstore either on the Staynor Hall development or fronting Bawtry Road. The resulting relationship, given separation distances, existing buildings and landscaping, is considered to be acceptable in protecting the residential properties from overbearing, overlooking or overshadowing.
- 5.21 The most relevant consideration in terms of likely impacts on residential amenity is that of noise associated with the various elements of the scheme and their operation. The applicants submitted a Noise Impact Assessment which considered the potential sources of noise associated with the individual elements within the scheme; fuel deliveries; customer vehicle movements; operation of the PFS and drive-thru coffee shop; car wash and; fixed plant. The Assessment concluded that all noise, both from individual sources and cumulatively, would be below existing background noise levels such that the development could be considered to fall into the category of No Observed Effect Level. Environmental Health sought clarification and further information before concluding that, subject to conditions restricting the hours of certain operations, there would be no significant or harmful impact on the amenity of the nearest residential properties.
- 5.19 It is therefore considered that the proposal, subject to appropriately worded conditions, would not result in any significant impact on residential properties in the area in accordance with SDLP Policy ENV1 and national policy contained in the NPPF.

### **Flood Risk and Drainage**

- 5.27 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.
- 5.28 The Environment Agency flood map for planning shows that the site is located within all three Flood Zones with parts of the site therefore having a high risk of flooding from rivers. The application was accompanied by a Flood Risk Assessment which concluded that the site is at very low risk from all other sources and asserted that the site has not previously flooded.
- 5.29 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. Paragraph 159 of the NPPF states that “If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance”.

- 5.30 The Council’s Flood Risk Sequential Test Developer Guidance Note - October 2019 states that, when applying the sequential test, proposals for retail/town centre uses in out-of-town locations should be considered against other available sites within the catchment area for the development. The Council, in considering the previous application for a public house on the site, agreed that an appropriate area would be 500 metres from the Staynor Hall residential development. It was also agreed at the time that there were no reasonably available sites within the catchment area that are at a lower risk of flooding. There is no reason to consider this situation to have changed with land to the south being outside development limits, the majority of land to the east being Flood Zone 3 and land to the east and towards Selby town centre being largely developed. The site is also allocated for development in the SDLP. As such, the site is considered to pass the sequential test and is also considered appropriate development when considered against the national Flood Risk Vulnerability Classification and does not require an exception test.
- 5.31 The Environment Agency have reviewed the application and the submitted information and have no objection subject to conditions requiring adherence to the submitted flood risk assessment and measures to reduce the risk of pollution.
- 5.32 It is proposed to drain surface water via soakaways to an existing watercourse and foul water to the existing sewer network. Yorkshire Water have no objection to the proposals subject to a number of conditions aimed at delivering separate systems of drainage whilst protecting the existing network. The Internal Drainage Board has also recommended conditions and will need to grant separate consent for discharge into a watercourse which will stipulate the requirement for attenuation and restricted flows into the watercourse.
- 5.33 It is therefore considered that the proposals adequately address flood risk and, subject to appropriately worded planning conditions, can be properly drained in accordance with SDLP Policy ENV1, CS Policy SP19 and national policy contained in the NPPF.

### **Nature Conservation**

- 5.34 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.
- 5.35 The application was accompanied by a thorough Preliminary Ecological Appraisal (PEA) which identified very few ecological constraints on the application site. Not only does this reflect previous reports relating to the site but is perhaps to be expected given the construction activities that have subsequently taken place on the land immediately to the north. The PEA described the site as being in a flat and

sheltered location, linked to the wider countryside by hedgerows and ditches found in the locality, and stated that there are no designated sites within 2 kilometres of the application site. The PEA recommends those areas within the site that are available for landscaping should be planted with shrubs and as wildflower meadows and also that a bird box (sparrow terrace) be appropriately sited on the coffee shop building.

- 5.36 Throughout a number of iterations of the PEA, the County Ecologist has sought clarification on and simplification of the submitted information but has raised no objections. A number of conditions have been recommended which refer to measures to protect specific species and securing appropriate landscaping. As such, it is considered that the proposal is acceptable and in accordance with SDLP Policy ENV1, CS Policy SP18 and national policy contained in the NPPF.

