



**Report Reference Number** 2022/1106/OUT  
**Agenda Item No:**

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**To:** Planning Committee  
**Date:** 7<sup>th</sup> December 2022  
**Author:** Yvonne Naylor (Principal Planning Officer)  
**Lead Officer:** Hannah Blackburn (Planning Development Manager)

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APPLICATION NUMBER:	2022/1106/OUT	PARISH:	Bolton Percy Parish Council
APPLICANT:	Mr & Mrs Musgrave & Woffinden	VALID DATE:	3 <sup>rd</sup> October 2022
		EXPIRY DATE:	28 <sup>th</sup> November 2022
PROPOSAL:	Outline application with all matters reserved for erection of detached dormer bungalow with garage and associated domestic curtilage on land adjacent to Mote Hill House and Oak View		
LOCATION:	Field House, School Lane, Bolton Percy, Tadcaster, North Yorkshire, YO23 7BF		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as one of the Applicants (Mr R Musgrave) is a Ward Councillor for Selby District Council and the Councils scheme of delegation requires for the application to be determined by the Planning Committee.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site lies off School Lane on the edge of the settlement of Bolton Percy. The red line includes the proposed access from School Lane and the plot proposed for the dwelling and has a site area of 0.07 hectares.

- 1.2 The site is accessed from School Lane via a single width access that currently serves three existing dwellings, namely Field House, Mote Hill House and Oak View.
- 1.3 The site is currently used as partly garden area associated with Mote Hill House and Oak View. as well as including the driveway that also serves Field House and these two dwellings.
- 1.4 There are also existing established boundaries to the southern and western boundaries formed largely by hedges with fencing behind.
- 1.5 To the west of the application site lies another residential dwelling known as "Byways" and to the southeast is a further dwelling known as Field House.

### **The Proposal**

- 1.6 The application is an outline application for erection of a detached dormer bungalow with double garage and associated driveway with all matters reserved.
- 1.7 The application form notes that the application is for a "self build" dwelling".
- 1.8 The red line for the application includes the current access road to School Lane, this has been done as the red line needs to be include land up to the adopted highway and the access road width is 4m. This equates to a site area of 0.0717 hectares.
- 1.9 In terms of the types of dwelling proposed for the site then the description of development states that proposed dwelling is to be a "detached dormer bungalow with a double garage, with associated driveway". The Applicants have also indicated that the dwelling will be a self / custom-build dormer bungalow.
- 1.10 An indicative layout (5351-SK-200 Rev A) has been provided showing a footprint and ground floor layout, with parking shown to the front of the dwelling, although it has not been demonstrated that this is sufficient to allow for turning of a vehicle within the site to allow egress in a forward gear from the site nor any details being provided of the upper floor accommodation or any elevational details. The proposed indicative layout would rearrange the access arrangements to the existing dwellings to the north / northeast and remove the current bin storage area that is in situ for these dwellings to create the plot.
- 1.11 Surface water from the development is proposed to be dealt with via soakaway and foul water will be connected to main services which would need an agreement with Yorkshire Water.

### **Relevant Planning History**

- 1.12 The following historical application is considered to be relevant to the determination of this application.
- 1.13 The site lies within the red line under Application 2015/0163/OUT (AltRef: 8/78/46F/PA) which was for outline consent with all matters reserved for the erection of two dwellings including the demolition of the existing building, which was granted on the 22<sup>nd</sup> October 2015. A subsequent Reserved Matters submission

was considered under 2016/1196/REM (AltRef: 8/78/46J/PA) which was consented on the 12<sup>th</sup> January 2017.

- 1.14 A further full application 2017/0090/FUL (AltRef: 8/78/46L/PA) for the erection of two detached dwellings with garages and associated access road following demolition of existing buildings, was consented on the 29<sup>th</sup> March 2017. There were subsequent non-material amendments to the scheme for the site under 2017/0594/MAN (AltRef: 8/78/46N/PA) to the garage for Plot 2 garage, removal of windows to the east and additional windows to the west elevation of approved application 2017/0090/FUL. In addition, two submissions have been considered and consented for the discharge of conditions on remediation (under 2018/0573/DOC) and for materials, piling, drainage and contamination (under 2018/0433/DOC).
- 1.15 As part of this consent the current application site was shown as providing the access to the garages for the two new dwellings and front garden area to the eastern of the two dwellings. In addition, the approved landscaping scheme showed the garden area to the eastern part of the plot as being defined by hedging and a 1100mm black painted parkland railing. The access was also shown on the landscaping schemes are being laid to 20mm gravel and provision of a bin store for the two dwellings on the edge of the access road in the southern part of the site, alongside revised landscaping to the garden of the eastern dwelling and a new defined landscaped boundary to the new dwelling.
- 1.16 The most recent application for the site was considered by the Council's Planning Committee on the 6<sup>th</sup> April 2022 under Application 2021/0871/OUT and was refused on the following basis

*“The proposal is for the erection of one dwelling in the countryside, outside the defined Development Limits of the Secondary Village of Bolton Percy. Policy SP2A(c) adopts a Spatial Development Strategy for the location of future development within the District in order to deliver sustainable development, and in doing so restricts development in the countryside to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances. The proposal does not comprise any of the categories of acceptable forms of development set out above. As such, it would undermine the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth. Moreover, the proposed development would not amount to a sustainable form of development and would thus be contrary to Core Strategy Policies SP1 and Policy SP2 A(c). Furthermore, the proposal would result in a dwelling in the countryside for which there are considered to be no other material considerations amounting to special circumstances to justify approval as required by Policy SP2A(c).”*

The application was recommended for approval by Officers, but this recommendation was overturned by Committee.

The submissions made in support of the application reference the Officers favourable recommendation on 2021/0871/OUT at the April 2022 Planning

Committee, but also sets out that in their view that since this decision “further material considerations have emerged that warrant reconsideration of the proposals”.

