



**Report Reference Number:** 2019/0941/FULM

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

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

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

## 1. INTRODUCTION AND BACKGROUND

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

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

### **The Proposal**

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

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

### **Relevant Planning History**

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

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

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

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

## 2. CONSULTATION AND PUBLICITY

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **3. SITE CONSTRAINTS**

#### **Constraints**

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

### **4. POLICY CONSIDERATIONS**

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

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

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

- 4.6. The relevant Core Strategy Policies are:
  - SP1 - Presumption in Favour of Sustainable Development
  - SP2 - Spatial Development Strategy
  - SP4 – Management of Residential Development in Settlements
  - SP5 - The Scale and Distribution of Housing
  - SP8 - Housing Mix
  - SP9 - Affordable Housing
  - SP15 - Sustainable Development and Climate Change
  - SP16 - Improving Resource Efficiency
  - SP18 - Protecting and Enhancing the Environment
  - SP19 - Design Quality

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

4.7. The relevant Selby District Local Plan Policies are:

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

4.8. **Other Policies/ Guidance:**

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

## 5. APPRAISAL

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

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

### **Principle of Development**

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

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

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

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

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

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

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

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

### **Impact on the Surrounding Heritage Assets**

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

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

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

### **Impact on Residential Amenity**

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



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

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

### **Impact on Highway Safety**

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

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

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

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

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

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

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

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

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

### **Impact on Nature Conservation and Protected Species**

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

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

### **Land Contamination**

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

### **Affordable Housing**

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

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

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

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

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

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

<b>Number of beds</b>	<b>% of total dwellings completed</b>
1 bed	3%
2 bed	20%
3 bed	37%

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

### **Recreational Open Space**

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



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

### **Other Matters**

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

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

## **6. CONCLUSION**

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

## **7. RECOMMENDATION**

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

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

Reason:

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

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

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

Other plans and documents:

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

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

Reason:

For the avoidance of doubt.

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

Reason:

For the avoidance of doubt

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

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

Reason:

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

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

Reason:

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

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

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

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

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

Reason:

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

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

Reason:

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

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

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

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

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

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

Reason:

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

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

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

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



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

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

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

Reason:

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

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

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

Reason:

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

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

Reason:

In the interests of visual amenity and in order to comply with Policy SP19 of the CS and Policy ENV1 of Selby District Local Plan.

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

Reason:

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

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

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

Reason:

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

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

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

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

Reason:

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

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

Reason:

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

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

Reason:

In the interests of highway safety and railway safety.

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

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

Reason:

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

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

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

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

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

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

(3) Full highway construction details including:

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

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

(5) Details of all proposed street lighting.

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

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

(8) A programme for completing the works.

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

Reason:

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

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

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

Reason:

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

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

Reason:

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

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

Reason:

In the interests of highway safety.

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

Reason:

In the interests of road safety.

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

Reason:

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

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

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

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

The required highway improvements shall include:

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

Reason

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

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

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

Reason

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

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

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

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

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

Reason:

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

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

Reason:

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

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

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

Reason for Condition:

In the interest of public safety and amenity

## **INFORMATIVES:**

### **INFORMATIVE:**

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

### **HIGHWAYS:**

You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in this condition.

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

### **ECOLOGY:**

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

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

Further information on wildlife legislation relating to birds can be found at [www.rspb.org.uk/images/WBATL\\_tcm9-132998.pdf](http://www.rspb.org.uk/images/WBATL_tcm9-132998.pdf).

### **CONSENT – GENERAL:**

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

### **CONSENT – OUTFALL:**

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

### **CONSENT – DISCHARGE:**



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

#### DRAINAGE:

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

#### COAL:

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

#### NETWORK RAIL- Fail Safe Use of Crane and Plant:

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

#### NETWORK RAIL - Method Statements/Fail Safe/Possessions:

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

#### NETWORK RAIL – Demolition and refurbishment:

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

#### NETWORK RAIL – Earth Works and Excavations:

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

#### NETWORK RAIL- Security of Mutual Boundary:

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

#### NETWORK RAIL- Demolition and refurbishment works:

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

#### NETWORK RAIL – Scaffolding:

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

#### NETWORK RAIL – Encroachments:

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

#### NETWORK RAIL – Trees and shrubs:

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

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

a. Acceptable:

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

b. Not Acceptable:

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

## **8 Legal Issues**

### **8.1 Planning Acts**

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

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

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

### **8.3 Equality Act 2010**

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

## **9 Financial Issues**

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

## **10 Background Documents**

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

### **Contact Officer:**

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**Appendices:** None