## **6 CONCLUSION**

- 6.1 The application seeks full planning permission for the erection of a petrol filling station, including car washing and electric vehicle charging facilities, with an ancillary retail kiosk along with the erection of a drive-thru coffee shop with access being taken from the recently constructed roundabout on Bawtry Road. The land is within the Development Limits for Selby. The application site is located within the area allocated for employment development by SDLP Policy BRAY/2 and, given the proposed uses and notwithstanding that the detailed provisions of BRAY/2 are generally met, the development is contrary to the policy. The proposal is, however, considered to be in accordance with CS policies SP1, SP2 A, SP13 B.2 and SP14.
- 6.2 The planning history, and specifically the Council's previous decision to grant permission for a public house on the site, and the length of time the site has remained vacant are considered to represent material considerations which outweigh the lack of compliance with SDLP policies EMP2 and BRAY/2 such that the proposal is considered to be acceptable in principle. By completing development of this allocated site, in a manner complimentary to the development of a food store immediately to the north, the proposal would improve the appearance of the area in a manner sympathetic to the existing character of the area. Other matters of acknowledged importance such as the impact on the highway network, flood risk, drainage, impact on residential amenity, nature conservation, layout, scale and design are considered to be acceptable and in accordance with the Development Plan and national advice contained within the NPPF.
- 6.3 In recommending that the Committee approve this application, Members are requested to recognise that the application is not fully in accordance with the Development Plan but that the nature and extent of the material considerations justify a decision that is contrary to the provisions of the Plan. Subject to the recommended conditions, the material considerations as set out in this report, including the planning history of the site, outweigh the conflict with the Development Plan such that planning permission should be granted.

## **7 RECOMMENDATION**

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

01. The development hereby granted permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To ensure compliance with Section 91 of the Town and Country Planning Act 1990 as amended.

02. The development hereby permitted shall be carried out in accordance with the following approved plans:

191220_PL1A	Existing Site Plan/Location Plan
191220_PL4B	Proposed Site Plan
191220_PL5B	Proposed Surfacing Site Plan
191220_PL6	Proposed Site Elevations
191220_PL7	Proposed PFS Building Plan & Roof Plan
191220_PL8	Proposed PFS Building Elevations Sheet 1
191220_PL9	Proposed PFS Building Elevations Sheet 2
191220_PL10	Proposed Coffee Drive Thru Building Plan & Roof Plan
191220_PL11	Proposed Coffee Drive Thru Building Elevations
191220_PL12A	Proposed PFS Site Plan
191220_PL13B	Proposed DT Coffee Unit Site Plan
C-50 Rev F	Drainage Layout Plan

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 those specified on Drawing nos. 191220\_PL8, 191220\_PL9 and 191220\_PL11.

Reason: In the interests of the visual amenity of the area in accordance with Selby District Local Plan Policy ENV1 and Core Strategy Policy SP19.

04. Development shall not commence until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. 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 plan shall also include monitoring, recording and reporting requirements. 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.

Measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean-up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. The Plan should also provide detail on the management and control processes.

Reason: In accordance with Selby District Local Plan policies ENV1, T1 and T2 and to provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.

05. Details of any external lighting of the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. This information shall include:

- A contour map showing illumination spill beyond the site boundary measured in lux in the horizontal plane.
- The main beam angle of each light source.
- The uniformity ratio in respect of the lighting.
- The level of illuminance measured in lux, in the vertical plane at the windows of the nearest residential properties facing the site.
- The height of the lighting stanchions.
- Luminaire intensity at the receptors.

The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.

Reason: To protect the appearance of the area, the environment and local residents from light pollution in accordance with Selby District Local Plan Policy ENV1 and Core Strategy Policy SP19.

06. No construction work relating to the development hereby approved, including works of demolition or preparation prior to building operations, shall take place other than between the hours of 08:00 and 18:00 Mondays to Fridays and 08:00 and 13:00 hours on Saturdays and at no time on Sundays or Bank or National Holidays.

Reason: To protect the residential amenity of nearby properties during construction in accordance with Selby District Local Plan Policy ENV2 and Core Strategy Policy SP19.

07. Should any of the proposed foundations be piled, no development shall commence until a schedule of works to identify those areas 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 schedule.

Reason: To protect the residential amenity of nearby properties during construction in accordance with Selby District Local Plan Policy ENV2 and Core Strategy Policy SP19.

08. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority .

Reason: To ensure that the site is properly drained and, in order to prevent overloading, that surface water is not discharged to the public sewer network.

09. The site shall be developed with separate systems of drainage for foul and surface water on and off site. If sewage pumping is required, the peak pumped foul water discharge must not exceed 5 (five) litres per second.

Reason: In the interest of satisfactory and sustainable drainage in accordance with Core Strategy Policy SP15.