## 2. CONSULTATION AND PUBLICITY

### 2.1 Bolton Percy Colton and Steeton Parish Council – made the following comments on the application

- This is a resubmission of the application 2021/0871/OUT that was rejected by the Planning Committee on 6th April 2022. It contains no further material considerations and the attempts to the argue that the current Plans should be ignored.
- The Parish Council remain completely opposed to the above development

#### *Principle of Development*

- When planning for the existing two houses was approved, there was effectively no planning policy in place. Planning were told that there was no development plan up to date and so it should not be considered. As a result, a number of planning applications were granted outside the Development Limits. It was acknowledged that this was a difficult period. However, things have now changed and in today’s conditions all policies are in play and each application must be judged on merits in accordance with these policies. Specifically, the Selby District Core Strategy Local Plan 2013 and Selby District Local Plan 2005.
- Against Selby District Core Strategy Local Plan 2013:
  - 4.31 – Countryside development outside Development Limits should be resisted unless replacement, extension, reuse for employment, diversifying or affordable housing (referred to SP9) or SP10 (Rural Housing Exception Sites).  
**The application is outside the Development Limits and does not meet the other criteria.**
  - 4.57 – Residential development in secondary villages – should be restricted to converting, replacement or redevelopment of previously developed land. Development on greenfield land including garden land will be resisted.  
**The application is on greenfield.**
  - 4.58 – Residential development in secondary villages – development should be resisted unless in a small linear gap in an otherwise built up frontage.  
**The application is not in a small linear gap.**
  - SP13 – Scale & Distribution of Economic Growth  
**The application does not improve the local economy.**
- Finally, the letter containing the opinion of Stuart Andrew MP who was in the role for less than 5 months and then resigned from his position of Minister of State for Housing over 3 months ago is no longer relevant.

#### *Cumulative Drainage Capacity Impact*

- We are experiencing many complaints from local residents with raw sewage entering many properties and gardens in Bolton Percy due to the sewage pumps constantly breaking down with every rainfall. This issue has been reoccurring in Bolton Percy for over 10 years and is getting progressively worse. We are pursuing this with Yorkshire Water (via Zoe Burns-Shore – Director of Customer Experience and Sarah Robinson – Corporate Affairs Adviser) but any increase to the footprint of Bolton Percy is now a material consideration to the environmental welfare of the village. Yorkshire Water are currently testing the existing sewage system and we are awaiting their assessment.

- It has also been acknowledged by the Business & Environmental Services of NYCC, who have completed phase 1 of 'Replacement and upgrade of local infrastructure to reduce impact from local sewerage flooding' (C8/2020/1338/CPO) for Colton village but with Bolton Percy village as a phase 2 to be confirmed.

*Cumulative Increased Flooding of Bolton Percy*

- If approved, this would be the third house to have been developed around Field House, Bolton Percy in addition to a further 5 houses that have been built in Bolton Percy since 2016. The cumulative effect on surface water run off leading to flooding should now be deemed as a material consideration given Bolton Percy is now experiencing increased flooding each year. In 2020 a number of houses just avoided being flooded. Despite a volunteer flood group in Bolton Percy and increased use of pumps (three were critical to avoid further flooding this year), the flooding situation remains on a knife-edge and hence should be considered as a material consideration to reject this application.

*The Parish Council have summarised their concerns as follows:-*

- The application is proposed in the countryside, outside the development limits, on greenfield that does not comprise the filling of a small linear gap in an otherwise built-up frontage and furthermore does not improve the local economy.
- The material considerations of the application are insignificant compared to the significant breach of planning policy underlying the statutory development plan.
- Furthermore, it adds to the environmental impact of raw sewage overflow and adds additional flood risk to the village which is already on a flooding knife edge.

2.2 **NYCC Highways** – raised no objection to the application but notes that the existing access will need widening to allow tow way traffic to avoid conflict when entering/exiting the site, as such recommend that a condition is attached to any permission relating to the access and requiring that this is

- a) The access must be formed to give a minimum carriageway width of 4.1 metres, and that part of the access road extending 6 metres into the site must be constructed in accordance with Standard Detail number E50 and the following requirements.
- b) Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway and must be maintained thereafter to prevent such discharges.
- c) Measures to enable vehicles to enter and leave the site in a forward gear; and
- d) that all works must accord with the approved details.

2.3 **Conservation Officer** - no response received in the statutory consultation period should comments be received before Committee then Members will be updated accordingly.

2.4 **Natural England** – Confirmed no comments on the application and referred Officers to the Standing Advice.

2.5 **County Ecologist** -. Advised that the Ecological Appraisal has demonstrated that the site is of low ecological value. The development as proposed will not impact upon protected habitats or species and as such no further survey work or specific mitigation is required. There are recommendations made within the report to enhance the site for species such as bats, birds and hedgehogs though inclusion of

roosting/nesting features and habitat planting. As such the County Ecologist advised that they support the recommendations as set out within the report.

- 2.6 **Yorkshire Wildlife Trust** – confirmed no comments on the application.
- 2.7 **Contaminated Land Consultant** – Advised that the “report provides a good overview of the site’s history, its setting and its potential to be affected by contamination. I am pleased to confirm that the report and the site investigation works are acceptable. If contamination is found during the development works, please note that appropriate investigation and potentially remedial action will be required to make the site safe and suitable for its proposed use.” On this basis they recommend the use of a condition on “unexpected contamination” only.
- 2.8 **Yorkshire Water Services Ltd** - no response received in the statutory consultation period should comments be received before Committee then Members will be updated accordingly.
- 2.9 **Ainsty Internal Drainage Board** – (1<sup>st</sup> October 2022) – confirmed that the site lies in the site sits close to the Drainage Board's district and that the Board has assets in the wider area in the form of various watercourses. These watercourses are known to be subject to high flows during storm events. They also note that “There may also be an ordinary watercourse nearby which is not maintained by the Board and we assume remains with the riparian owner to maintain. However, the Board's consent is still required in certain instances”.
- Surface Water
- In commenting on the application, the IDB also noted the findings of the Geo-Environmental Report and that the applicant intends to use a soakaway for the disposal of surface water. However, they note that the Geoenvironmental Appraisal dated August 2016 indicates that testing that has been carried out confirms that “it is considered that soakaways will not provide a suitable drainage solution for the discharge of surface water run-off at any location on the site and therefore there is likely to be a need for surface water balancing”. In this context the response from the IDB outlines their requirements for the design of the surface water management system, and how if this requires a connection to a watercourse this will be expected to be designed.
- Foul Water
- The Board in their response not that the applicants are proposing to use the mains sewer for disposal of foul sewerage. They therefore have advised that “if Yorkshire Water is content with the proposed arrangement and is satisfied that the asset has the capacity to accommodate flow, then the Board would have new objection to the new proposed arrangement”.
- In this context the IDB have noted a recommended condition requiring drainage works to be agreed prior to the commencement of development, so as to ensure that a satisfactory means of drainage is secured and to reduce the risk of flooding. They have also noted an informative relating to requirements for discharge consent from themselves should this be required.
- 2.10 **Leeds East Airport** – no response received in the statutory consultation period should comments be received before Committee then Members will be updated accordingly.
- 2.11 **Minerals and Waste Team – NYCC** – Have confirmed that a coal mining risk assessment would not be required for the application.

2.12 **Publicity** – the application was advertised by way of site and press notices, as a result submissions were received from seven parties (as of 21<sup>st</sup> November 2022), which in summary raised the following points:

*Principle of Development*

- The proposed application falls outside development limits and does not meet any of the above criteria in the Core Strategy policies as there was no previous building to replace, extend or reuse, and there is no intention to create affordable housing, or to build a property that would contribute to the local economy in any wider form.
- The scheme cannot be justified by other policies in the Local Plan (ENV1, H7 and SP4)
- The scheme is contrary to Core Strategy Para 4.57 as it is converting, replacement or redevelopment of previously developed land – it is development on greenfield land including garden land will be resisted.
- Under Para 4.58 of the Core Strategy residential development in secondary villages - development should be resisted unless in a small linear gap in an otherwise built-up frontage. The proposed development is in the corner of a plot of land and in no way qualifies an in-fill development. Indeed, a proposed development on Marsh Lane was turned down in recent years which would have filled in a gap between houses, because it was outside the area of permitted development (the village envelope).
- The addition of two substantial, detached dwellings approximately five years ago nearly doubled the number of dwellings located on this area of Oak Avenue/Chestnut Avenue. It significantly increased the number of people and vehicles using the narrow road servicing all dwellings on Oak Avenue/Chestnut Avenue. Another dwelling, of unknown proportions (other than being a 'dormer bungalow with garage') will considerably reduce the remaining green space in this area.
- The site is not previously developed and therefore erection of a dwelling on this Greenfield land should not be permitted – it is garden land.
- The proposed site is outside of the village envelope, and therefore development on this land is in contradiction with the Selby District Core Strategy Local Plan 2013
- Whether a future assessment of development limits would mean the site is in the limits is not a valid reason to support the application
- There is no overriding policy from the NPPF to not consider the limits to be any different and the proposal therefore is in the countryside and unacceptable for development
- The site is not infill and it is not previously developed land under the NPPF

*Village Capacity / Infrastructure*

- This village is at capacity - the road usage is rising exponentially and the effect on flood risk is still a huge issue and worry.
- To increase the number of properties here is not helpful to the current residents at all - increasing risk to children and the elderly.
- Although the proposed dwelling itself would not be susceptible to flooding, there are known issues within the village with flooding and overpowered sewage (owing to excess surface water).
- There is a permanent pump situated in the village, with The Environment Agency providing additional pumps to help manage the flooding situation, which is made worse by surface watering entering the waterways rapidly.

- A full assessment should be undertaken to measure the impact to adjacent property. The village already suffers from flooding and building works for residential property will simply exacerbate the current position without significant upgrade to prevent flooding

### *Design*

- Very large houses have already been built on this site and there is very limited space for a further one.
- would constitute extreme over-development of the site.

### *Residential Amenity*

- As immediate neighbour (Byways) notes “dismay at the thought of it being carried out”. The impact of the building of Mote Hill House and Oak View meant my family and I endured over a year of concentrated building disruption, with large lorries delivering materials, site noise, added dirt and dust, damage to grass verges, etc. From having a mainly open view of the countryside beyond the pre-existing barn and associated buildings, we now look out of our upper windows at a two-storey and a three-storey house. However, those houses are not so near as to directly overlook us and impact on our privacy; the proposed development would be.
- The boundary fence is approximately 7 metres from the end of our house and 4 metres from the end of our patio. This is our main area where we sit and relax, and has been private and secluded for the entire time our family has owned this house (nearly 42 years).
- The proposed building of a dormer bungalow just the other side of the fence would have a massive, and hugely detrimental, impact on our family life, throughout the year but particularly in the summer months.
- Anyone using our downstairs guest bedroom would potentially have to keep the curtains closed to ensure privacy from upstairs windows overlooking them over the fence.
- Can find no mention of the size of this 'dormer bungalow', other than it would have a double garage. Is this a dormer bungalow with two bedrooms? Or four, all with en-suite bathrooms? Dormers front, or back, or both?

### *Highways*

- The main access into this village is single track, not a suburban highway.

### *Flood Risk*

- This application is to build another house in a village prone to flooding. Whilst the site itself has never been, nor would be, in a primary flood zone, a number of properties in the centre of Bolton Percy are increasingly on high alert due to pressures on the system.
- The Environment Agency regularly provides extra pumps to augment the one purchased by the village some years ago, but new properties will inevitably contribute to extra water entering the sewage system. A new attenuation tank has been built at the pumping station in Colton, but the actual impact and success of this has yet to be shown in how much extra time it will give Bolton Percy when there is heavy and prolonged rainfall. Coupled with this, the pumping station in Bolton Percy is no longer able to cope with heavy demand placed on it at such times, and tankers have to be called out to take sewage directly to Tadcaster. Another property on the grid would not help this situation.



### *Second Application*

- Surprised to see this application again, after being recently rejected in 2021. The opinions of the village have not changed in the interim, nor have the reasons for the original objections. All of our issues and worries still exist- they have not changed, even if planning policies may have.