10. Surface water draining from areas of hardstanding shall be passed through an oil interceptor or series of oil interceptors, prior to being discharged into any watercourse, soakaway or surface water sewer. The interceptors shall be designed and constructed to have a capacity compatible with the area being drained, shall be installed prior to the occupation of the development and shall thereafter be retained and maintained throughout the lifetime of the development. Clean roof water or vehicle washdowns and detergents shall not pass through the separators and should be drained instead to foul sewer or sealed system.

Reason: To reduce the risk of pollution to the water environment

11. No construction works in the relevant area(s) of the site shall commence until measures to protect the 450mm diameter live water main that is laid within the site boundary have been implemented in full accordance with details that have been submitted to and approved by the Local Planning Authority. The details shall include but not be exclusive to the means of ensuring that access to the pipe for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times. Furthermore, no trees shall be planted within 5 meters of the centre line of the aforementioned water main.

Reason: In the interest of public health and maintaining the public water supply.

12. Surface water run-off from the forecourt of petrol stations, areas used for the delivery of fuel, areas used for and immediately adjacent to vehicle washing facilities and/or other similar areas where detergent is likely to be used shall not discharge to any public surface water sewer network. Surface water from such areas must pass through an oil, petrol and grit interceptor/separator of adequate design that has been submitted to and approved by the Local Planning Authority, before discharge to the public foul or combined sewer network.

Reason: To prevent pollution of the aquatic environment and protect the public sewer network.

13. The development shall be carried out in accordance with the submitted flood risk assessment by Met Engineers Reference P20-00647-RP FRA-01 Revision 00 Dated June 20 and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 300mm above the existing ground levels of the site for the proposed Petrol Filling Station and Drive Thru Coffee Shop. This would be to reduce the risk of flooding to the proposed developments. These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with Core Strategy Policy SP15.

14. No part of the development to which this permission relates shall be brought into use until the carriageway and any footway/footpath from which it gains access

has been constructed to base course macadam level and/or block paved and kerbed and connected to the existing highway network with street lighting installed and in operation.

Reason: In accordance with Selby District Local Plan policies T1 and T2 and to ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of prospective users of the highway.

15. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas have been constructed in accordance with the Drawing no. 191220\_PL4B. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In accordance with Selby District Local Plan policies T1 and T2 and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

16. The development hereby approved shall be carried out in compliance with the submitted Wold Ecology Ltd Extended Phase 1 Habitat Survey and Ecological Appraisal (version 2), Revised November 2020 and specifically adherence to the following recommendations;

- Section 8.4.7 (provision of sparrow nesting box)
- Section 8.7.4 (precautions to protect hedgehogs)
- Sections 9.3.4 (wildflower meadows)
- Section 9.5 (timetable of works)
- Section 9.6 (location of mitigation features)

17. No development shall take place until full details of both hard and soft landscape works, together with a programme of implementation, have been submitted to and approved in writing by the Local Planning Authority. The details shall include written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. These works shall be carried out as approved prior to the occupation of any part of the development or as may be otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenity of the area and in accordance with Selby District Local Plan Policy ENV1 and Core Strategy Policy SP19.

18. If, within a period of five years from the date of planting, any tree (or any tree planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree within 2 months of being requested to do so by the local planning authority.

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

19. 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 any potential 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.

20. Deliveries, either to the retail outlets or of fuel, shall not take place between 23:00 and 05.00 hours.

Reason: To protect the amenity of nearby properties in accordance with Selby District Local Plan policies ENV1 and ENV2 and Core Strategy Policy SP19.

21. The car wash hereby approved shall operate only between the hours of 08.00 and 20.00.

Reason: To protect the amenity of nearby properties in accordance with Selby District Local Plan policies ENV1 and ENV2 and Core Strategy Policy SP19.

22. The rating level of sound emitted from any fixed plant, deliveries to site and car movements on site associated with the development shall not exceed background sound levels between the hours of 0700-2300 (taken as a 15 minute LA90 at the nearest sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the nearest/any sound sensitive premises). All measurements shall be made in accordance with the methodology of BS4142:2014. (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments.

Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the local planning authority.

Reason: To protect the amenity of nearby properties in accordance with Selby District Local Plan policies ENV1 and ENV2 and Core Strategy Policy SP19.

23. A permanent sign should be erected at the entrance to the Drive-Thru coffee shop asking drivers to switch off their engines whilst stationary in the queue.

Reason: In order to safeguard the amenities of the occupiers of the area in respect of atmospheric pollution in compliance with Selby District Local Plan Policy ENV2 and Core Strategy Policy SP19.