## **3. SITE CONSTRAINTS**

### **Constraints**

- 3.1 The site lies outside the development limits of Bolton Percy as defined by the Selby District Local Plan and therefore in the open countryside. The proposal is therefore considered as a Departure from the development plan.
- 3.2 The site is in Flood Zone 1 and there are no trees subject of tree protection orders within the site, nor is the site within the Conservation Area (or its buffer) or within close proximity to any listed buildings. There are TPO trees on School Lane and within the garden areas of properties to the south of the application site, but these would not be affected by the proposed development, nor are there any trees within the application site.
- 3.3 The application site is located within an area where policies on hydrocarbon development (Policies M16, M17 and M18) and within an area that is considered to be "high risk" in terms of coal operations within the Minerals and Waste Local Plan under Policy D13.
- 3.4 The site is also considered to be greenfield land against the definition in Annex 2 of the NPPF (2021) given it is currently garden land associated with the dwellings to the east as consented under 2017/0090/FUL (AltRef: 8/78/46L/PA) for the erection of two detached dwellings with garages and associated access road following demolition of existing buildings, was consented on the 29<sup>th</sup> March 2017.

## **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".
- 4.2 This is recognised in the National Planning Policy, at paragraph 11 of the NPPF, with paragraph 12 stating that the presumption in favour of sustainable development contained in paragraph 11 does not change the statutory status of the development plan as the starting point for decision making. It goes to state at paragraph 12 that where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations in a particular case indicate otherwise. The latest iteration of the NPPF dated July 2021 and this application has been considered against this version, in particular the sections listed below.
- 4.3 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework:

*“219. ....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).”*

- 4.4 The development plan for the Selby District comprises various documents including the Selby District Core Strategy Local Plan (adopted 22nd October 2013), 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, the Minerals and Waste Joint Plan (adopted 16 February 2022), and the adopted neighbourhood plans neither of which relate to the site.
- 4.5 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 2024. Consultation on issues and options took place early in 2020 and further consultation took place on preferred options and additional sites in 2021. The Pre-submission Publication Local Plan was subject to formal consultation that ended on 28<sup>th</sup> October 2022. The responses are currently being considered. Providing no modifications are proposed, the next stage involves the submission to the Secretary of State for Examination.
- 4.6 Paragraph 48 of the NPPF states that weight may be given to relevant policies in emerging plans according to: a) the stage of preparation; b) the extent to which there are unresolved objections to the policies; and, c) the degree of consistency of the policies to the Framework. Given the stage of the emerging Local Plan, the policies contained within it are attributed limited weight and as such are not listed in this report.

### **Selby District Core Strategy Local Plan**

- 4.7 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
  - SP17 – Low Carbon & Renewable Energy
  - SP18 - Protecting and Enhancing the Environment
  - SP19 - Design Quality

### **Selby District Local Plan**

- 4.8 The relevant Selby District Local Plan Policies are:
- ENV1 - Control of Development
  - ENV2 – Environmental Pollution and Contaminated Land

## **Minerals and Waste Local Plan**

4.9 The relevant Minerals and Waste Local Plan Policies are:

- Policies M16, M17 and M18 - Hydrocarbon
- Policy D13 - Consideration of Applications in Development High Risk Areas

## **National Planning Policy Framework**

4.10 The relevant National Planning Policy Framework Chapters are:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision making
- Chapter 6 – Building a strong, competitive economy
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

## **Other Policies/Guidance**

4.11 The other relevant documents are noted as follows:-

- Affordable Housing Supplementary Planning Document, 2013
- Developer Contributions Supplementary Planning Document March 2007

## **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 Character of the Area
- Residential Amenity
- Highway Safety
- Flood Risk, Drainage and Climate Change
- Heritage Assets
- Nature Conservation and Protected Species
- Land Contamination
- Affordable Housing
- Housing Mix
- Waste and Recycling
- Minerals and Waste
- Other Matters arising from Consultations

### **Principle of Development**

5.2 The application site was part of land consented for residential development under 2015//0163/OUT. This consent was issued at a time when the Council did not have

a 5-year housing land supply, and as such weight was afforded to Paragraph 47 of the NPPF and Policies SP2 and SP5 were at that stage considered to be out of date. In this context Officers in assessing 2015/0163/OUT having applied the tests under Paragraph 14 of the NPPF concluded that benefits of the proposal in economic, social and environmental terms gave significant weight in favour of the proposal and the principle of development was supported. In terms of the later consent 2017/0090/FUL again this was considered by the Council in the context of there being no 5-year housing land supply.

- 5.3 As a result of the development of the site under the 2017/0090/FUL then the land subject of this latest application is surrounded by development on three sides but is still outside the development limits as defined by the Local Plan.
- 5.4 At present the Council had a confirmed five-year housing land supply figure of 6.1 years (based on assessment date of 31st March 2022). The fact of having a five-year land supply cannot be a reason in itself for refusing a planning application. The broad implications of a positive five-year housing land supply position are that the relevant policies for the supply of housing in the Core Strategy (SP5) can be considered up to date and the tilted balance presumption in favour of sustainable development does not apply.
- 5.5 The application Planning Support Statement refers to the site being for a “self build” dwelling, noting that

*“It is the applicants’ eventual intention that the Site will be developed for a self / custom build dormer bungalow. SDC’s most recent Strategic Housing Market Assessment, prepared by GL Hearn in February 2019, states the Council should consider the potential role of bungalows as part of the future mix of housing and acknowledges that there is generally a high demand for such accommodation when it becomes available. However, it also notes that “bungalow accommodation is often not supported by either house builders or planners”.*

The Planning Support Statement then notes that “this application will therefore help to address that unmet need in the District and contribute to the creation of a mixed community in Bolton Percy” and that it is the position that the “Applicants wish to agree with Planning Officers an appropriate mechanism to ensure that the proposed dwelling is implemented for self / custom build”.

- 5.6 The NPPF is a material consideration and states that sustainable development is about positive growth and that the Planning System should contribute to the achievement of sustainable development. The NPPF, taken as a whole, constitutes the Government’s view of what sustainable development in England means in practice for the planning system.
- 5.7 Policy SP1 of the Selby District Core Strategy Local Plan (2013) (CS) 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.
- 5.8 Policy SP2 of the CS sets out the long-term spatial direction for the District and provides guidance for the proposed general distribution of future development across the District. The settlement hierarchy is ranked on the Principal Town of Selby, Local Service Centres, Designated Service Villages and smaller villages.

The CS identifies Bolton Percy as a 'secondary village'. Policy SP2 sets out that a limited amount of residential development may be absorbed inside Development Limits of secondary villages where it would enhance or maintain the vitality of rural communities and which confirm to Policy SP4 of the Core Strategy.

- 5.9 Policy SP2A(c) states that development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13 or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances. The site lies outside the development limits of Bolton Percy village. The proposal does not constitute any of the forms of development set out under SP2A(c). In light of the above policy context the proposals for residential development are contrary to Policy SP2 of the Core Strategy and should be refused unless material considerations indicate otherwise.
- 5.10 The submissions made in support of the application references the Officers favourable recommendation on 2021/0871/OUT at the April 2022 Planning Committee, which they considered to be a material consideration, a view that would not be supported by Officers, but also sets out that in their view that since this decision "further material considerations have emerged that warrant reconsideration of the proposals". The Applicants case in support of the application can be summarised as follows:
- Application is an opportunity to address the concerns which were raised by Planning Committee and the misunderstandings that arose during the debate stage of that meeting.
  - Although in outline an illustrative layout plan has been submitted and it is the intention to build a self / custom-build dormer bungalow on the site.
  - The Site is surrounded by residential properties and their associated curtilage which means that the proposed development would not extend development beyond that which has already been accepted under 2017/0090/FUL.
  - Mote Hill House and Oak View were granted planning permission in March 2017 under application reference 2017/0090/FUL and they replaced utilitarian buildings of differing design (totaling 2723 sq m in volume) with two high quality family homes; reducing the volume of building on the site by about 40%, significantly improving the visual amenity of the area, and creating a much more sympathetic interface with the surrounding countryside.
  - Objector to the previous scheme mistakenly stated that the site is not 'in the settlement'. In Braintree District Council v Secretary of State for Communities and Local Government & Ors [2018] EWCA Civ 610, the Judge ruled that a "settlement" should be defined by the built development on the ground and may not necessarily be the same as the development limits of a settlement.
  - The NPPF makes no reference to Development Limits but instead guides against allowing isolated homes. The Site can in no way be described as isolated and is considered to be part of the settlement of Bolton Percy.
  - This application will help to address that unmet need for bungalows in the District and contribute to the creation of a mixed community in Bolton Percy.
  - it should be noted that one of the key reasons that SDC Full Council agreed unanimously, at its meeting in September 2019, to begin the process of writing a

new Local Plan was because the current Local Plan or parts thereof were even then considered to be out of date. The report states,

“The Core Strategy was adopted in October 2013 and therefore a review of the strategic policies contained in the document must be undertaken and is likely to highlight that a number of strategic policies must be reviewed. The evidence which underpinned many of these policies is now considered out of date, especially in relation to housing numbers and employment land requirements.”

The report and recommendations which were presented to Full Council in September 2019 are included in support of this application and lend significant weight to the view that SDC’s Local Plan policies which relate to the supply of land for residential development should now be considered out of date.

- Decisions at Park Farm Skipwith (2020/0343/FUL) and in Eggborough (2021/0965/FUL) support development outside development limits, and it is reasonable for the applicant to expect a similar outcome when similar material factors are considered.
- Decisions made by the Council have established that in principle SDC is willing to approve residential development outside of Development Limits when material considerations justify doing so.
- The development plan is outdated and it is unreasonable of the Council to give full weight to the Development Limits
- The SDC policies are silent on self build / custom build plots and the Self Build and Custom House Building Act 2015 requires LPAs to grant permission to enough suitable serviced plots of land to meet the demand for self / custom building in their area.
- The Self Build and Custom House Building Act 2015 is a material consideration
- One of the joint Applicants has been on SDC’s self-build register for more than 3 years and in that time SDC have been unable to suggest any plots available for self / custom build. In fact, correspondence from SDC relating to the Self Build Register has been limited to requesting confirmation that the joint Applicant wished to remain on the register. In addition, details of any provision for would be self or custom builder on SDC’s website is scarce. Approval of this application would help the Council meet the requirement to satisfy the need for self / custom build plots in the District.
- The dated nature of the Development Limits, and the failure of SDC to review them as promised, means that there is no land available for development within Bolton Percy.
- SDC’s planning policies which are most relevant to the determination of this application are either out of date (in respect of provision of land for residential development) or silent (for self / custom build proposals), and therefore the presumption in favour of sustainable development set out in Paragraph 11(d) of the NPPF is engaged so account should be taken of the economic, social and environmental benefits of the development .
- Economic benefits are noted as “The Site will provide a direct boost to the economy during the build phase and will offer opportunities for local trades people and suppliers. Once built the occupants will contribute via council tax and by supporting local services”.
- Social benefits are noted as “SDC’s SHMA recognises that there is a high demand for bungalow accommodation in the District when it is available but that it is rarely delivered by developers, resulting in an unmet housing need. This proposal will help to address that shortfall and to provide for a mixed community in Bolton Percy”.

- Environmental benefits are noted as “the Site is currently underutilised, being close mown lawn and driveway. Approval of the scheme will enhance the landscaping of the site and provided for enhanced wildlife habitat. The dwelling will be built in compliance with the most up-to-date Building Regulation standards to minimise environmental impact”.
- The proposal represents sustainable development in terms of the three pillars identified in the NPPF - economic, environmental, and social. The proposal helps to address identified unmet housing needs for bungalow accommodation and self / custom build plots.