24. Two free-standing, weatherproof, outdoor recharging units shall be provided in the shared parking provision on the site. The recharging points shall comply with



the latest British Standards or alternative appropriate standards to ensure reliability and safety.

Reason: In order to safeguard the amenities of the occupiers of the area in respect of atmospheric pollution in compliance with Selby District Local Plan Policy ENV2 and Core Strategy Policy SP19.

INFORMATIVES;

#### Internal Drainage Board

Any surface water discharge into any watercourses in, on, under or near the site requires consent from the Selby Area Internal Drainage Board. For further guidance, pre-application advice & consent form visit:

[www.shiregroup-idbs.gov.uk](http://www.shiregroup-idbs.gov.uk), and select 'Selby Area IDB'

For direct enquiries e-mail: [planning@shiregroup-idbs.gov.uk](mailto:planning@shiregroup-idbs.gov.uk)

#### Environment Agency

The site is in a flood alert area. The applicant/occupants should phone Floodline on 0345 988 1188 to register for Floodline Warnings Direct, or visit <https://flood-warninginformation.service.gov.uk/warnings>.

It is a free service that provides flood warnings direct by telephone and mobile. It also gives practical advice on preparing for a flood, and what to do if one happens. By providing an advanced warning, it will allow protection measures to be implemented, such as moving high value goods to an elevated level, as well as evacuating people off site.

Effluent discharged from any premises carrying on a trade or industry and effluent generated by a commercial enterprise where the effluent is different to that which would arise from domestic activities in a normal home is described as trade effluent. If you are not able to discharge effluent it will be classed as waste and you must then comply with your duty of care responsibilities.

A trade effluent consent or a trade effluent agreement with the water and sewerage company must be obtained before you discharge trade effluent to a public foul sewer or a private sewer that connects to a public foul sewer.

Materials and chemicals likely to cause pollution should be stored in appropriate containers and adhere to Pollution Prevention Guide 26 for the storage of drums and intermediate bulk containers.

Any facilities, above ground, for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Appropriate procedures, training and equipment should be provided for the site to adequately control and respond to any emergencies including the clean up of spillages, to prevent environmental pollution from the site operations.

The Environment Agency advise that polluting materials and chemicals are stored in an area with sealed drainage Please contact the National Customer Call Centre (Tel: 03708 506 506) for further information and guidance.

### Yorkshire Water

Company records indicate an existing 450mm diameter live water main crosses through the red line site boundary. No obstruction should encroach within 5 metres either side of the main i.e. a protected strip width of 10 metres. The development should be constructed in full accordance with the layout shown in Drawing no. 191220\_PL4B which shows that there will be an adequate stand-off between the pipe and any buildings etc. Protection measures during construction of the development e.g. metal plating over the pipe during passage of heavy vehicles.

Any accidental damage to the pipe will cause loss of water supplies to the local area and the cost of any emergency repair works will be recharged back to the developer. It is therefore recommended that the exact line of the main will have to be determined on site under Yorkshire Water Services supervision if this has not already been done. It may be possible for the main to be diverted under s.185 of the Water Industry Act 1991. These works would be carried out at the developer's expense. The cost of these works may be prohibitive.

IMPORTANT NOTE - There needs to be at least 750mm of ground cover maintained over the pipe and existing levels cannot not increase by more than 600mm. Access to the pipeline needs to be maintained 24/7. For further information and advice to discuss protection measures for the water main, the Distribution Asset Manager should be contacted.

### Ecology

Any clearance of trees, shrubs, brambles or other dense vegetation should preferably be undertaken outside the bird breeding season (March to August inclusive for most species). Should that not be possible, a competent person should first check that no active nests are present; any which are must be left undisturbed until young have fledged to ensure compliance with the Wildlife & Countryside Act 1981 (as amended).

### Environmental Health

The site will need to apply for and receive a permit issued by the Council under the Pollution Prevention and Control Act 1999, and The Environmental Permitting (England and Wales) Regulations 2016 as amended. The permit will require compliance with Stage I and II petrol vapour recovery.

## **8 Legal Issues**

### **8.1 Planning Acts**

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

## 8.2 Human Rights Act 1998

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

## 8.3 Equality Act 2010

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

## 9 **Financial Issues**

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

## 10 **Background Documents**

Planning Application file reference 2020/0976/FUL and associated documents.

### **Contact Officer:**

Gary Bell, Principal Planning Officer  
[gbell@selby.gov.uk](mailto:gbell@selby.gov.uk)

### **Appendices:**

None