- 5.11 Objectors to the application, including from the Parish Council, have stated that they consider the scheme to be contrary to the development plan being outside the development limits of the village, and the assumption should be that the scheme is unacceptable given its open countryside location. They have also commented on the approach of the Applicants to referencing what may happen in terms of development limits at a future review.
- 5.12 In some circumstances permission has been granted for small scale development outside of development limits, including pockets of greenfield land which project beyond the development limits. However, these have generally been in more sustainable locations such as Designated Service Villages where a number of other site specific or historic factors in addition to the sustainability of the location or the physical characteristics have additionally contributed towards the justification. However, in all cases the overriding consideration and starting point for determination is the development plan policy. which comprises the saved policies of the Local Plan and the Core Strategy. In terms of the emerging local plan and the commitment to review development limits at the present time this is at an early stage and little weight can be afforded to any progressing policy approach. The saved policies of the Local Plan and the Core Strategy remain the adopted development plan for the area for the purposes of Section 38(6) of the Town and Country Planning Act. This site lies outside the development limits of a secondary village. Bolton Percy is one of the smallest and least sustainable settlements within the district and as such the scheme is not acceptable.
- 5.13 In terms of the Development Limits, it is acknowledged that these were defined a number of years ago and whilst as part of the review of updating the existing Core Strategy then Development Limits will be reviewed, this has not included the review of the boundary around Bolton Percy. In addition, there is nothing within the NPPF which suggests that the definition of settlement boundaries is no longer a suitable policy response and that such policies are out of date. Whilst there are recent developments which have gone beyond the defined settlement boundaries, each case has been determined on its individual merits including the two referred to, where circumstances are materially different to this application. These do not bind the Council to approve this application.
- 5.14 Although Officers need to be minded of other recommendations and decisions, every case is assessed on its merits and against the Development Plan and taking full account of its context and characteristics and the associated material considerations. The scheme for Field House should be simply supported off the back of another decision even if some characteristics of the site are similar. In addition, Appeal Decisions for dwellings outside the development limits of Secondary Villages have been dismissed on the basis of sustainability and accessibility to services, facilities and employment.

- 5.15 As noted above and as a result of the development of the scheme approved under 2017/0090/FUL, the application site was to be access for the two new dwellings (as well as Field House) but was also shown to be garden to the eastern part of the plot with defined hedging and a 1100mm black painted parkland railing. The application site is being used as access for Field House, Mote Hill House and Oak View, and is site is currently used a partly garden area associated with Mote Hill House and Oak View.
- 5.17 Having considered the arguments made by the Applicants, it is the view of Officers that, although contrary to the development plan, there are material considerations to deviate from this position. In this case it is considered that development on the site can be supported as although the site outside the Development Limits of Bolton Percy is surrounded by other dwellings and would not extend development beyond that which has already been accepted under 2017/0090/FUL. As such the erection of a dwelling on the site would not encroach into open countryside and its development, although contrary to SP2, would not be so detrimental to warrant refusal and it does represent an acceptable form of development given the site context which is a significant material consideration.

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

- 5.18 Significant weight should be attached to saved Local Plan Policies ENV1 and ENV15 as they are broadly consistent with the aims of the NPPF. Relevant policies within the NPPF which relate to design are set out in section 12 and include paragraphs 126 to 135.
- 5.19 The applicants have not provided any details of the design of the proposed dwelling, and all matters are reserved at this stage.
- 5.20 The application site comprises garden area to the dwelling to the east and is currently residential curtilage with adjacent residential units being a mix of design and height but largely detached in form.
- 5.21 The application seeks outline planning permission (all matters reserved) for a residential development. Notwithstanding this, an indicative proposed site layout plan (drawing no 5351-SK 200 Revision A) has been submitted with the application to demonstrate how the site could be laid out to accommodate a “3 / 4 bedroom dormer bungalow”. In addition, the description of development noted on the Application Form also states that the unit would be a “dormer bungalow”.
- 5.22 It is noted that development within the surrounding area is varied in terms of the type, size and design of the properties and the size, shape and location of the plots, with both linear and back land development evident. There are some concerns, without full details being provided, that the layout shown on the indicative layout plan could result in a cramped form of development at the site. However, it is noted that the indicative layout plan is for illustrative purposes only and full details of the layout, appearance, scale, access and landscaping of the proposed dwellings would need to be submitted at the reserved matters stage for consideration. Should the details not be acceptable at that stage, they would need to be amended or the reserved matters application refused to ensure no adverse impact on the character and appearance of the area. This may mean the number of dwellings proposed at the site needs to be re-considered.



- 5.23 Having regard to the above, it is considered that a scheme could be designed with an appropriate layout, appearance, scale, access and landscaping at the reserved matters stage to ensure that the proposed development would not have a significant adverse impact on the character and appearance of the area in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policies SP4 (c) and SP19 of Core Strategy and national policy contained within the NPPF.

### **Residential Amenity**

- 5.24 As set out earlier in this report, the application site is adjacent to other residential development, however the application seeks outline planning permission (all matters reserved) and only an indicative scheme has been provided. Careful consideration would be needed at the reserved matters stage regarding the layout of the development and should the details not be acceptable at that stage, they would need to be amended or the reserved matters application refused to ensure no adverse impact on the character and appearance of the area.
- 5.25 Comments made by third parties in terms of the impact of the building of the unit on amenity, then although there will be some impact arising from construction this is not considered to a reason to not support development on the site.
- 5.26 Overall, it is considered that a scheme could be designed with an appropriate layout, appearance, scale, access and landscaping at the reserved matters stage to ensure that the proposed development would not have a significant adverse impact on the residential amenities of the existing and proposed dwellings in accordance with Policy ENV1 (1) of the Selby District Local Plan and national policy contained within the NPPF.

### **Highway Safety**

- 5.27 Access is a reserved matter on the application, albeit initially access was set out as a matter to be agreed, revisions to the submission during its lifetime removed this element from considerations. An indicative proposed site layout plan (drawing no 5351-SK 200 Revision A) has been submitted with the application to demonstrate how the site could be laid out to a dwelling with access serving the new dwelling and the existing dwellings from School Lane.
- 5.28 NYCC Highways have been consulted on the application and raised no objection and have recommend a condition be attached to any permission relating to the access and requiring that this cover
- a) The access must be formed to give a minimum carriageway width of 4.1 metres, and that part of the access road extending 6 metres into the site must be constructed in accordance with Standard Detail number E50 and the following requirements.
  - b) Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway and must be maintained thereafter to prevent such discharges.
  - c) Measures to enable vehicles to enter and leave the site in a forward gear; and
  - d) that all works must accord with the approved details.
- 5.29 In terms of the access route from Oak Avenue into the application site, then the submitted indicative layout plan shows that the access is 4m in width, so 0.1m below that stated as being required by Highways Officers in their response when

access was being considered. Although the comments of the objector are noted it is considered that the discrepancy of 0.1m is di-minims and as such not so significant to warrant refusal of the scheme, as it is still considered an appropriate access could be created.

- 5.30 In terms of the indicative layout then this is just that and any scheme that was to come forward at a reserved matters stage would need to demonstrate that a satisfactory access can be provided and that the layout will enable vehicles to enter and leave the site in a forward gear. Although this has not been wholly demonstrated on the indicative layout Officers do consider that a scheme could be facilitated which allowed these requirements to be met.
- 5.31 Whilst a condition could be added to any outline consent to require “Provision to prevent surface water from the site/plot discharging onto the existing or proposed highway and must be maintained thereafter to prevent such discharges” it is not considered that the other conditions suggested by NYCC Highways would be appropriate to attach at this stage, given they relate to matters which are reserved for subsequent consideration at the reserved matters stage and could be assessed and conditioned at that point in the process if necessary. In addition, it would be for the Reserved Matters submission to show that the scheme can provide an appropriate access within the red line as defined on any Outline consent.
- 5.32 Having regard to the above, it is considered that a scheme could be designed with an appropriate layout, appearance, scale, access and landscaping at the reserved matters stage to ensure that the proposed development would not have a significant adverse impact on highway safety in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and national policy contained within the NPPF.

### **Flood Risk, Drainage and Climate Change**

- 5.33 Relevant policies in respect to drainage, climate change and flood risk include Policy ENV1(3) of the Local Plan and Policies SP15 and SP16 of the Core Strategy. The application site is located in Flood Zone 1 (checked on latest maps) (low probability of flooding) and as such it is not at risk from flooding. In respect of surface water, it is proposed for surface water to be disposed of via soakaways. Foul water would be disposed of via the existing main sewer.
- 5.34 The concerns of the Parish Council in relation to problems with drainage are noted. However, the Internal Drainage Board do not raise any objections, subject to the inclusion of conditions and informatives requiring surface water drainage to be agreed prior to the commencement of development which would need to include evidence of current discharge from the site to the watercourse; soakaway testing, extent of run-off and the requirement to gain consent to discharge to an IDB owned watercourse should this become necessary.
- 5.35 Yorkshire Water have been approached for an updated view on the scheme, but this was not in place at the time of the collation of this report. On the earlier application of the site (2021/0871/OUT) they did however advise that that on basis of the application being for one dwelling with any foul water to public foul sewer network and surface water was stated as drainage to soakaway, therefore no observation comments have been provided. They have also advised that in terms of concerns raised about operational issues in the settlement that exist already, then they have advised that this is not something that they consider in responding

on Planning Applications, and those raising concerns should be reporting any sewer related problems.

- 5.36 Policy SP15 (B) states that to ensure development contributes toward reducing carbon emissions and are resilient to the effect of climate change schemes should where necessary or appropriate to meet eight criteria set out within the policy. Whether it is necessary or appropriate to ensure that schemes comply with Policy SP15 (B) is a matter of fact and degree and dependant largely on the nature and scale of the proposed development.
- 5.37 In respect of energy efficiency, no information is included in this application it is presumed that renewable materials would be utilised as far as possible. Therefore, having had regard to Policy SP15 (B) it is considered that the proposal is acceptable.
- 5.36 The proposal would not have a significant impact on flood risk, drainage and the sewerage system. Having had regard to the above and subject to the inclusion of conditions the proposed scheme is therefore considered acceptable in accordance with Local Plan Policy ENV1(3), Core Strategy Policies SP15 B) and SP16 and the NPPF with respect to flood risk, drainage and climate change.

### **Heritage Assets**

- 5.38 Local Plan Policies ENV1 and ENV25, Core Strategy Policies SP18 and SP19 and the NPPF require proposals to take account of their impacts on heritage assets. The Local Plan Policies should be afforded significant weight. However as noted above the site is not within the Bolton Percy Conservation Area, and no objections / comments have been received from the Conservation Officer on the submission. Given the scheme is in outline with all matters reserved then detailed design comments can be attained at the Reserved Matters stage on the scheme.

### **Nature Conservation and Protected Species**

- 5.39 Protected Species are protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2017. The presence of protected species is a material planning consideration. Core Strategy Policy SP18 and paragraphs 179 to 182 of the NPPF set out the considerations with regards to the impact of development on habitats and biodiversity.
- 5.40 NYCC Ecology Officers have confirmed that the Ecological Appraisal has demonstrated that the site is of low ecological value. The development as proposed will not impact upon protected habitats or species and as such no further survey work or specific mitigation is required. There are recommendations made within the report to enhance the site for species such as bats, birds and hedgehogs though inclusion of roosting/nesting features and habitat planting. As such the County Ecologist advised that they support the recommendations as set out within the report.
- 5.41 In light of the circumstances of the site and comments from the NYCC Ecology Officer, it is considered that the proposal is therefore in accordance with Policy ENV1 (5) and the advice contained within the NPPF with respect to nature conservation.

### **Land Contamination**

- 5.42 Local Plan Policy ENV2 and criterion k) of Core Strategy Policy SP19 require development which would give rise to or would be affected by unacceptable levels of (amongst other things) contamination or other environmental pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated within new development. Paragraph 183 (a) of the NPPF states that development sites should be suitable for the proposed use taking account of ground conditions and risks arising from unstable land and contamination.
- 5.43 A Geo-Environmental Appraisal has been submitted with the application, dated August 2016, and this has been considered by the Council's Contamination Consultant as noted above, who has confirmed that "The report provides a good overview of the site's history, its setting and its potential to be affected by contamination". As such the Consultant confirms that the report and the site investigation works are acceptable. However, it is noted that if contamination is found during the development works, please note that appropriate investigation and potentially remedial action will be required to make the site safe and suitable for its proposed use". As such a condition relating to the reporting of unexpected contamination is proposed.
- 5.44 As such the proposals, subject the condition, are therefore acceptable with respect to contamination in accordance with Local Plan Policy ENV2 k), Core Strategy Policy SP19 and the provisions of the NPPF.

### **Affordable Housing**

- 5.45 Core Strategy Policy SP9 and the accompanying Affordable Housing Supplementary Housing Document (SPD) sets out the affordable housing policy context for the District.
- 5.46 Core Strategy Policy SP9 states 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.
- 5.47 The NPPF is however a material consideration and states at paragraph 64 that
- "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)." '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"*
- 5.48 The application proposes one dwelling and as such is not a major development. It is therefore considered that having had regard to Policy SP9 of the Core Strategy, the Affordable Housing SPD and the national policy contained within the NPPF, on balance, the application is acceptable without a contribution for affordable housing.

### **Waste & Recycling**

- 5.49 The Selby District Council Developer Contributions SPD requires that all new residential developments are to be designed to accommodate refuse bins and waste recycling facilities in a way that facilitates the collection of refuse and materials for recycling, without harming residential and visual amenity.

- 5.50 The SPD requires schemes of 4 or more dwellings to contribute financially towards waste and recycling facilities. As the proposal is for a single dwelling, no financial contribution would be required and the size of the site would be suitable to accommodate the necessary waste and recycling facilities.

### **Housing Mix**

- 5.51 The 2009 SHMA will be used to assist the Council in the determination of planning applications, but it is also recognised that future studies will update this current evidence and thus the Core Strategy Policy SP8 is clear that the appropriate housing mix will be achieved in the light of local evidence.
- 5.52 Policy SP8 of the Core Strategy states that

“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”.

- 5.53 This application is an Outline Application for the erection of a dormer bungalow, as stated in the description of development.
- 5.54 Although the applicants have not provided and evidence on whether the proposals accord with Policy SP8, Officers consider that the development of the site for this type of accommodation would add to the mix within the settlement and thus would provide a unit type that is appropriate for the locality and as such a condition should be utilised to ensure that the site developed for a dormer bungalow and no other type of accommodation. With this approach it is considered that the scheme is in accordance with Policy SP8 of the Core Strategy.

### **Minerals and Waste**

- 5.55 The application site is located within an area where policies on hydrocarbon development (Policies M16, M17 and M18) and within an area that is considered to be “high risk” in terms of coal operations under Policy D13 within the Minerals and Waste Local Plan. The application is for outline consent for a single dwelling so Policies M16, M17 and M18 are not applicable in this case. In terms of Policy D13, NYCC Minerals and Waste Officers have confirmed that a Coal Mining Risk Assessment is not required. A distinction is made between the larger Coal Mining Reporting Areas and Development High Risk Areas on the Coal Authority Interactive Map. On this basis it is considered that the proposal is not contrary to the aims of the relevant policies in the Minerals and Waste Joint Plan.

### **Other Matters arising from Consultations**

- 5.56 Objectors have raised concerns that a second application has been submitted so soon after the refusal of Application 2021/0871/OUT in April 2022. Under S70 of the Town and Country Planning Act then a Council may decline to determine a application for planning permission if within 2 years of the date of the receipt of the application an appeal has been refused for a similar application and in the opinion of the authority is that there has been no significant change since the refusal, or the determination of an appeal in the development plan, so as far as is material to the application, or in any other material considerations. In this instance there has been

no appeal considered against the refusal under 2021/0871/OUT and as such the Council is not able to decline a further application. In addition, in making the submission the Applicants have submitted further information and a further justification for the scheme considering the stated reasons for refusal on 2021/0871/OUT. As such, it would not be appropriate for the Council to decline to determine the current application.

## **6. CONCLUSION**

- 6.1 The application site is outside the development limit of a Secondary Village and would not fall within any of the categories of acceptable forms of development set out in Policy SP2 A(c) and the development of the site would conflict with the Spatial Development Strategy for the District and the overall aim of the development plan to achieve sustainable patterns of growth. Moreover, the proposed development would not amount to a sustainable form of development and would thus be contrary to Core Strategy Policies SP1 and Policy SP2 A(c). As such development should be refused unless material considerations indicate otherwise.
- 6.2 In this case Officers consider that such material considerations exist and given that the development will not encroach beyond the boundary of the surrounding built form into adjacent countryside and the development of the site represents an appropriate form of development.
- 6.3 The submitted indicative layout demonstrates that the proposals could achieve an appropriate layout and access at reserved matters stage so as to respect the character of the local area and it is considered that a scheme could be brought forward for the development of the site that is appropriate in terms of the residential amenity. The development of the site is also acceptable in terms of the impact on flooding, drainage and climate change, protected species, affordable housing and contamination in accordance with policy.
- 6.4 As such Officers consider that the proposed development is acceptable having regard to the noted Local Plan policies, the Core Strategy and the policies in the NPPF, which makes provision for decisions to depart from an up-to-date development plan where material considerations indicated that the plan should not be followed.

## **7. RECOMMENDATION**

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

01. Approval of the details of the (a) appearance, b) landscaping, c) layout, d) scale and e) access of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason:

This is an outline permission and these matters have been reserved for the subsequent approval of the Local Planning Authority.

02. Applications for the approval of the reserved matters referred to in No.1 herein shall be made within a period of three years from the grant of this outline permission and the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of

the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In order to comply with the provisions of Section 51 of the Planning and Compensation Act 2004.

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

- SK0201– Location Plan

Reason:

For the avoidance of doubt

04. The development hereby permitted shall be carried out in accordance with findings and mitigation measures outlined in the Ecological Appraisal by Wold Ecology dated May 2021

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 Local Plan and Policy SP18 of the Selby District Core Strategy Local Plan.

- 05 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 SP15 of the Selby District Core Strategy Local Plan.

06. Before the development hereby approved is commenced a scheme for the discharge of surface and foul water shall be submitted to and approved in writing by the Local Planning Authority. The dwelling hereby approved shall not be brought into use until the scheme for the discharge of foul or surface water has been implemented. The implemented scheme shall be retained for the lifetime of the development.

Reason:

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

- 07 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., in accordance with Policy SP18 of the Core Strategy Local Plan.

09. The development must not be brought into use until an agreed scheme for the provision to prevent surface water from the site/plot discharging onto the existing or proposed highway has been agreed and implemented, This must be maintained thereafter to prevent such discharges. All works must accord with the approved details.

Reason

To ensure a surface water is managed at the site entrance at the junction to the public highway in the interests of highway safety and the convenience of all highway users.

10. The proposed scheme shall only be a for a dormer bungalow.

Reason:

To ensure that proposals for housing contribute to the creation of mixed communities and having had regard to Policy SP8 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 2022/1106/OUT and associated documents.**

**Contact Officer: Yvonne Naylor (Principal Planning Officer)**

**Appendices: None**